No. 17-20030

In the United States Court of Appeals for the Fifth Circuit

ALBERTO PATINO; MARIA MARI; PATRICIA GONZALES; MARIA CARMEN MENDOZA; FRANK BORREGO; GABRIEL ROCHA BARRETO; RICHARD SERNA; JOSEPH JOHN MARQUEZ,
Plaintiffs-Appellees

v.

CITY OF PASADENA,
Defendant-Appellant

On Appeal from the U.S. District Court for the Southern District of Texas, Houston Division

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BRIEF FOR *AMICI CURIAE* CAMPAIGN LEGAL CENTER, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC, AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION OF TEXAS, ASIAN AMERICANS ADVANCING JUSTICE | AAJC, LEAGUE OF UNITED LATIN AMERICAN CITIZENS, SOUTHERN COALITION FOR SOCIAL JUSTICE, SOUTHERN POVERTY LAW CENTER, TEXAS STATE CONFERENCE OF THE NAACP, AND THE VOTING RIGHTS INSTITUTE IN SUPPORT OF APPELLEES

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SUPPLEMENTAL STATEMENT OF INTERESTED PERSONS

Pursuant to Federal Rule of Appellate Procedure 26.1 and Fifth Circuit Rule 29.2, *amici curiae* provide this supplemental statement of interested persons in order to fully disclose all the persons and entities as described in the fourth sentence of Fifth Circuit Rule 28.2.1 that have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal. *Amici* certify that they are 501(c)(3) non-profit corporations. None of the *amici* has a corporate parent or is owned in whole or in part by any publicly held corporation.

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

TABLE OF AUTHORITIES
(continued)

Page(s)

TABLE OF AUTHORITIES
(continued)

Page(s)

Statutes, Rules and Regulations

TABLE OF AUTHORITIES
(continued)

Page(s)

Other Authorities

INTEREST OF *AMICI CURIAE*

Amici curiae are non-profit organizations that have a demonstrated interest in protecting the rights of voters under the Voting Rights Act of 1965 ("VRA") and the Reconstruction Amendments, and, in pursuing that interest, frequently litigate in the area of election law and voting rights law. A list of *amici curiae* appears in the Appendix. The parties consent to the filing of this brief.[1]

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Prior to the Supreme Court's 2013 decision in *Shelby County* invalidating the VRA's coverage formula, the City of Pasadena ("City") was a "covered jurisdiction" that was required to "preclear" all voting changes with federal authorities. *See Shelby County, Alabama v. Holder*, 133 S. Ct. 2612 (2013). This preclearance process ensured that jurisdictions with a history of racial discrimination in voting were not permitted to enforce voting changes that would have a retrogressive effect on minority voters. Almost immediately after *Shelby County*, the City moved to change its redistricting map from eight single-member districts to a hybrid map with six single-member districts and two at-large districts. As described in considerable detail by the district court, the City's adoption of the dilutive redistricting map, which occurred against the backdrop of surging Latino

[1] Pursuant to Fed. R. App. P. 29(c)(5), *amici* state that no party's counsel authored this brief either in whole or in part, and further, that no party or party's counsel, or person or entity other than *amici*, *amici*'s members, and their counsel, contributed money intended to fund preparing or submitting this brief.

population growth, was done with the intent to discriminate against Latino voters. As a remedy and to prevent and deter future violations, the district court invoked Section 3(c) of the VRA—which authorizes courts to place States and political subdivisions under preclearance in response to a violation of the Fourteenth or Fifteenth Amendment—to "bail-in" the City until 2023.

The bail-in of the City was both statutorily and constitutionally appropriate. The City's enactment of an intentionally discriminatory redistricting plan immediately after it was no longer required to obtain federal preclearance review is a quintessential example of when bail-in is appropriate. Section 3(c), moreover, is a proper exercise of Congress's enforcement authority under the Reconstruction Amendments. Unlike the coverage formula, Section 3(c) is triggered only upon a judicial finding of a contemporary constitutional violation. Section 3(c), therefore, does not raise the same constitutional concerns about reliance on "decades-old data" and "equal sovereignty" that the Supreme Court identified in invalidating the coverage formula in *Shelby County*. *Id.* at 2627, 2618. Instead, Section 3(c) uses the uniquely effective preclearance process to prevent voting discrimination before it occurs—in a manner that is custom tailored to redress an underlying constitutional violation.

ARGUMENT

The City does not contest the district court's remedy of preclearance under Section 3(c); it challenges only the predicate finding of intentional discrimination. City Br. 47-51.[2] Any argument as to the appropriateness of the bail-in remedy is therefore waived. *See, e.g.*, *United States v. McRae*, 795 F.3d 471, 479 (5th Cir. 2015) ("[A]n argument not raised ... in the appellant's opening brief is waived."). However, the State of Texas, as *amicus curiae*, has questioned the appropriateness of the bail-in remedy. Because Texas is not a party to this case, this Court need not—indeed, should not—address those arguments. *See Squyres v. Heico Companies, L.L.C.*, 782 F.3d 224, 233 n.5 (5th Cir. 2015) (declining to consider arguments raised solely in *amicus* brief). But given the potential importance of this case in setting precedent on this question of first impression in this Circuit, *amici* submit this brief to clarify when Section 3(c) relief is warranted and to clarify its constitutionality.

"The Voting Rights Act of 1965 reflects Congress' firm intention to rid the country of racial discrimination in voting," *South Carolina v. Katzenbach*, 383 U.S. 301, 315 (1966), and its "historic accomplishments ... are undeniable." *Northwest Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193, 201 (2009).

[2] *Amici* agree with and assume the validity of the district court's well-documented conclusion that the City violated the Fourteenth Amendment by intentionally diluting the votes of Latino voters.

Although the Supreme Court determined in 2013 that the VRA's coverage formula was no longer justified by "current conditions," *Shelby County*, 133 S. Ct. at 2631, thus immobilizing a vital protection against racial discrimination in voting, this case involves a distinct statutory provision for preclearance. Section 3(c) authorizes preclearance based on contemporary and adjudicated constitutional violations rather than on "decades-old data" contained in a coverage formula. *Id.* at 2627. It is a preclearance mechanism that is triggered by "current conditions." *Id.* at 2631.

I. Section 3(c) Is A Vital Component Of The Voting Rights Act

"[D]esigned by Congress to banish the blight of racial discrimination in voting," the VRA represents Congress's most "inventive" enforcement of the Reconstruction Amendments. *Katzenbach*, 383 U.S. at 308, 327. In enacting the VRA, Congress developed an interlocking statutory scheme designed to root out explicit—as well as "ingenious," *id.* at 309—methods of vote denial or dilution. Thus, Section 3(c) must be understood within the framework of the VRA's complimentary and reinforcing provisions.

A. Sections 2, 4, and 5

Section 2 of the VRA is a permanent and nationwide ban on racial discrimination in voting. 52 U.S.C. § 10301. Plaintiffs can establish a Section 2 violation by showing either discriminatory intent or effect. *See Veasey v. Abbott*,

830 F.3d 216, 229 (5th Cir. 2016) (en banc). Section 2 claims can be brought on a theory of vote denial, *see id.*, or, as here, vote dilution, *see* ROA.2984; *Thornburg v. Gingles*, 478 U.S. 30, 46-49 (1986).

Section 5 applied only in certain "covered jurisdictions" and "provided that no change in voting procedures could take effect until it was approved [that is, precleared] by federal authorities in Washington, D.C.—either the Attorney General or a court of three judges." *Shelby County*, 133 S. Ct. at 2620. Preclearance was "granted only if the change neither 'ha[d] the purpose nor [would] have the effect of denying or abridging the right to vote on account of race or color.'" *Northwest Austin*, 557 U.S. at 198 (quoting 42 U.S.C. § 1973c(a), now codified at 52 U.S.C. § 10304(a)). Section 5 applied broadly to voting changes, including "ballot-access rights" as well as the drawing of district lines. *Id.*; *see also Allen v. State Bd. of Elections*, 393 U.S. 544, 564-66 (1969).

Preclearance was specifically designed to prophylactically address the particular harms of voting discrimination and avoid the unique challenges of protracted voting rights litigation. As the Court in *Shelby County* explained, preclearance was a congressional response to a world wherein "litigation remained slow and expensive, and the States came up with new ways to discriminate as soon as existing [laws] were struck down." 133 S. Ct. at 2620. This interminably slow, whack-a-mole approach to discrimination was particularly problematic in the

voting rights arena because, once discriminatory voting changes are in effect for an election, the harmed voters can rarely, if ever, be made whole. 1 *Voting Rights Act: Evidence of Continued Need, Hearing Before the Subcommittee on the Constitution of the H. Comm. on the Judiciary*, 109th Cong. 97 (2006) (noting that harmed voters cannot change past electoral outcomes, and the benefits of incumbency adhere to those elected under discriminatory procedures). Thus, Section 5's preclearance process "'shift[ed] the advantage of time and inertia'" from those who enact discriminatory laws to the victims of discrimination. *City of Rome v. United States*, 446 U.S. 156, 182 (1980) (quoting *Katzenbach*, 383 U.S. at 309). By stopping discriminatory laws *before* they were implemented, preclearance under Section 5 was responsible for much of our Nation's uncontested progress in battling discrimination in voting and improving meaningful access to the franchise for racial minorities. *See* Joint Center for Political & Economic Studies, *50 Years of the Voting Rights Act: The State of Race in Politics* 4 (2015), https://goo.gl/05asG5 ("Since 1965, ... African Americans went from holding fewer than 1,000 offices nationwide to over 10,000.").

Section 4(b) supplied the "coverage formula" for determining the jurisdictions to which Section 5 applied. Under Section 4(b), a jurisdiction was covered if, during the 1964, 1968, or 1972 presidential election, it (1) maintained an illegal "test or device," such as a literacy test, and (2) had voter turnout below

fifty percent. 52 U.S.C. § 10303(b). In crafting the coverage formula and adopting these proxies for identifying egregious racial discrimination in voting, Congress "limited its attention to the geographic areas where immediate action seemed necessary." *Katzenbach*, 383 U.S. at 328.[3]

Sections 4(b) and 5 were temporary provisions that were reauthorized by large and bipartisan majorities in Congress in 1970, 1975, 1982, and 2006. *Shelby County*, 133 S. Ct. at 2620. The 1965, 1970, 1975, and 1982 enactments were all upheld by the Supreme Court. *See id.* at 2620-21 (collecting cases). The Court, however, invalidated the 2006 reauthorization of Section 4(b) in *Shelby County*.

There, the Court stated that "the [Voting Rights Act's] 'current burdens' must be justified by 'current needs,' and any 'disparate geographic coverage' must be 'sufficiently related to the problem that it targets.'" 133 S. Ct. at 2627 (quoting *Northwest Austin*, 557 U.S. at 203). Applying that standard, the Court held that Section 4(b)'s coverage formula was "based on 40-year old facts having no logical relation to the present day" and was therefore an unconstitutional "basis for subjecting jurisdictions to preclearance." *Id.* at 2629, 2631. The Court did not strike down Section 5, *see id.* at 2631, and invited Congress to draft another

[3] Once a jurisdiction was covered by Section 4(b), it could seek "bail-out" of the preclearance regime by showing that it had not engaged in discrimination in voting for ten years, in accordance with criteria enumerated in Section 4(a). *See Shelby County*, 133 S. Ct. at 2620.

formula for preclearance, suggesting that another method would be constitutional. *See id.*; *see also infra* at p.22. Section 3(c) was left undisturbed by *Shelby County* and remains a viable tool for preclearance.

B. Section 3(c)

Included as a permanent provision in the original VRA, "Section[] 3 ... strengthen[ed] existing procedures for attacking voting discrimination by means of litigation" and targeted "pockets of voting discrimination" missed by Section 4(b)'s coverage formula. *Katzenbach*, 383 U.S. at 316, 308. Section 3(c) provides, in relevant part, that:

> If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no [voting change] different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court [or the Attorney General] finds that such [voting change] does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 10303(f)(2) of this title ... .

52 U.S.C. § 10302(c).

Section 3(c) thus authorizes federal courts to place States and political subdivisions that have violated the Fourteenth or Fifteenth Amendment under

preclearance. In other words, Section 3(c) authorizes courts to "bail-in" a jurisdiction into the preclearance process.

Between the passage of the VRA in 1965 and *Shelby County*'s invalidation of the coverage formula in 2013, Section 3(c) was invoked to bail-in two States (Arkansas and New Mexico), six counties (Los Angeles County, California; Escambia County, Florida; Thurston County, Nebraska; Bernalillo County, New Mexico; Buffalo County, South Dakota; Charles Mix County, South Dakota), and one city (Chattanooga, Tennessee). *See* Travis Crum, Note, *The Voting Rights Act's Secret Weapon: Pocket Trigger Litigation and Dynamic Preclearance*, 119 Yale L.J. 1992, 2010 (2010) (collecting cases). The dearth of Section 3(c) bail-in cases is due, in part, to the existence of Section 4(b)'s coverage formula for several decades. *See id.* at 2015.[4]

In addition to the City of Pasadena, the City of Evergreen, Alabama, has been bailed-in post-*Shelby County*. *See Allen v. City of Evergreen*, 2014 WL 12607819, at *2 (S.D. Ala. Jan. 13, 2014). And multiple potential Section 3(c) bail-in suits are pending in federal courts. *See, e.g.*, *Veasey v. Abbott*, 2017 WL 1315593 (S.D. Tex. Apr. 10, 2017) (finding intentional discrimination in enactment of Texas's voter ID law); *Perez v. Abbott*, 2017 WL 1787454, at *2-3

[4] Many of these bail-ins were the result of consent decrees. *See* Crum, 119 Yale L.J. at 2015.

(W.D. Tex. May 2, 2017) (finding intentional discrimination in enactment of redistricting plan and noting request for Section 3(c) relief); Second Amended Compl. at 74-75, *Greater Birmingham Ministries v. Alabama*, No. 2:15-cv-02193 (N.D. Ala. Dec. 6, 2016), ECF No. 112 (seeking Section 3(c) relief in a lawsuit challenging Alabama's voter ID law); Compl. at 22-23, *Terrebonne Parish Branch NAACP v. Jindal*, No. 314-cv-69 (M.D. La. Feb. 3, 2014), ECF No. 1 (seeking Section 3(c) relief in lawsuit alleging vote dilution in electing members to a Louisiana state court).

The City of Pasadena's decision to radically amend its voting laws in the immediate wake of *Shelby County* follows an unfortunate pattern of behavior in formerly covered jurisdictions. *See N.C. State Conference of the NAACP v. McCrory*, 831 F.3d 204, 216 (4th Cir. 2016) (discussing tightening of voter ID law and adoption of other voting restrictions immediately after *Shelby County*); NAACP LDF, *Democracy Diminished: State and Local Threats to Voting Post-*Shelby County, Alabama v. Holder (2016), https://goo.gl/sg5NFu (collecting examples of post-*Shelby County* changes). The enactment of these laws in the immediate aftermath of *Shelby County* demonstrates the need for Section 3(c)'s bail-in mechanism to prevent discriminatory voting practices in various jurisdictions nationwide—in a manner that is flexible, current, and temporally limited.

C. Section 3(c)'s Bail-in Mechanism Differs Significantly From Section 4(b)'s Coverage Formula And Thereby Avoids Any Constitutional Concerns

Although there are some similarities between Sections 3(c) and 4(b), there are several constitutionally salient differences.

First, and most importantly, each provision contains a distinct trigger for preclearance. Section 4(b)'s coverage formula was based on indicia of unconstitutional conduct dating back to the VRA's enactment and applied to only certain jurisdictions. *See Northwest Austin*, 557 U.S. at 203 ("The statute's coverage formula is based on data that is now more than 35 years old, and there is considerable evidence that it fails to account for current political conditions."). Section 3(c), by contrast, "replac[es] [the coverage formula's] reliance on proxies with judicial findings of contemporary constitutional violations." Crum, 119 Yale L.J. at 2025. Thus there can be no claim that Section 3(c) relies on "decades-old data." Nor is there a pre-determined differentiation between the States under Section 3(c): it is a nationwide standard that imposes a remedy only when a jurisdiction has been found by a court to engage in contemporary racial discrimination in voting.

Second, Section 3(c) allows greater flexibility for courts to craft a preclearance remedy for specific, proven constitutional violations. For instance, courts have fashioned targeted preclearance remedies under Section 3(c) that are as

narrow or broad as the violation dictates. Rather than "suspending *all* changes to state election law," *Northwest Austin*, 557 U.S. at 202, courts have interpreted Section 3(c) to require preclearance of only certain changes to election laws. In *Jeffers v. Clinton*, the district court invoked Section 3(c) to require Arkansas to preclear only changes related to majority-vote requirements in general elections—the same type of changes that had triggered a finding of invidious discrimination. 740 F. Supp. 585, 601 (E.D. Ark. 1990). Similarly, New Mexico agreed to preclear only changes relating to redistricting plans. *See* Crum, 119 Yale L.J. at 2012 & n.120 (discussing Judgment at ¶ 8, *Sanchez v. Anaya*, Civ. No. 82-0067M (D.N.M. Dec. 17, 1984) (consent decree)); *see also City of Evergreen*, 2014 WL 12607819, at *2 (preclearance required for "any change in the redistricting plan or method of election for City Council elections" and eligibility requirements for voters in municipal elections).

Third, bail-in under Section 3(c) is more temporally limited than coverage under Section 4(b). Although the coverage formula was technically temporary, some jurisdictions were covered from 1965 until 2013. By contrast, bail-ins under Section 3(c) have lasted for shorter periods of time. 52 U.S.C. § 10302(c) (providing that a court shall "retain jurisdiction" for "such period as it may deem appropriate"). The recent bail-in of the City of Evergreen will last for approximately seven years. *City of Evergreen*, 2014 WL 12607819, at *3; *see also*

Kirkie v. Buffalo County, 2004 U.S. Dist. LEXIS 30960 (D.S.D. Feb. 12, 2004) (consent decree) (approximately one decade). And the bail-ins of New Mexico and of the City in this case were crafted to capture only the next redistricting cycle. *See* Crum, 119 Yale L.J. at 2012 & n.120 (discussing Judgment at ¶ 8, *Sanchez v. Anaya*, Civ. No. 82-0067M (D.N.M. Dec. 17, 1984) (consent decree)); ROA.3119 (Bail-in until 2023 "ensures that the City's redistricting to take account of the 2020 Census is submitted to preclearance."). By imposing these reasonable time limits, courts have ensured that bail-in remains tied to "current conditions." *Shelby County*, 133 S. Ct. at 2631.

II. The City Of Pasadena Was Properly Subjected To Preclearance Pursuant To Section 3(c)

A. The Bail-in Of The City Of Pasadena

This is a textbook case for when bail-in is both appropriate and necessary. Bail-in is a form of "equitable relief," 52 U.S.C. § 10302(c), and therefore the district court's remedial order is "reviewable on appeal for abuse of discretion." *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006). The district court did not abuse its discretion here.

From 1992 to 2013, the City used an eight single-member district map ("the 8-0 map") to elect City Council members. ROA.2996. But "immediately after the Supreme Court's *Shelby County* decision removed the requirement for Pasadena to obtain federal Department of Justice preclearance," ROA.3044, the City moved to

replace the 8-0 map with a map composed of six single-member districts and two at-large districts ("the 6-2 map").

The 6-2 map "eliminated District D as a Latino-majority district" and "enlarged each single-member district by approximately 6,220 people." ROA.3012. Under the 6-2 map, "[c]andidates for an at-large position on the Council file for only one place and compete only with the other candidates filing for that same place. Each voter may cast only one vote between the candidates for each place." ROA.2997. The district court concluded (ROA.3068–ROA.3082) that these changes diluted the votes of Latino voters given the make-up of the new single-member districts, the structure of the at-large elections, and the prevalence of racially polarized voting—which is the keystone of a vote-dilution case, *see McMillan v. Escambia County*, 748 F.2d 1037, 1043 (5th Cir. 1984).

The City's abolition of the 8-0 map coincided not only with *Shelby County*, but also with demographic growth and political mobilization of Latino voters. As the district court summarized:

> Pasadena's Latino population has grown rapidly, from 18.7% of the citizen voting-age population in 1990 to 48.2% today. Latinos appeared to be on the verge of electing a Council majority for the first time in Pasadena's history in the 2015 election. But between the Supreme Court's *Shelby County* decision [in June 2013] and the winter of 2014, half of the City Council, led by the Major and with the Mayor's tie-breaking vote, eliminated a Latino-majority district by creating an at-large seat and made it more difficult for the Latino-preferred candidate to succeed in all the districts except the ones in

> which the Latino citizen voting-age and Spanish-surnamed registered voter population have a decisive and secure majority.

ROA.3070 (footnotes omitted).

Put simply, the district court found that "Pasadena changed to the 6-2 map and plan precisely because Latinos were becoming more successful at winning City Council seats." ROA.3058; *see also* ROA.3079 ("The surging—but not quite majority—Latino population in Pasadena and the City's decision to change its electoral map and plan shortly after the *Shelby County* decision removed the requirement for preclearance similarly bears 'the mark of intentional discrimination.'") (quoting *LULAC v. Perry*, 548 U.S. 399, 440 (2006)). Given these facts, as well as the racially charged atmosphere in which the redistricting occurred, the district court found that the City intentionally diluted the votes of Latino voters in violation of the Fourteenth Amendment. ROA.3081.

The district court ordered the City to be bailed-in under Section 3(c). The district court found that "[p]reclearance is particularly appropriate because the City seized on, and used, the absence of preclearance to avoid the statutory and constitutional limits on redistricting." ROA.3119. The district court also tailored its remedy to local conditions. The City's bail-in "end[s] on June 30, 2023, after the 2023 biennial election results are finalized." ROA.3118. As the district court explained, this time period covers "four election cycles" and "ensures that the City's redistricting to take account of the 2020 Census is submitted to

preclearance." ROA.3119; *see also* ROA.3119 ("The court has carefully reviewed the evidence on Pasadena's demographics and recent history of success in electing Latino or Latino-preferred candidates to conclude that six years is a sufficiently limited and tailored remedy in this case."). The district court, moreover, acknowledged that "[t]he purpose of § 3(c) preclearance under the Voting Rights Act is to remedy voting rights violations, not to punish." ROA.3119.[5]

B. Texas's Statutory Arguments Against Bail-In Are Unavailing

As an initial matter, all parties are in agreement that a finding of intentional discrimination is necessary for Section 3(c) relief. The statutory references to the Fourteenth and Fifteenth Amendments make that clear. 52 U.S.C. § 10302(c); *see also Blackmoon v. Charles Mix County*, 505 F. Supp. 2d 585, 592 (D.S.D. 2007). Here, the district court found that the City had intentionally diluted the votes of

[5] The City's bail-in resembles *Jeffers v. Clinton*, where a three-judge district court bailed-in Arkansas. There, the State of Arkansas enacted four majority-vote requirements in local elections after Black candidates won office by a plurality of votes in those political subdivisions. *See Jeffers*, 740 F. Supp. at 600. The district court explained that these majority-vote requirements were passed "to close off [an] avenue of black political victory" by "replac[ing] a system in which blacks could and did succeed, with one in which they almost certainly cannot." *Id.* at 595. The district court required Arkansas to preclear changes relating to majority-vote requirements to remedy and prevent racial discrimination in voting. *See id.* at 600-02.

Just as bail-in was appropriate to ensure that the State of Arkansas would not intentionally cut off avenues of minority political success, here bail-in is appropriate to prevent the City from intentionally diluting minority voting power.

Latino voters in violation of the Fourteenth Amendment and thus bail-in was warranted.[6]

Nonetheless, Texas, as *amicus curiae*, makes several spurious arguments against preclearance.

First, Texas asserts that the use of the word "violations" in Section 3(c) requires findings of multiple constitutional violations prior to the imposition of preclearance. Tex. Br. 7-8. But Texas's argument ignores a cardinal principle of statutory interpretation: the Dictionary Act provides that "words importing the plural include the singular" and vice versa, "unless the context indicates otherwise." 1 U.S.C. § 1; *see also FDIC v. RBS Securities Inc.*, 798 F.3d 244, 258 (5th Cir. 2015) (noting "the Dictionary Act's default rule that the singular includes the plural"); Antonin Scalia & Bryan A. Garner, *Reading Law: Interpretation of Legal Texts* 129 (2012) ("In the absence of a contrary indication, ... the singular

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[6] Texas expresses concern (Tex. Br. 9-10) about the improper use of some evidence, such as discriminatory remarks by private individuals or decades-old instances of discrimination. As Judge Costa has explained, "*Shelby County* was not a case about purposeful discrimination under the Fourteenth Amendment or Section 2 of the Voting Rights Act" and therefore "should not be used to curtail the use of an *Arlington Heights* factor" for determining discriminatory intent. *Veasey*, 830 F.3d at 331 (Costa, J., dissenting).

Here, *amici* agree with and assume that the district court properly followed the *Arlington Heights* factors and accorded appropriate weight to this evidence. For instance, recent history is relevant to a finding of purposeful discrimination. *See, e.g.*, ROA.3068 (considering Texas's history of racial discrimination but giving pre-1970s evidence "little weight").

includes the plural (and vice versa)."). A single constitutional violation is thus sufficient for bail-in.

Moreover, to say that a racially discriminatory redistricting map amounts to only a single constitutional violation is to ignore the nature of the harm. The 6-2 map "eliminated District D as a Latino-majority district." ROA.3012. Under the 8-0 map, that district contained approximately 18,000 people, nearly 60% of whom were Latino voting-age citizens. ROA.3011. The City's adoption of the 6-2 map also "enlarged each single-member district by approximately 6,220 people." ROA.3012. Given these facts, it strains credulity to argue that there has been only *one* violation of the Fourteenth Amendment.

To be sure, one could imagine a singular violation of the Fourteenth or Fifteenth Amendments: an official could decline to register an individual voter because of his or her race. But successful voting rights claims, by their nature, almost always involve violations of multiple voters' constitutional rights. *See, e.g.*, *Ala. Legislative Black Caucus v. Alabama*, 135 S. Ct. 1257, 1270 (2015) ("A plaintiff pursuing a racial gerrymandering claim must show that 'race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district.'") (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)); *White v. Regester*, 412 U.S. 755, 765 (1975) ("[W]e have entertained claims that multimember districts are being used

invidiously to cancel out or minimize the voting strength of racial groups."); *see also* Heather K. Gerken, *Understanding the Right to an Undiluted Vote*, 114 Harv. L. Rev. 1663, 1667 (2001) (explaining that, in vote dilution cases, "individual injury arises from the aggregate treatment of group members"). Texas's interpretation would lead to the perverse result that an unconstitutional racial gerrymander—which, in the congressional context, could affect hundreds of thousands of citizens—would not justify bail-in.

Second, Texas claims that bail-in is appropriate "only upon a showing that preclearance is necessary because future voting discrimination is likely and cannot be remedied by ordinary injunctive relief." Tex. Br. 10. Texas asserts that the district court failed to make this finding and places all the blame for the racially discriminatory redistricting map on the City's Mayor. *See* Tex. Br. 10-11. Despite Texas's protestations, no such requirement is found in Section 3(c)'s text. When read in context, Section 3(c)'s text makes clear that Congress believed that a jurisdiction's intentional racial discrimination in voting was a sufficient trigger for preclearance, especially given the particular harms of voting discrimination as well as the unique burdens on minority plaintiffs in challenging voting discrimination, *see supra* at pp.5-6. And in any event, the district court found that future discrimination was a real possibility and ordered preclearance so that the City

"cannot immediately return to a map and plan that thwarts Latinos on the cusp of an electoral majority." ROA.3119.

This Court—as it did in *Veasey* when Texas argued that plaintiffs should be held to a higher burden of proof under Section 2—should "decline to cripple the Voting Rights Act by using the State's proposed analysis." 830 F.3d at 261.

III. Section 3(c) Is A Constitutionally Appropriate Means Of Imposing Preclearance In This Case

Although Texas does not argue that Section 3(c) is invalid on its face, it raises constitutional concerns about its application in this case and seeks to raise the bar for bailing-in jurisdictions more generally. Texas's arguments are misguided.

Section 3(c) is an appropriate exercise of Congress's Fourteenth and Fifteenth Amendment enforcement authority.[7] Section 3(c) avoids the coverage formula's constitutional infirmities and is a targeted remedial measure tied directly to a violation of the fundamental right to vote. As such, Texas's attempt to circumscribe Section 3(c) relief is unavailing.

[7] *Amici* believe that *Katzenbach*'s reasonableness standard supplies the proper test for adjudicating the constitutionality of statutes enacted pursuant to Congress's Fourteenth and Fifteenth Amendment enforcement authority. But given the doctrinal uncertainty wrought by *Shelby County*, *amici* assume that *Shelby County* and *City of Boerne v. Flores*, 521 U.S. 507 (1997), control because those standards are more stringent.

A. Section 3(c) Does Not Violate The Equal Sovereignty Principle

It is undeniable that "equal sovereignty" was the animating principle behind *Northwest Austin* and *Shelby County*.[8] Section 3(c) does not violate that principle.

In *Northwest Austin*, the Court explained that the coverage formula "differentiate[d] between the States, despite our historic tradition that all the States enjoy 'equal sovereignty.'" *Northwest Austin*, 557 U.S. at 203 (quoting *United States v. Louisiana*, 363 U.S. 1, 16 (1960)). And although the Court avoided the constitutional question, it emphasized that "a departure from the fundamental principle of equal sovereignty requires a showing that a statute's disparate geographic coverage is sufficiently related to the problem that it targets." *Id.* The Court also noted that a statute's "current burdens … must be justified by current needs." *Id.*

That language, in turn, supplied the constitutional standard applied by the Court in *Shelby County*. 133 S. Ct. at 2622. There, the Court repeatedly criticized that coverage formula for differentiating between the States using "decades-old data" as proxies for unconstitutional conduct. *See, e.g.*, *id.* at 2618 ("And § 4 of the Act applied that requirement only to some States—an equally dramatic departure from the principle that all States enjoy equal sovereignty."); *id.* at 2629 ("Congress

[8] For a persuasive critique of the equal sovereignty doctrine, see Leah M. Litman, *Inventing Equal Sovereignty*, 114 Mich. L. Rev. 1207 (2016).

did not use the record it compiled to shape a coverage formula grounded in current conditions. It instead reenacted a formula based on 40-year-old facts having no logical relation to the present day.").

While the Court invalidated the coverage formula, *see id.* at 2631, it expressly limited its holding to "declar[ing] § 4(b) unconstitutional." *Id.* at 2631. The Court made this point crystal clear: "Our decision in no way affects the permanent, nationwide ban on racial discrimination found in § 2. We issue no holding on § 5 itself, only on the coverage formula." *Id.* Indeed, the Court stated that Congress retained the authority to "draft another formula based on current conditions." *Id.*; *see also id.* at 2629 ("Congress—if it is to divide the States—must identify those jurisdictions to be singled out on a basis that makes sense in light of current conditions.").[9]

Section 3(c)'s bail-in mechanism does not raise the same constitutional concerns as Section 4(b)'s coverage formula. Section 3(c) does not rely on any proxies—such as "decades-old" election data—for triggering coverage. Rather,

[9] Although Section 3(c) was not mentioned in the *Shelby County* opinion, Justice Kennedy referenced it favorably at the oral argument. *See* Transcript of Oral Argument at 24, *Shelby County v. Holder*, 133 S. Ct. 2612 (2013) (No. 12-96), 2013 WL 6908203, at *24 ("[I]t seems to me that the government can very easily bring a Section 2 suit and as part of that ask for bail-in under Section 3."); *id.* at 54 ("But a Section 2 case can, in effect, have an order for bail-in, correct me if I'm wrong, under Section 3 and then you basically have a mini—something that replicates Section 5.").

Section 3(c) applies a nationwide standard that targets only those specific jurisdictions that have violated the Fourteenth or Fifteenth Amendments based on contemporaneous court findings. And because Section 3(c) "utilizes a coverage *mechanism*, it sidesteps the under- and over-inclusiveness inherent in any coverage *formula*." Crum, 119 Yale L.J. at 2025. In other words, Section 3(c) does not burden any jurisdiction that has not recently engaged in purposeful racial discrimination in voting. Section 3(c)'s constitutional trigger for coverage thus ensures that any "disparate geographic coverage is sufficiently related to the problem that it targets." *Northwest Austin*, 557 U.S. at 203.

B. Section 3(c) Is An Appropriate Exercise Of Congress's Enforcement Authority

To be sure, preclearance, even apart from the coverage formula, "imposes substantial federalism costs." *Northwest Austin*, 557 U.S. at 202. But these costs are justified in response to the constitutional violations—racial discrimination in voting in defiance of the Fourteenth or Fifteenth Amendments—that trigger its application. Put simply, Section 3(c)'s "current burdens" are justified by "current conditions."

The Supreme Court has repeatedly described Congress's enforcement authority under the Fourteenth Amendment as "remedial," "corrective," and "preventive." *City of Boerne v. Flores*, 521 U.S. 507, 525, 529 (1997); *see also Kimel v. Fla. Bd. of Regents*, 528 U.S. 62, 81 (2000) (same); *Tennessee v. Lane*,

541 U.S. 509, 520 (2004) (same). Legislation enacted pursuant to Congress's enforcement authority under the Reconstruction Amendments "must be an appropriate remedy for *identified* constitutional violations." *Nevada Dep't of Human Resources v. Hibbs*, 538 U.S. 721, 728 (2003) (emphasis added); *see also United States v. Georgia*, 546 U.S. 151, 159 (2006) ("[I]nsofar as Title II [of the ADA] creates a private cause of action for damages against States for conduct that *actually* violates the Fourteenth Amendment, Title II validly abrogates state sovereign immunity."). Section 3(c) relief is, by definition, a remedy for a constitutional violation.

Congress's enforcement authority, moreover, is not limited solely to correcting past constitutional violations. The Supreme Court has approved prophylactic measures broader than the targeted remedy that Section 3(c) provides. *See Hibbs*, 538 U.S. at 727-28 ("Congress may enact so-called prophylactic legislation that proscribes facially constitutional conduct, in order to prevent and deter unconstitutional conduct."); *Lane*, 541 U.S. at 520 ("When Congress seeks to remedy or prevent unconstitutional discrimination, § 5 [of the Fourteenth Amendment] authorizes it to enact prophylactic legislation proscribing practices that are discriminatory in effect, if not in intent, to carry out the basic objectives of the Equal Protection Clause.").

Furthermore, "the appropriateness of the remedy depends on the gravity of the harm it seeks to prevent." *Id.* at 523. In passing Section 3(c), Congress acted pursuant to its enforcement authority to remedy racial discrimination in voting. Section 3(c) is thus a double-barreled provision protecting against the twin evils targeted by the Fourteenth and Fifteenth Amendments. *See Fisher v. University of Texas at Austin*, 136 S. Ct. 2198, 2208 (2016) (racial classifications receive strict scrutiny); *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) (the right to vote is "preservative of all rights"); *Hayden v. Pataki*, 449 F.3d 305, 359 (2d Cir. 2006) (en banc) (Parker, J., dissenting) ("Congress's enforcement authority is at its zenith when protecting against discrimination based on suspect classifications (such as race), or when protecting fundamental rights (such as voting)."). Because "any racial discrimination in voting is too much," *Shelby County*, 133 S. Ct. at 2631, it is "easier for Congress" to craft a prophylactic remedy based on a record of "state constitutional violations." *Hibbs*, 538 U.S. at 736.

Any constitutional concerns about bail-in are ameliorated by Section 3(c)'s "congruen[t] and proportional[]" attributes. *City of Boerne*, 521 U.S. at 520. Section 3(c) has been used to impose *targeted* preclearance, rather than across-the-board preclearance. In situations where one type of voting change has been particularly problematic, courts can fashion Section 3(c) relief to target that problem, rather than force jurisdictions to preclear all voting changes. *See supra* at

pp.11-12. And recall that bail-ins are more temporally limited than coverage determinations under Section 4(b). *See supra* at pp.12-13.

To the extent Section 3(c)'s "current burdens" must be justified by "current needs," *Shelby County*, 133 S. Ct. at 2627, that standard is satisfied. Section 3(c) combines an enforcement action with a prophylactic remedy in response to *recent* and *adjudicated* violations of the Fourteenth and Fifteenth Amendments. There is no risk that a bail-in will be based on "decades-old" proxies. Put another way, Section 3(c) combines the benefits of Section 5's uniquely effectively preclearance process with a more targeted and dynamic triggering mechanism, thus avoiding the constitutional pitfalls of Section 4(b)'s static coverage formula.

C. Texas's Constitutional Arguments Are Misguided

Texas disagrees. Relying on *Shelby County*, Texas seeks to raise the standard for bail-in. According to Texas, bail-in is constitutional only in response to "pervasive, flagrant discrimination" reminiscent of the worst abuses of Jim Crow. Tex. Br. 16. That is absurd.

"[Texas's] argument effectively nullifies the protections of" Section 3(c) until a jurisdiction has slid back into Jim Crow. *Veasey*, 830 F.3d at 247. But "the Voting Rights Act was enacted to prevent … invidious, subtle forms of discrimination," not only "flagrant" ones. *Id.* The Constitution clearly does not require Congress to sit on its hands until constitutional violations become rampant

and unchecked before it can act to prevent constitutional harm of the highest order. *See Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 329, 366 (2000) (Souter, J., concurring in part and dissenting in part) (Congress intended the VRA to protect against jurisdictions "pour[ing] old poison into new bottles."). And it is worth repeating that *Shelby County* "issue[d] no holding on § 5 itself," or on Section 3(c). 133 S. Ct. at 2631. The repeated citations by Texas to *Shelby County* therefore cannot bear the weight Texas places on them. Given the gravity of the constitutional harm, Congress acted well within its enforcement authority in fashioning the bail-in remedy.

Texas's argument also ignores that Section 3(c) follows a lengthy tradition of courts retaining jurisdiction and supervising state and local officials' behavior after a finding of invidious racial discrimination. *See, e.g.*, *Raney v. Bd. of Educ. of Gould Sch. Dist.*, 391 U.S. 443, 449 (1968) ("[D]istrict courts should retain jurisdiction in school desegregation cases to insure (1) that a constitutionally acceptable plan is adopted, and (2) that it is operated in a constitutionally permissible fashion so that the goal of a desegregated, non-racially operated school system is rapidly and finally achieved.") (internal quotations marks omitted); *Salary v. Wilson*, 415 F.2d 467, 473 (5th Cir. 1969) (instructing district court to ensure that African Americans are not unconstitutionally excluded from state circuit court juries and "retain jurisdiction until the objective is shown to it to be

attained"). Congress acted appropriately in codifying this well-worn judicial response to unconstitutional conduct.

* * *

Just as "history did not end in 1965," *Shelby County*, 133 S. Ct. at 2628, neither did it end in 2013. As the discriminatory actions of multiple jurisdictions—including the City of Pasadena—in the wake of *Shelby County* amply demonstrate, "voting discrimination still exists." *Id.* at 2619. Section 3(c) is a constitutional and tailored means of enforcing the Fourteenth and Fifteenth Amendments and protecting the rights of voters in jurisdictions across the country.

CONCLUSION

For the above reasons, the judgment below should be affirmed.

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Respectfully submitted,

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APPENDIX

List Of *Amici Curiae*

Amicus curiae **Campaign Legal Center ("CLC")** is a non-partisan, non-profit organization that works in the area of election law, generally, and voting rights law, specifically, generating public policy proposals and participating in state and federal court litigation throughout the nation regarding voting rights. CLC has served as *amicus curiae* or counsel in voting rights and redistricting cases at the Supreme Court and in this Court, including *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016) (en banc), *Bethune Hill v. Virginia State Board of Elections*, 137 S. Ct. 788 (2017), *Arizona State Legislature v. Arizona Independent Redistricting Commission*, 135 S. Ct. 2652 (2015), and *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), among others. CLC has a demonstrated interest in voting rights and redistricting law generally, and maintaining the robust protections of the Voting Rights Act in particular.

Amicus curiae the **NAACP Legal Defense and Educational Fund, Inc. ("LDF")** is a non-profit legal organization, founded in 1940 under the leadership of Thurgood Marshall to achieve racial justice and ensure the full, fair, and free exercise of constitutional and statutory rights for Black people and other communities of color. Because equality of political representation is foundational to our democracy, and the franchise is "a fundamental political right …

preservative of all rights," *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886), LDF has worked for nearly a century to combat threats to equal political participation.

Indeed, LDF has been involved in nearly all of the precedent-setting litigation regarding minority political representation and voting rights before state and federal courts. *See, e.g.*, *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016) (en banc), *Shelby Cty., Ala. v. Holder*, 133 S. Ct. 2612 (2013), *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193 (2009); *League of United Latin Am. Citizens (LULAC) v. Perry*, 548 U.S. 399 (2006); *Georgia v. Ashcroft*, 539 U.S. 461 (2003); *Easley v. Cromartie*, 532 U.S. 234 (2001); *Bush v. Vera*, 517 U.S. 952 (1996); *Shaw v. Hunt*, 517 U.S. 899 (1996); *United States v. Hays*, 515 U.S. 737 (1995); *League of United Latin Am. Citizens v. Clements*, 999 F.2d 831 (5th Cir. 1993) (en banc); *Chisom v. Roemer*, 501 U.S. 380 (1991); *Houston Lawyers' Ass'n v. Attorney Gen. of Texas*, 501 U.S. 419 (1991); *Thornburg v. Gingles*, 478 U.S. 30 (1986); *Beer v. United States*, 425 U.S. 130 (1976); *White v. Regester*, 422 U.S. 935 (1975) (per curiam); *Zimmer v. McKeithen*, 485 F.2d 1297 (5th Cir. 1973); *Gomillion v. Lightfoot*, 364 U.S. 339 (1960); *Terry v. Adams*, 345 U.S. 461 (1953); *Smith v. Allwright*, 321 U.S. 649 (1944).

Amicus curiae the **American Civil Liberties Union ("ACLU")** is a nationwide, nonpartisan organization of nearly 1.6 million members, dedicated to protecting the fundamental liberties and basic civil rights guaranteed by the U.S.

Constitution and our nation's civil rights laws. *Amicus curiae* the **American Civil Liberties Union of Texas ("ACLU Texas")** is a state affiliate of the national ACLU, with thousands of members across the state.

The ACLU Voting Rights Project has litigated more than 300 voting rights cases since 1965. These include several voting rights cases before this Court in which the ACLU served as party's counsel or as an *amicus*, including *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016); *Young v. Hosemann*, 598 F.3d 184 (5th Cir. 2010), *Association of Community Organizations for Reform Now v. Fowler*, 178 F.3d 350 (5th Cir. 1999), *Wilson v. Mayor of St. Francisville, La.*, 135 F.3d 996 (5th Cir. 1998), *Westwego Citizens for Better Government v. City of Westwego*, 872 F.2d 1201 (5th Cir. 1989), *Corder v. Kirksey*, 639 F.2d 1191 (5th Cir. 1981), *Shepherd v. Trevino*, 575 F.2d 1110 (5th Cir. 1978), and *Nevett v. Sides*, 571 F.2d 209 (5th Cir. 1978).

The ACLU and ACLU Texas have a significant interest in the outcome of this case and in other cases across the country concerning laws that intentionally discriminate against voters on the basis of race as well as those that dilute the voting power of minority voters. The ACLU and its affiliates have litigated challenges to such laws across the county and are currently representing plaintiffs in the successful challenge to intentionally discriminatory voting changes in North Carolina, *see N.C. State Conf. of N.A.A.C.P. v. McCrory*, 831 F.3d 204 (4th Cir.

2016), *cert. denied*, No. 16-833, 2017 WL 2039439 (2017), as well as in vote dilution claims in Missouri and Georgia, *see Mo. State Conf. of N.A.A.C.P v. Ferguson-Florissant Sch. Dist.*, 201 F. Supp. 3d 1006 (E.D. Mo. 2016), *appeal docketed*, No. 16-4511 (8th Cir. Dec. 21, 2016); *Wright v. Sumter Cty. Bd. of Elec. & Registration*, 657 F. App'x 871 (11th Cir. 2016).

Amicus curiae **Asian Americans Advancing Justice | AAJC ("Advancing Justice | AAJC ")** is a nonprofit, nonpartisan organization that seeks to promote a fair and equitable society for all by working for civil and human rights and empowering Asian American, Native Hawaiian, and Pacific Islander (AANHPI) communities. Advancing Justice | AAJC advances its mission through advocacy, public policy, public education, and litigation. Advancing Justice | AAJC has maintained a strong interest in the voting rights of AANHPIs and strives to protect AANHPI's access to the polls. Advancing Justice | AAJC was a key player in collaborating with other civil rights groups to reauthorize the Voting Rights Act in 2006, and, in past elections, has conducted poll monitoring and voter protection efforts across the country. Advancing Justice | AAJC has a long-standing history of serving the interests of immigrant and language minority communities, and is very concerned with issues of discrimination that might face them.

Amicus curiae the **League of United Latin American Citizens ("LULAC")** is the nation's largest and oldest civil rights volunteer-based

organization that empowers Hispanic Americans and builds strong Latino communities. Headquartered in Washington, DC, with 1,000 councils around the United States and Puerto Rico, LULAC's programs, services, and advocacy address the most important issues for Latinos, meeting critical needs of today and the future.

Amicus curiae **Southern Coalition for Social Justice ("SCSJ")** is a 501(c)(3) nonprofit public interest law organization founded in 2007 in Durham, North Carolina. SCSJ partners with communities of color and economically disadvantaged communities in the south to defend and advance their political, social, and economic rights through the combination of legal advocacy, research, organizing and communications. One of *amicus'* primary practice areas is voting rights. *Amicus* has represented individual and organizational clients in redistricting cases across the South, including Florida, Georgia, North Carolina, South Carolina, Tennessee, Texas, and Virginia. *Amicus* SCSJ frequently represents clients in cases brought under the Voting Rights Act (VRA) and Fourteenth Amendment challenging voting laws and practices that abridge voting, registration, or fair representation for all eligible voters, and laws that were passed with racially discriminatory intent. Indeed, in the last year, *Amicus* SCSJ has won two cases alleging intentional discrimination in violation of the VRA and Fourteenth Amendment: *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir.

2016), cert. denied, 581 U. S. ____ (2017) (May 15, 2017); *Perez v. Abbott*, SA-11-CV-360, 2017 U.S. Dist. LEXIS 35012 (W.D. Tex. Mar. 10, 2017) (congressional districts); *Perez v. Abbott*, SA-11-CV-360, 2017 U.S. Dist. LEXIS 60237 (W.D. Tex. Apr. 20, 2017) (state house districts). Amicus has and will continue to seek bail-in under the VRA where such relief is necessary to vindicate voting rights and protect voters from future discriminatory laws.

Amicus curiae the **Southern Poverty Law Center ("SPLC")**, based in Montgomery, Alabama, is a non-profit organization founded in 1971 to advance and protect the rights of minorities, people living in poverty, and victims of injustice in significant civil rights and social justice matters. SPLC works in states that were previously covered by Section 5 of the Voting Rights Act of 1965 and on behalf of communities that are often the targets of voter suppression tactics. SPLC is dedicated to the idea that all voters should have equal access to the ballot box; therefore, the issues of this case are directly related to SPLC's purpose and mission.

Amicus curiae the **Texas State Conference of the NAACP ("Texas NAACP")** is the oldest and one of the largest, most significant organizations promoting and protecting the civil rights of African Americans in Texas. It is a non-profit membership organization with over seventy branches across the state and members in almost every county of Texas. Since its inception, the organization

has been involved in numerous voting rights cases and legislative efforts in the state to ensure that all Texas have equal and unfettered access to their right to vote, including preventing the impermissible purging of voters from rolls.

Amicus curiae the **Voting Rights Institute at Georgetown Law ("VRI")** was founded in 2015 to train the next generation of lawyers and leaders and to litigate voting rights cases throughout the nation. VRI recruits and trains expert witnesses to assist in litigation development and presentation; promotes increased local and national focus on voting rights through events, publications, and the development of web-based tools; provides opportunities and platforms for research on voting rights; and offers opportunities for students, recent graduates, and fellows to engage in litigation and policy work in the field of voting rights.

CERTIFICATE OF COMPLIANCE

Pursuant to 5th Circuit R. 32.2.7(c), the undersigned certifies this brief complies with the type-volume limitations of 5th Cir. R. 32.2.7(b).

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/s/ Danielle Lang
Danielle Lang

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