

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

STATE OF MICHIGAN
Secretary of State Ruth Johnson
Michigan Department of State
Lansing, MI 48918

Plaintiff,

vs.

Civil Case No.

UNITED STATES and ATTORNEY GENERAL
ERIC H. HOLDER, JR. in his official capacity
United States Department of Justice
Washington, DC 20530

Defendants.

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**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 State of Michigan and its Secretary of State, Ruth Johnson, (collectively the "State" or "Plaintiff") by Michigan Attorney General Bill Schuette, bring this Complaint for Declaratory Judgment against Defendants United States of America and Attorney General Eric H. Holder, Jr. (the "Attorney General") and Request for Three-Judge Court and state as follows:

INTRODUCTION AND REQUEST TO EXPEDITE

Due to changes in the State's population, including for the Michigan House and Senate and Congressional districts in Clyde Township in Allegan County and Buena Vista Township in Saginaw County (the "Townships"), the Michigan Legislature passed redistricting plans for the Michigan House and Senate and for Representatives in Congress, which were signed by Governor Snyder in August 2011. The two Townships are "covered jurisdictions" subject to the preclearance requirements of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c ("Section 5"). See 28 C.F.R. Pt. 51, App. The Michigan Secretary of State brings this action for preclearance under Section 5 on behalf of the Townships and asserts that the State's redistricting plans have 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. By filing this complaint, the State assumes that Section 5 complies with the United States Constitution, but the State reserves all legal claims in light of the United States Supreme Court decision in *Northwest Austin Mun. Util. Dist. No. One v. Holder*, 129 S.Ct. 2504, 2511–13 (2009) (raising questions regarding the constitutionality of Section 5).

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, the State of Michigan ("State"), is a state of the United States of America. The only political subdivisions in the State that are subject to preclearance requirements of Section 5 are Clyde Township in Allegan County and Buena Vista Township in Saginaw County. The Townships have authorized the State of Michigan and Secretary of State Ruth Johnson to file this case on their behalf. 28 C.F.R. § 51.23(a). While the State does not have a duty under state or federal law to file for preclearance approval on behalf of the Townships, the State may make a submission on behalf of one or more political subunits under 28 C.F.R. § 51.23(a).

2. Defendants are the United States of America and Eric H. Holder, Jr., in his official capacity as Attorney General of the United States of America. The United States is a proper defendant because “[a] State or political subdivision [covered by Section 5] wishing to make use of a recent amendment to its voting laws . . . has a concrete and immediate ‘controversy’ with the Federal Government.” *South Carolina v. Katzenbach*, 383 U.S. 301, 335 (1966). The Attorney General is also a proper defendant in his official capacity because he is responsible for administering Section 5. *See* 28 C.F.R. § 51.3.

3. The State brings this action seeking declaratory judgment that its redistricting plans for the Michigan House of Representatives, Michigan Senate, and the United States House of Representatives do not deny or abridge voting rights in either of the covered Townships pursuant to Section 5 and 28 U.S.C. § 2201.

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 based on Section 14(b) of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973l, which specifically grants this Court jurisdiction over Section 5 enforcement proceedings.

5. Venue is proper in this Court under Section 5 and 28 U.S.C. § 1391(e)(1).

FACTS

6. Every ten years, following the national census, the Michigan Legislature is required to adopt a Congressional redistricting plan under Michigan Compiled Laws (“MCL”) 3.62 and redistricting plans for the Michigan Senate and Michigan House of Representatives under MCL 4.261.

7. Accordingly, the Michigan Legislature drew new electoral district boundaries codified for the Michigan Senate and the Michigan House in House Bill 4780, and Congressional redistricting plans codified in Senate Bill 498.

8. On August 9, 2011, Michigan Governor Snyder signed the state legislative redistricting plans into law as Public Act 129 of 2011, attached as **Exhibit A**. Section 1a of Public Act 129 of 2011 is the "State House of Representatives Redistricting Plan," and Section 2a is the "State Senate Redistricting Plan." On August 24, 2011, Governor Snyder signed the Congressional redistricting plan into law as Public Act 128 of 2011 (the "Congressional Redistricting Plan"), attached as **Exhibit B**. The laws take effect on the 91st day after *sine die* adjournment of the Michigan Legislature subject to approval of this Court or of the Department of Justice as required by Section 5.

9. Time is of the essence, as set forth in the Declaration of Michigan Director of Elections Christopher Thomas, attached as **Exhibit C**, in reaching a decision regarding the application of Section 5 to the Michigan House, Michigan Senate, and Congressional redistricting plans.

10. To facilitate the Court's review of this matter, and to provide full and timely information to the Defendants, the State has attached all information as required by 28 C.F.R. § 51.27, and certain supplemental information pursuant to 28 C.F.R. § 51.28, that would have been provided to the Attorney General if administrative approval of the State House of Representatives and State Senate redistricting plans, attached as **Exhibit D**, and Congressional Redistricting Plan, attached as **Exhibit E**, were sought under 28 C.F.R. § 51.10(b).

11. The following charts demonstrate the changes in Hispanic population in Buena Vista Township from the 2000 census to the 2010 census. The charts also show for the 5th Congressional District, the 32nd Senate District, and the 95th House District: the total population and Hispanic population under the 2001 apportionment for the year 2000 and the year 2010

(Census years); the total population and Hispanic population for the 2001 apportionment compared to the total population and Hispanic population in the 2011 apportionment.¹

**Buena Vista Township
Saginaw County, MI**

Buena Vista Township

	Total Population	Hispanic Population	Percent
2000	10,318	940	9.11%
2010	8,676	803	9.26%
	- 1,642 (-15.91%)	-137 (-14.57%)	0.15%

5th Congressional District (2000 Apportionment)

	Total Population	Hispanic Population	Percent
2000	662,563	23,683	3.57%
2010	635,129	27,598	4.35%
	-27,434 (-4.14%)	3,915 (16.53%)	0.78%

5th Congressional District (2000 Apportionment)

5th Congressional District (2010 Apportionment)

Comparison

	Total Population	Hispanic Population	Percent
5 th (2000)	635,129	27,598	4.35%
5 th (2010)	705,975	31,667	4.49%
	70,846 (11.15%)	4,069 (14.74%)	0.14%

32nd Senate District (2000 Apportionment)

	Total Population	Hispanic Population	Percent
2000	252,324	15,950	6.32%
2010	242,645	17,874	7.37%
	-9,679 (-3.84%)	1,924 (12.06%)	1.05%

32nd Senate District (2000 Apportionment)

32nd Senate District (2010 Apportionment)

Comparison

	Total Population	Hispanic Population	Percent
32nd (2000)	242,645	17,874	7.37%
32nd (2010)	267,936	17,046	6.36%
	25,291 (10.42%)	-828 (-4.63%)	-1.01%

¹ In the charts and the maps contained in the Exhibits, the apportionment plans refer to the years 2000 or 2001 for the 2001 apportionment, and 2010 or 2011 for the 2011 apportionment, depending on the source of the information.

95th House District (2000 Apportionment)

	Total Population	Hispanic Population	Percent
2000	88,225	9,577	10.86%
2010	72,851	9,462	12.99%
	-15,374 (-17.43%)	-115 (-1.20%)	2.13%

95th House District (2000 Apportionment)

95th House District (2010 Apportionment)

Comparison

	Total Population	Hispanic Population	Percent
95 th (2000)	72,851	9,462	12.99%
95 th (2010)	87,780	10,562	12.03%
	14,929 (20.49%)	1,100 (11.62%)	-0.96%

12. The following charts demonstrate the changes in Hispanic population in Clyde Township from the 2000 census to the 2010 census. The charts also show for the 5th Congressional District, the 32nd Senate District, and the 95th House District: the total population and Hispanic population under the 2000 Apportionment for the year 2000 and the year 2010; the total population and Hispanic population for the 2000 apportionment compared to the total population and Hispanic population in the 2010 apportionment.

**Clyde Township
Allegan County, MI**

Clyde Township

	Total Population	Hispanic Population	Percent
2000	2,104	624	29.66%
2010	2,084	718	34.45%
	-20 (-0.95%)	94 (15.06%)	4.79%

6th Congressional District (2000 Apportionment)

	Total Population	Hispanic Population	Percent
2000	662,563	23,899	3.61%
2010	671,883	34,646	5.16%
	9,320 (1.41%)	10,747 (44.97%)	1.55%

6th Congressional District (2000 Apportionment)

6th Congressional District (2010 Apportionment)

Comparison

	Total Population	Hispanic Population	Percent
6th (2000)	671,883	34,646	5.16%
6th (2010)	705,974	37,155	5.26%
	34,091 (5.07%)	2,509 (7.24%)	0.10%

24th Senate District (2000 Apportionment)

	Total Population	Hispanic Population	Percent
2000	266,075	10,194	3.83%
2010	278,340	13,891	4.99%
	12,265 (4.61%)	3,697 (36.27%)	1.16%

24th Senate District (2000 Apportionment)

26th Senate District (2010 Apportionment)

Comparison

	Total Population	Hispanic Population	Percent
24th (2000)	278,340	13,891	4.99%
26th (2010)	261,519	20,864	7.98%
	-16,821 (-6.04%)	6,973 (50.20%)	2.99%

88th House District (2000 Apportionment)

	Total Population	Hispanic Population	Percent
2000	94,792	5,857	6.18%
2010	99,795	7,113	7.13%
	5,003 (5.28%)	1,256 (21.44%)	0.95%

88th House District (2000 Apportionment)

80th House District (2010 Apportionment)

Comparison

	Total Population	Hispanic Population	Percent
88th (2000)	99,795	7,113	7.13%
80th (2010)	91,868	6,940	7.55%
	-7,927 (-7.94%)	-173 (-2.43%)	0.42%

State House of Representatives Redistricting Plan

13. The Michigan House of Representatives is divided into 110 single-member districts.

14. Maps depicting the former and current representative districts are attached as Exhibit F.

15. In Clyde and Buena Vista Townships there is no change and no decrease in the ability of Hispanic voters to elect the candidate of choice.

State Senate Redistricting Plan

16. The Michigan Senate is divided into 38 single-member districts.

17. Maps depicting the former and current senate districts are attached as **Exhibit G**.

18. In Clyde and Buena Vista Townships, there is no change and no decrease in the ability of Hispanic voters to elect the candidate of choice.

Congressional Redistricting Plan

19. The 2010 U.S. Census data showed that Michigan's population decreased by 0.6%, entitling it to 14 congressional seats, a loss of one representative in the United States House of Representatives.

20. Maps depicting the former and current congressional districts are attached as **Exhibit H**.

21. In Clyde and Buena Vista Townships, there is no change and no decrease in the ability of Hispanic voters to elect the candidate of choice.

COUNT I

22. The allegations in Paragraphs 1-15 are reincorporated herein.

23. Michigan's State House of Representatives Redistricting Plan 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 it does not have 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.

24. Plaintiff is entitled to judgment that the House of Representatives Redistricting Plan satisfies the requirements of Section 5 and, thus, may be implemented immediately.

COUNT II

25. The allegations in Paragraphs 1-12 and 16-18 are reincorporated herein.

26. Michigan's State Senate Redistricting Plan 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 it does not have 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.

27. Plaintiff is entitled to judgment that the Senatorial Redistricting Plan satisfies the requirements of Section 5 and, thus, may be implemented immediately.

COUNT III

28. The allegations in Paragraphs 1-12 and 19-21 are reincorporated herein.

29. Michigan's Congressional Redistricting Plan 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 it does not have 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.

30. Plaintiff is entitled to judgment that the Congressional Redistricting Plan satisfies the requirements of Section 5 and, thus, may be implemented immediately.

RELIEF

WHEREFORE, the STATE OF MICHIGAN respectfully requests that that the Court:

1. Convene a Three-Judge Court pursuant to 28 U.S.C. § 2284(a) and Section 5 of the Voting Rights Act of 1965, as amended;
2. Expedite consideration of this matter;

3. Enter a declaratory judgment that the Michigan State House of Representatives, State Senate, and Congressional redistricting plans neither have the purpose nor will they have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group and otherwise satisfies the requirements of Section 5 of the Voting Rights Act of 1965, as amended; and
4. Enter a declaratory judgment that the Michigan State House of Representatives, State Senate, and Congressional redistricting plans may be implemented immediately.

Respectfully submitted,

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