No. _____

In the Supreme Court of the United States

TEXAS DEMOCRATIC PARTY, *et al.*,
Appellants,

v.

GREG ABBOTT, in his official capacity as Governor of Texas, *et al.*,
Appellees.

On Appeal from the United States District for the Western District of Texas

JURISDICTIONAL STATEMENT

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QUESTIONS PRESENTED

1. Are partisan gerrymandering claims justiciable?
2. Did the district court err by dismissing Appellants' partisan gerrymandering claims without discovery and an evidentiary record?

PARTIES TO THE PROCEEDING

The following were parties in the court below:

Plaintiffs in the district court are Shannon Perez, Gregory Tamez, Nancy Hall, Dorothy DeBose, Carmen Rodriguez, Sergio Salinas, Rudolfo Ortiz, Lyman King, Armando Cortez, Socorro Ramos, Gregorio Benito Palomino, Florinda Chavez, Cynthia Valadez, Cesar Eduardo Yevenes, Sergio Coronado, Gilberto Torres, Renato De Los Santos, Jamaal R. Smith, Debbie Allen, Sandra Puente, Kathleen Maria Shaw, TJ Carson, Jessica Farrar, Richard Nguyen Le, Wanda F. Roberts, Mary K. Brown, Dottie Jones, Mexican American Legislative Caucus - Texas House of Representatives (MALC), Texas Latino Redistricting Task Force, Joey Cardenas, Alex Jimenez, Emelda Menendez, Tomacita Olivares, Jose Olivares, Alejandro Ortiz, Rebecca Ortiz, Margarita V Quesada, Romeo Munoz, Marc Veasey, Jane Hamilton, John Jenkins, Eddie Rodriguez, City of Austin, Constable Bruce Elfant, Travis County, David Gonzalez, Milton Gerard Washington, Alex Serna, Sandra Serna, Betty F. Lopez, Beatrice Saloma, Joey Martinez, Lionor Sorola-Pohlman, Balakumar Pandian, Nina Jo Baker, Juanita Valdez-Cox, Eliza Alvarado, the League of United Latin American Citizens (LULAC), Henry Cuellar, Texas State Conference of NAACP Branches, Howard Jefferson, Bill Lawson, Eddie Bernice Johnson, Sheila Jackson-Lee, Alexander Green, United States of America, Rod Ponton, Pete Gallego, Filemon Vela, Jr., Gabriel Y. Rosales, Belen Robles, Ray Velarde, Johnny Villastrigo, Bertha Urteaga, Baldomero Garza,

Marcelo H. Tafoya, Raul Villaronga, Asenet T. Armadillo, Elvira Rios, Patricia Mancha, and Juan Ivett Wallace.

Defendants in the district court are Greg Abbott, in his official capacity as Governor of Texas, Rolando Pablos, in his official capacity as Texas Secretary of State, the State of Texas, Steve Munisteri, in his official capacity as Chair of the Texas Republican Party, and Sarah M. Davis.

Defendants-Cross Plaintiffs are Boyd Richie, Gilberto Hinojosa, in his official capacity as Chair of the Texas Democratic Party, and the Texas Democratic Party.

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JURISDICTIONAL STATEMENT

Texas has repeatedly defended its congressional and state house districting plans by claiming that the plans are not racial gerrymanders, but were instead motivated by the Legislature's desire to dilute the voting strength of Democratic voters and to amplify the voting strength of Republican voters. Despite this stark admission that voters were sorted, and favored or disfavored, based upon their political views, and despite the conclusion of a majority of this Court in *Vieth v. Jubelirer*, 541 U.S. 367 (2004), that partisan gerrymandering claims can be justiciable, the district court dismissed Appellants' partisan gerrymandering claims before discovery or trial based on the court's conclusion that Appellants' complaints did not plead a reliable standard for adjudicating such claims.

But as another district court recently concluded in *Whitford v. Gill*, there is in fact a reliable and manageable standard for courts to apply in adjudicating partisan gerrymandering claims—one derived entirely from this Court's precedent that measures: (1) whether the plan was "intended to place a severe impediment on the effectiveness of the votes of individual citizens on the basis of their political affiliation," (2) whether the plan "has that effect," and (3) whether the plan "cannot be justified on other, legitimate legislative grounds." 218 F. Supp. 3d 837, 884 (W.D. Wis. 2016). The district court's dismissal of the partisan gerrymandering claims in this case should be summarily reversed and the case remanded for the district court to conduct a trial in accord with the *Whitford* standard. Alternatively, the

parties should be permitted to develop a record through a full trial on the merits and advocate for a standard for adjudicating partisan gerrymandering claims based upon the facts of this case.[1]

OPINIONS BELOW

The order of the three-judge district court dismissing the partisan gerrymandering claims against the 2011 districting plans was entered on September 2, 2011. J.S. App. 269. The order of the three-judge district court dismissing the partisan gerrymandering claims against the 2013 districting plans was entered on June 17, 2014. J.S. App. 215.

JURISDICTION

On September 14, 2017, the Texas Democratic Party and Gilberto Hinojosa timely filed their notice

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[1] Because the outcome of this appeal necessarily will be informed by this Court's pending decision in *Gill v. Whitford*, No. 16-1161, if the Court does not summarily reverse, then the Court should hold this appeal pending its decision in *Whitford*. This appeal should not be consolidated with Texas's appeals of the district court's orders declaring that various congressional and state house districts were drawn with a racially discriminatory purpose and effect, or were racial gerrymanders. *See Abbott v. Perez*, No. 17-586; *Abbott v. Perez*, No. 17-626. This appeal presents entirely different issues and arises in a very different posture and track. Moreover, Appellants respectfully request that any remand of their partisan gerrymandering claims not be delayed pending disposition of Texas's appeals, as doing so would shorten the amount of time available for trial proceedings in light of election schedules and deadlines.

of appeal for their partisan gerrymandering claims concerning the 2011 and 2013 redistricting plans for congressional and house districts. J.S. App. 336. On September 14, 2017, the Quesada Plaintiffs timely filed their notice of appeal for their partisan gerrymandering claim concerning the 2011 congressional districts. J.S. App. 363. This Court has jurisdiction under 28 U.S.C. § 1253.[2]

CONSTITUTIONAL PROVISIONS INVOLVED

This appeal involves Article I, Sections 2 and 4 of the United States Constitution, as well as the First Amendment and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. These provisions are reproduced in the Constitutional Provisions Addendum.

STATEMENT

A. Procedural Background

In June 2011, the Texas Legislature enacted House Bill 150 (Plan H283) to establish new districts for the Texas House of Representatives, and Senate

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[2] This appeal is filed protectively, because the district court expressly made its orders on Plans C235 (the congressional districting plan) and H358 (the house districting plan) interlocutory. Despite Appellants' contention that this Court lacked jurisdiction to hear an appeal at this juncture, *see, e.g.,* Opp. to Mot. for Stay, *Abbott v. Perez*, No. 17A225, this Court granted Texas's motions for a stay pending disposition of Texas's appeals. Appellants therefore file this appeal now to ensure its consideration in the event the Court concludes jurisdiction exists at this stage.

Bill 4 (Plan C185) to establish new congressional districts.

In response, a number of plaintiffs, including Appellants Margarita Quesada, *et al.* (the Quesada Plaintiffs),[3] filed lawsuits asserting race-based challenges to the 2011 plans under Section 2 of the Voting Rights Act and under the Fourteenth and Fifteenth Amendments to the U.S. Constitution. The Quesada Plaintiffs also asserted a partisan gerrymandering claim against the congressional plan, alleging that the plan violated the First and Fourteenth Amendments, as well as Article I, Section 2 of the U.S. Constitution because the plan was "a blatant partisan gerrymander . . . that is designed to ensure that Republicans continue to control the Texas Congressional Delegation and represent a number of congressional districts that far exceed their share of the electorate." J.S. App. 358. The Quesada Plaintiffs further contended that the Legislature "appl[ied] partisan classifications in an invidious manner and in a way unrelated to any legitimate legislative objective," J.S. App. 358-59, and that the resulting map thus "thwart[ed] majority rule and [was] an affront to basic democratic values," J.S. App. 359.

Some of the plaintiffs, in addition to suing the State of Texas and its executive officers, brought suit against the Texas Democratic Party to enjoin the plans adopted by the Legislature from being used in

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[3] The Quesada Plaintiffs are Debbie Allen, Jane Hamilton, John Jenkins, Lyman King, Romeo Munoz, Sandra Puente, Margarita V. Quesada, Kathleen Maria Shaw, Jamaal R. Smith, and Marc Veasey.

party primaries. The lawsuits were consolidated into one action with a single three-judge panel convened to address all of the claims concerning the redistricting plans.

The Texas Democratic Party then timely filed cross-claims against the State of Texas arguing that both the congressional and state house plans were partisan gerrymanders in violation of the federal constitution. J.S. App. 311-12. The Texas Democratic Party charged that "partisan classifications in the State's Plan were applied in an invidious manner and in a way unrelated to any legitimate legislative objective" and that the plan was an "intentional partisan gerrymander that thwarts majority rule and is an affront to basic democratic values in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution; Article I, Sections 2 and 4, of the United States Constitution and the First Amendment to the United States Constitution." J.S. App. 312.

Shortly thereafter, without allowing any discovery or factual development, the district court dismissed both the Texas Democratic Party's and the Quesada Plaintiffs' partisan gerrymandering claims. Although the court acknowledged that this Court's decision in *Vieth* stated that partisan gerrymandering claims were justiciable, J.S. App. 298, the court nevertheless reasoned that "absent a 'standard by which to measure the burden [plaintiffs] claim has been imposed on their representational rights,' they cannot 'establish that the alleged political classifications burden those same rights,' and their claims must be

dismissed," J.S. App. 299 (quoting *Vieth*, 541 U.S. at 313 (Kennedy, J., concurring) (bracket in original)). The court thus dismissed the partisan gerrymandering claims on the pleadings pursuant to Rule 12(c). J.S. App. 299. Because other claims remained pending, an appealable final judgment was not entered.

Following the dismissal of these claims, Texas's failure to obtain preclearance under then-extant Section 5 of the Voting Rights Act in time for the 2012 primary elections required the district court to impose interim plans for 2012. In doing so, the district court acted accord with this Court's guidance in *Perry v. Perez*, 565 U.S 388 (2012) (*per curiam*). After the district court imposed interim plans for the 2012 election, the district court in the District of Columbia that had been evaluating Texas's preclearance application denied preclearance, concluding that the congressional plan was adopted with discriminatory intent and the state house plan resulted in impermissible retrogression of minority voting strength. *See Texas v. United States*, 887 F. Supp. 2d 133 (D.D.C. 2012), vacated and remanded by 133 S. Ct. 2885 (2013). While that decision was on appeal, the Texas Legislature enacted the court-imposed interim plans, with minor changes to the state house plan and no changes to the congressional plan, as the State's permanent plans.[4]

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[4] *See* Tex. S.B. 3, Act of June 23, 2013, 83d Leg., 1st C.S., ch.2, 2013 Tex. Gen. Laws 4889; Tex. S.B. 4, Act of June 26, 2013, 83d Tex. Leg., 1st C.S., ch. 3, § 2, 2013 Gen. Laws 5005.

After the Legislature's enactment of these plans, the district court granted plaintiffs' request to amend their complaints with regard to the 2011 plans to assert requests for equitable relief under Section 3(c) of the Voting Rights Act. The court also denied Texas's request that the claims against the 2011 plans be dismissed as moot. J.S. App. 255. The court permitted plaintiffs to raise claims against the newly enacted 2013 plans, *id.*, and permitted certain plaintiffs to amend their complaints to file partisan gerrymandering claims directed at the 2013 plans, J.S. App. 257. The Texas Democratic Party filed amended cross-claims asserting partisan gerrymandering claims against the 2013 enacted congressional and state house plans, C235 and H358. J.S. App. 322; 332-33.

Without permitting any discovery, the district court dismissed on the pleadings the partisan gerrymandering claims brought against the 2013 plans. J.S. App. 237. The district court's dismissal again cited the lack of a "clear, manageable, and politically neutral standard" as the reason for its dismissal. J.S. App. 236 (quotation marks omitted).

Following trial on the remaining race-based claims against the 2011 plans, the court issued an opinion in the spring of 2017 finding that aspects of both the congressional and state house plans were discriminatory in intent and effect, in violation of Section 2 of the Voting Rights Act and the Constitution, and that certain districts were unconstitutional racial gerrymanders. Order, *Perez v. Abbott*, No. 11-360 (W.D. Tex. Apr. 20, 2017), ECF

No. 1365; Amended Order, *Perez v. Abbott*, No. 11-360 (W.D. Tex. May 2, 2017), ECF No. 1390. The court then held trial in the summer of 2017 on the remaining race-based claims against the 2013 plans. The court permitted the Texas Democratic Party to enter into the record an expert report in support of its dismissed partisan gerrymandering claims as an offer of proof. *Id.*, ECF No. 1430.

Following trial, the court issued opinions concluding that portions of the 2013 plans violated Section 2 of the Voting Rights Act and the Constitution, and scheduled remedial hearings. *Id.*, ECF Nos. 1535 & 1540. Texas appealed, and this Court granted Texas's request for a stay pending appeal. *Abbott v. Perez*, No. 17A225, __ S. Ct. __, 2017 WL 4014835 (U.S. Sept. 12, 2017) (mem.); *Abbott v. Perez*, No. 17A245, __ S. Ct. __, 2017 WL 4014810 (U.S. Sept. 12, 2017) (mem.).

The Texas Democratic Party and the Quesada Appellants thereafter timely filed notices of appeal concerning the orders of the three-judge district court dismissing their partisan gerrymandering claims.

B. Factual History

Following the 2010 Census, Texas gained four congressional seats because of its substantial population growth, 89% of which was attributable to growth in the minority community. Findings of Fact, ECF No. 1340 at 31, 411. Much of the evidence offered in the trials below demonstrated that the vast majority of new population were minority group members who preferred the election of Democratic Party candidates. *E.g.*, *id.* at 428. Yet the

Republican-controlled Texas Legislature adopted a congressional reapportionment plan in 2011 that added three more Anglo-majority, Republican districts. *Id.* at 394. In doing so, the Legislature stated that its goal was to limit the ability of Democratic voters to translate their votes into elected candidates. *See, e.g.*, Amended Order at 41, ECF No. 1390 ("[P]lacement of a new VRA district in part in Travis County allowed the Republican-dominated Legislature to create a new majority-minority district while simultaneously destroying an existing Democrat district, in accord with the objective to create a '3-1 map' that increased the number of Republican seats by three and Democrat seats by one."); *id.* at 41 n.39 (noting purpose of Legislature to "limit the number of Democrat districts statewide"); *id.* at 118 ("Defendants argue that they did not engage in intentional vote dilution of minority voting strength, but only of Democrat voting strength."); *id.* ("It is undisputed that Defendants engaged in *extreme partisan gerrymandering* in drawing the [2011 congressional] map, ignoring many if not most traditional redistricting principles in their attempt to protect Republican incumbents, unseat Democrat Lloyd Doggett, gain additional Republican seats, and otherwise gain partisan advantage." (emphasis added)).

The data show the Legislature was remarkably successful in achieving its goal of diluting Democratic voting strength. For the 2011 congressional plan, Appellants' expert Dr. Michael McDonald explained, when Democratic candidates receive 43.6% of the vote on a statewide basis, they can only expect to win

27.8% of congressional seats. 2011 Expert Report of Michael P. McDonald at 1, ECF No. 134-4. For the 2011 state house plan, when Democratic candidates receive 43.6% of the vote on a statewide basis, they can only expect to win 33.3% of house seats. *Id.*

The asymmetry was present in the 2013 plans as well. Dr. McDonald explained that when Democratic candidates receive 43.8% of the vote on a statewide basis, they can only expect to win 30.6% of the seats. 2014 Expert Report of Dr. Michael P. McDonald at 2, ECF No. 961-1. The Texas Democratic Party also submitted an offer of proof as to the calculation of the efficiency gap in Texas, which was one of the measures credited by the district court in *Whitford* for measuring the effect of partisan gerrymanders. The analysis of the Texas Democratic Party's expert Bernard L. Fraga showed that, under two different variations of the efficiency gap measure, Texas's 2013 congressional plan was among the most extreme partisan gerrymanders in the country. Results from the 2012, 2014, and 2016 elections demonstrate an efficiency gap that results in a swing of up to four congressional districts in favor of Republicans. *See* Expert Report of Bernard L. Fraga at 8-11, ECF No. 1400-1.

Had the district court permitted discovery and trial on Appellants' partisan gerrymandering claims, the evidence would have shown intent, effect, and lack of legitimate justification for Texas's extreme partisan gerrymander.

SUMMARY OF ARGUMENT

The district court's orders dismissing Appellants'

partisan gerrymandering claims before discovery and trial should be summarily reversed and remanded for trial.

First, contrary to the district court's conclusion, and as the Western District of Wisconsin properly concluded in *Whitford*, a judicially manageable standard exists for courts to determine whether a state has unconstitutionally burdened voters' representational interests by invidiously classifying and harming voters based upon their political beliefs. That standard—a three-part test derived from this Court's case law—assesses whether the Legislature intended to disadvantage one political party, whether it achieved its intended effect, and whether it lacked a legitimate justification for its districting choices. Advances in technology and metrics since this Court decided the *Vieth* case have made it possible to precisely and fairly measure the distorting effects of partisan gerrymanders. As such, partisan gerrymandering claims are justiciable, and the district court erred by dismissing Appellants' claims prior to discovery and trial.

Second, although trial has not yet occurred on Appellants' partisan gerrymandering claims, the record evidence to date demonstrates that Texas's congressional and state house districts are plainly unconstitutional. Texas has not attempted to hide its partisan intent; indeed it has highlighted it throughout the legislative process and the litigation over its plans. Initial expert analysis shows that the Legislature achieved an extreme gerrymander, with its intended effect of limiting Democratic voters to far

fewer seats than their voting power would otherwise achieve, and far amplifying the voting power of Republicans. And finally, Texas has no legitimate justification for its extreme partisan gerrymander.

ARGUMENT

I. Partisan Gerrymandering Claims Are Justiciable.

This Court has recognized that "[p]artisan gerrymanders . . . are incompatible with democratic principles." *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2658 (2015) (quotation marks and alterations omitted). They violate the Equal Protection Clause by discriminating against the targeted party's voters, preventing their ballots from translating into "fair and effective representation." *Reynolds v. Sims*, 377 U.S. 533, 565 (1964). They also amount to forbidden viewpoint discrimination in contravention of the First Amendment; they "penaliz[e] citizens"—by diluting their electoral influence—"because of their . . . association with a political party, or their expression of political views." *Vieth*, 541 U.S. at 314 (Kennedy, J., concurring in the judgment).

In *Vieth*, this Court left the door open to the justiciability of partisan gerrymandering claims. Justiciability has two components: whether there is a standard for adjudicating the claim that is "judicially discernible in the sense of being relevant to some constitutional violation," 541 U.S. at 288 (plurality opinion), and whether the standard is "judicially manageable" in that it would produce outcomes that are "principled, rational, and based upon reasoned distinctions," *id.* at 278.

The district court erred in dismissing Appellants' partisan gerrymandering claims at the outset without allowing Appellants to demonstrate that their claims were justiciable. Appellants heeded this Court's instructions in *Vieth* and were prepared to prove their partisan gerrymandering claims at trial in much the same way the plaintiffs in *Whitford* proved their claim. That is, plaintiffs were prepared to show that they had a test for partisan gerrymandering claims to prove that the Texas Legislature: (1) "intended to place a severe impediment on the effectiveness of the votes of individual citizens on the basis of their political affiliation," (2) that the congressional and house plans "ha[d] that effect," and (3) that the plans could not "be justified on other, legitimate legislative grounds." *Whitford*, 218 F. Supp. 3d at 884.

The district court, however, foreclosed that option by precluding Appellants from even developing a record and demonstrating a judicially manageable standard at trial, ruling instead that their only chance to establish such a standard was in their complaint. Such an approach effectively negates Justice Kennedy's *Vieth* concurrence in its entirety. In Justice Kennedy's controlling opinion for the Court in *Vieth*, he opined that "new technologies may produce new methods of analysis that make more evident the precise nature of the burdens gerrymanders impose on the representational rights of voters and parties." 541 U.S. at 312-13 (Kennedy, J., concurring in judgment). That was an invitation for plaintiffs to develop new standards and methods of analysis—precisely what Appellants would have done at trial. But by imposing what amounts to a heightened

pleading standard, the district court here precluded the chance for Appellants to demonstrate that their claims were justiciable.

As the district court correctly concluded in *Whitford*, a judicially manageable standard—informed by this Court's settled First Amendment and Equal Protection jurisprudence and using advanced methods of districting technology and analysis—exists to permit courts to identify blatantly unconstitutional burdens on voters' representational rights. This case should be summarily reversed and remanded for trial to permit Appellants to prove their case pursuant to that standard, or alternatively to develop a standard suited to the facts of this case.

II. The Evidence at Trial Would Prove Texas's Congressional and State House Plans Are Unconstitutional Partisan Gerrymanders.

The evidence at trial would easily show Texas's congressional and state house plans are unconstitutional partisan gerrymanders and the district court erred by dismissing the claims prior to discovery and trial.

As to the first prong of intent, Appellants are "confident that . . . th[e] record would support a finding that the discrimination was intentional," *Davis v. Bandemer*, 478 U.S. 109, 127 (1986) (plurality opinion), because voluminous material "evidenced an intentional effort . . . to disadvantage Democratic voters," *id.* at 116. Just as in *LULAC v. Perry*, Appellants were prepared to make the case at trial that "[t]he legislature does seem to have decided to redistrict with the . . . purpose of achieving a

Republican congressional majority." 548 U.S. 399, 417 (2006) (opinion of Kennedy, J.). Indeed, establishing intent would hardly be difficult, as Texas has repeatedly defended its plans against claims that the Legislature discriminated on the basis of race by contending that the plans were instead aimed at purposefully diluting the voting strength of Democratic voters, and amplifying the voting strength of Republican voters. The record on this point could not be more compelling.

As to the second prong of effects, Appellants were prepared to show at trial that Texas's plan was highly asymmetrical. Partisan symmetry measures whether certain voters are less able to convert their ballots into representation, and thus whether they suffer a "burden on [their] representational rights." *Vieth*, 541 U.S. at 308 (Kennedy, J., concurring in the judgment). Appellants' initial expert analysis showed that under the 2011 plans, Democratic performance of 43.6% statewide would only translate into 27.8% of the congressional districts and 33.3% of the state house districts. 2011 Expert Report of Michael P. McDonald at 1, ECF No. 134-4. Under the 2013 plans, Democratic performance of 43.8% statewide would yield only 30.6% of the congressional districts. 2014 Expert Report of Michael P. McDonald at 2, ECF No. 961-1. And the efficiency gap metric shows a durable and extreme bias in favor of Republican candidates in the elections since the plan was adopted. *See* Expert Report of Bernard L. Fraga at 8-13, ECF No. 1400-1.

Finally, as to the justification prong, Appellants were prepared to show that the plans could not be

explained by neutral factors. To be sure, "political classifications" based on electoral data are constitutionally troublesome only if applied "in a way unrelated to any legitimate legislative objective." *Vieth*, 541 U.S. at 307 (Kennedy, J., concurring in the judgment). When a jurisdiction can justify its plan's discriminatory effect "by reference to objectives other than naked partisan advantage," judicial intervention is unwarranted. *Id.* at 351 (Souter, J., dissenting). But here, Texas has no justification. Indeed, Texas has never attempted to justify its plans on any basis other than that the Republican-controlled Legislature was seeking to advantage Republicans.

Had the district court permitted Appellants the opportunity to take discovery and to prove their claims at trial, they easily would have demonstrated Texas's congressional and state house plans were unconstitutional partisan gerrymanders. The court plainly erred is dismissing Appellants' partisan gerrymandering claims on the pleadings without allowing Appellants the opportunity for further factual and legal development of their claims.

CONCLUSION

This Court should summarily reverse the dismissal of Appellants' partisan gerrymandering claims. Alternatively, the Court should hold this appeal pending its decision in *Gill v. Whitford* and then vacate and remand the district court's decision in this case for reconsideration in light of whatever this Court decides in *Whitford*. Alternatively, the Court should note probable jurisdiction.

Respectfully submitted,

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CONSTITUTIONAL PROVISIONS ADDENDUM

U.S. Const. art. I, § 2

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island

and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

U.S. Const. art. I, § 4

The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

U.S. Const. amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free

exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.