

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

SIMON BALDERAS, GUADALUPE
ROMAN, and GILBERTO Z. TORREZ
Plaintiffs,

v.

STATE OF TEXAS; RICK PERRY, in
his official capacity as Governor of Texas,
WILLIAM R. "BILL" RATLIFF, in his
official capacity as Acting Lieutenant
Governor of Texas, THE TEXAS HOUSE
OF REPRESENTATIVES, THE TEXAS
SENATE, JAMES "PETE" LANEY, in
his official capacity as Speaker of the
Texas House of Representatives;
HENRY CUELLER, in his official
capacity as Secretary of State for the
State of Texas; MOLLY BETH
MALCOLM, in her official capacity
as Chair of the Texas Democratic Party;
SUSAN WEDDINGTON, in her official
capacity as Chair of the Texas Republican
Party,

Defendants,

J.B. MAYFIELD, ROY STANLEY,
PHYLLIS COTTLE, and DOROTHY
M. LEE, and MOLLY WOODS

Plaintiff/Intervenors.

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

AUG - 3 2001

DAVID J. MALAND, CLERK

BY
DEPUTY

Civil Action No. 6:01CV158

**THE STATE OF TEXAS, GOVERNOR PERRY, AND SECRETARY OF STATE
CUELLAR'S ORIGINAL ANSWER TO INTERVENORS' COMPLAINT**

The State of Texas, Rick Perry, in his official capacity as Governor of the State of Texas,
and Henry Cuellar, in his official capacity as Secretary of State of the State of Texas
(collectively, the "State Defendants"), file this Answer to the Complaint of Intervenors J.B.

Mayfield, Roy Stanley, Phyllis Cottle, Dorothy M. Lee, and Molly Woods (the "Intervenors' Complaint").

I. Intervenors' Allegations

1. As to Paragraph 1 of Intervenors' Complaint, the Paragraph primarily alleges the purpose for which Intervenors intervened in this suit. Accordingly, no response is needed. The State Defendants are without information sufficient to form a belief as to the truth of the allegations contained in this Paragraph. To the extent that Paragraph 1 of Intervenors' Complaint contains any other allegations that require a response, the State Defendants deny all such allegations.

2. As to Paragraph 2 of Intervenors' Complaint, the State Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein.

3. As to Paragraph 3 of Intervenors' Complaint, the State Defendants are without information sufficient to form a belief as to the truth of the allegations contained therein.

4. As to Paragraph 4 of Intervenors' Complaint, the State Defendants admit that the Texas Legislature has the primary duty and responsibility under the laws of Texas to redraw congressional, state senate, and state house districts in Texas following the official publication of census data from each federal decennial census. The State Defendants admit that if the Texas Legislature fails to draw new congressional districts during its regular session, the Governor of Texas is authorized to call a special session for the purpose of enacting legislation drawing new congressional districts. The State Defendants admit that Texas's congressional districts have been drawn during a special session in the past. The State Defendants admit that if the Texas Legislature fails to draw new state house and state senate districts during its regular session, the Texas Constitution requires that the task be completed by the Legislative Redistricting Board.

The State Defendants admit that Rick Perry is the Governor of Texas, that Bill Ratliff is the Acting Lieutenant Governor of Texas and President of the Texas Senate, and that James “Pete” Laney is the Speaker of the Texas House of Representatives. State Defendants admit that Henry Cuellar is the Texas Secretary of State and oversees Texas’s electoral process. State Defendants admit that Defendant Molly Beth Malcolm is the Chair of the Texas Democratic Party and that Defendant Susan Weddington is the Chair of the Texas Republican Party. The State Defendants admit that all Defendants are sued in their official capacity. The State Defendants deny the remaining allegations contained in Paragraph 4.

5. As to Paragraph 5 of Intervenor’s Complaint, the State Defendants deny the allegations contained therein.

6. As to Paragraph 6 of Intervenor’s Complaint, the Paragraph attempts to restate certain constitutional provisions. The constitutional provisions cited by Intervenor speak for themselves. To the extent that Intervenor have accurately stated the contents of the referenced constitutional provisions, the State Defendants admit those allegations. To the extent that Intervenor have inaccurately stated the contents of the referenced constitutional provisions or inaccurately characterized the referenced constitutional provisions, the State Defendants deny those allegations. The State Defendants deny all remaining allegations contained in Paragraph 6.

7. As to Paragraph 7 of Intervenor’s Complaint, the Paragraph attempts to restate the contents of a federal statute. The federal statute cited by Intervenor speaks for itself. To the extent that Intervenor have accurately stated the contents of the referenced federal statute, the State Defendants admit those allegations. To the extent that Intervenor have inaccurately stated the contents of the referenced federal statute or inaccurately characterized the referenced federal

statute, the State Defendants deny those allegations. The State Defendants deny all remaining allegations contained in Paragraph 7.

8. As to Paragraph 8 of Intervenor's Complaint, the State Defendants admit that general population figures derived from the 2000 census (which are insufficient to conduct the redistricting task) were reported by the Secretary of Commerce to the President of the United States on or about December 28, 2000. The State Defendants admit that these general population figures indicated that Texas's total population was 20,851,820. The State Defendants admit that the 2000 census data establishes that Texas is entitled to thirty-two (32) Representatives in the next Congress, the elections for which have not yet been held, and that this represents an increase of two Representatives as compared to the number of Representatives derived from the 1990 census. The State Defendants deny the remaining allegations contained in Paragraph 8.

9. As to Paragraph 9 of Intervenor's Complaint, Intervenor attempts to describe Texas's 1990 redistricting efforts and the impact of a 1996 federal court opinion. Both the laws passed establishing new districts based on the 1990 census and the 1996 federal court opinion are matters of public record and speak for themselves. To the extent that Intervenor's allegations accurately describe or characterize the referenced redistricting legislation and/or the referenced 1996 federal court opinion, the State Defendants admit those allegations. To the extent that Intervenor's allegations inaccurately describe or characterize the referenced redistricting legislation and/or the referenced 1996 federal court opinion, the State Defendants deny those allegations. The State Defendants deny the remaining allegations contained in Paragraph 9.

10. As to Paragraph 10 of Intervenor's Complaint, the current population of Texas's existing thirty (30) congressional districts is a matter of public record and is contained in the official 2000 census data. The 2000 census data speaks for itself. To the extent that Intervenor

accurately state the population data contained therein, the State Defendants admit those allegations. The State Defendants deny the remaining allegations contained in Paragraph 10.

11. As to Paragraph 11 of Intervenor's Complaint, the current population of the Fourth Congressional District in Texas is a matter of public record and is contained in the official 2000 census data. The 2000 census data speaks for itself. To the extent that Intervenor accurately state the population data contained therein, the State Defendants admit those allegations. The State Defendants deny the remaining allegations contained in Paragraph 11.

12. As to Paragraph 12 of Intervenor's Complaint, the State Defendants deny the allegations contained therein.

13. As to Paragraph 13 of Intervenor's Complaint, the current population of the Third Senatorial District in Texas is a matter of public record and is contained in the official 2000 census data. The 2000 census data speaks for itself. To the extent that Intervenor accurately state the population data contained therein, the State Defendants admit those allegations. The State Defendants deny the remaining allegations contained in Paragraph 13.

14. As to Paragraph 14 of Intervenor's Complaint, the current population of the Eighteenth State House District in Texas is a matter of public record and is contained in the official 2000 census data. The 2000 census data speaks for itself. To the extent that Intervenor accurately state the population data contained therein, the State Defendants admit those allegations. The State Defendants deny the remaining allegations contained in Paragraph 14.

15. As to Paragraph 15 of Intervenor's Complaint, the State Defendants deny the allegations contained therein.

16. As to Paragraph 16 of Intervenor's Complaint, the State Defendants admit that the Texas Legislature adjourned its regular session *sine die* on May 28, 2001. The State Defendants

admit that the Texas Legislature did not enact any redistricting plan during its regular session. The State Defendants admit that on June 29, 2001, Texas Governor Rick Perry indicated that he would not likely call a special session for the purpose of passing a congressional redistricting plan, and subsequently confirmed this fact in writing on July 3, 2001. The State Defendants deny the remaining allegations contained in Paragraph 16.

17. As to Paragraph 17 of Intervenors' Complaint, Intervenors merely incorporate their allegations contained in Paragraphs 1 through 16. The State Defendants incorporate their admissions and denials to Paragraphs 1 through 16 in response to Paragraph 17.

18. As to Paragraph 18 of Intervenors' Complaint, the State Defendants deny the allegations contained therein.

19. As to Paragraph 19 of Intervenors' Complaint, Intervenors merely incorporate their allegations contained in Paragraphs 1 through 18. The State Defendants incorporate their admissions and denials to Paragraphs 1 through 18 in response to Paragraph 19.

20. As to Paragraph 20 of Intervenors' Complaint, the State Defendants deny the allegations contained therein.

21. As to Paragraph 21 of Intervenors' Complaint, Intervenors merely incorporate their allegations contained in Paragraphs 1 through 20. The State Defendants incorporate their admissions and denials to Paragraphs 1 through 20 in response to Paragraph 21.

22. As to Paragraph 22 of Intervenors' Complaint, the State Defendants deny the allegations contained therein.

23. As to Paragraph 23 of Intervenors' Complaint, Intervenors merely incorporate their allegations contained in Paragraphs 1 through 22. The State Defendants incorporate their admissions and denials to Paragraphs 1 through 22 in response to Paragraph 23.

24. As to Paragraph 24 of Intervenor's Complaint, the State Defendants deny the allegations contained therein.

25. As to Paragraph 25 of Intervenor's Complaint, Intervenor merely incorporate their allegations contained in Paragraphs 1 through 24. The State Defendants incorporate their admissions and denials to Paragraphs 1 through 24 in response to Paragraph 25.

26. As to Paragraph 26 of Intervenor's Complaint, the State Defendants deny the allegations contained therein.

27. As to the section of Intervenor's Complaint entitled "Prayer for Relief", that section is simply a request for relief and requires no response. To the extent that a response is required, the State Defendants deny all allegations contained therein.

II. Affirmative Defenses

28. Intervenor's Complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(1) because this Court lacks subject matter jurisdiction.

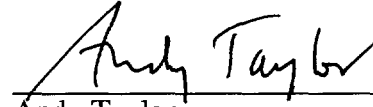
29. Intervenor's Complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(3) because Intervenor's Complaint was filed in an improper venue.

28. Intervenor's Complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) because Intervenor's Complaint fails to state a claim upon which relief may be granted.

29. Intervenor's Complaint should be dismissed because Intervenor were neither entitled to intervention as a matter of right nor to intervene permissively pursuant to Federal Rule of Civil Procedure 24.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading has been served via certified mail, return receipt requested, on this the 2nd day of August, 2001, addressed to the parties listed below:

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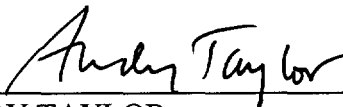
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