

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

ROBERT FOSTER; KATIE LIGON; KIRBY
CARTER; and JOHN T. WILLIAMS,

Plaintiffs,

vs.

THE STATE OF MISSISSIPPI; THE STATE
BOARD OF ELECTION COMMISSIONERS;
TATE REEVES, *in his official capacities as
Governor of the State of Mississippi and a
Member of the State Board of Election
Commissioners*; LYNN FITCH, *in her official
capacities as the Mississippi Attorney General
and a Member of the State Board of Election
Commissioners*; and MICHAEL WATSON, *in
his official capacities as the Mississippi Secretary
of State and a Member of the State Board of
Election Commissioners,*

Defendants.

**CIVIL ACTION NO.
3:26-CV-00181-SA-JMV**

**PROPOSED INTERVENOR-DEFENDANTS DESOTO COUNTY NAACP AND DELTA
SIGMA THETA SORORITY, INC.'S REPLY IN SUPPORT OF MOTION TO
INTERVENE**

TABLE OF CONTENTS

INTRODUCTION	1
ARGUMENT	2
I. PLAINTIFFS’ OPPOSITION TO INTERVENTION ON STANDING GROUNDS LACKS MERIT.	2
A. NAACP Intervenors Need Not Establish Standing Because They Seek to Intervene as Defendants and Do Not Invoke this Court’s Jurisdiction.	2
B. In Any Event, NAACP Intervenors Have Standing.	4
II. PLAINTIFFS’ FUTILITY ARGUMENTS ARE BASELESS.	6
III. NAACP INTERVENORS ARE ENTITLED TO INTERVENE AS OF RIGHT.	12
A. The Motion is Timely, and NAACP Intervenors’ Interests Could Be Impaired Absent Intervention Now.	12
B. Defendants Do Not Adequately Represent NAACP Intervenors’ Interests.	14
IV. ALTERNATIVELY, NAACP INTERVENORS SHOULD BE GRANTED PERMISSIVE INTERVENTION.	16
CONCLUSION.....	17

INTRODUCTION

Plaintiffs seek to destroy a Black-majority judicial subdistrict in DeSoto County but oppose intervention by the DeSoto NAACP and Delta Sigma Theta Sorority, Inc. (collectively, NAACP Intervenor). Plaintiffs' perfunctory arguments are inconsistent with precedent and cannot justify denying intervention by non-partisan groups that represent Black voters in the district and that are uniquely positioned to defend the existing lines under Section 2 of the Voting Rights Act (VRA).

Plaintiffs contend NAACP Intervenor lacks Article III standing, but standing is not required for defensive intervention. And even if it were, Black voters, including NAACP Intervenor's members who live in the subdistrict, undoubtedly have standing to ensure that their voting strength is not diluted in violation of Section 2. Plaintiffs also note that NAACP Intervenor has not disclosed the identities of members who live in the challenged district, but the Fifth Circuit has squarely held that such disclosure is unnecessary, especially at this early stage.

Overreaching further, Plaintiffs claim that intervention would be futile, ostensibly because NAACP Intervenor could not plausibly defend against Plaintiffs' claims. But Plaintiffs fail to even acknowledge all of the defenses raised in the Proposed Answer, Dkt. 32-1. Instead, they improperly (and unsuccessfully) attempt to litigate their preliminary injunction motion, zeroing in on a subset of legal arguments in NAACP Intervenor's proposed opposition brief—entirely failing to rebut those arguments, let alone show that they are so implausible as to be futile. Indeed, Plaintiffs' opposition to intervention actually underscores that their preliminary injunction should be denied. For example, Plaintiffs try to justify their undisputed delay in bringing this action, but their arguments only confirm that *Purcell* has foreclosed their request for preliminary relief.

None of Plaintiffs' arguments actually addressing the core requirements for intervention under Federal Rules of Civil Procedure 24 fares any better. They misread a Fifth Circuit case to say that NAACP Intervenor somehow intervened *too early*, when the Fifth Circuit merely held

that an intervenor should not be *required* to intervene as soon as the case is filed. They assert that the State Defendants adequately represent NAACP Intervenor’s interests but cannot deny that the State Defendants have consistently opposed NAACP Intervenor’s view of Section 2 and have not made the same arguments in this very case. Plaintiffs also claim that intervention may cause delay, but they provide no reason—indeed, NAACP Intervenor are the only ones who responded to the pending motion for a preliminary injunction without needing an extension of time. Finally, Plaintiffs have no response to NAACP Intervenor’s arguments that their participation as civil rights organizations—with the aid of experienced voting rights counsel—would aid this Court in the resolution of this matter and, at minimum, justify permissive intervention.

ARGUMENT

I. PLAINTIFFS’ OPPOSITION TO INTERVENTION ON STANDING GROUNDS LACKS MERIT.

Plaintiffs’ Article III standing arguments fail for two independent reasons. First, NAACP Intervenor need not establish Article III standing because they seek only to intervene as defendants in an action over which this Court already has jurisdiction. Second, even if independent standing were required, NAACP Intervenor readily satisfy Article III.

A. NAACP Intervenor Need Not Establish Standing Because They Seek to Intervene as Defendants and Do Not Invoke this Court’s Jurisdiction.

Standing is required only from a party who seeks to “invoke the federal judicial power.” *ASARCO Inc. v. Kadish*, 490 U.S. 605, 618 (1989). And it is the plaintiff, not a defendant, who “invoke[es] a court’s jurisdiction.” *Va. House of Delegates v. Bethune-Hill*, 587 U.S. 658, 663 (2019). Accordingly, the Supreme Court has explained that a defendant-intervenor need not “demonstrate its standing” unless and until it seeks to invoke the court’s jurisdiction. *See id.* Here, NAACP Intervenor seek no relief broader than that sought by the existing Defendants—namely, dismissal of this action. *See* Proposed Answer at 9, Dkt. 32-1; Defs.’ Answer, Dkt. 46. Article III

therefore does not require independent standing.

The Fifth Circuit has long applied the same rule. Once “a valid Article III case-or-controversy is present, the court’s jurisdiction vests.” *Ruiz v. Estelle*, 161 F.3d 814, 832 (5th Cir. 1998). The addition of parties who “alone could independently not satisfy Article III’s requirements” does not defeat jurisdiction already established. *Id.*; *see also Newby v. Enron Corp.*, 443 F.3d 416, 422 (5th Cir. 2006) (“[T]here is no Article III requirement that intervenors have standing in a *pending* case.”). Because this Court already has jurisdiction over Plaintiffs’ claims, NAACP Intervenor need not establish independent standing to intervene as defendants.

Plaintiffs’ own authorities confirm the point. Each simply applies the unremarkable principle that only a party seeking to invoke a federal court’s jurisdiction must have standing. *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*, 591 U.S. 657 (2020), held that the Third Circuit “erred by inquiring into the [intervenor’s] independent Article III standing” because another appellant already had standing to appeal. *See id.* at 674 n.6. *Arizonans for Official English v. Arizona*, 520 U.S. 43 (1997), required standing from a party seeking to prosecute an appeal after the original defendants no longer could. *Id.* at 64–66. *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433 (2017), required standing from a proposed intervenor-plaintiff only because it sought relief “different from that which is sought by a party with standing.” *Id.* at 440.

Nor are Plaintiffs’ out-of-circuit authorities persuasive. The D.C. and Eighth Circuit decisions Plaintiffs cite predate the trio of Supreme Court cases—*Town of Chester*, *Bethune Hill*, and *Little Sisters*—that together reject a universal standing requirement for intervenors. Indeed, the D.C. Circuit recently observed that *Little Sisters* “is in tension with some of our court’s precedent requiring an intervenor to demonstrate Article III standing even if pursuing the same relief as an existing party.” *Institutional S’holder Servs., Inc. v. SEC*, 142 F.4th 757, 764 n.3 (D.C.

Cir. 2025); *see also, e.g., Env't Integrity Project v. Wheeler*, No. 20-CV-1734, 2021 WL 6844257, at *2 (D.D.C. Jan. 27, 2021) (Jackson, J.) (holding that the earlier D.C. Circuit decisions imposing universal standing requirement “predate, and are plainly inconsistent with, the Supreme Court’s recent opinions”). And the Fifth Circuit has expressly rejected the Eighth Circuit’s contrary approach. *See Ruiz*, 161 F.3d at 830–32 (rejecting *Mausolf v. Babbitt*, 85 F.3d 1295 (8th Cir. 1996)). Consistent with *Ruiz*, courts in this Circuit routinely hold that an intervenor need not establish independent Article III standing unless they seek relief broader than that sought by the existing parties.¹ This Court should hold the same.

B. In Any Event, NAACP Intervenors Have Standing.

Even if NAACP Intervenors were required to establish standing—and they are not—they easily have associational standing on behalf of their members.² Associational standing exists if “(1) the association’s members would independently [have] Article III standing . . . ; (2) the interests the association seeks to protect are germane to the purpose of the organization; and (3) neither the claim asserted nor the relief requested requires participation of individual members.” *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 587 (5th Cir. 2006) (citing *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977)). Each of these requirements is plainly met.

First, NAACP Intervenors’ members clearly have Article III standing. In Section 2 cases, a voter has standing if “the particular composition of the voter’s own district . . . causes his vote . . . to carry less weight than it would carry in another, hypothetical district.” *Harding v. Dallas Cnty.*, 948 F.3d 302, 307 (5th Cir. 2020) (quoting *Gill v. Whitford*, 548 U.S. 48, 67 (2018)). Here, both

¹ *See, e.g., Franciscan All., Inc. v. Azar*, 414 F. Supp. 3d 928, 938 & n.3 (N.D. Tex. 2019); *Guideone Elite Ins. Co. v. Mount Carmel Ministries*, No. 17-CV-37, 2017 WL 2908866, at *2 n.2 (S.D. Miss. July 7, 2017); *State Farm Fire & Cas. Co. v. Hood*, 266 F.R.D. 135, 140 (S.D. Miss. 2010).

² NAACP Intervenors do not assert organizational standing at this time and do not address that argument raised by Plaintiffs. *See* Pls.’ Opp. to NAACP Intervenors’ Mot. to Intervene (Pls.’ Opp.) at 4–5, Dkt. 48.

the DeSoto County NAACP and Delta Sigma Theta, Inc. have members who reside in the challenged subdistrict. Tipton Decl. ¶¶ 7–8, 10, Dkt. 32-3; Washington Decl. ¶¶ 8–9, Dkt. 32-4. If that subdistrict were eliminated, those members would have less opportunity to elect candidates of their choice—i.e., their votes would carry less weight. Tipton Decl. ¶ 11; Washington Decl. ¶ 10.

The remaining two *Hunt* factors are also easily satisfied. Plaintiffs do not dispute them, and for good reason. NAACP Intervenor seek to protect the voting rights of their members, an interest squarely germane to their organizational purposes. *See* Tipton Decl. ¶¶ 4–5; Washington Decl. ¶¶ 5–6. Indeed, the Fifth Circuit has already held that “protecting the strength of votes[] and safeguarding the fairness of elections are surely germane to the NAACP’s expansive mission.” *Hancock Cnty. Bd. of Supervisors v. Ruhr*, 487 F. App’x 189, 197 (5th Cir. 2012). The same is true of Delta Sigma Theta, Inc. Nor does the relief NAACP Intervenor seek—dismissal of the Complaint—require the participation of individual members. *See Benkiser*, 459 F.3d at 588.

Plaintiffs’ lone counterargument has no merit. They contend that NAACP Intervenor lack associational standing because they have not identified by name the members who reside in the challenged subdistrict. Pls.’ Opp. at 5 (citing *Summers v. Earth Island Inst.*, 555 U.S. 488, 499 (2009)). But the Fifth Circuit squarely held that “*Summers* only requires that the plaintiff allege that there is a specific injured member,” not that it “specifically identify the member who will be injured.” *Nat’l Infusion Ctr. Ass’n v. Becerra*, 116 F.4th 488, 497 n.5 (5th Cir. 2024). In other words, “[a]lleging that a specific member exists does not require naming that member.” *Id.*; *see also Hancock*, 487 F. App’x at 198 (“We are aware of no precedent holding that an association must set forth the name of a particular member in its complaint in order to survive a Rule 12(b)(1) motion to dismiss based on a lack of associational standing”); *Do No Harm v. Nat’l Ass’n of Emergency Med. Technicians*, No. 24-CV-11, 2025 WL 973614, at *3 (S.D. Miss. Mar. 31, 2025)

(“Courts interpreting *Summers* have found that an organizational plaintiff need not identify a member by name.”). NAACP Intervenor has done exactly what *Summers* and Fifth Circuit precedent require by averring that known members reside in the challenged subdistrict.

Accordingly, even if NAACP Intervenor were required to independently establish standing to intervene, they have done so.

II. PLAINTIFFS’ FUTILITY ARGUMENTS ARE BASELESS.

Defensive intervention may only be denied as futile if the Court determines that the proposed intervenor “could not plausibly defend” against the plaintiff’s claims. *United States v. Texas*, --- F.4th ----, No. 25-10898, 2026 WL 1983151, at *1 (5th Cir. July 9, 2026). That is, Plaintiffs must show that, even construing all pleadings in favor of the proposed intervenor, *id.* at *3, each and every asserted defense is “insufficient as a matter of law,” *see Kaiser Aluminum & Chem. Sales, Inc. v. Avondale Shipyards, Inc.*, 677 F.2d 1045, 1057–58 (5th Cir. 1982). And as the Fifth Circuit has recognized, dismissing defenses at the pleading stage is “disfavored.” *Id.* That is especially true here, given that Plaintiffs claim racial gerrymandering and implicate a defense based on Section 2 of the VRA: These are fact-intensive cases typically requiring a full trial, rather than summary resolution.³ For the reasons stated in NAACP Intervenor’s opposition to the motion for a preliminary injunction, Plaintiffs have not shown a likelihood of success on the merits, let alone carried the far greater burden of showing that their claims are so impervious to attack that all the defenses asserted in NAACP Intervenor’s Proposed Answer are futile. *See generally* Proposed Opp. to Mot. for Preliminary Injunction (PI Opp.), Dkt. 32-2.

³ *E.g.*, *Fla. State Conf. of NAACP v. Lee*, 576 F. Supp. 3d 974, 983 (N.D. Fla. 2021) (“Plaintiffs’ discriminatory intent claims, which ‘require a fact intensive examination of the record,’ are particularly unsuited for resolution at the summary judgment stage.” (quoting *Greater Birmingham Ministries v. Sec’y of State for State of Ala.*, 992 F.3d 1299, 1322 n.33 (11th Cir. 2021))); *Jamison v. Tupelo*, No. 1:04-CV-366, 2006 WL 2250963, at *2 (N.D. Miss. July 27, 2006) (similar); *see also Hunt v. Cromartie*, 526 U.S. 541, 553 (1999) (explaining summary judgment in favor of plaintiffs is rarely appropriate in these cases).

Plaintiffs’ futility arguments can be easily rejected for several additional reasons.

First, Plaintiffs ignore the proposed answer and fail to address all of NAACP Intervenor’s defenses. *See* Pls.’ Opp. at 7. Instead of responding to the legal defenses asserted in NAACP Intervenor’s pleading, Dkt. 32-1, Plaintiffs make the odd choice of selectively responding to three legal theories discussed in NAACP Intervenor’s proposed brief in opposition to the motion for preliminary injunction. *See* Pls.’ Opp. at 7. The proposed brief, of course, only addresses the arguments most pertinent to the pending preliminary injunction motion and, in any event, was not even required to be filed under Rule 24 for purposes of intervention. *See* Fed. R. Civ. P. 24(c).

Even setting aside Plaintiffs’ wholly ignoring the Proposed Answer, Plaintiffs also overlook several defenses discussed in NAACP Intervenor’s brief. For instance, Plaintiffs fail to explain why their state law claim is not foreclosed by sovereign immunity under the *Pennhurst* doctrine. *See* PI Opp. at 15–16. Nor do Plaintiffs address *Callais*’ clear holding that compliance with Section 2 may require the creation of a majority-Black district, such as the subdistrict at issue, and that Section 2 compliance may be a defense against any race-based districting that Plaintiffs may try to show. *See* PI Opp. at 9, 11, 13–15; *Louisiana v. Callais*, 146 S. Ct. 1131, 1143, 1162 (2026). Plaintiffs’ failure to contest all asserted defenses is fatal to their futility argument.

Second, NAACP Intervenor’s *Purcell* argument is not futile. Plaintiffs argue that *Purcell* is not formally an affirmative defense. Pls.’ Opp. at 7. But again, in assessing the viability of NAACP Intervenor’s defenses, this Court should look to the Proposed Answer, Dkt. 32-1 at 9, which lists *laches*—an affirmative defense that shares similarities with the equitable *Purcell* principle. *Trump v. Wis. Elections Comm’n*, 983 F.3d 919, 925 (7th Cir. 2020) (*Purcell* “considerations underpin the doctrine of laches”); *Crookston v. Johnson*, 841 F.3d 396, 398 (6th

Cir. 2016) (“Call it what you will—laches, the *Purcell* principle, or common sense—the idea is that courts will not disrupt imminent elections absent a powerful reason for doing so.”).

Regardless, it is undeniable that *Purcell*, if applied, would foreclose Plaintiffs’ requested injunction. Indeed, contrary to Plaintiffs’ attempt to cabin *Purcell* as merely relevant to a stay pending appeal, Pls.’ Opp. at 8, district courts, consistent with the Supreme Court’s instructions, decline to grant injunctive relief based on *Purcell*. *E.g.*, *Singleton v. E. Baton Par. Sch. Bd.*, 621 F. Supp. 3d 618, 629 (M.D. La. 2022); *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 587 F. Supp. 3d 1222, 1322 (N.D. Ga. 2022).

Plaintiffs spend nearly half of their brief making factual arguments about why *Purcell* should not apply. *See* Pls.’ Opp. at 9–17. But while Plaintiffs are welcome to brief the merits of *Purcell* in their reply brief in support of a preliminary injunction, such disputed questions of fact—regarding Plaintiffs’ diligence in bringing this case or lack thereof, the extent to which ongoing election processes will be disrupted, and the severity of voter confusion—are not a basis for denying intervention. Indeed, they only highlight that the *Purcell* issue is a significant barrier to the relief Plaintiffs seek, and far from a futile defense.

Plaintiffs are also wrong on the application of *Purcell* in several respects.

They claim the merits of their constitutional challenge are “clearcut,” such that *Purcell* should not apply, Pls.’ Opp. at 9, but they fail to meaningfully respond to the flaws in their reasoning identified by NAACP Intervenor. As explained in NAACP Intervenor’s opposition brief, a challenge based on racially predominant redistricting must identify evidence specific to the district at issue, PI Opp. at 12 n.10; *Alexander v. S.C. State Conf. of NAACP*, 602 U.S. 1, 33 (2024) (“A state-wide analysis cannot show that District 1 was drawn based on race.”). Plaintiffs have not done so. At best, they offer evidence that legislators were *aware* that Black-majority

districts were created, but mere awareness of race does not present constitutional problems. *Alexander*, 602 U.S. at 37; *Veasey v. Abbott*, 830 F.3d 216, 231 (5th Cir. 2016) (en banc).

And even if Plaintiffs could show that the redistricting legislation here was predominantly motivated by race, the Supreme Court in *Callais* held that race-based districting is permissible to comply with Section 2 of the VRA. 146 S. Ct. at 1143, 1162; PI Opp. at 14–15. Plaintiffs do not attempt to engage in any analysis at all regarding the interaction between Section 2 and their constitutional arguments, making the merits of their claims far from “clearcut”. Plaintiffs instead seriously misread *Callais* to require proving “identifiable instances of past discrimination” in judicial elections in DeSoto County in order to show a compelling interest. Pls.’ Opp. at 10. But Plaintiffs fail to realize that Section 2 compliance is *itself* a compelling interest, *in addition* to the two other uses of race that the Supreme Court recognized as compelling interests prior to *Callais*. 146 S. Ct. at 1152 (explaining that the Court previously recognized “remediating specific, identified instances of past discrimination” and “avoiding imminent and serious risks to human safety in prisons” as compelling interests for use of race). Plaintiffs also attempt to assert a violation of the VRA, Pls.’ Opp. at 10–11, without articulating or applying the standard for determining such a violation, let alone showing that the merits are clearcut. Indeed, the *Gingles* framework for determining such a violation appears nowhere in Plaintiffs’ papers.⁴ See *Callais*, 146 S. Ct. at 1157.

⁴ In claiming the merits are clearcut, Plaintiffs also refuse to accept, Pls.’ Opp. at 10–11, the “well established” rule “that the ‘one-person, one-vote’ principle . . . does not apply to the judiciary.” *Hall v. Louisiana*, 12 F. Supp. 3d 878, 887 (M.D. La. 2014) (citation omitted); *Anderson v. Mallamad*, No. 94-CV-1447, 1997 WL 35024766, at *5 (S.D. Ind. Mar. 28, 1997) (“Controlling precedent from the Supreme Court holds that the one-person, one-vote rule does not apply to judicial elections.”). The fact that no other party has apparently articulated this basic principle, Pls.’ Opp. at 10, only further confirms the importance of NAACP Intervenor’s participation.

Plaintiffs separately cannot overcome *Purcell* because of their delay in bringing this case. Plaintiffs have now confirmed they have no excuse for their delay. Indeed, they cite ignorance of the law *by a non-party* to excuse their delay. Pls.’ Opp. at 12 (claiming that a legislator was unaware of contents of challenged law). While they argue that *Callais* is a new development, they do not deny that their case could have been brought pre-*Callais* under well-established equal protection principles articulated in prior cases. *See* PI Opp. at 8–9.

Plaintiffs contend that injunctive relief remains “feasible” at this late juncture, but they fail to show that an injunction weeks before ballot-printing would not impose “significant cost, confusion, or hardship.” *La Union del Pueblo Entero v. Abbott*, 119 F.4th 404, 409 (5th Cir. 2024) (citation omitted). Plaintiffs’ view that an injunction remains viable simply because no ballot has been printed or cast, Pls.’ Opp. at 15, is contrary to a slew of redistricting cases in which the Supreme Court found such relief improper in the months ahead of an election, *see* PI Opp. at 6. They contend that voters outside the subdistrict may be confused about subdistrict elections—but fail to explain why such confusion would exist or would matter for voters who were never expected to participate in these elections. Pls.’ Opp. at 15. They want additional candidates to be added to the ballot—but disregard that voters would have little time to learn about those candidates. *Id.* at 15–16. They argue that an injunction altering districts would not impose any requirements on voters—but, as is evident in the fact that all of the applications of *Purcell* cited by NAACP Intervenor were redistricting cases, courts regard districting changes as having significant effects. *See* PI Opp. at 6. *Purcell* is inescapable here, and the fact that Plaintiffs spend much of their opposition (against intervention) unsuccessfully arguing against *Purcell* is telling.

In apparent recognition that *Purcell* is fatal to their motion, Plaintiffs now suggest special elections in 2027. *See* Pls.’ PI Reply at 13, Dkt. 50. That again is broader relief than is required to

remedy the claimed violation. *See* PI Opp. at 16–18. Moreover, with the next qualifying deadline not until February 2027, emergency relief is unnecessary. Plaintiffs should instead seek an expedited trial schedule so that this Court can decide the merits with a developed record.

Third, NAACP Intervenor’s argument that this Court should tailor any relief to the violation found is not futile and is indeed a critical basis for granting intervention. Plaintiffs do not appear to dispute that any equitable relief issued by this Court should be limited to addressing the violation found. PI Opp. at 16–18. But Plaintiffs continue to conflate two different features of judicial elections in DeSoto County—the “extra vote” issue stemming from the subdistrict voting in additional elections and the fact that the subdistrict is majority Black. Pls.’ Opp. at 11 n.8. While Plaintiffs challenge the “extra vote” feature as unconstitutional and unjustified by anything other than race, they propose eliminating the majority-Black district altogether, which is an unnecessary and incongruent remedy.

Plaintiffs now contend that they do challenge the majority-Black district itself, without citing where they did so in their papers, Pls.’ Opp. at 11 n.8. But in any event, they fail to engage in the necessary racial predominance and Section 2 analyses, making this contention irrelevant for purposes of the pending motions. As discussed above, there is no showing of predominately race-based line-drawing in this particular subdistrict or of race motivating the “extra vote” design. Nor is there any mention of the *Gingles* standard for determining the existence of such a violation, let alone any evidence of illustrative maps, racially polarized voting, or any other relevant factors. And that is even assuming that Plaintiffs are voters who are in the minority in DeSoto County such that they are a protected group entitled to protection from vote dilution under Section 2—a threshold fact that Plaintiffs have not established. *See Callais*, 146 S. Ct. at 1159 (holding that “minority plaintiffs” must show that they “have ‘less opportunity’ than their majority counterparts”

(quoting 52 U.S.C. § 10301(b))). Plaintiffs claim that they have “not ‘concede[d]’” that eliminating the “extra vote” alone would remedy their claimed injury, but their only objection to the majority-Black district itself is their conclusory assertion that it is a racial gerrymander—something that they have not even seriously attempted to plead or prove. *See* Pls.’ Opp. at 18; Compl., Dkt. 1 (no racial gerrymandering count).

In short, Plaintiffs’ futility argument fails to rebut relevant defenses and is fatally flawed.

III. NAACP INTERVENORS ARE ENTITLED TO INTERVENE AS OF RIGHT.

Plaintiffs do not seriously dispute that NAACP Intervenor satisfy Rule 24(a)(2)’s core requirements. Plaintiffs’ treatment of intervention-of-right factors is perfunctory and, in several respects, contradictory. None of Plaintiffs’ arguments succeeds.

A. The Motion is Timely, and NAACP Intervenor’s Interests Could Be Impaired Absent Intervention Now.

Plaintiffs misconstrue *Stallworth*, the principal case on which they rely, to contend that intervention is somehow “premature.” Pls.’ Opp. at 19–20; *Stallworth v. Monsanto Co.*, 558 F.2d 257, 265 (5th Cir. 1977). But *Stallworth* merely held that a party should not be *required* to intervene as soon as “the would-be intervenor became aware of the pendency of the action,” because it is possible the intervenor may lack sufficient knowledge of the suit’s implications at its inception. *Id.* at 264. The Fifth Circuit never held that intervenors *must* wait if they believe their interests are at stake. *Id.* Indeed, the Fifth Circuit explains in *Stallworth* that waiting to intervene could itself create timeliness problems and prejudice existing parties. 558 F.2d at 265.

Notably, Plaintiffs cite no case holding that a motion to intervene filed two weeks after the Complaint, before any responsive pleading and in advance of the preliminary injunction hearing (and accompanied with a filing-ready opposition brief on the preliminary injunction motion in addition to a responsive pleading), is untimely, let alone that such a motion would be *too soon*.

The Fifth Circuit measures timeliness by reference to undue delay and resulting prejudice, not an intervenor’s failure to wait for a more fully developed record. *See Rotstain v. Mendez*, 986 F.3d 931, 937 (5th Cir. 2021) (applying *Stallworth* factors). Plaintiffs identify no prejudice caused by the timing of this motion, nor could they: NAACP Intervenors moved before any deadline in this case and attached an early response to Plaintiffs’ pending motion to avoid any conceivable delay.

Nor can Plaintiffs seriously dispute that denying intervention would impair NAACP Intervenors’ ability to protect their interests. Plaintiffs simply recycle the standing argument addressed above, Pls.’ Opp. at 20–21, and it fares no better here. *See supra* Part I. The intervention inquiry imposes only a “minimal” burden, merely requiring a showing that denial of intervention creates “a possibility” that the movant’s interest could be impaired or impeded. *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 305–07 (5th Cir. 2022); *see Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014). NAACP Intervenors’ members reside within the subdistrict Plaintiffs seek to eliminate and, should Plaintiffs succeed, would have less opportunity to elect their preferred candidates to the circuit and chancery courts—a fact that Plaintiffs do not dispute. Dkt. 33 at 9–12. That is impairment in its clearest form.

Plaintiffs’ speculation that NAACP Intervenors’ membership harbors “conflicting interests,” Pls.’ Opp. at 20, misunderstands associational standing. The relevant inquiry asks whether the interests an organization seeks to protect are “germane to the organization’s purpose”—not whether every individual member has an identical stake in every possible outcome of the case. *Hunt*, 432 U.S. at 343. Ensuring Black voters’ equal opportunity to elect candidates of their choice is central to the missions of both the DeSoto County NAACP and Delta Sigma Theta Sorority, Inc. Dkt. 33 at 5–7. *That* is the interest that is threatened for purposes of the intervention inquiry. Plaintiffs’ effort to manufacture conflicting interests entirely misses the mark.

B. Defendants Do Not Adequately Represent NAACP Intervenor's Interests.

Plaintiffs do not dispute a single fact offered by NAACP Intervenor's regarding the State's litigation history and failures to adequately represent NAACP Intervenor's interests; rather, Plaintiffs claim only that the identified divergence is not enough. Pls.' Opp. at 21–22. This misstates the burden. A proposed intervenor need not prove that representation *will* be inadequate; it need only show that representation “may be” inadequate, a burden the Supreme Court has repeatedly described as “minimal.” *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *see also Entergy Gulf States La., L.L.C. v. U.S. E.P.A.*, 817 F.3d 198, 203 (5th Cir. 2016). NAACP Intervenor's have made that showing several times over. Dkt. 33 at 13–15.

First, as stated above, the State Defendants' own opposition to Plaintiffs' preliminary injunction motion does not defend the subdistrict on Section 2 grounds at all. That omission is significant: NAACP Intervenor's central defense is that Section 2 of the VRA may require a district like the ones Plaintiffs challenge, and that this defense independently defeats a constitutional attack on the subdistrict. PI Opp. at 11–15. A governmental defendant declining to raise the very statutory defense an intervenor asserts is compelling evidence of divergent interests. *See La Union del Pueblo Entero*, 29 F.4th at 308.

Second, Plaintiffs do not dispute that the State Defendants have, in recent and closely related litigation, taken narrower positions on Section 2's scope than NAACP Intervenor's and other Black voters, including in litigation specifically concerning the DeSoto County area. *See* Dkt. 33 at 13–15. The State's litigation history reflects an institutional view of Section 2 that is narrower than the view NAACP Intervenor's advance in this case, exactly the kind of divergence the Fifth Circuit has held sufficient to satisfy Rule 24(a)(2). *See La Union del Pueblo Entero*, 29 F.4th at 308. *Saldano v. Roach*, 363 F.3d 545, 555 (5th Cir. 2004), is not contrary: There, the Attorney General affirmatively defended the very interest the intervenor shared. Here, the State

has not even raised the defense NAACP Intervenor consider dispositive. *See Brumfield*, 749 F.3d at 346 (“The lack of unity in all objectives, combined with real and legitimate additional or contrary arguments, is sufficient to demonstrate that the representation *may* be inadequate”).

Third, Plaintiffs’ own opposition confirms, rather than refutes, NAACP Intervenor’s point about remedy. Plaintiffs urge this Court to order a “special election” that would eliminate the subdistrict altogether, rather than to adopt any narrower remedy. Pls.’ Opp. at 17–18. That is precisely the outcome NAACP Intervenor seek to avoid by proposing a more limited remedy: preserving the subdistrict’s judicial seats while eliminating the “extra vote” issue that forms the crux of Plaintiffs’ complaint. PI Opp. at 16–18. Nothing in the State Defendants’ filings commits the State to opposing Plaintiffs’ broader remedy of converting all elections in DeSoto County to at-large, county-wide elections that would likely dilute the voting strength of Black voters. That gap between NAACP Intervenor’s position on remedy and the position of the State Defendants is itself sufficient to satisfy Rule 24(a)(2)’s minimal adequacy burden.

Finally, Plaintiffs’ claim that racially polarized voting “doesn’t exist” in DeSoto County, Pls.’ Opp. at 20 (citing *Harris v. DeSoto Cnty.*, No. 24-CV-289, 2026 WL 1816145, at *6–8 (N.D. Miss. June 24, 2026)), both mischaracterizes that decision⁵ and misunderstands the intervention inquiry. Whether voting is racially polarized in DeSoto County is not a threshold inquiry on a motion to intervene. That question goes to the merits, which *Plaintiffs* bear the burden to prove at the preliminary injunction stage. In any event, courts have examined voting patterns in DeSoto County and the surrounding region and have found the opposite of what Plaintiffs suggest. *See Miss. State Conf. of NAACP v. State Bd. of Election Comm’rs*, 739 F. Supp. 3d 383, 435–41 (S.D.

⁵ *Harris* found that the trial record, which was closed before *Callais* was decided, failed to control for the effect of partisanship, but the court did not disagree that Black and White voters consistently prefer different candidates. *See* 2026 WL 1816145, at *7–8.

Miss. 2024), *vacated and remanded on other grounds*, No. 25-234 (U.S. May 18, 2026); *White v. State Bd. of Election Comm'rs*, 795 F. Supp. 3d 794, 823–31 (N.D. Miss. 2025), *vacated and remanded on other grounds*, No. 25-60506, 2026 WL 1340213 (5th Cir. May 11, 2026). Plaintiffs' single, out-of-context citation does not erase established voting patterns and certainly cannot defeat intervention. Nor do Plaintiffs dispute a key fact illustrating the reality of elections in DeSoto County: No known Black jurist has ever been elected to circuit or chancery court in DeSoto County, and none would be elected today absent a Black-majority district. *See* Dkt. 33 at 4, 12.

For the foregoing reasons, NAACP Intervenor satisfy each element of Rule 24(a)(2), and the Court should grant intervention as of right.

IV. ALTERNATIVELY, NAACP INTERVENORS SHOULD BE GRANTED PERMISSIVE INTERVENTION.

Tellingly, Plaintiffs devote barely a page of their opposition to permissive intervention under Rule 24(b). Plaintiffs do not dispute that NAACP Intervenor's defenses share common questions of law and fact with the main action or that NAACP Intervenor's counsel bring relevant Section 2 experience helpful to the Court. Plaintiffs' sole argument is that intervention would serve “no purpose other than delay”, Pls.' Opp. at 22 (quoting *Ingebretsen v. Jackson Pub. Sch. Dist.*, 864 F. Supp. 1473, 1485 (S.D. Miss. 1994)), because NAACP Intervenor supposedly just “underscore[]” the State's existing arguments. *Id.* This is baseless.

First, Plaintiffs do not—and cannot—identify any conceivable delay if intervention is granted. NAACP Intervenor moved to file within two weeks of the complaint and filed an opposition to Plaintiffs' preliminary injunction motion ahead of the existing briefing schedule, without needing the extension that Defendants and the other proposed intervenor requested. The preliminary injunction hearing remains set for July 31, 2026, unaffected by NAACP Intervenor's participation. The two decisions on which Plaintiffs principally rely denied intervention only after

finding that the proposed intervenor could add nothing beyond delay and duplicative briefing. *See Bush v. Viterna*, 740 F.2d 350, 359 (5th Cir. 1984); *Ingebretsen*, 864 F. Supp. at 1479–80. Neither addresses intervention that would, as here, cause no delay whatsoever but instead aid resolution of the important issues at stake. Plaintiffs cannot identify any undue delay or prejudice because none exists. Fed. R. Civ. P. 24(b)(3).

Second, as discussed, NAACP Intervenors present voters’ interests and legal arguments that Defendants have not raised at all. As explained above, NAACP Intervenors’ central defense is that Section 2 compliance may defeat Plaintiffs’ constitutional challenge, an argument that State Defendants do not make. *See supra* Part III(B). In such a suit, the public interest favors allowing the views of Black voters to be represented. NAACP Intervenors likewise propose a narrower remedy that no existing party has presented and that would resolve Plaintiffs’ asserted injury. These are precisely the kind of contributions Rule 24(b) is designed to accommodate. *See New Orleans Pub. Serv., Inc. v. United Gas Pipe Line Co.*, 732 F.2d 452, 472 (5th Cir. 1984) (en banc) (intervention will “significantly contribute to full development of the underlying factual issues” (citation omitted)); *Nielsen v. DeSantis*, No. 20-CV-236, 2020 WL 6589656, at *1 (N.D. Fla. May 28, 2020) (intervention by “substantial organizations with experienced attorneys who might well bring perspective that others miss or choose not to provide”).

Plaintiffs do not meaningfully dispute that permissive intervention is warranted, and the Court should grant permissive intervention if it declines to find intervention as of right.⁶

CONCLUSION

For the above reasons, the Court should grant the NAACP Intervenors’ motion to intervene.

⁶ Plaintiffs do not appear to oppose NAACP Intervenors’ participation as amici, Pls.’ Opp. at 22, but that is no adequate substitute. Amici could not conduct discovery, present evidence (including experts analyzing whether a majority-Black district is necessary to comply with Section 2), or help fashion a tailored remedy.

Respectfully submitted,

This the 27th day of July 2026

/s/ Joshua Tom

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CERTIFICATE OF SERVICE

I, Joshua Tom, hereby certify that on July 27, 2026, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all parties on file with the Court.

/s/ Joshua Tom

Joshua Tom