

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

SUSAN SOTO PALMER, *et. al.*,*Plaintiffs,*

v.

STEVEN HOBBS, *et. al.*,*Defendants,*

and

JOSE TREVINO, ISMAEL CAMPOS, and
ALEX YBARRA,*Intervenor-Defendants.*

Case No.: 3:22-cv-05035-RSL

Judge: Robert S. Lasnik

**PLAINTIFFS' OPPOSITION TO
INTERVENOR-DEFENDANTS'
MOTION FOR RELIEF FROM
JUDGMENT PURSUANT TO
RULE 60(B)**

Plaintiffs Susan Soto Palmer, Faviola Lopez, Alberto Macias, Heliodora Morfin, and Caty Padilla (“Plaintiffs”) oppose Intervenor’s Rule 60(b) motion. In March 2024, this Court imposed a legislative map to remedy a violation of Section 2 of the Voting Rights Act (“Section 2”) in the Yakima Valley. Candidates have announced and are campaigning under that map for the 2026 election cycle. Intervenor—three individuals with no role in administering the map, who face no burden from this Court’s judgments, and who have a petition for a writ of certiorari pending—have asked this Court to set aside its judgments on the basis of the U.S. Supreme Court’s decision in *Louisiana v. Callais*, No. 24-109, 608 U.S. __ (2026). But this court lacks jurisdiction, the *Purcell* principle forecloses relief, and Intervenor fails to meet the high burden imposed by Rule

60(b), as they face no inequity from the continued enforcement of this Court’s judgments and Plaintiffs prevail even under *Callais*. Intervenor’s motion should be denied.

BACKGROUND

Three years ago, after a four-day trial and consideration of a voluminous record, this Court found that the enacted LD-15 in the Yakima Valley (the “Prior Map”) violated Section 2 and issued judgment in Plaintiffs’ favor on August 10, 2023. Dkts. #218, 219. After a robust remedial process, this Court issued an order directing the State of Washington and Secretary Hobbs to adopt a map to remedy the violation, known as Map 3B. Dkt. #290. Map 3B, which was drawn without consideration of race, was used for the 2024 election.

The State Defendants did not appeal. Instead, Intervenor—present in this case by permissive intervention only, Dkt. #69—appealed both decisions. On August 27, 2025, the Ninth Circuit held that Intervenor lacked standing to appeal on liability, and though one Intervenor had standing to appeal on remedy, his appeal failed. *Soto Palmer v. Hobbs*, 150 F.4th 1131, 1138 (9th Cir. 2025). On January 23, 2026, Intervenor filed a petition for a writ of certiorari. *Trevino v. Hobbs*, No. 25-918. Responses to the petition are due June 2, 2026.

On April 29, 2026, the Supreme Court decided *Callais*, which arose from Section 2 and Equal Protection challenges to Louisiana’s congressional map. *Callais* alters in some respects the framework of *Thornburg v. Gingles*, 478 U.S. 30 (1986), under which Section 2 cases are analyzed. However, the “update[s]” and “realign[ments]” in *Callais*, slip op. 29, do little to undermine this Court’s considered judgments here.

Nevertheless, on May 4, 2026, Intervenor filed a motion for relief from both this Court’s liability and remedial judgments under Rule 60(b), citing *Callais*. Dkt. #309. This Court ordered a response by May 11.

ARGUMENT

I. Jurisdictional and prudential considerations counsel against relief.

First, it is not clear that this Court has jurisdiction to rule on Intervenor’s Rule 60(b) motion. The Ninth Circuit’s decision, which still stands, held that Intervenor’s lack any harm sufficient to establish standing to challenge this Court’s liability decision. *Soto Palmer*, 150 F.4th at 1141-43. Intervenor’s Rule 60(b) Motion is simply an attempt to get around that foundational jurisdictional problem. But standing must be demonstrated “at all points during the litigation,” *Meland v. WEBER*, 2 F.4th 838, 848 (9th Cir. 2021), and Intervenor cannot do so. Just as Rule 60(b) may not be used to “allow litigants to circumvent the appeals process” for parties who choose not to appeal, neither should it provide an avenue to circumvent fatal jurisdictional deficiencies for parties whose appeal was dismissed. *See Plotkin v. Pac. Tel. & Tel. Co.*, 688 F.2d 1291, 1293 (9th Cir. 1982). Both “undermine greatly the policies supporting finality of judgments.” *Id.*

Second, Intervenor’s cert petition is pending. Thus, even if this court has jurisdiction—and especially if it does—this Court should await action, if any, from the Supreme Court. This Court has the power to control its docket and manage judicial resources, and prudential considerations strongly counsel against granting Intervenor’s motion. *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1112 (9th Cir. 2005). Indeed, the questions in Intervenor’s cert petition include whether Intervenor even have standing to challenge this Court’s liability decision, in addition to their baseless challenges to Map 3B, both of which could influence further litigation here. In combination with the large-scale disruption of an ongoing primary election Intervenor’s request would cause, *see infra*, these considerations substantially weigh against granting the 60(b) motion.

Furthermore, Intervenor’s requested relief is directly contradicted by arguments they advanced in their cert petition. In this Court, Intervenor contend that the “only legally viable”

1 path is “to restore [the Prior Map] adopted by the independent and bipartisan Commission,” and
 2 that they should not “remain subject to a judicial override of the Commission’s work.” Dkt. #309
 3 at 9, 11. But at the Supreme Court, Intervenors claim that the Prior Map “constitutes a racial
 4 gerrymander that violates equal protection,” Cert. Pet. at 1. Intervenors thus seek to impose a map
 5 they assert is illegal—which would result in *no* legal map in place for the 2026 election—*during*
 6 *an ongoing election*.¹ This absurd request weighs heavily against granting relief here.

8 For the same reasons, an indicative ruling under Rule 62.1 is unwarranted. Given the
 9 threshold questions in Intervenors’ cert petition (including standing) and the disruption an
 10 indicative ruling would cause to the 2026 elections, this Court should wait for resolution of
 11 Intervenors’ pending cert petition and deny Intervenors’ one-sentence request under Rule 62.1.

12 **II. *Purcell* prohibits a change to the map before the 2026 elections.**

13 The *Purcell* principle does not permit a change to the state’s current legislative map amid
 14 an ongoing primary election. *Purcell v. Gonzalez*, 549 U.S. 1 (2006). The candidate filing period
 15 has now closed, and candidates are already raising money and actively campaigning, including in
 16 LD-14.² Changing the map now is exactly the sort of last-minute alteration of election rules that
 17 federal district courts have consistently been instructed to avoid. *Abbott v. League of United Latin*
 18 *Am. Citizens*, 146 S. Ct. 418, 419 (2025) (barring a federal court from altering Texas’ 2026
 19 congressional map even *before* the close of candidate filing); *Merrill v. Milligan*, 142 S. Ct. 879,
 20 880-81 (2022) (Kavanaugh, J., concurring). Disrupting the process even closer to the election, as
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24 ¹ Intervenors’ counsel also represent another client asking the Supreme Court to invalidate the
 25 district that Intervenors ask this Court to reinstate. *Garcia v. Hobbs*, No. 25-901 (*cert. filed* Jan.
 26 23, 2026).

² Public Disclosure Commission, *Public Disclosure Data—Candidates*, <https://perma.cc/TC99-QLX4> (last visited May 11, 2026) (listing candidates running and fundraising in LD-14).

Intervenors propose, would represent significant federal intrusion into the State’s election calendar and cause substantial confusion and disruption to candidates, voters, and election officials amid an already active primary campaign. *Abbott*, 146 S. Ct. at 419; *see also* Dkt. #313. These effects far outweigh any harm from proceeding under the existing map.

This Court recognized as much when it denied Plaintiffs’ motion for preliminary injunction against the Prior Map filed in February 2022, months earlier in that election year—despite Plaintiffs presenting much more evidence of harm and the Court ultimately concluded that map violated Section 2. Dkt. #66. This Court denied Plaintiffs’ motion on April 13, 2022, citing the upcoming candidate filing period and the forthcoming August 2 primary. *Id.* at 9. Intervenors’ motion asks this Court for similar relief *after* the May 8 close of candidate filing and ahead of the August 4 primary election. The Court’s *Purcell* considerations in 2022 apply with greater effect today, and disfavor relief.

III. This Court’s liability judgment should not be set aside.

If this Court reaches the merits of Intervenor’s motion, Rule 60(b) does not justify vacating this Court’s liability judgment. Rule 60(b)(5) relief is inappropriate because Intervenors face no “inequity” from the enforcement of a judgment that causes them no harm. Moreover, Plaintiffs prevail even under the updated *Callais* framework, making continued enforcement of the liability judgment equitable. Nor does the *Callais* decision constitute an “extraordinary circumstance” warranting relief under 60(b)(6). This Court’s liability judgment should stand.

A. Enforcement of the liability determination is not inequitable.

Intervenors claim that leaving in place this Court’s liability determination would be “inequitable” under *Callais*, and demand that it be set aside under Rule 60(b)(5). Dkt. #309 at 5.

1 But Intervenor “bear[] the burden of establishing that changed circumstances warrant relief.”
 2 *Horne v. Flores*, 557 U.S. 433, 447 (2009). They fail to carry that burden for two main reasons: 1)
 3 they lack standing and face no hardship from the liability judgment, and 2) Plaintiffs can
 4 demonstrate Section 2 liability even under *Callais*.

5 *First*, Intervenor lack standing and so face no hardship from enforcement of the liability
 6 determination. Before addressing the merits of the Rule 60(b)(5) motion, this Court must ensure
 7 Intervenor have standing. *Horne*, 557 U.S. at 445. They do not. In *Horne*, on which Intervenor
 8 principally rely, the Court addressed the 60(b)(5) motion only after determining that the party
 9 seeking relief from judgment had standing because the “current injunction r[an] against him.” *Id.*
 10 Here, “none of the Intervenor has standing to challenge the liability determination.” *Soto Palmer*,
 11 150 F.4th at 1141. That is because Intervenor provided no evidence that “in reaching its liability
 12 determination, the district court classified them based on their race.” *Id.* at 1142. Furthermore,
 13 Intervenor Trevino did not allege that the liability determination “‘required him to do anything or
 14 to refrain from doing anything’ because of his race or otherwise.” *Id.* (citing *Food & Drug Admin.*
 15 *v. All. for Hippocratic Med.*, 602 U.S. 367, 385 (2024)). And Intervenor Ybarra’s claim about
 16 reduced reelection chances “does not support standing as to the liability determination, because it
 17 is not traceable to that judgment.” *Id.* at 1143.³ Facing no harm from the liability judgment,
 18 Intervenor cannot claim that continued enforcement of it is inequitable.⁴

19 *Second*, Plaintiffs prevail even under the *Callais* framework, making continued
 20 enforcement of this Court’s liability order equitable. In *Callais*, the majority opinion stated that it

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 24 ³ Intervenor Ybarra (now running for Senate in LD-13) is unopposed and thus faces no harm.
 25 VoteWA, *Primary 2026*, <https://perma.cc/DJ7A-VNMC> (last visited May 11, 2026).

26 ⁴ Intervenor Campos also lacks standing and “provided no clue” as to what harm he suffered. *Soto Palmer*, 150 F.4th at 1143. His absence from Intervenor’s motion suggests he is not seeking relief.

1 did not “abandon[]” the Section 2 *Gingles* framework but instead “update[d]” it. *Callais*, slip op.
 2 26, 29. First, *Callais* announced two additions to the first *Gingles* precondition: illustrative maps
 3 “cannot use race as a districting criterion,” and “must meet all the State’s legitimate districting
 4 objectives.” *Id.* at 29. Second, for the second and third *Gingles* preconditions, Plaintiffs must
 5 “control[] for party affiliation.” *Id.* at 30. Third, under *Callais*, the totality inquiry must give less
 6 weight to discrimination that occurred “some time ago” and to present-day disparities resulting
 7 from that past discrimination. *Id.* at 30-31. Instead, “current data and current political conditions
 8 that shed light on current intentional discrimination” are particularly germane. *Id.* at 31 (citation
 9 modified). *Callais* says nothing about any other aspects of the totality test.

11 Applying this framework, Section 2 liability remains. There are multiple maps in the record
 12 that meet the requirements of the first *Gingles* precondition as altered by *Callais*. All the proposed
 13 remedial maps (including the ultimately selected Map 3B) were drawn without considering race.
 14 Dkt. #245-1 ¶ 13 (Oskooii Report); Dkt. #254-1 ¶ 37 (Oskooii Rebuttal); Dkt. #297 at 29:4-8,
 15 32:1-6 (Oskooii testimony). Additionally, Map 3B meets the State’s districting objectives: it is
 16 “consistent with . . . state law and traditional redistricting criteria,” and it “preserve[s] the integrity
 17 of the [Yakama] Reservation and all off-Reservation trust lands designated by the U.S. Census.”
 18 Dkt. #290 at 4-5. The Map was also drawn without reference to political data, in accordance with
 19 state law. *Id.* at 9 (quoting RCW 44.05.090(5)). Map 3B also maintains the partisan breakdown
 20 negotiated by members of the Commission, including in LD-14, which elected a Republican
 21 senator and two Republican representatives in the 2024 election.⁵ The overall political balance of
 22 the map also aligns with the Commission’s stated goals. Dkt. #290 at 10.

25 ⁵ Wash. State Legislature, *District Finder*, <https://app.leg.wa.gov/districtfinder/displaydistrict/14>
 26 (last visited May 11, 2026).

1 In meeting the second and third preconditions, race and party were sufficiently
 2 disaggregated, as *Callais* now requires. The State’s expert, Dr. Alford, persuasively testified about
 3 “a real ethnic effect on voting in this area” as distinct from a partisan one. Trial Tr. at 853:15-
 4 854:15 (Alford). Additionally, Plaintiffs’ expert Dr. Collingwood demonstrated that Latino-
 5 preferred candidates were defeated by white bloc voting in numerous *nonpartisan* races, further
 6 distinguishing race from party. Trial Ex. 1 at 15-16 (Collingwood Report). Intervenors’ own
 7 expert, Dr. Owens, identified evidence of Latino voters cohesively voting for a Republican
 8 candidate rather than a Democrat, yet that candidate still lost due to white voting patterns, Dkt.
 9 #218 at 11 n.8 & 30 n.14, further “disentangling race and politics.” *Callais*, slip op. 30. And
 10 Intervenors’ counsels’ other client, Mr. Garcia, testified about the racial discrimination he faced
 11 running as a candidate in the Republican primary, Dkt. #191-7, 75:9-77:13, 90:12-91:13 (Garcia
 12 Deposition), strong evidence of “intra-party racial-bloc voting,” that demonstrates that minority
 13 voters have “less opportunity than their majority counterparts because of race, not just because of
 14 partisan affiliation.” *Callais*, slip op. 30 (internal quotation omitted).

17 With regard to the totality analysis, while this Court’s opinion acknowledged the history
 18 of racial discrimination in the Yakima Valley and the disparities that have persisted because of it,
 19 the Court also described discriminatory “official election practices and procedures” that were used
 20 “as recently as the last few years,” Dkt. #218 at 15, and noted that Latino voters in the region have
 21 faced official discrimination that “continues to impact their rights to participate in the democratic
 22 process.” *Id.* at 17. The Court’s opinion also discussed racial appeals and use of racial “dog-
 23 whistles” in campaigns, very limited success of Latino candidates, and elected officials’ lack of
 24 responsiveness, all totality factors about which *Callais* said nothing, and which further
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1 demonstrate the centrality of race rather than partisanship in voting behavior. *Id.* at 20-24; *see also*
 2 Trial Ex. 4 at 63-77 (Estrada Report). Plaintiffs thus prevail even under the *Callais* test.

3 Moreover, to the extent *Callais* insists upon evidence supporting a finding of “intentional
 4 present-day voting discrimination,” slip op. 30-31, Plaintiffs supplied that too. But because this
 5 Court already found the Prior Map invalid, it found that it “need not decide plaintiffs’
 6 discriminatory intent claim.” Dkt. #218 at 3. Because of this unadjudicated claim, grant of the
 7 60(b) motion is particularly inappropriate—at most, the Court should supplement the record with
 8 further findings in the event of a Supreme Court remand.
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10 **B. *Callais* is not an “extraordinary circumstance” that warrants setting aside the**
 11 **liability determination.**

12 The *Callais* decision is not an “extraordinary circumstance” that warrants relief from the
 13 liability judgment under Rule 60(b)(6), which is available “only in narrow circumstances.” *BLOM*
 14 *Bank SAL v. Honickman*, 605 U.S. 204, 211 (2025). While a change in law may reach this
 15 threshold, circumstances are “hardly extraordinary if a decision rests on a then-prevailing
 16 interpretation of the law and the Supreme Court later arrive[s] at a different interpretation.” *Fed.*
 17 *Trade Comm’n v. Hewitt*, 68 F.4th 461, 468 (9th Cir. 2023) (citation modified). When a change in
 18 law is the basis for an allegedly “extraordinary circumstance,” courts must perform a “case-by-
 19 case inquiry” that “intensively balance[s]” all relevant factors. *Henson v. Fid. Nat’l Fin., Inc.*, 943
 20 F.3d 434, 445-46 (9th Cir. 2019). Those factors include the nature of the change in law, movants’
 21 diligence in pursuing relief, reliance interests on the finality of the judgment, delay between
 22 judgment and the Rule 60(b) motion, relationship between the judgment and the change in law,
 23 comity between federal courts and state sovereigns, and additional relevant circumstances. *See,*
 24 *e.g., Ege v. Express Messenger Sys., Inc.*, No. 2:16-CV-1167-RSL, 2019 WL 6701342, at *3-6
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1 (W.D. Wash. Dec. 9, 2019) (Lasnik, J.) (applying *Henson*). Weighing all relevant considerations,
2 Intervenor fail to demonstrate the “extraordinary circumstances necessary to grant relief under
3 Rule 60(b)(6).” *Id.* at *7 (internal quotation omitted).

4 The change in law factor does not weigh in favor of granting the motion. While *Callais*
5 altered the analytical framework for Section 2 liability, it did not “directly overrule[]” the caselaw
6 that underpinned this Court’s judgment. *Hewitt*, 68 F.4th at 468. Because the challenged judgment
7 was correct under “then-prevailing precedent,” as the Ninth Circuit has since affirmed, this factor
8 weighs against relief. *See id.* at 469. The applicability of the *Gingles* preconditions and totality
9 analysis to Plaintiffs’ Section 2 claim was not an open or unsettled question of law, but the routine
10 application of a nearly 40-year-old precedent. A judgment based on the “accurate application of
11 then-settled law—even after the Supreme Court overrules such precedent—is ‘hardly
12 extraordinary.’” *Bynoe v. Baca*, 966 F.3d 972, 983 (9th Cir. 2020) (citing *Gonzalez v. Crosby*, 545
13 U.S. 524, 536 (2005)). Moreover, the outcome was also correct under *Callais*, as explained *supra*,
14 underscoring why the change in law weighs against granting the motion.
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17 Similarly, the relationship between the original judgment and the change in law also does
18 not support granting the motion. Though *Callais* “update[d]” and “realign[ed]” the legal
19 framework on which this Court’s judgment was based, it did not overrule that framework or
20 address the factual particulars of this case. *See Venoco, LLC v. Plains Pipeline, L.P.*, No. 21-55193,
21 2022 WL 1090947, at *2 (9th Cir. Apr. 12, 2022) (finding a close connection where intervening
22 case “involved the same oil spill, the same legal doctrine, and the same defendant” as the
23 challenged judgment). The case is not close beyond generally being about Section 2, and thus
24 closeness weighs against granting the motion.
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1 The comity factor addresses the relationship between “the independently sovereign state
2 and federal judiciaries” that might be implicated by granting 60(b)(6) relief. *Phelps v. Alameida*,
3 569 F.3d 1120, 1139 (9th Cir. 2009). A case that “hinges” on the interaction between state and
4 federal law “goes to the heart of comity’s concern” with this relationship. *Venoco, LLC*, 2022 WL
5 1090947, at *3. Here, the question is about the validity of a state law, granting relief would
6 significantly disrupt ongoing state elections, and the State opposes relief. Comity thus weighs
7 against granting the motion.
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9 Similarly, reliance interests in finality weigh against granting the motion. The election is
10 *already ongoing*, and Plaintiffs (and other voters) are relying on this Court’s judgment for their
11 conduct in that election, resulting in concrete reliance beyond an “abstract interest in finality.” *See*
12 *Henson*, 943 F.3d at 450. The remedial map put in place following the liability judgment and
13 Plaintiffs’ reliance on it are “effects” of that judgment that would be “disturbed” if the motion
14 were granted. *Id.*
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16 While Intervenors advanced many of the same arguments throughout this litigation that
17 they advance here, and there was relatively minimal delay between the judgment and the present
18 motion, these considerations must be weighed with “all the relevant factors together” along with
19 an evaluation of “the circumstances of this case.” *Henson*, 943 F.3d at 455. Performing that holistic
20 analysis of circumstances—particularly considering the weighty *Purcell* considerations and
21 Intervenors’ lack of legally protected interests in this case—demonstrates that there are no
22 “extraordinary circumstances,” and that granting the 60(b)(6) motion would not “accomplish
23 justice.”
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IV. This Court’s remedial judgment should not be set aside.

Rule 60(b) also provides no support to set aside Map 3B, which was selected in a thorough and race-neutral process and is currently being used in an ongoing primary election. As with the liability judgment, Intervenor may not be *relieved* from a judgment under Rule 60(b)(5) that does not otherwise burden them. *See, e.g., Relieve*, Meriam-Webster’s Dictionary, <https://perma.cc/G5GJ-MP3P> (defining “relieve” as “to ease of a burden, wrong, or oppression by judicial or legislative interposition”). It also cannot be inequitable to leave Map 3B undisturbed when it survives review under *Callais*, and *Callais* provides no “extraordinary circumstance” to warrant Rule 60(b)(6) relief.

A. Rule 60(b)(5) does not support setting aside the remedial map.

Rule 60(b)(5) does not support setting aside the remedial map. Intervenor has failed to show that they are harmed by Map 3B or that there is anything invalid about the map, and thus cannot demonstrate “inequity.” The Ninth Circuit found that no Intervenor had standing to challenge Map 3B “as an illegal remedy under Section 2.” *Soto Palmer*, 150 F.4th at 1143. The Ninth Circuit did find that Intervenor Trevino had standing to challenge Map 3B as a racial gerrymander (despite having likely forfeited the claim), but after thorough analysis affirmed this Court’s remedial order. *Id.* at 1150. Rule 60(b)(5) relief is thus unwarranted.

Nor does *Callais* render the remedial order invalid. In a racial gerrymandering case, a challenger must show that race was the “predominant consideration” in how the district lines were drawn. *Callais*, slip op. 9 (citing *Bush v. Vera*, 517 U.S. 952, 964 (1996)); *see also* Dkt. #309 at 1 (*Callais* “confirm[s] that race may not be used as a predominant factor . . .”). If race predominates, then strict scrutiny is applied, requiring a compelling justification for the use of race that is narrowly tailored. *Callais* did not change this—it held that compliance with Section 2 “as properly

1 *construed*, can provide such a [compelling] reason.” *Id.* at 2 (emphasis in original); *see also id.* at
 2 39-40 n.11 (Kagan, J., dissenting) (recognizing this holding as one the Court has “made plain many
 3 times before”).

4 Race was not considered in the drawing of the remedial map, and it certainly did not
 5 predominate. “Nothing in the record . . . supports a claim that race predominated in the redistricting
 6 process.” *Soto Palmer*, 150 F.4th at 1146. The map was drawn without racial data. Dkt. #245-1 ¶
 7 13; Dkt. #254-1 ¶ 37; Dkt. #297 at 29:4-8, 32:1-6. And this Court “accomplished three distinct,
 8 non-racial objectives” in adopting the map, *Soto Palmer*, 150 F.4th at 1146, and Map 3B complies
 9 with the State’s stated goals. This Court’s “thoughtful attention to the details of the maps,
 10 population and voter numbers, and viable alternatives does not furnish evidence of racial
 11 predominance.” *Id.* at 1148. “[N]ot all mentions of race trigger strict scrutiny,” *id.* at 1146, and
 12 because race did not predominate, strict scrutiny would not apply.⁶

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 15 Even if Map 3B were analyzed under strict scrutiny, it would still pass muster because it
 16 was drawn to remedy a Section 2 violation, which *Callais* confirmed is a compelling interest. As
 17 explained *supra*, this Court’s liability order comports with *Callais*’s read of Section 2. Intervenor
 18 cite caselaw to claim that “a court must modify an injunction if the law underlying it has been
 19 overruled.” Dkt. #309 at 10. But according to the *Callais* majority, no case has been overruled—
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22 ⁶ Intervenor suggests that *Callais* somehow changed the standard for racial gerrymandering cases,
 23 and that strict scrutiny now applies even in the absence of a showing of predominance. Dkt. #309
 24 at 10. *Callais* did not say so, and such a holding would overturn at least *Miller v. Johnson*, 515
 25 U.S. 900 (1995), *Bush v. Vera*, 517 U.S. 952 (1996), and *Cooper v. Harris*, 581 U.S. 285 (2017).
 26 The Supreme Court speaks plainly when it overrules precedent, and it did not overrule a line of
 significant cases *sub silentio*. *State Oil Co. v. Khan*, 522 U.S. 3, 20 (1997). But even if it did, the
 outcome in this case would be the same because race was not considered *at all* in the drawing or
 selection of the map.

1 not *Gingles*, and not *Allen*, which reaffirmed *Gingles* just three years ago. *Allen v. Milligan*, 599
2 U.S. 1, 24 (2023).

3 **B. Rule 60(b)(6) also provides no support to invalidate the remedial map.**

4 For reasons previously discussed, *Callais* is not an “extraordinary circumstance”
5 warranting relief from the remedial judgment. The *Callais* majority stated that it did not overturn
6 but *reaffirmed* existing caselaw on the drawing of a remedial map upon a Section 2 violation. The
7 comity and reliance factors are similarly weighty given the close of the candidate filing period and
8 the ongoing election taking place using Map 3B. *See Henson*, 943 F.3d at 455. Moreover,
9 Intervenor face no burden warranting relief from the existence of the remedial map. *See Soto*
10 *Palmer*, 150 F.4th at 1138.

12 In arguing that *Callais* constitutes an “extraordinary circumstance” warranting 60(b)(6)
13 relief, Intervenor contend that Map 3B exhibits an “express consideration of race” in its
14 compliance with Section 2, and that *Callais* “clearly bars” such consideration. Dkt. #309 at 11.
15 Neither of these statements is true. Map 3B wasn’t drawn or adopted with “express consideration
16 of race;” it was drawn with *no* consideration of race and adopted to accomplish “non-racial
17 objectives.” *Soto Palmer*, 150 F.4th at 1146. There was no express consideration, and certainly no
18 predominance. Moreover, under *Callais*, “compliance with the Voting Rights Act can indeed
19 provide a compelling reason for race-based districting.” slip op. 2. Considering “all the relevant
20 factors together,” along with an evaluation of “the circumstances of this case,” Rule 60(b)(6)
21 provides no grounds for relief. *Henson*, 943 F.3d at 455.
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CONCLUSION

For the reasons above, the Court should deny Intervenor's Rule 60(b) motion and decline to issue an indicative ruling under Rule 62.1. To the extent any further action is warranted, this Court should wait until after any possible remand from the Supreme Court.

Dated: May 11, 2026

Respectfully submitted,

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CERTIFICATE OF WORD COUNT COMPLIANCE

I certify that this memorandum contains 4198 words, in compliance with the Local Civil Rules.

/s/ Annabelle E. Harless
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CERTIFICATE OF SERVICE

I certify that all counsel of record were served a copy of the foregoing this 11th day of May 2026, via the Court's CM/ECF system.

/s/ Annabelle E. Harless
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