grown to approximately 1,328,361 residents, 668,515 in Congressional District 1 and 659,846 in Congressional District 2.

- 2. As a result of this population growth, Plaintiffs now reside in Congressional Districts in which the right to vote is improperly diluted. This vote dilution can be solved only by redrawing the Congressional Districts.
- 3. The regular session of the Maine Legislature is convened, and is scheduled to end on June 15, 2011. The Maine Legislature has the ability and authority to redraw the Congressional Districts to remedy the voting rights violations at issue here, but the Maine Legislature is not required to pass, and there is no plan for the Maine Legislature to pass, a redistricting plan before the scheduled end of the session.
- 4. Pursuant to Title 21-A, Section 1206 of the Maine Revised Statutes, and Article IV, Part Third, Section 1-A of the Constitution of the State of Maine, the Maine Legislature is scheduled to review the existing Congressional Districts in the year 2013. As a result, new Congressional Districts will not be drawn in time to meet the filing deadline for the 2012 election cycle. Should new Congressional Districts not be speedily drawn, the Plaintiffs and many Maine citizens will suffer dilution of their votes in congressional elections held in 2012.
- 5. Plaintiffs therefore request that the Court take jurisdiction of this matter and declare that the Congressional Districts, as currently drawn, violate the United States Constitution. Plaintiffs also request that the Court establish a schedule by which the Maine Legislature must act to redress the violations caused by malapportioned districts, and that the Court itself undertake to redraw the districts in question if no acceptable plan is produced by the Maine Legislature.

# JURISDICTION AND VENUE

- 6. Jurisdiction in this action is proper pursuant to 28 U.S.C. §§ 1331, 1343(a)(3)-(4), 2201, and 2202, and 42 U.S.C. §§ 1983 and 1988.
- 7. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because the changes and shifts in population resulting in the violations complained of herein occurred in this district.

8. Plaintiffs hereby request the Court pursuant to 28 U.S.C. §§ 2284(a) and 2284(b)(1) to immediately notify the Chief Judge of the First Circuit Court of Appeals of the filing of the instant case, which is one challenging the constitutionality of the apportionment of the Maine Congressional Districts, so that the Chief Judge may designate a three judge court to hear the case.

### **PARTIES**

- 9. Plaintiff William DeSena resides at 11 Wainwright Drive, Cape Elizabeth, ME 04107. Mr. DeSena is a registered voter in the State of Maine, specifically Cumberland county, in Congressional District 1.
- 10. Plaintiff Sandra W. Dunham resides at 11 Becky's Cove Lane, Cape Elizabeth, ME 04107. Ms. Dunham is a registered voter in the State of Maine, specifically Cumberland county, in Congressional District 1.
- 11. Defendants are the State of Maine ("State" or "State of Maine") and its officials and governing bodies who have duties and responsibilities under the laws of this State to redistrict congressional districts in Maine following the release of the decennial census.
- 12. Defendant Paul LePage is the Governor of the State of Maine and the Chief Executive Officer of the defendant State of Maine. The Governor of the State of Maine has the authority to sign into law bills that have been enacted by the Maine Legislature.
- 13. Defendant Kevin Raye is the President of the Maine Senate and serves as the presiding officer of the Maine Senate.
- 14. Defendant Robert Nutting is the Speaker of the Maine Assembly and is the presiding officer of the Maine House of Representatives.
- 15. Defendant Charles E. Summers, Jr. is the Secretary of State of the State of Maine and serves as Chief Election Official of the State of Maine.
- 16. Defendant Bureau of Corporations, Elections & Commissions supervises and administers all elections of federal, state and county offices and referenda in the State of Maine.

17. All of the Defendants are sued in their official capacities only.

# **BACKGROUND FACTS**

- 18. The 125<sup>th</sup> Session of the Maine Legislature faces the task of redrawing districts for the Maine delegation to the U.S. House of Representatives. In redrawing the Congressional Districts, the Maine Legislature will have to address a number of different issues, including the growth of population in the State and shifts in population within the State.
- 19. According to the 2000 census, the State's total population was 1,274,923. Using this figure, Maine was accorded two seats in the U.S. House of Representatives.
  - 20. Data from the 2010 census substantially alters these figures.
- 21. It is clear that new Congressional Districts will not be drawn in time to meet the filing deadline for the 2012 election cycle. The Constitution of the State of Maine does not require the Maine Legislature to consider reapportionment of the Congressional Districts until 2013. Even if the Maine Legislature does review the Congressional Districts during its current session, which ends on June 15, 2011, it is highly likely that it will not redraw the Congressional Districts and enact a valid redistricting plan before the congressional elections in 2012.
- 22. Upon information and belief, either the Maine Legislature will not successfully redraw the Congressional Districts in time to meet the filing deadline for the 2012 election cycle, or even if successfully redrawn, the new Congressional Districts will not be signed into law by the Governor of the State of Maine. If no new redistricting plan is enacted in time for the 2012 elections, the task of redrawing the Congressional Districts will fall to the courts.
- 23. At this time, Maine's Congressional Districts contain significant population variances due to both growth in the population of the State and shifts in State population. The 2010 census data shows that the population of Congressional District 1 is 668,515 residents. The population of Congressional District 2 is 659,846 residents. These districts are not nearly as equal in population as practicable as required by the U.S. Constitution.

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24. Population disparities of this magnitude in the Congressional Districts are of great concern to Plaintiffs because of the voting and representational dilution that the disparities entail. The Plaintiffs would experience vote dilution in any election held using the Congressional Districts as currently drawn.

## VIOLATIONS OF LAW

- 25. The allegations in paragraphs 1-24 are incorporated herein by reference.
- 26. The Congressional Districts, as currently drawn, violate Article I, section 2 of the United States Constitution, which provision guarantees to Maine voters an equal, fair, and effective opportunity to cast a meaningful ballot for the Maine delegation to the United States House of Representatives, and that voters in a more highly populated district will not be subject to unlawful dilution.
- 27. The population increases and population variances described herein demonstrate that the Congressional Districts, as currently drawn, violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because Plaintiffs are denied their right to equal protection of the laws in casting their votes for members of the United States Congress.

#### PRAYER FOR RELIEF

Plaintiffs therefore respectfully request that the Court:

- a. Assume jurisdiction over this matter;
- b. Convene a three-judge panel pursuant to 28 U.S.C. § 2284 so that a court with the authority to establish any necessary redistricting plan(s) is constituted in a timely manner;
- c. Enter a declaratory judgment that the Congressional Districts violate Plaintiffs' rights under federal law;

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1	d. Enjoin Defendants from using the Congressional Districts in any future
2	primary or general election(s);
3	e. Redraw the Congressional Districts;
4	f. Grant Plaintiffs reasonable attorney's fees and costs in this action, including
5	but not limited to attorney's fees, expert witness fees, and other costs and
6	expenses recoverable pursuant to 42 U.S.C. § 1988(b); and
7	g. Provide such other and further relief as the Court may deem proper.
8	DATED this 28th day of March, 2011.
9	PLAINTIFFS WILLIAM DESENA AND
10	SANDRA W. DUNHAM,
11	/s/ Timothy C. Woodcock, Esq.
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