

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Glenn F. McConnell, in his official capacity as)	Civil Action No.:
President <i>Pro Tempore</i> of the South Carolina)	
Senate)	
1100 Gervais Street)	
Columbia, SC 29201-6215)	
Plaintiff,)	
)	
vs.)	
)	
The United States of America)	
U.S. Attorney For the District of Columbia)	
Civil Division)	
4th Floor)	
501 Third Street, N.W.)	
Washington, D.C. 20530)	
)	
Eric H. Holder, Jr., in his official capacity as)	
Attorney General of the United States)	
Office of General Counsel)	
Justice Management Division)	
Department of Justice)	
145 N. Street, N.E.)	
Washington, D.C. 20530)	
Defendants.)	

**COMPLAINT FOR DECLARATORY JUDGMENT
PURSUANT TO THE PROVISIONS OF SECTION 5 OF THE
VOTING RIGHTS ACT OF 1965, AS AMENDED, 42 U.S.C. § 1973c,
AND REQUEST FOR THREE-JUDGE COURT**

Plaintiff Glenn F. McConnell, in his official capacity as President *Pro Tempore* of the South Carolina Senate, brings this action for declaratory judgment pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, (hereinafter “Section 5”), and 28 U.S.C. § 2201, *et seq.* Plaintiff respectfully would show the Court the following:

1. This action is filed for the purpose of obtaining a declaratory judgment that the Senate redistricting plan contained in Section 2, Part II of S. 815, Act 71 of 2011 (“S. 815,” “Act 71,” or the “Senate Plan”), an act ratified by the South Carolina General Assembly on June 22, 2011, and signed into law by the Governor of South Carolina on June 28, 2011, satisfies Section 5 of the Voting Rights Act because it has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color, or of diminishing minority voters’ ability to elect their preferred candidates of choice, and that S. 815 may be enforced by the State of South Carolina. S. 815, which will take effect in the regularly scheduled 2012 primary and general elections, provides for the decennial redistricting of South Carolina’s forty-six State Senate districts.

Parties

2. Plaintiff McConnell is the person expressly authorized and directed by Section 4 of S. 815 to seek judicial or administrative approval of S. 815 as required by Section 5.

3. The United States is a proper defendant in this action because “[a] State or political subdivision [covered by Section 5] wishing to make use of a recent amendment to its voting law . . . has a concrete and immediate ‘controversy’ with the Federal Government.” *South Carolina v. Katzenbach*, 383 U.S. 301, 335 (1966).

4. Eric H. Holder, Jr. is a proper defendant in his official capacity as the Attorney General of the United States and is principally responsible for enforcing the Voting Rights Act of 1965, including the defense of Section 5 litigation in the United States District Court for the District of Columbia. 42 U.S.C § 1973c(a).

Jurisdiction and Venue

5. This action is brought pursuant to 42 U.S.C. § 1973c and 28 U.S.C. § 2201, under which this Court is authorized to issue the declaratory judgment Plaintiff seeks. This Court has subject matter jurisdiction pursuant to 42 U.S.C. § 1973c and 28 U.S.C. § 1331.

6. Venue is proper in this Court pursuant to Section 5, 42 U.S.C. § 1973c, and 28 U.S.C. § 2284.

Three-Judge Panel Required and Requested

7. Because the State of South Carolina is a covered jurisdiction under the Voting Rights Act of 1965, *see* 28 C.F.R. pt. 51, app., changes to the districts from which members of the South Carolina State Senate are elected are subject to Section 5. Section 5 provides that no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964 may be enforced unless and until the State (a) obtains a declaratory judgment from this Court that the qualification, prerequisite, standard, or procedure has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in 42 U.S.C. §1973b(2); or (b) submits the qualification, prerequisite, standard, or procedure to the Attorney General for administrative review and preclearance and an objection is not interposed to the State's enforcement of the qualification, prerequisite, standard, or procedure.

8. This action is properly determinable by a district court of three judges in accordance with 42 U.S.C. § 1973c and 28 U.S.C. § 2284.

Factual Allegations

9. The South Carolina General Assembly is composed of two bodies: the Senate, which is divided into 46 single-member seats, and the House of Representatives, which is divided into 124 single-member seats. S.C. Const. art. III, §§ 1, 3, 6.

10. Members of the Senate are elected to four-year terms. *Id.* § 6.

11. After the release of the 2010 Census data, the General Assembly was required to revise the Senate districts. *See Reynolds v. Sims*, 377 U.S. 533, 568 (1964); S.C. Const. art. III, § 3.

12. Prior to the General Assembly's consideration of Senate redistricting plans, the Senate Judiciary Committee's bi-partisan Redistricting Subcommittee held ten public hearings in various cities across the state.

13. Acting on the public input, the Subcommittee adopted guidelines consistent with governing law.

14. The Subcommittee then provided an open period during which interested parties could submit plan proposals, and the Subcommittee held additional public hearings on the submitted plans.

15. After considering and debating the merits of the various plans, the General Assembly enacted S. 815, a plan that received overwhelming bi-partisan support from African-American and white members. In particular, it received the support of eight of nine African-American members of the Senate, and it passed the Senate with a unanimous bi-partisan vote of 33-0 on second reading and by a vote of 37-1 on third reading.

16. S. 815 was ratified by the South Carolina General Assembly on June 22, 2011, and signed into law by the Governor of South Carolina, Nikki Randhawa Haley, on June 28, 2011.

17. The last administratively approved redistricting plan in South Carolina (“Benchmark Plan”) had nine majority-black voting-age population (“VAP”) districts when the plan was enacted in 2003. Because of demographic changes as of 2011, the Benchmark Plan had a total of eight majority-black VAP districts in 2011. S. 815 preserves majority-black VAP status in all eight of the districts and restores majority-black VAP status in the ninth district—District 45.

18. Compared to the Benchmark Plan, S. 815 does not diminish the ability of minority populations to elect their candidates of choice in any of its nine majority-black VAP districts. The small reductions of black VAP percentage in some of these districts were necessitated by demographic changes since the last redistricting.

19. Compared to the Benchmark Plan, S. 815 does not diminish the ability of minority populations to elect their candidates of choice in any of the three minority-black VAP districts with African-American incumbents. The small reductions of black VAP percentage in some of these districts were necessitated by demographic changes since the last redistricting.

20. S. 815 does not lead to retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise or diminish their ability to elect their preferred candidates of choice, and does not otherwise have the effect of denying or abridging the right to vote on account of race or color.

21. S. 815 does not have the purpose of denying or abridging the right to vote on account of race or color.

22. In addition to complying with the United States Constitution, the South Carolina Constitution, and the Voting Rights Act of 1965, S. 815 adheres to legitimate state redistricting policies.

23. No part of S. 815 can be implemented by Plaintiff until this Court enters a declaratory judgment as requested by Plaintiff, or until it is administratively precleared by the United States Department of Justice.

24. A voting change is administratively precleared once a covered jurisdiction has filed a complete submission with the Attorney General and received no objection within sixty days. *Morris v. Gressette*, 432 U.S. 491, 502 (1977); 42 U.S.C. § 1973c(a).

25. Plaintiff filed a submission for administrative preclearance (hereinafter “Submission”) for S. 815 with the Department of Justice on July 27, 2011. *See* Exhibit A.

26. The Attorney General did not object to S. 815 within sixty days of Plaintiff’s filing of a complete submission.

27. The statutory sixty-day review period cannot be evaded through a last-minute request for information that already has been provided or is not required for a completed submission. The only exception to the sixty-day time limit is when additional information is necessary because a submitting authority has not provided “a submission satisfying the enumerated requirements” set forth in the preclearance regulations. *Georgia v. United States*, 411 U.S. 526, 539 (1973); *see also Branch v. Smith*, 538 U.S. 254, 263 (2003).

28. At 9:17 p.m. on September 26—less than three hours before the sixty-day period was set to expire, the Department of Justice submitted a “request for further information,” *see* Exhibit B, requesting only information and explanations that were already provided long ago to the Department, or were not required under the Section 5 regulations.

29. On September 29, Plaintiff responded to the Department of Justice's letter. *See* Exhibit C. Plaintiff demonstrated that the July 27 Submission fully complied with Section 5 regulations and, thus, that the last-minute "request for further information" did not extend the statutory sixty-day deadline. Plaintiff asserted that the absence of an objection rendered S. 815 precleared. Plaintiff requested the Justice Department's prompt acknowledgment that S. 815 is enforceable due to the lack of an objection during the statutory review period and, alternatively, due to the fact that S. 815 does not have the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. As of the filing of this Complaint, the Department of Justice has not responded.

Justiciability

30. A threshold issue this Court must decide is whether Plaintiff's declaratory judgment action still concerns a live controversy or whether the Attorney General's failure to object within sixty days renders it moot, since administrative preclearance has already been obtained. If the sixty-day statutory time limit was triggered by Plaintiff's full and comprehensive submission on July 27, and not somehow extended by the pretextual, gratuitous September 26 "request for further information," then S. 815 has been administratively precleared due to the Attorney General's failure to issue a timely objection. The Court needs to resolve this issue, which imposes a cloud of uncertainty over the State's ability to administer and implement S. 815, to resolve whether it has jurisdiction to decide this declaratory judgment action.

31. Assuming this suit is not moot, S. 815 is ripe for a determination that the Senate Plan has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color, and does not lead to a retrogression in the position of racial minorities or diminish their ability to elect their preferred candidates of choice on account of race. It is important that

the Court act upon Plaintiff's claims at the earliest practicable date. The next election for the State Senate will occur on November 6, 2012. The candidate filing period for the 2012 election will open on March 16, 2012, and close on March 30, 2012. The state primary elections will be held on June 12, 2012. Therefore, in order to preserve the existing election calendar, it is necessary that this Court consider and decide this controversy prior to the opening of the candidate filing period.

Count I

32. Each and every allegation contained in paragraphs one through thirty-one is reaffirmed and realleged as if fully incorporated herein.

33. S. 815 does not have the purpose nor will have the effect of denying or abridging the right to vote on account of race or color.

34. Plaintiff is entitled to a judgment that S. 815 fully complies with Section 5 of the Voting Rights Act of 1965, as amended, and that S. 815 may be implemented without further delay.

WHEREFORE, Plaintiff respectfully requests that this Court:

(a) Convene a three-judge district court to hear the matters raised in Plaintiff's Complaint;

(b) Issue such orders and convene such conferences as may be necessary on an expedited basis to ensure that what little discovery may be necessary in this action be taken and completed as expeditiously as possible;

(c) Enter such other and further orders as may be necessary during the pendency of this case to ensure that it is handled as expeditiously as possible;

(d) Enter a declaratory judgment that S. 815 satisfies Section 5 of the Voting Rights Act because it has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color, or of diminishing minority voters' ability to elect their preferred candidates of choice, and that S. 815 may be enforced by the State of South Carolina; and

(e) Grant Plaintiff such other and further relief as may be appropriate, including the costs of this action.

Respectfully submitted,

JONES DAY



Michael A. Carvin
D.C. Bar No. 366784
macarvin@jonesday.com
Louis K. Fisher
D.C. Bar No. 475502
lkfisher@jonesday.com
51 Louisiana Avenue, NW
Washington, DC 20001
(202) 879-7643

EXHIBIT A



STATE OF SOUTH CAROLINA
THE SENATE
COLUMBIA

GLENN F. McCONNELL
PRESIDENT *PRO TEMPORE*

P.O. BOX 142
COLUMBIA, SC 29202
TELEPHONE: (803) 212-6610

July 27, 2011

T. Christian Herren, Jr.
Chief, Voting Section
Civil Rights Division
United States Department of Justice
Room 7254 – NWB
1800 G Street, NW
Washington, DC 20006

Re: Submission under Section 5 of the Voting Rights Act: Request for Preclearance,
South Carolina Senate Districts, S. 815, Act 71 of 2011

Dear Mr. Herren:

On behalf of the South Carolina Senate, and pursuant to Section 4 of S. 815, Act 71 of 2011 ("S. 815," "Act 71," or the "2011 Plan"), we are submitting for preclearance the Senate redistricting plan contained in Section 2, Part II of Act 71, an act ratified by the South Carolina General Assembly on June 22, 2011, and signed into law by the Governor of South Carolina on June 28, 2011. The Act, which will take effect in the regularly scheduled 2012 primary and general elections, provides for the decennial redistricting of South Carolina's forty-six State Senate districts.

The changes embodied in the Act comply with the United States Constitution's one-person-one-vote requirements and preserve minority voting strength to the extent possible given demographic changes since the last decennial census and redistricting.

Pursuant to 42 U.S.C. § 1973c and 28 C.F.R. §§ 51.27 & 51.28, as amended, the South Carolina Senate submits the following information:

§ 51.27 (a) A copy of any ordinance, enactment, order, or regulation embodying the change affecting voting for which Section 5 preclearance is being requested.

A certified copy of S. 815, Act 71 of 2011, is included as **Exhibit 1**. This Act, which is the South Carolina Senate redistricting plan, received overwhelming bi-partisan support from

African-American and white members. The changes from the previous Senate redistricting plan in Act 71 were made following consultations with individual senators and with the benefit of knowledge gleaned during an extensive public hearing process. The plan received the support of eight of nine African-American members of the Senate, as evidenced by those voting in favor of the bill on third reading, by those who placed a statement in the Senate Journal that they would have voted for the bill if they had been in the chamber on second reading, or by those who spoke favorably of the bill on the Senate floor. See **Exhibit 25**, Comments by Senator Malloy, member of the Senate's Redistricting Subcommittee, who stressed the fair, open, and inclusive nature of the process, which resulted in a Senate redistricting plan that he could urge others to support, and who thanked the President *Pro Tempore* and others for a "tremendous bipartisan approach" and a respect for "traditional redistricting principles"; Comments by Senator Jackson, who previously served on a Redistricting Subcommittee, which included a "special thank you" to the President *Pro Tempore*, the Senate Judiciary Committee members, and the Judiciary Committee staff for the preparation and process followed by the Senate in adopting the Senate Redistricting Plan.

The Act passed the Senate with a unanimous bi-partisan vote of 33-0 on second reading and by a vote of 37-1 on third reading. See **Exhibit 28**, Senate Journal, June 15, 2011, pp. 220-221, and **Exhibit 29**, Senate Journal, June 16, 2011, pg. 129. Only one senator voted against the plan on third reading. Senator Ralph Anderson, who represents Senate District 7, explained he opposed the plan because the Senate did not extend the deviation for Senate District 7 to minus nine percent (-9%), in order that his district could be drawn as a majority-minority district. See **Exhibit 25**, Comments by Senator Anderson, and **Exhibit 28**, Senate Journal, June 15, 2011, pg. 221. A block equivalency file for the S. 815 Senate plan is included as **Exhibit 2**, and maps illustrating the plan are included as **Exhibit 3**.

Act 71 is the result of an extensive process undertaken by the South Carolina Senate Judiciary Committee's bi-partisan Redistricting Subcommittee. The subcommittee held ten public hearings in Orangeburg, Sumter, Beaufort, Graniteville, Rock Hill, Greenville, Conway, Columbia, Florence, and North Charleston, where interested parties could voice their opinions. Next, the subcommittee adopted guidelines consistent with governing law and input obtained during those public hearings. These guidelines are included as **Exhibit 4**. The Redistricting Subcommittee then provided an open period during which interested parties could submit plan proposals, and the subcommittee held additional public hearings on the submitted plans. The American Civil Liberties Union (ACLU) and the South Carolina Republican Party both submitted Senate redistricting plans. See **Exhibit 36** (the "ACLU Plan") and **Exhibit 37** (the "S.C. Republican Party Plan"). Maps and Plan Components of these submissions were posted on the Senate redistricting website.

Throughout this process, the Redistricting Subcommittee has maintained a public website. Among other things, the website provides the public with: (1) information on the current districts; (2) a history of redistricting in South Carolina since 2000; (3) answers to frequently asked questions; (4) instructions on how to submit comments or proposals; (5) calendars, agendas, locations, and transcripts of public hearings; and (6) outside resources on redistricting. In addition, the website promptly informed the public where and when public hearings and other meetings were scheduled, notified the public when plan proposals were

submitted, and provided relevant materials explaining each proposal. The website may be accessed at: <http://redistricting.scsenate.gov>.

After considering the submitted proposals, along with the views expressed by the public and senators, the Redistricting Subcommittee unanimously adopted a plan that complied with its established guidelines and with applicable constitutional and statutory requirements. The Senate Judiciary Committee adopted two amendments—to which each affected Senator had previously agreed—and reported that plan to the full Senate. Two perfecting amendments to the Judiciary Committee report were adopted, and the full Senate adopted the Judiciary Committee report, as amended, by voice vote. As mentioned previously, the bill received second reading by a unanimous vote of 33-0, with four Senators inserting a statement in the journal that they would have voted for the bill on second reading if they had been present in the chamber. *See Exhibit 28*, Senate Journal, June 15, 2011, pp. 220-221. On third reading, one amendment was adopted, and the Senate voted 37-1 to pass S. 815. *See Exhibit 29*, Senate Journal, June 16, 2011, pp. 128-129.

§ 51.27 (b) A copy of any ordinance, enactment, order, or regulation embodying the voting standard, practice, or procedure that is proposed to be repealed, amended, or otherwise changed.

The current plan under which members of the South Carolina Senate have been elected, S. 591, Act 55 of 2003 (“2003 Plan”), was passed by the South Carolina General Assembly, signed into law by the Governor, and precleared by the Attorney General in 2003. A copy of this law, Act 55 of 2003, is included as **Exhibit 5**. A block equivalency file of the 2003 Plan is included as **Exhibit 6**. Maps of the 2003 Plan are also included as **Exhibit 7**.

The 2003 Plan replaced an interim plan ordered by a three-judge federal panel following impasse litigation (“2002 Court Plan”). *See Colleton County Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002), which is included as **Exhibit 8**. A block equivalency file of the 2002 Court Plan is included as **Exhibit 9**, and maps of the 2002 Court Plan are included as **Exhibit 10**. The regularly scheduled elections in 2004 and 2008, and the following five special elections were held under the 2003 Plan: (1) for Senate District 27, on February 3, 2004, due to the death of Senator Holland; (2) for Senate District 46, on June 19, 2007, due to Senator Richardson’s resignation coinciding with his appointment as Director of the Department of Insurance; (3) for Senate District 44, on August 7, 2007, due to the death of Senator Mescher; (4) for Senate District 25, on November 6, 2007, due to the resignation of Senator Moore; and (5) for Senate District 16, on April 12, 2011, due to the resignation of Senator Mulvaney upon his election to the United States Congress. *See Exhibit 17* for election returns data for the regularly scheduled and special elections.

§ 51.27 (c) A statement that identifies with specificity each change affecting voting for which Section 5 preclearance is being requested and that explains the difference between the submitted change and the prior law or practice.

The following reports summarize the changes between the current districts under the 2003 Plan, enacted in Act 55 of 2003, and the districts under the 2011 Plan, enacted in Act 71 of 2011.

1. A Plan Components Report for the 2003 Plan, providing a population summary for each district, including the district's Black Voting Age Population ("BVAP"), as well as the precincts in each district. This report is included as **Exhibit 11**.
2. A Plan Components Report for the 2011 Plan, providing a population summary for each district, including the BVAP, as well as the precincts in each district. This report is included as **Exhibit 12**.
3. A BVAP Comparison Chart showing the BVAP percentages in each Senate district under the 2002 Court Plan, the 2003 Plan, the 2003 Plan with the 2010 Census Populations, and the 2011 Plan. This chart is included as **Exhibit 13**.

§ 51.27 (d) The name, title, mailing address, and telephone number of the person making the submission. Where available, a telefacsimile number and an email address for the person making the submission also should be provided.

The Honorable Glenn F. McConnell,
President *Pro Tempore* of the South Carolina Senate
c/o Michael A. Carvin
Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001
Telephone: (202) 879-7643
Fax: (202) 626-1700
Email: macarvin@jonesday.com

§ 51.27 (e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

The State of South Carolina is the submitting authority for this change, and Section 4, Part II of Act 71 of 2011 designates the President *Pro Tempore* of the South Carolina Senate as the official responsible for making this submission.

§ 51.25 (f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

The submission is from the State of South Carolina.

§ 51.27 (g) Identification of the person or body responsible for making the change and the mode of decision (e.g., act of State legislature, ordinance of city council, administrative decision by registrar).

Act 71 of 2011 was duly enacted by the South Carolina General Assembly and signed into law by the Governor of South Carolina.

§ 51.27 (h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The South Carolina Senate enacted Act 71 of 2011 in compliance with its duty to carry out decennial reapportionment and in accordance with the Fourteenth Amendment to the United States Constitution, as interpreted by the United States Supreme Court in *Reynolds v. Sims*, 377 U.S. 533 (1964), as well as other Supreme Court and lower federal court decisions applicable to South Carolina. Act 71 of 2011 became law after a majority in both houses of the South Carolina General Assembly voted to pass the bill and the Governor signed it into law.

§ 51.27 (i) The date of adoption of the change affecting voting.

The South Carolina General Assembly ratified S. 815 on June 22, 2011, and the Governor signed it into law on June 28, 2011.

§ 51.27 (j) The date on which the change is to take effect.

The Senate redistricting plan in Act 71 will take effect for the regularly scheduled primary and general elections in 2012. *See* Act 71 of 2011, Section 3, Part II. The schedule for those elections is as follows:

1. State Senate candidates must file notices of their candidacies between noon on March 16, 2012, and noon on March 30, 2012. S.C. Code Ann. § 7-11-15 and S.C. Code Ann. § 7-11-210.
2. Primary elections will be held on June 12, 2012. S.C. Code Ann. § 7-13-15.
3. The general election will be held on November 6, 2012. S.C. Code Ann. § 7-13-10.

§ 51.27 (k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

The changes embodied in S. 815, Act 71 of 2011, have not yet been enforced or administered.

§ 51.27 (l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

The changes submitted for preclearance will affect the entire South Carolina Senate.

§ 51.27 (m) A statement of the reasons for the change.

Please see the answer to § 51.27 (h) above. The changes embodied in Act 71 were enacted to comply with the Fourteenth Amendment to the United States Constitution.

§ 51.27 (n) A statement of the anticipated effect of the change on members of racial or language minority groups.

As demonstrated below, Act 71 of 2011 “neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color.” 42 U.S.C. § 1973c(a). Under Section 5 of the Voting Rights Act, a redistricting plan impermissibly “denies or abridges the right to vote” if it “has the purpose of or will have the effect of diminishing the ability of any citizens of the United States on account of race or color . . . to elect their preferred candidates of choice.” 42 U.S.C. § 1973c(b). In its 2006 reauthorization of the Voting Rights Act, Congress specified that “[t]he term ‘purpose’ . . . shall include any discriminatory purpose.” 42 U.S.C. § 1973c(c). Congress further explained that Section 5’s aim “is to protect the ability of [minority] citizens to elect their preferred candidates of choice.” 42 U.S.C. § 1973c(d); *see also Beer v. United States*, 425 U.S. 130, 141 (1976) (holding that a redistricting plan violates Section 5 if it “would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise”).

“The ‘benchmark’ against which a new plan is compared is the last legally enforceable redistricting plan in force or effect.” *Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act*, 76 Fed. Reg. 7470 (Feb. 9, 2011) (*DOJ Guidance*) (citing *Riley v. Kennedy*, 553 U.S. 406 (2008)); *see also* 28 C.F.R. § 51.54(c)(1). The “comparison of the benchmark and proposed plans at issue” is based on “updated census data in each.” *DOJ Guidance*, 76 Fed. Reg. at 7471. In these plans, the “ability of [minority] citizens to elect their preferred candidates of choice” in a district—which is protected by Section 5’s anti-retrogression requirement—“either exists or it does not.” *Id.*

Dr. Richard Engstrom conducted a thorough analysis of the changes embodied in Act 71 and concluded that “the state did an impressive job of avoiding retrogressive results.” A copy of this report is included as **Exhibit 14**. Although Act 71 results in a small reduction of BVAP in some districts where minorities have an ability to elect their preferred candidates of choice, these reductions are not retrogressive. Most importantly, in all of these districts, the minority populations are still able to elect their candidates of choice under Act 71. In addition, the small reductions that occur are unavoidable due to demographic changes since the last reapportionment. The 2010 census revealed that nearly all of these districts are severely underpopulated under the benchmark plan, as demonstrated in the chart included as **Exhibit 15**. Indeed, eleven of the minority-opportunity districts are underpopulated—and so much so that the population in those eleven districts is no longer enough to fill even ten districts. Thus, in order to comply with constitutional one-person-one-vote requirements, Act 71 expanded the geography of the underpopulated districts, which unavoidably lowered the BVAP in some of those districts.

There are eight districts with a majority BVAP under the benchmark plan. These are Districts 19, 21, 30, 32, 36, 39, 40, and 42. Act 71 of 2011 preserves majority-black status in

all eight of these districts and restores majority-black status in a ninth—District 45, which dropped below 50% BVAP under the benchmark plan.

Three of these majority-black districts—Districts 32, 36, and 40—are currently represented by white incumbents. These three districts were represented by the same white incumbents when the *Colleton County* court set their district lines in 2002 and when the Attorney General precleared South Carolina’s current district lines in 2003. With respect to these districts, the 2011 Plan is non-retrogressive for many of the same reasons that the judicial and legislative plans following the 2000 census were non-retrogressive:

- In District 32, the 2011 Plan achieves nearly the same BVAP as the current benchmark and the plan drawn by the court in *Colleton County*. The three-judge court found this BVAP level sufficient—despite a higher BVAP in the then-benchmark plan—due to population losses in the district and the fact that minority voters retained the opportunity to elect their candidate of choice. 201 F. Supp. 2d at 661. The twenty-two-year incumbent in District 32, Senator McGill, received approximately 42.1% of the minority vote in the 2004 primary against a black challenger. See **Exhibit 14** at Table 3. In the 2008 primary, Senator McGill again received substantial support from minority voters—this time 37.5%—against two black challengers. See *id.* While Senator McGill prevailed in these two elections without a majority of African-American votes, it is clear that, at 55% BVAP, District 32’s African-American community is able to elect an African-American candidate that it cohesively supports and, more to the point, that the community’s ability to elect is not diminished compared to the benchmark plan.
- In District 36, the 2011 Plan reduces BVAP by only about 1%, and that slight reduction does not affect the minority community’s ability to elect its candidate of choice. See **Exhibit 14**. As the *Colleton County* court found, reduction of BVAP due to underpopulation in District 36 is appropriate even if the white incumbent is likely to continue winning re-election. Senator Land’s re-election in the 1990s showed that “blacks [we]re crossing over in sufficient numbers” to elect him, due to “the years of faithful constituent service by the long-serving white Democratic senator.” 201 F. Supp. 2d at 662. In these circumstances, it was “sufficient to make this an opportunity district for minorities *in an open election*,” *id.* (emphasis added), and District 36 certainly continues to provide that opportunity under S. 815. In the meantime, the African-American community’s support for Senator Land was confirmed in 2004 and 2008 by his re-election as that community’s candidate of choice and without an African-American challenger. Thus, minority voters will continue to be able to elect their candidate of choice in District 36.
- In District 40, the 2011 Plan achieves roughly the same BVAP as the plan drawn by the court in *Colleton County* and the subsequent plan precleared by the Attorney General. The white incumbent who continued to be elected under the precleared plan, Senator Hutto, is the African-American community’s candidate of choice. Because District 40 and the adjacent majority-minority districts (Districts 36, 39, and 45) are grossly underpopulated under the benchmark plan, it was not feasible to

achieve even a marginally higher BVAP in this district without sacrificing traditional redistricting principles.

In addition, there are three other districts—Districts 7, 10, and 29—that are not majority-black but currently have African-American incumbents. In District 7, the 2011 Plan achieves a BVAP as close to the benchmark plan as possible—given demographic changes—and maintains the minority population’s ability to elect its candidate of choice in that district. The current situation in District 7 is effectively the same as the situation ten years ago when the three-judge court adopted an impasse plan and the Attorney General precleared a subsequently enacted plan. Specifically, District 7 had “lost so much population” that all agreed it could “no longer be drawn with” the same BVAP as the then-benchmark plan “without improper racial gerrymandering,” but all also agreed a reduced “BVAP in District 7 [was] still high enough for it to be an equal opportunity district.” *Colleton County*, 201 F. Supp. 2d at 660. In District 10, the 2011 Plan provides a higher BVAP than the benchmark plan. Likewise, in District 29, the 2011 Plan surpasses the benchmark plan’s BVAP. In addition, District 29’s minority incumbent, Senator Malloy, supported the 2011 Plan over an alternative plan that would have disrupted the core of the district to artificially inflate its BVAP. See **Exhibit 25**, Comments by Senator Malloy for June 16, 2011.

One other district—District 17—has a BVAP over 40% and a white incumbent. However, because District 17’s minority population is not able to elect its candidate of choice under the benchmark plan, Section 5 does not mandate that the district be “maintained” to avoid retrogression.¹ Once again, the situation is similar to that of ten years ago. The three-judge panel in *Colleton County* concluded that although District 17 in the then-benchmark plan was over 50% BVAP, it could “no longer be drawn with a BVAP over 50% or as one of equal opportunity without unconstitutionally gerrymandering the district.” 201 F. Supp. 2d at 660. The court’s plan set the district’s BVAP at 48.41%, and South Carolina’s 2003 Plan, which was precleared by the Attorney General, lowered the district’s BVAP to 47.60%. District 17 was not a performing minority district under either of those plans, and it was not presented as performing in either the court’s opinion or the preclearance submission. District 17 also is not performing for minority voters under the current benchmark plan, as confirmed by white candidates’ defeat of African-American candidates in both the 2004 and the 2008 primary elections—the latter of which was a contest for an open seat. Consequently, Section 5 does not require that District 17 be maintained at the same non-performing level under the 2011 Plan.

§ 51.27 (o) A statement identifying any past or pending litigation concerning the change or related voting practices.

There is no pending litigation involving Act 71 of 2011. For an account of litigation involving South Carolina’s redistricting after the 2000 census, please see § 51.27 (b) above, **Exhibit 8**, *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002), and

¹ This is particularly true because, as in 2002, District 17 cannot be drawn to provide an arguable ability to elect for minority voters without violating traditional redistricting principles and jeopardizing the re-election of minority-supported incumbents in other districts. The only such plan even presented in the redistricting process, which came from outside the State, would have disrupted the cores of neighboring districts, and was not supported by any minority incumbents or by any group of minority voters within the State.

§ 51.27 (a) above, for the address of the Senate redistricting website, which features a history of redistricting in South Carolina since 2000.

§ 51.27 (p) A statement that the prior practice has been precleared (with the date) or is not subject to the preclearance requirement and a statement that the procedure for the adoption of the change has been precleared (with the date) or is not subject to the preclearance requirement, or an explanation why such statements cannot be made.

The South Carolina Senate submitted the 2003 Plan for preclearance on June 27, 2003. The Attorney General made no objection and notified the State of preclearance on August 21, 2003. The procedure employed to adopt Act 71 of 2011 was the process constitutionally required for all legislation in South Carolina and is not subject to preclearance.

§ 51.27 (q) For redistrictings and annexations: the items listed under § 51.28(a)(1) and (b)(1); for annexations only: the items listed under § 51.28(c)(3).

(a) Demographic information.

(1) Total and voting age population of the affected area before and after the change, by race and language group. If such information is contained in publications of the U.S. Bureau of the Census, reference to the appropriate volume and table is sufficient.

Please see Exhibits 2, 6, 9, 11, 12, 13, and 15.

(b) Maps. Where any change is made that revises the constituency that elects any office or affects the boundaries of any geographic unit or units defined or employed for voting purposes (e.g., redistricting, annexation, change from district to at-large elections) or that changes voting precinct boundaries, polling place locations, or voter registration sites, maps in duplicate of the area to be affected, containing the following information:

(1) The prior and new boundaries of the voting unit or units.

Please see Exhibits 3, 7, and 10.

§ 51.27 (r) Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in § 51.28 and is most likely to be needed with respect to redistrictings, annexations, and other complex changes. In the interest of time such information should be furnished with the initial submission relating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in § 51.37.

ADDITIONAL INFORMATION PURSUANT TO 28 C.F.R. § 51.28

§ 51.28 (a)(2) The number of registered voters for the affected area by voting precinct before and after the change, by race and language group.

Please see the information for 2004, 2006, 2008 and 2010, provided in **Exhibit 16**. No significant concentration of persons representing a language minority has been identified in South Carolina.

§ 51.28 (a)(3) Any estimates of population, by race and language group, made in connection with the adoption of the change.

No such estimates were prepared. Please see **Exhibits 11** and **12** for Plan Component Reports for S. 591, Act 55 of 2003, and S. 815, Act 71 of 2011.

§ 51.28 (b) Maps. Where any change is made that revises the constituency that elects any office or affects the boundaries of any geographic unit or units defined or employed for voting purposes (e.g., redistricting, annexation, change from district to at-large elections) or that changes voting precinct boundaries, polling place locations, or voter registration sites, maps in duplicate of the area to be affected, containing the following information: (1) The prior and new boundaries of the voting unit or units; (2) The prior and new boundaries of voting precincts; (3) The location of racial and language minority groups; (4) Any natural boundaries or geographical features that influenced the selection of boundaries of the prior or new units; (5) The location of prior and new polling places; (6) The location of prior and new voter registration sites.

Please see the information provided above in **Exhibits 3, 7, and 10**. Otherwise, not applicable.

§ 51.28 (c) Annexations.

Not applicable.

§ 51.28 (d) Election returns. Where a change may affect the electoral influence of a racial or language minority group, returns of primary and general elections conducted by or in the jurisdiction, containing the following information: (1) The name of each candidate; (2) The race or language group of each candidate, if known; (3) The position sought by each candidate; (4) The number of votes received by each candidate, by voting precinct; (5) The outcome of each contest; (6) The number of registered voters, by race and language group, for each voting precinct for which election returns are furnished. Information with respect to elections held during the last ten years will normally be sufficient; (7) Election related data containing any of the information described above that are provided on magnetic media shall conform to the requirements of § 51.20(b) through (e). Election related data that cannot be accurately presented in terms of census blocks may be identified by county and by precinct.

For election information from the past ten years, please see **Exhibit 17**. This exhibit provides election data by precinct for each election contest held during the 2008 and 2010 primaries, runoffs, and general elections. It also contains election data by precinct for the 2006 primaries and general elections, as well as data for the 2002 and 2004 general elections. Information on primary races for 2002 and 2004, organized by primary race and county, may be accessed at the South Carolina Election Commission website at:

www.scvotes.org/statistics/election_returns_from_primaries_and_general_elections_statewide. Election data for the five special Senate elections held under the 2003 Plan are also included. A list of election races with the party and race of each candidate and vote totals, which could be used for a racial bloc voting analysis, and which was compiled through a cooperative effort between the Senate Judiciary Committee and Dr. John Ruoff of South Carolina Fair Share is included. This list was made available to the public. Also included in this exhibit is information, which was included in the Senate's 2003 submission, on special Senate elections held prior to the 2003 Plan and on the 2000 Senate Districts' primaries and general elections.

For additional information on South Carolina elections, please see the Research and Statistics information from the S.C. Election Commission website at: www.scvotes.org.

No significant concentration of persons representing a language minority has been identified in South Carolina. Registered voters by race and precinct for 2004, 2006, 2008 and 2010 are included in **Exhibit 16**.

§ 51.28 (e) Language usage. Where a change is made affecting the use of the language of a language minority group in the electoral process, information that will enable the Attorney General to determine whether the change is consistent with the minority language requirements of the Act. The Attorney General's interpretation of the minority language requirements of the Act is contained in Interpretative Guidelines: Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 28 CFR Part 55.

Not applicable.

§ 51.28 (f) Publicity and participation. For submissions involving controversial or potentially controversial changes, evidence of public notice, of the opportunity for the public to be heard, and of the opportunity for interested parties to participate in the decision to adopt the proposed change and an account of the extent to which such participation, especially by minority group members, in fact took place. Examples of materials demonstrating public notice or participation include:

(1) Copies of newspaper articles discussing the proposed change.

Please see **Exhibit 18**, which contains media articles dating from the beginning of the Senate Redistricting process in 2011 to the enactment of the Senate Redistricting legislation, Act 71 of 2011. Please also see **Exhibit 19**, a media contact list that was used to send information out to different media.

(2) Copies of public notices that describe the proposed change and invite public comment or participation in hearings and statements regarding where such public notices appeared (e.g., newspaper, radio, or television, posted in public buildings, sent to identified individuals or groups).

Please see **Exhibit 20**, which contains copies of all public notices and **Exhibit 21**, which contains all press releases sent to media contacts.

(3) Minutes or accounts of public hearings concerning the proposed change.

Please see **Exhibit 22**, which contains minutes of all statewide public hearings, **Exhibit 23**, which contains transcripts of all statewide public hearings, and **Exhibit 24**, which contains transcripts of proceedings before the Senate Judiciary Redistricting Subcommittee and the Senate Judiciary Committee.

(4) Statements, speeches, and other public communications concerning the proposed change.

Please see **Exhibit 25**, which contains comments made by Senator McConnell and other Senators concerning Senate Redistricting and the Senate Redistricting Plan.

(5) Copies of comments from the general public.

For comments from the general public that were received at the ten statewide public hearings, please see **Exhibits 23** and **Exhibit 24**. For comments from people who could not attend the public hearings or who wanted to submit additional information, please see **Exhibit 26**. Additionally, the ACLU and the South Carolina Republican Party submitted and commented on Senate redistricting plans, which are included as **Exhibit 36** and **Exhibit 37**.

(6) Excerpts from legislative journals containing discussion of a submitted enactment, or other materials revealing its legislative purpose.

For discussions from the Senate Journal please see **Exhibit 27**, Senate Journal, June 14, 2011, pp. 21-22; **Exhibit 28**, Senate Journal, June 15, 2011, pp. 6-221; and **Exhibit 29**, Senate Journal, June 16, 2011, pp. 9-129. For discussions from the House Journal, please see **Exhibit 30**, House Journal, June 16, 2011, pp. 1-2, June 21, 2011, pp. 18-20, and June 22, 2011, pg. 10. For digital video recordings of the Senate sessions on June 14, 2011, June 15, 2011, and June 16, 2011, please see the separate DVDs included as **Exhibit 31**.

§ 51.28 (g) Availability of the submission.

(1) Copies of public notices that announce the submission to the Attorney General, inform the public that a complete duplicate copy of the submission is available for public inspection (e.g., at the county courthouse) and invite comments for the consideration of the Attorney General and statements regarding where such public notices appeared.

Simultaneous with this filing, a press release is being issued and a public notice sent to all interested parties containing the information in **Exhibit 32**, which informs the public that the South Carolina Senate has submitted its Senate Redistricting Plan to the United States Attorney General for preclearance and that a duplicate copy of the Senate's submission is available for public inspection at the offices of the South Carolina Senate Judiciary Committee and on the South Carolina Senate's Redistricting website at: <http://redistricting.scsenate.gov>. This notice also informs the public that any comments on the Senate redistricting plan should be labeled on the first page and envelope with the notation "Comment under Section 5 of the Voting Rights Act" and sent to:

Chief, Voting Section
Civil Rights Division
U.S. Department of Justice
Room 7254 – NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

(2) Information demonstrating that the submitting authority, where a submission contains magnetic media, made the magnetic media available to be copied or, if so requested, made a hard copy of the data contained on the magnetic media available to be copied.

Please see **Exhibit 33**, which contains copies of the Senate Redistricting website, <http://redistricting.scsenate.gov>, and a list of the data available to the public throughout the redistricting process. Throughout the redistricting process, the South Carolina Senate made available to the public the following data for current districts and proposed districts: block equivalency files, plan component reports, maps, including Google Earth maps, and group quarters data. Additional data on the website included 2010 TIGER Geography Line files, 2008 and 2010 Statewide Election Results by precinct, and 2010 Census data by Voter Tabulation District per Senate District. The website made available calendars of all meetings and hearings, transcripts of these meetings and hearings, and contents of notebooks of the subcommittee members for each meeting. *See also Exhibit 23*, North Charleston public hearing transcript, pp. 11-12, and pg. 20, for favorable comments from the public about the Senate redistricting website.

Exhibit 34 contains copies of the Policy for Public Participation and the Policy for Public Submission, adopted by the Senate Judiciary Redistricting Subcommittee on April 13, 2011, which explained the processes for public participation and submissions.

§ 51.28 (h) Minority group contacts. For submissions from jurisdictions having a significant minority population, the names, addresses, telephone numbers, and organizational affiliation (if any) of racial or language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.

Please see **Exhibit 35**, which contains the names and contact information for the South Carolina Senate Black Caucus, the South Carolina NAACP, the ACLU contacts in South

Carolina and Atlanta, and the South Carolina Fair Share contact.

The Senate wishes to complete the preclearance process as expeditiously as possible. Please let me know if you should require any additional information or if you have any concerns that we need to address.

With best wishes, I am,

Sincerely yours,

A handwritten signature in black ink, appearing to read "Glenn F. McConnell". The signature is written in a cursive, flowing style.

Glenn F. McConnell
President *Pro Tempore*

cc: Michael A. Carvin, Esquire

EXHIBIT B



Civil Rights Division

TCH:RSB:MSR:VW:maf:par
DJ 166-012-3
2011-2798

Voting Section - NWB
950 Pennsylvania Ave, NW
Washington, DC 20530

SEP 26 2011

The Honorable Glenn F. McConnell
President Pro Tempore, South Carolina Senate
c/o Michael A. Carvin, Esq.
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

Dear Mr. McConnell:

This refers to Act No. 71 (S. 815) (2011), which provides the 2011 redistricting plan for the South Carolina Senate, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on July 27, 2011.

Our analysis indicates that the information sent is insufficient to enable us to determine that the proposed change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. The following information is necessary so that we may complete our review of your submission:

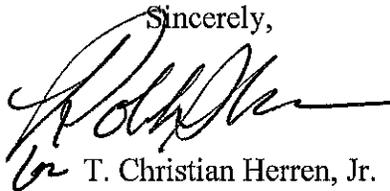
1. With regard to benchmark District 17, please provide the factual basis for the state's determination that the district does not provide black voters with the ability to elect a candidate of choice to office.
2. To the extent not previously provided, the following information for all precincts that are in whole or in part located within benchmark District 17, election returns for all state or federal offices from 2006 to the present, including primary, runoff, and general elections. For each election, please indicate the following:
 - a. each candidate's name, party, and race (indicate the incumbent(s), if any, and whether incumbency was by election or appointment);
 - b. the number of votes each candidate received by precinct;
 - c. the racial composition of each voting precinct not entirely within the district; and
 - d. the number of votes cast either by absentee ballot or early voting reallocated to the voters' precinct of record.

If available, please provide the data in electronic format (.dbf, .xls, or .txt files).

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.37. However, if no response is received within sixty days of this request, the Attorney General may object to the proposed change consistent with the burden of proof placed upon the submitting authority. 28 C.F.R. 51.40 and 51.52(a) and (c). Changes that affect voting are legally unenforceable unless and until the appropriate Section 5 determination has been obtained. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action that the State of South Carolina plans to take to comply with this request.

If you have any questions concerning this letter or if we can assist you in obtaining the requested information, please call Robert S. Berman (202/514-8690), a deputy chief in the Voting Section. Refer to File No. 2011- 2798 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Christian Herren, Jr.', with a long horizontal flourish extending to the right.

T. Christian Herren, Jr.
Chief, Voting Section

EXHIBIT C

JONES DAY

51 LOUISIANA AVENUE, N.W. • WASHINGTON, D.C. 20001-2113
TELEPHONE: 202-879-3939 • FACSIMILE: 202-626-1700

Direct Number: (202) 879-7643
macarvin@JonesDay.com

September 29, 2011

VIA E-MAIL

T. Christian Herren, Jr.
Chief, Voting Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: South Carolina Senate Preclearance Submission, File No. 2011-2798

Dear Mr. Herren:

This letter is in response to your letter dated September 26, 2011, regarding the preclearance submission for S. 815, Act 71 of 2011 (“Senate Plan”), which provides for the decennial redistricting of South Carolina’s forty-six state Senate districts. We respond to each of your requests in turn.

1. The first request in your letter is as follows: “With regard to benchmark District 17, please provide the factual basis for the state’s determination that the district does not provide black voters with the ability to elect a candidate of choice to office.”

First, when benchmark District 17 was drawn during the last redistricting cycle, the consensus view of all parties and the court was that it plainly did not afford blacks the ability to elect their candidates of choice. The three-judge panel in *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002),¹ concluded that although District 17 in the then-benchmark plan was over 50% BVAP, it could “no longer be drawn with a BVAP over 50% or as one of equal opportunity without unconstitutionally gerrymandering the district.” *Id.* at 660. The court’s plan set the district’s BVAP at 48.41%, which, as noted, the court did not view as enabling blacks to elect their preferred candidates of choice.² A year later, South Carolina enacted a new Senate Plan (“2003 Plan”) that lowered District 17’s BVAP to 47.60%.³ In its

¹ See Exhibit 8 of the South Carolina Senate’s original submission for the *Colleton County* opinion.

² See Exhibit 8 for the *Colleton County* opinion, Exhibit 9 for a block equivalency file for the 2002 Court Plan, and Exhibit 10 for maps of the 2002 Court Plan.

³ See Exhibit 11 for a plan components report for the 2003 Plan, Exhibit 6 for a block equivalency file for the 2003 Plan, and Exhibit 7 for maps of the 2003 Plan.

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September 29, 2011
Page 2

preclearance submission for the 2003 Plan, the State did not present District 17 as a black opportunity district, and the Attorney General precleared the plan.

Second, the electoral history of Senate District 17 over the past decade has confirmed the *Colleton County* court's determination that the district would not be a black opportunity district at less than 50% BVAP. In both the 2004 and the 2008 Democratic Primary for Senate District 17, the black candidates lost to white opponents.⁴ And the second of these races was for an open seat. These facts preclude any suggestion that black candidates are able to elect their preferred candidates in benchmark District 17.

Third, election results in South Carolina House District 41, which is fully subsumed within Senate District 17, further confirm that benchmark Senate District 17 is not a minority opportunity district. Black candidates have lost primary elections in this district every year since the benchmark plan was precleared—in 2004, 2006, 2008 (when the seat was open), and 2010. This is true even though House District 41 is 58% BVAP, roughly ten percentage points higher than Senate District 17.

Fourth, the ACLU's proposed plan demonstrates that District 17's BVAP must be much higher than 48% for blacks to even arguably have an ability to elect their preferred candidates of choice. Rather than maintain District 17's current BVAP, the ACLU felt it necessary to increase the percentage to 53.10%—nearly 5% above the benchmark plan.⁵ The only explanation for this increase is that the ACLU viewed benchmark District 17's BVAP as insufficient for blacks to elect their preferred candidates of choice, just as the election history makes clear.

Fifth, during the redistricting process, no one suggested that benchmark District 17 is electable for blacks. At no point during the extensive public hearings, nor during the subcommittee, committee, or full Senate proceedings, did anyone—through informal comment or formal proposal—argue that black voters are currently able to elect their preferred candidates of choice in District 17.⁶ Any notion that a minority opportunity district has been eliminated is further refuted by the fact that the Senate Plan passed the Senate 37-1, with the express support

⁴ See Exhibit 17's "Primary Elections" files and "Racial Bloc Voting" file for the race and vote totals for each candidate.

⁵ See Exhibit 36, under the filename "ACLU_Senate_DistStat.pdf," for the plan components report for the ACLU Plan.

⁶ See Exhibit 22 for minutes from the public hearings, Exhibit 23 for transcripts from the public hearings, Exhibit 24 for minutes and transcripts of the subcommittee and committee hearings, Exhibit 25 for statements by individual Senators, Exhibit 26 for public comments, and Exhibits 27, 28, and 29 for relevant excerpts from proceedings on the Senate floor.

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Page 3

of all African-American Senators except one, whose stated concerns were limited to his own district.⁷

2. The second request in your letter is as follows: “To the extent not previously provided, the following information for all precincts that are in whole or in part located within benchmark District 17, election returns for all state or federal offices from 2006 to the present, including primary, runoff, and general elections.” We respond to your specific requests below:

a. “[E]ach candidate’s name, party, and race (indicating the incumbent(s), if any, and whether incumbency was by election or appointment).” The name, party, and race of each candidate for state or federal office from 2006 to the present can be found in Exhibit 17 of the South Carolina Senate’s original preclearance submission (the “Submission”). Specifically, the name and party of each candidate can be found in the appropriate election return files. These files are broken down by precinct, and the precincts within benchmark District 17 are identified in Exhibit 15, so election returns for the precincts within benchmark District 17 can be isolated from all other precincts. The available information about the race of candidates can be found in the “Racial Bloc Voting” folder within Exhibit 17.

Although all of this information can be found in the Submission, we will, for the Voting Section’s convenience, provide a single file that includes only the District 17 precincts and only the requested elections, along with the available information about the race of candidates. Incumbency was not noted in the election return data provided in the Senate’s Submission because the regulations do not require that information, but we will be providing the Voting Section with that information promptly.

b. “[T]he number of votes each candidate received by precinct.” Each candidate’s vote totals can be found, along with the candidate’s name and party, in the election return files in Exhibit 17. As mentioned above, the election returns are separated by precinct.

c. “[T]he racial composition of each voting precinct not entirely within the district.” This information can be found at Exhibit 15, which provides the plan components report for the benchmark plan, broken down by precinct. The report identifies which precincts are not entirely within District 17, and it provides the racial composition of the portions of each precinct within District 17.

d. “[T]he number of votes cast either by absentee ballot or early voting reallocated to the voters’ precinct of record.” The South Carolina State Election Commission does not regularly record a precinct for votes cast by absentee ballot or early voting. Thus, this information generally is not available. Although this information is not required by the

⁷ See Exhibits 25 and 28 for the final vote totals and Senator Anderson’s comments.

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regulations, we are investigating whether there is any reasonably accurate and feasible methodology to estimate the absentee and early voting by precinct.⁸

* * *

While we do not object to re-identifying or re-formatting the information previously provided as discussed above, it is important to note that your September 26th so-called “request for further information” actually requests only information and explanations that were already provided long ago to the Department, or were not required under the Section 5 regulations. Since our initial July 27 submission fully complied with the Section 5 regulations and provided all relevant information, there was no legitimate reason to fail to decide preclearance within the statutory 60-day deadline or to file this “request for further information” at the eleventh-hour. That being so, the statutory 60-day deadline has already run and, at a minimum, the Department is obliged to end its dilatory tactics and promptly resolve preclearance.

Contrary to your letter’s suggestion, the Senate’s original submission on July 27, 2011 was complete. As for the conclusion that benchmark District 17 does not provide black voters with the ability to elect their candidates of choice, the factual basis requested in your letter and set forth above was already provided in the body of the Submission (at page 8) and in the above-cited exhibits to the Submission. Furthermore, this factual basis was specifically discussed during the Voting Section’s phone conversation with Senator McConnell, Charles Terreni, and Louis Fisher. Any suggestion that the Submission was incomplete in this regard would be patently erroneous.

Nor is any of the other information requested in your letter necessary to make the Submission complete. Quite the contrary: the Submission provided all available and relevant information called for under the preclearance regulations. *See* 28 C.F.R. §§ 51.27 & 51.28. Indeed, the overwhelming majority of the newly requested information was already provided—as detailed above and as acknowledged by your letter’s request for information “[t]o the extent not previously provided.” The only information *not* previously provided—the incumbency information and the allocation of absentees and early voters to precincts—is not regularly kept by the State of South Carolina and, more important, is not required by the regulations.

The sixty-day review period cannot be evaded through a last-minute request for information that already has been provided or is not required for a completed submission. Section 5 provides the Attorney General with sixty days to review submitted voting changes. *See* 42 U.S.C. § 1973c. The only exception to this time limit is when additional information is

⁸ The Election Commission does not keep this precinct-specific information. The Commission appears to have information which might be used to estimate, through an external database, which precinct is involved. That information is equally available to the Voting Section, as it is to the South Carolina Senate, and of course is not required by the Section 5 regulations.

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September 29, 2011
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necessary because a submitting authority has not provided “a submission satisfying the enumerated requirements” set forth in the preclearance regulations. *Georgia v. United States*, 411 U.S. 526, 539 (1973); *see also Branch v. Smith*, 538 U.S. 254, 263 (2003). Here, the Submission did meet those requirements, and the review period cannot be extended.

The regulations, moreover, mandate that any additional information “request shall be made as promptly as possible within the original 60-day period.” 28 C.F.R. § 51.37(b)(1). Throughout that period here, we reinforced this requirement by repeatedly offering to provide any additional information the Voting Section might need, and by repeatedly requesting early notice of such a request. At every turn, your office assured us that there was nothing else needed, and that we would be notified promptly if any need for additional information arose. Yet, we received your request at 9:17 pm on September 26—less than three hours before the sixty-day period was set to expire.

Thus, your letter is illegitimate—both substantively and procedurally—as a basis for extending the start date of the sixty-day statutory review period. That period began when the Submission was made on July 27, 2011. The Attorney General’s failure to object within sixty days of the Submission constitutes preclearance of the Senate Plan under Section 5. *See* 42 U.S.C. § 1973c(a) (“[A voting change] may be enforced . . . if [it] has been submitted . . . to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission.”). We accordingly request your immediate confirmation that the Senate Plan may be enforced.

Moreover, on the merits, the information already provided plainly demonstrates that District 17 and the rest of the Senate Plan are entitled to preclearance. As explained (again) above, the information we have provided amply demonstrates that District 17’s minority population is unable to elect its candidate of choice under the benchmark plan. And we have been given no indication that the Voting Section has received any information or performed any analysis suggesting a different conclusion. Indeed, in response to our repeated requests for an opportunity to discuss any concerns that your office might have, we were consistently advised that none existed. Nor could any such concern be raised by an analysis of the absentee and early voting information that you have requested. Even if such information were reliable, there would be no use for it here. Voting data by precinct typically is used to estimate racial voting patterns that are then applied to estimate whether a black candidate would win in a district. Here, however, we already *know* that black candidates lose in benchmark District 17, because the black candidate lost in both 2004 and 2008, clearly confirming the *Colleton County* court’s finding ten years ago that a nearly identical district would not be a minority opportunity district.

In order to facilitate your prompt confirmation of preclearance (assuming *arguendo* that such confirmation is still legally relevant), we will provide the requested new information to the extent that it reasonably can be obtained. We remain available to discuss any questions or

JONES DAY

T. Christian Herren, Jr.
September 29, 2011
Page 6

concerns that you may have about our showing that benchmark District 17 is not one in which minority voters can elect their preferred candidates of choice, so long as it done quite promptly.

Sincerely,

A handwritten signature in cursive script that reads "Michael Carvin".

Michael A. Carvin

N
11-1794
HHK

CIVIL COVER SHEET

JS-44
(Rev. 2/11/08)

<p>I (a) PLAINTIFFS</p> <p>Glenn F. McConnell, in his official capacity as President Pro Tempore of the South Carolina Senate</p> <p style="text-align: right; border: 1px solid black; border-radius: 50%; padding: 2px;">88888</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</p> <p>Michael A. Carvin and Louis K. Fisher, Jones Day, 51 Louisiana Avenue, N.W., Washington, D.C. 20001-2113, (202) 879-3939</p>	<p>DEFENDANTS</p> <p>The United States of America; Eric H. Holder, Jr., in his official capacity as Attorney General of the United States</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</p> <p>ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</p> <p>Case: 1:11-cv-01794 Assigned To : Kennedy, Henry H. Assign. Date : 10/7/2011 Description: Three Judge Court</p>																								
<p>II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant</p> <p><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p>Social Security:</p> <p><input type="checkbox"/> 861 HIA ((1395ff))</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>Other Statutes</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>				
<p><input type="radio"/> E. General Civil (Other)</p> <p>Real Property</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p>Personal Property</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>		<p style="text-align: center;">OR</p> <p><input type="radio"/> F. Pro Se General Civil</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; vertical-align: top; padding: 5px;"> <p>Bankruptcy</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>Prisoner Petitions</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p>Property Rights</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>Federal Tax Suits</p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> </td> <td style="width:50%; vertical-align: top; padding: 5px;"> <p>Forfeiture/Penalty</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 RR & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>Other Statutes</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p> </td> </tr> <tr> <td style="width:50%; vertical-align: top; padding: 5px;"> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act</p> </td> <td style="width:50%;"></td> </tr> </table>		<p>Bankruptcy</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>Prisoner Petitions</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p>Property Rights</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>Federal Tax Suits</p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p>	<p>Forfeiture/Penalty</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 RR & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>Other Statutes</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act</p>	
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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/PRIVACY ACT <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input checked="" type="radio"/> N. Three-Judge Court <input checked="" type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)

V. ORIGIN

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi district Litigation
 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Request for Declaratory Judgement under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.

VII. REQUESTED IN COMPLAINT CHECK IF THIS IS A CLASS ACTION UNDER F R C P. 23 **DEMAND \$** _____ Check YES only if demanded in complaint
JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instruction) YES NO If yes, please complete related case form

DATE October 7, 2011 **SIGNATURE OF ATTORNEY OF RECORD** Michael Cover

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence Use 11001 to indicate plaintiff is resident of Washington, D C , 88888 if plaintiff is resident of the United States but not of Washington, D C , and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT. The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case
- VI. CAUSE OF ACTION Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause
- VIII. RELATED CASES, IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

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