

1 MICHAEL A. COLUMBO (SBN: 271283)
1 mcolumbo@dhillonlaw.com
2 SHAWN COWLES (SBN: 163826)
3 scowles@dhillonlaw.com
4 MARK P. MEUSER (SBN: 231335)
4 mmeuser@dhillonlaw.com
5 DOMENIC P. AULISI (Admitted PHV)
6 daulisi@dhillonlaw.com
7 AMBER R. HULSE (Admitted PHV)
7 ahulse@dhillonlaw.com
8 **DHILLON LAW GROUP INC.**
9 4675 MacArthur Court, Suite 1410
10 Newport Beach, CA 92660
10 Telephone: (415) 433-1700
11 Fax: (415) 520-6593

12 *Attorneys for Plaintiffs*

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 **DAVID TANGIPA, et al.,**

17 Plaintiffs,

18 vs.

19 **GAVIN NEWSOM**, in his official
20 capacity as the Governor of California, *et*
21 *al.*,

22 Defendants.

23 CASE NO. 2:25-cv-10616-JLS-WLH-
24 KKL

25 **PLAINTIFFS' EX PARTE
APPLICATION FOR AN
INJUNCTION PENDING
APPEAL. FRAP 8(a)(1)(C)**

26 Hon. Josephine L. Staton
Hon. Kenneth K. Lee
Hon. Wesley L. Hsu

27 Trial Date: None
28 Action Filed: November 5, 2025

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that Plaintiffs, through counsel, will and hereby do
3 apply to this Court pursuant to Fed. R. App. P. 8(a)(1)(C) for an injunction pending
4 appeal of the Court's Order Denying Plaintiffs' Motion for Preliminary Injunction (ECF
5 No. 216).

6 Plaintiffs have filed their Notice of Appeal and are filing this application the day
7 after this Court issued its Order denying Plaintiffs' Motion for Preliminary Injunction.
8 Ex parte relief is necessary because absent an injunction pending appeal, Plaintiffs will
9 suffer irreparable harm by the time this matter is likely to be fully resolved by the U.S.
10 Supreme Court due to the impending deadline for candidates to file the necessary
11 paperwork with the state to run for Congress. As such, Plaintiffs request that this court
12 issue an injunction pending appeal so that Plaintiffs' constitutional rights will not be
13 violated while the Supreme Court considers Plaintiffs' appeal. Plaintiff-Intervenor the
14 United States agrees that this Court should issue an injunction pending appeal.

15

16

NOTICE

17 Plaintiffs notified counsel for all parties via email. Attorneys for Plaintiff-
18 intervenor, the United States of America, supports the application. Attorneys for State
19 Defendants and attorneys for Defendant-intervenor DCCC opposed the application.
20 Attorneys for Defendant-intervenor LULAC, opposed the application.

21

22

INTRODUCTION

23 After a three-day preliminary injunction hearing, this Court found in favor of the
24 Defendant and Defendant-intervenors. This fact notwithstanding, the Court should grant
25 an injunction pending appeal of that ruling because Plaintiffs have presented this Court
26 with evidence that race was unlawfully used in drawing Congressional District lines by
27 a state actor and, absent an injunction, plaintiffs' constitutional rights will be violated.

28

1 BACKGROUND

2 California's Constitution prohibits partisan gerrymandering and establishes a
3 system for drawing congressional districts once-a-decade through an independent
4 Citizens Redistricting Commission (CRC), which. *See* Cal. Const. art. XXI.

5 In August 2025, California's Governor and state legislative leadership announced
6 a package of bills (hereinafter referred to as "Proposition 50") to replace the
7 congressional map adopted by the Citizens Redistricting Commission ("CRC") with a
8 new congressional map for use in 2026, 2028, and 2030, subject to voter approval at a
9 special election on November 4, 2025. The package consisted of:

- 10 (a) ACA 8 (Rivas & McGuire), a legislatively-referred constitutional amendment
11 authorizing temporary use of a legislature-enacted congressional map through
12 2030 (*see* Assemb. Const. Amend. 8, 2025–26 Reg. Sess. (Cal. 2025));
- 13 (b) AB 604 (Aguiar-Curry & Gonzalez), the statute specifying the new
14 congressional district boundaries (*see* Assemb. B. 604, 2025–26 Reg. Sess.
15 (Cal. 2025)); and
- 16 (c) SB 280 (Cervantes & Pellerin), the bill calling the special election,
17 appropriating funds, and making conforming calendar changes (*see* Sen. B.
18 280, 2025–26 Reg. Sess. (Cal. 2025)).

19 (Compl. ¶ 39, ECF No. 1).

20 From the beginning, there were signs that Proposition 50 would racially
21 gerrymander California's districts by making race the predominant factor when drawing
22 the maps under the cover of rhetoric about President Trump and events outside
23 California. Sen McGuire said in a press release on August 19, 2025, that the "new map .
24 . . retains and expands Voting Rights Act districts that empower Latino voters to elect
25 their candidates of choice." Ex. 21.

26 Consistent with race being the predominant consideration for drawing the districts,
27 the Redistricting Atlas, a document the map maker provided to the legislators to help

1 them understand the Proposition 50 map he drew, did not show the political breakdown
2 of the districts but instead only showed the racial breakdown of the districts. Ex. 190.

3 Furthermore, Paul Mitchell, the individual who drew the Proposition 50 maps,
4 explained in a presentation to Hispanas Organized for Political Equality (“HOPE”) that
5 the first thing he did was to add a “Latino district,” specifically reversing the
6 Commission’s decision to eliminate that district. Ex. 11 at 23–24. He also stated that “the
7 Prop 50 maps I think will be great for the Latino community” as “they ensure that the
8 Latino districts [] are bolstered in order to make them most effective, particularly in the
9 Central Valley.” *Id.* at 30. Mitchell bragged on social media that the “proposed
10 Proposition 50 map will further increase Latino voting power” and “adds one more
11 Latino influence district.” Ex. 14.

12 Paul Mitchell’s confidence that Proposition 50 would augment Latino voting
13 power is unsurprising. Just four years earlier, during the CRC’s redistricting efforts in
14 2021, HOPE submitted a letter to the CRC proposing two district configurations: (1) “a
15 new GATEWAY CITIES District centered around Downey . . . allowing for the creation
16 of FIVE Latino Majority minority districts where there are currently four”; and (2)
17 “tak[ing] the current LBNorth seat to the south, through Seal Beach into Huntington
18 Beach, making that a Latino influence seat at 35-40% Latino by voting age population.”
19 (Ex. 12 at 2. (capitals in original).) That proposal was based on a report created by Dr.
20 Christian Grose and Raquel Centeno with assistance from Paul Mitchell (See Ex. 12 at
21 3; Ex. 434 at 52–53 (Paul Mitchell confirming that he “consulted with Christian Grose”
22 in drafting the report).) In concluding that these two changes would enhance Latino
23 voting power, that report determined that districts most optimally achieve that result
24 when they are drawn to contain “between 52% and 54% Latino CVAP.” (Ex. 12 at 5.)

25 Ultimately, the CRC disregarded HOPE’s suggestions and, as discussed *supra*,
26 eliminated a Latino-majority district in Los Angeles. But when the California Legislature
27 placed Paul Mitchell in a position to reverse that change, that is precisely what he did.
28 Moreover, Mr. Mitchell created the district configurations HOPE proposed to the CRC—

1 as Proposition 50 Districts 41 and 42—and ensured that the overwhelming majority of
2 Proposition 50’s Latino-majority districts stayed within a narrow HCVAP band of 51–
3 55%. (See Exs. 190 at 2–7 (showing racialized CVAP statistics for Proposition 50
4 districts), 434 at 53 (Paul Mitchell discussing the realization of HOPE’s proposal in his
5 map).) At bottom, Mr. Mitchell made deliberate decisions to deliver HOPE’s earlier
6 wishes in an explicit effort to protect, if not enhance, Latino voting power.

7 On November 4, 2025, voters in California approved Proposition 50. (ECF No. 1,
8 ¶ 76). The next day, on November 5, 2025, Plaintiffs filed a Complaint in this matter.
9 (ECF No. 1.) On November 7, 2025, Plaintiffs filed their Motion for Preliminary
10 Injunction. (ECF Nos. 15, 16.) On November 10, 2025, DCCC moved to intervene as a
11 defendant in this case. (ECF No. 20.) On November 13, 2025, the United States of
12 America filed its motion to intervene (ECF No. 28) and concurrently filed its motion for
13 preliminary injunction (ECF No. 29). On November 15, 2025, LULAC also moved to
14 intervene as a defendant in this case. (ECF No. 39). The three-day hearing on Plaintiffs
15 and Plaintiff-Intervenor’s Motion for Preliminary Injunction was held on December 15–
16 17. (ECF Nos. 179, 180, and 183.)

17 The filing period for candidates that are seeking public office to declare their
18 candidacy is February 9, 2026, through March 6, 2026. (Ex 189.) The deadline for
19 candidates to file their signatures in lieu of a filing fee is February 4, 2026. *Id.*

20 **LEGAL STANDARD**

21 In evaluating whether to issue, modify, or otherwise affect an injunction under
22 Fed. R. App. P. 8(a)(1)(C), courts in this district look to the stay factors articulated by
23 the U.S. Supreme Court in *Nken v. Holder*, 556 U.S. 418 (2009). See *FTC v. QYK Brands,*
24 *LLC*, No. SACV 20-1431 PSG (KESx), 2022 WL 2784416, at *2 (C.D. Cal. June 21,
25 2022). These factors are as follows: “(1) whether the movant makes a strong showing
26 that he or she is likely to succeed on the merits; (2) whether irreparable injury is probable
27 without a stay; (3) whether issuing a stay will “substantially injure” other parties

1 interested in the litigation; and (4) whether the stay advances the public interest.” *Nken*,
2 556 U.S. at 434.

3 Accordingly, when a movant seeks an injunction pending appeal of an order
4 denying a preliminary injunction, the movant must show (1) a strong showing of success
5 on the merits, (2) a probability that the movant will be irreparably injured absent an
6 injunction, (3) that an injunction would not “substantially injure” other parties interested
7 in the litigation, and (4) that an injunction would advance the public interest. “The first
8 two factors ‘are the most critical,’ and the last two factors merge when the Government
9 is the opposing party.” *QYK Brands, LLC*, 2022 WL 2784416 at *2 (quoting *Nken*, 556
10 U.S. at 434).

11 ARGUMENT

12 I. Plaintiffs Are to Likely Succeed on the Merits of Their Appeal

13 An equal-protection claim that a redistricting map unlawfully uses “race-based
14 lines … call[s] for a two-step analysis.” *Cooper v. Harris*, 581 U.S. 285, 291 (2017).
15 “First, the plaintiff must prove that ‘race was the predominant factor motivating the
16 legislature’s decision to place a significant number of voters within or without a
17 particular district.” *Id.* (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)). “Second,
18 if racial considerations predominated over others,” then the burden shifts to the State to
19 satisfy “strict scrutiny.” *Id.* at 292.

20 A plaintiff proves racial predominance by showing that race, rather than traditional
21 redistricting principles or other legitimate objectives, was the legislature’s “dominant and
22 controlling rationale” in drawing district lines. *Miller*, 515 U.S. at 913; *accord Shaw v.*
23 *Hunt*, 517 U.S. 899, 905 (1996). As the Supreme Court has determined, race
24 predominates in the drawing of districts where a redistricting plan’s “architects” indicate
25 a focus on the racial makeup of congressional districts and testimony illustrates a
26 drafter’s “resolve to hit a majority-[minority] target.” *Cooper*, 581 U.S. at 316. Plaintiffs
27 can show racial predominance with “some combination of direct and circumstantial
28 evidence.” *Alexander v. S. Carolina State Conf. of the NAACP*, 602 U.S. 1, 8 (2024)

1 (quoting *Cooper v. Harris*, 581 U.S. at 291). “Direct evidence often comes in the form
2 of a relevant state actor’s express acknowledgment that race played a role in the drawing
3 of district lines.” *Alexander*, 602 U.S. at 8.

4 In redistricting cases, the intent at issue is the intent behind how the district lines
5 were drawn, not the motives of the last person to approve the lines. In *Alexander*, the
6 Supreme Court held that statements of the “career employee who drew the Enacted Map”
7 was “direct evidence” of whether race predominated in the drawing of district lines.
8 *Alexander*, 602 U.S. at 19. As Judge Lee stated in his dissent, the “Supreme Court has
9 repeatedly relied on statements from the mapmaker in assessing whether the state
10 improperly relied on race in drawing district lines.” (ECF No. 216, at 82 (citing
11 *Alexander*, *Cooper*, *Rucho*, and *Bethune-Hill*.) Because Mitchell refused to testify, his
12 earlier statements that race was used in drawing Congressional districts constituted on-
13 point and unmitigated direct evidence of his intentions in drawing the district lines.

14 As Judge Lee concluded: “Because Mitchell’s own words show that he relied on
15 race in drawing certain districts, Plaintiffs have rebutted the presumption of legislative
16 good faith that we give to California.” (ECF No. 216, at 79.)

17 In reaching its decision denying Plaintiffs’ Motion for Preliminary Injunction, the
18 Court deemed irrelevant the intent of the mapmaker who drew the map as well as the
19 state legislators who initiated legislation to put Proposition 50 on the ballot. The Court
20 determined that it was Plaintiffs’ responsibility to “put forth evidence that the *voters*
21 predominately intended the challenged districts to be racial, rather than partisan,
22 gerrymanders.” ECF No. 216, at 22 (emphasis added). The Court determined that “the
23 voters are the most relevant state actors and their intent is paramount.” ECF No. 216, at
24 15.

25 The Court focused on the case of *Brnovich v. Democratic Nat’l Comm.*, 594 U.S.
26 647 (2021). In *Brnovich*, the Supreme Court determined that the “‘cat’s paw’ theory has
27 no application to legislative bodies.” *Brnovich*, 594 U.S. at 690. That is, that the
28 legislature cannot be deemed to have the improper intent of one of its members.

1 The Court acknowledged that it was a case of first impression as to whether this
2 doctrine could be extended to insulate the intent of the voters who approved a
3 redistricting plan despite an alleged racial gerrymander by the person who drew the map
4 or the legislature. ECF No. 216, at 14. Nevertheless, the Court reasoned that since the
5 voters were the final decision makers, any impermissible racial intent of the mapmaker
6 or the legislature cannot be imputed to the voters. The Court stated that Plaintiffs were
7 essentially urging the Court “to apply the ‘cat’s paw’ theory to the voters here.” ECF No.
8 216, at 18.

9 Plaintiffs respectfully disagree with the Court’s extension of *Brnovich* to inoculate
10 a racial gerrymander just because it was approved by the voters following a campaign
11 that did not focus on the mapmaker’s racial gerrymander. Majoritarian approval, whether
12 by a legislature or by the electorate, cannot insulate unconstitutional election structures
13 from judicial review. *See, e.g., Moore v. Harper*, 600 U.S. 1, 23–26 (2023) (cases
14 reviewing constitutionality of redistricting schemes).

15 The Plaintiffs also introduced circumstantial evidence of an unconstitutional racial
16 gerrymander. As Judge Lee recognized, indirect evidence of racial motivation may come
17 from many sources. Plaintiffs’ expert Sean Trende confirmed that race predominated in
18 drawing Congressional District 13 lines. ECF No. 216, at 95.

19 Because Plaintiffs offered direct and circumstantial evidence that at least one
20 district in Proposition 50 was drawn with race as the predominant consideration, and
21 because the State has failed to articulate any justification for doing so, Plaintiffs are likely
22 to succeed on the merits of their appeal.

23 Once Plaintiffs show direct evidence that the mapmaker used race in drawing of
24 district lines, the burden shifts to the State to “satisfy strict scrutiny.” *Alexander*, 602
25 U.S. at 8. To satisfy strict scrutiny, the State must show that the use of race in drawing
26 the district lines was “narrowly tailored to serve a compelling state interest.” *Alabama*
27 *Legis. Black Caucus v. Alabama*, 575 U.S. 254, 272 (2015). Neither the State Defendants
28 nor Defendant-Intervenors introduced any evidence indicating that Proposition 50 meets

1 this stringent standard. Accordingly, for purposes of Plaintiffs' motion for preliminary
2 injunction, Defendants conceded this point. *See Shorter v. L.A. Unified Sch. Dist.*, No.
3 CV 13-3198 ABC AJW, 2013 WL 6331204, at *5 (C.D. Cal. Dec. 4, 2013).

4 **II. Irreparable Injury Is Likely Absent an Injunction**

5 Plaintiffs here will suffer irreparable injury in the absence of an injunction pending
6 appeal for the simple reason that the current election calendar assures it.

7 Plaintiffs are voters, a candidate, and a state party. They will suffer irreparable
8 harm if the Defendants implement unconstitutionally racially gerrymandered
9 congressional district maps. Plaintiffs have already filed their Notice of Appeal.
10 However, by the time this matter is likely to be fully resolved by the U.S. Supreme Court,
11 the deadline for candidates to file the necessary paperwork with the state to run for
12 Congress will have already passed, thus causing irreparable harm.

13 As identified by Judge Lee in his dissent, February 4, 2026, "starts a month-long
14 period when the candidates can begin filing their paperwork declaring their candidacy in
15 the appropriate district." The deadline for candidates to file their signatures in lieu of a
16 filing fee is February 4, 2026. Ex 189. The filing period for candidates who are seeking
17 public office to declare their candidacy is February 9, 2026, through March 6, 2026. *Id.*

18 As such, Plaintiffs request that this court issue an injunction pending appeal so that
19 Plaintiffs' constitutional rights will not be violated while this case is addressed by the
20 Supreme Court. An injunction is necessary to preserve the status quo. And the 2021
21 commission congressional map provides a ready alternative for the State and would
22 preserve the status quo.

23 Moreover, where a plaintiff in a constitutional case "shows he is likely to prevail
24 on the merits, that showing usually demonstrates he is suffering irreparable harm no
25 matter how brief the violation." *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023).
26 Therefore, because Plaintiffs here have demonstrated the underlying merits of their
27 claim, they are likely to suffer irreparable harm absent injunctive relief during the
28 pendency of their appeal.

1 **III. An Injunction Would Not “Substantially Injure” Defendants and Would**
2 **Advance the Public Interest**

3 As discussed *supra*, the final two factors courts evaluate when weighing whether
4 to issue the relief requested here “merge when the Government is the opposing party.”
5 *QYK Brands, LLC*, 2022 WL 2784416 at *2. Accordingly, Plaintiffs address them
6 together here. For two essential reasons, these factors cut sharply in Plaintiffs’ favor.

7 First, the public has a paramount interest in ensuring that its congressional district
8 maps comply with the Constitution. Because Plaintiffs have shown a strong likelihood
9 that the state has racially gerrymandered congressional districts in contravention of
10 federal law, the public interest lies in preliminarily preventing those suspect districts from
11 governing future federal elections. *See Arizona Dream Act Coal. v. Brewer*, 757 F.3d
12 1053, 1069 (9th Cir. 2014).

13 Second, granting an injunction preserves, rather than upends, the electoral status
14 quo. The unconstitutional districts authorized by Proposition 50 are brand new. They
15 were drawn by a partisan consultant, rushed through the Legislature in a matter of days,
16 and only recently approved at a special election on November 4, 2025. (ECF #16, 20–
17 22.) By contrast, the CRC’s 2021 congressional map has already governed two federal
18 cycles and been implemented by state and local election officials.

19 In denying Plaintiffs’ motions for preliminary injunction, the Court’s assessment
20 was limited only to the question of whether Plaintiffs met their burden of showing
21 “serious questions going to the merits” of their racial gerrymandering claims. (See ECF
22 No. 216, at 69 n.36.) Indeed, only Judge Lee, in dissent, considered the extent to which
23 denying preliminary relief would injure Plaintiffs or affect the public interest. As Judge
24 Lee articulated: “[W]hen a plaintiff in a constitutional case proves he is likely to succeed
25 on the merits, it ‘also tips the public interest sharply in his favor because it is “always in
26 the public interest to prevent the violation of a party’s constitutional rights.”’” (Id. at 113
27 (quoting *Baird*, 81 F.4th at 1040).) Because Plaintiffs have shown that they are likely to
28 succeed in their appeal, these factors favor awarding the relief requested herein.

CONCLUSION

For these reasons, the Court should grant Plaintiffs' request for an injunction pending appeal in this matter. The Court should enjoin Defendants, as well as their agents, employees, and successors in office, from implementation of Proposition 50's congressional districts map during the pendency of this litigation.

Unless the Court enters this Injunction, Plaintiffs and other Californians will suffer irreparable harm. Proposition 50's map violates Plaintiffs' Fourteenth Amendment constitutional rights. Plaintiff-Intervenor United States agrees that this Court should enter an injunction pending appeal.

Date: January 15, 2026

By: /s/ Mark P. Meuser
MICHAEL A. COLUMBO (SBN: 271283)
mcolumbo@dhillonlaw.com
DHILLON LAW GROUP INC.
177 Post Street, Suite 700
San Francisco, California 94108
Telephone: (415) 944-4996

SHAWN COWLES (SBN: 163826)
scowles@dhillonlaw.com
MARK P. MEUSER (SBN: 231335)
mmeuser@dhillonlaw.com
DHILLON LAW GROUP INC.
4675 MacArthur Court, Suite 1410
Newport Beach, CA 92660

DOMENIC P. AULISI (Admitted PHV)
daulisi@dhillonlaw.com
AMBER R. HULSE (Admitted PHV)
ahulse@dhillonlaw.com
DHILLON LAW GROUP INC.
2121 Eisenhower Avenue, Suite 608
Alexandria, VA 22314

Attorneys for Plaintiffs