

No. 12-96

IN THE
Supreme Court of the United States

SHELBY COUNTY, ALABAMA,

Petitioner,

v.

ERIC H. HOLDER, JR., ATTORNEY GENERAL, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

**BRIEF OF *AMICI CURIAE* ASIAN AMERICAN
PUBLIC INTEREST GROUPS IN SUPPORT OF
RESPONDENTS**

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QUESTION PRESENTED

Whether Congress acted within its authority when it reauthorized Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c (Section 5), in 2006?

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INTEREST OF *AMICI CURIAE*¹

Non-parties Asian American Legal Defense and Education Fund (“AALDEF”), Asian American Justice Center (“AAJC”) and others (collectively, “*Amici Curiae*” or “*Amici*”) are organizations that promote the constitutional and civil rights of Asian American citizens and residents, including, in particular, the right of Asian Americans to participate in the United States political process.

AALDEF is a 39-year-old national civil rights organization based in New York City that promotes and protects the civil rights of Asian Americans through litigation, legal advocacy, and community education. AALDEF has monitored elections through annual multilingual exit poll surveys since 1988. Consequently, AALDEF has collected valuable data that documents both the use of, and the continued need for, protection under the Voting Rights Act of 1965. In 2012, AALDEF dispatched over 800 attorneys, law students, and community volunteers to 127 poll sites in 14 states to document voter problems on Election Day. The survey polled 9,298 Asian American voters.

AAJC is a national nonprofit, nonpartisan organization based in Washington, D.C. AAJC is a

¹ Pursuant to Rule 37.6, *Amici* certify that this brief was not written in whole or in part by counsel for any party, and that no person or entity other than *Amici*, their members, and their counsel have made any monetary contribution to the preparation and submission of this brief. This brief is filed with the parties’ written consent, copies of which are on file with the Clerk.

member of the Asian American Center for Advancing Justice, whose other members are Asian American Institute, Asian Law Caucus, and Asian Pacific American Legal Center. Founded in 1991, AAJC works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. AAJC was a key player in collaborating with other civil rights groups to reauthorize the Voting Rights Act in 2006. In the 2012 election, AAJC and the affiliates conducted poll monitoring and voter protection efforts across the country, including in California, Florida, Georgia, Illinois, Texas, and Virginia.

Among other activities, *Amici* provide educational services, promote community awareness, monitor and seek to prevent violence against Asian Americans, and assist with the development and adoption of legislation and rulemaking that ensure Asian Americans can meaningfully participate in the United States political process. All of the *Amici* share as a common goal the desire that Asian Americans' voting rights are honored in accordance with constitutional and legislative guarantees, particularly with the Voting Rights Act of 1965. To that end *Amici* have conducted voter education events, voter registration drives, and election monitoring activities on Election Day, as well as undertaken efforts to ensure that populations of Asian Americans are accurately tabulated as part of the United States Census.²

² Statements of interest for the other *Amici* are included in the Appendix to this brief.

SUMMARY OF ARGUMENT

Amici Curiae submit this brief to underscore the importance of the continued enforcement of the Voting Rights Act of 1965 in preventing actual and threatened discrimination aimed at Asian Americans in national and local elections. *Amici* also seek to highlight the ongoing disparities in voter registration, voter turnout and electoral representation experienced by Asian American populations in jurisdictions covered by Section 5 of the Voting Rights Act, and to illustrate how the Act has ameliorated specific instances of such electoral irregularity. Given the discrimination and disparities in voting rights that still exist in these covered jurisdictions, and given the exemplary record of the Act in preventing further exacerbation of the problems experienced by Asian American communities, Section 5 remains a critical tool to protect the right of Asian Americans to participate in the political process on an equal basis with all other United States citizens.

Representatives of the Asian American community submitted significant evidence to Congress in support of the reauthorization of the Voting Rights Act, documenting the unique discriminatory practices faced by Asian Americans in exercising their right to vote. This evidence also demonstrated that the Voting Rights Act has had, and continues to have, a meaningful positive impact on the Asian American community. *Amici* wish to highlight how the evidence Congress received illuminates a valuable, but often overlooked, perspective on unique discriminatory practices

aimed at Asian Americans in the electoral process; such practices underscore the necessary and ongoing contributions of the Voting Rights Act to protecting minority voting rights.

The significance of Section 5 in protecting the voting rights of Asian Americans is amply illustrated through the community's experiences in scrutinizing redistricting efforts, ensuring participation and representation in local elections, responding to changes in poll sites and seeking language assistance at the polls. Continued disparities in voter registration and electoral representation, however, indicate that the work of Section 5 is not over. Despite the important victories achieved through prior successful Section 5 challenges, the need for Section 5's protection remains critical to the Asian American community today, particularly as the Asian American population grows in jurisdictions covered by Section 5. Ongoing discrimination against Asian Americans, derived from historical antipathy coupled with continued efforts to stifle the community's emerging political voice, make Section 5 an essential mechanism for combating the systemic problems that prevent Asian Americans from fully participating in the electoral process.

Section 5 of the Voting Rights Act continues to be necessary, is justified under current circumstances, and was properly reauthorized by Congress in 2006. A ruling to the contrary would disregard Congress' deliberative fact-finding process and leave the Asian American community, currently the fastest-growing racial group in the United

States, without the necessary protections to fully exercise its right to vote.

ARGUMENT

I. SECTION 5 OF THE VOTING RIGHTS ACT CONTINUES TO BE NECESSARY AS DISCRIMINATION AND DISPARITIES AFFECT ASIAN AMERICAN VOTERS IN SECTION 5 JURISDICTIONS.

Asian Americans³ have successfully utilized Section 5 to prevent discriminatory changes to voting from being implemented.⁴ However, Asian Americans continue to face discrimination in Section 5 jurisdictions on Election Day. Additionally, continuing and pervasive discrimination against

³ The notion of “Asian American” encompasses a broad diversity of ethnicities, many of which have historically suffered their own unique forms of discrimination. Discrimination against Asian Americans as discussed here addresses both discrimination aimed at specific ethnic groups along with the discrimination directed at Asian Americans generally.

⁴ Section 5 requires certain states and localities with a history of racial discrimination to obtain federal approval of changes in voting practices. Once a jurisdiction is covered, Section 5 requires that changes to any voting qualification, standard, practice, procedure, or redistricting plan be “precleared” by the United States Department of Justice (“DOJ”) or the U.S. District Court for the District of Columbia before going into effect. *See* 42 U.S.C. § 1973c. To obtain preclearance, the jurisdiction must show that the proposed change does not have the purpose or effect of denying or abridging the right to vote on the basis of race or color. *See id.* If preclearance is denied, then the change cannot be implemented. *See id.*

Asian American voters in Section 5 jurisdictions has resulted in disparities in voter participation and electoral representation, especially compared to non-Hispanic Whites.

A. Asian Americans Face Intimidation and Discrimination in Voting and Are Discouraged from Even Going to the Polls in Section 5 Jurisdictions.

In reauthorizing Section 5 of the Voting Rights Act, the House Judiciary Committee found instances of discriminatory tactics and efforts by local officials to keep covered language minority citizens from registering and casting effective ballots in many different jurisdictions. *See* H.R. Rep. No. 109-478, *Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006* at 45 (2006). These discriminatory practices, including against Asian American voters, continue to afflict Section 5 jurisdictions.

For example, in the 2004 primary elections in Bayou LaBatre, Alabama, supporters of a white incumbent running against Phuong Tan Huynh, a Vietnamese American candidate, made a concerted effort to intimidate Asian American voters. They challenged Asian Americans at the polls, falsely accusing them of not being U.S. citizens or city residents, or of having felony convictions. *See* H.R. Rep. No. 109-478 at 45; *see also Challenged Asian ballots in council race stir discrimination concern*, Associated Press State & Local Wire, Aug. 29, 2004, available at <http://news.google.com/newspapers?nid>

=1817&dat=20040830&id=cc4dAAAAIIBAJ&sjid=w6cEAAAIAIBAJ&pg=6668,5046184. The challenged voters were forced to complete a paper ballot and have that ballot vouched for by a registered voter. In explaining his and his supporters' actions, the losing incumbent stated, "We figured if they couldn't speak good English, they possibly weren't American citizens." See DeWayne Wickham, *Why renew Voting Rights Act? Ala. Town provides answer*, USA Today, Feb 22, 2006, available at http://www.usatoday.com/news/opinion/editorials/2006-02-22-forum-voting-act_x.htm. The DOJ investigated the allegations and found them to be racially motivated. See H.R. Rep. No. 109-478 at 45; see also Press Release, U.S. Dep't of Justice, *Justice Department to Monitor Elections in New York, Washington, and Alabama*, Sept. 13, 2004, available at http://www.justice.gov/opa/pr/2004/September/04_crt_615.htm ("In Bayou La Batre, Alabama, the Department will monitor the treatment of Vietnamese-American voters."). As a result, the challengers were prohibited from interfering in the general election, and the city, for the first time, elected an Asian American to the City Council. See Wickham, *supra*.

In another example, from the 2004 Texas House of Representatives race, Hubert Vo's victory over an Anglo incumbent prompted two recounts, both of which affirmed the victory over the incumbent's request that the Texas House of Representatives investigate the legality of the votes cast in the election. The implication was that Vo's Vietnamese American supporters voted in the wrong district or were not U.S. citizens with the right to vote in the

first place. Vo's campaign voiced concern that such an investigation could intimidate Asian Americans from political participation altogether. *See* Thao L. Ha, *The Vietnamese Texans*, in *Asian Texas* 284-85 (Irwin A. Tang ed. 2007). Vo's election was particularly significant for the Asian American community because he is the first Vietnamese American state representative in Texas history. *See* Test. of Ed Martin, Trial Tr. at 350:15-23, *Perez v. Perry*, 835 F. Supp. 2d 209 (W.D. Tex. 2011) (hereinafter "Martin Test."); Test. of Rogene Calvert, Trial Tr. at 420:2-421:13, *Perez*, 835 F. Supp. 2d 209; Test. of Sarah Winkler, Trial Tr. at 425:18-426:10, *Perez*, 835 F. Supp. 2d at 209.

Similarly, in 2004 in New York, a Section 5 jurisdiction for certain counties, poll workers required Asian American voters to provide naturalization certificates before they could vote.⁵ At another poll site, a police officer demanded that all Asian American voters show photo identification, even though photo identification is not required to vote in New York elections. If voters could not produce such identification, the officer turned them away and told them to go home. *See Continuing*

⁵ New York City has the nation's largest Asian American population. Elizabeth M. Hoeffel, Sonya Rastogi, Myoung Ouk Kim & Hasan Shahid, U.S. Census Bureau, *The Asian Population: 2010*, at 12 tbl.3 (2012), available at www.census.gov/prod/cen2010/briefs/c2010br-11.pdf. Most of the examples of Section 5's success in this brief draw from the Asian American experience in New York City because of its sizeable Asian American population and because it is one of the few places in the country covered under both Section 5 and Section 203.

Need for Section 203's Provisions for Limited English Proficient Voters, Hearing Before the S. Judiciary Comm., 109th Cong. 37 (2006) (testimony of Margaret Fung, AALDEF, Exec. Dir.); Letter from G. Magpantay, AALDEF Staff Attorney, to J. Ravitz, Exec. Dir., New York City Bd. of Elections (June 16, 2005) (submitted to Congress).

B. Continuing Discrimination Against Asian American Populations in Section 5 Jurisdictions Has Resulted in Disparities in Voter Registration, Turnout, and Electoral Representation.

In *City of Rome v. United States*, the Court upheld the constitutionality of Section 5, recognizing Congress' determination that significant disparities existed between the percentages of registered whites and African Americans to vote. 446 U.S. 156, 180-81 (1980). The Court also recognized the dearth of African American elected officials, particularly in state office. *Id.* More than 30 years after this decision, disparities in voting and political representation still exist for minorities, and in particular for Asian Americans, as compared to non-Hispanic white Americans. Approximately 45 percent of Asian Americans are not registered to vote compared to only 26 percent of non-Hispanic Whites and 30 percent of African Americans.⁶ Thom

⁶ This depressed voter turnout stems, in part, from a failure to adequately eliminate formidable language barriers to voting, as roughly one-third of Asian Americans over the age of 18 have limited English proficiency. See Voting Rights Act: Hearing on Section 203-Bilingual Election Requirements, Part

File & Sarah Crissey, U.S. Census Bureau, *Voting and Registration in the Election of November 2008*, at 1, 5 (2012), available at www.census.gov/prod/2010pubs/p20-562.pdf.

The voting rates for Asian Americans also tend to be low (as low as 35 percent for 18- to 24-year old voters) in the South, where many Section 5 jurisdictions are located, including Alabama, Texas, and Georgia. *See id.* at 10. In Alabama, only 4,000 of the 16,000 Asian American citizens of voting age voted in 2010. *See* U.S. Census Bureau, *Reported Voting and Registration by Sex, Race and Hispanic Origin, for States: November 2010* (2010), Table 4b, available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2010/tables.html>. This is in stark contrast to the almost 1.1 million non-Hispanic white voting-age Alabama citizens who voted (out of almost 2.5 million non-Hispanic white voting-age citizens), equaling 44 percent of those eligible. *See id.* Data are similarly low in other Section 5 jurisdictions, particularly in the South. For example, in Georgia, which has a population of 102,000 Asian American citizens, only 30 percent of those citizens were registered to vote in November 2006, and only 26 percent actually voted. *See* U.S. Census Bureau, *Reported Voting and Registration of the Voting-Age Population, by Sex, Race and*

I Before the H. Subcomm. on the Const. of the H. Judiciary Comm., 109th Cong. 19 (2005) (statement of Margaret Fung, AALDEF, Exec. Dir.); *see also* Voting Rights Act and Reauthorization Amendments Act of 2006 (Part II): Hearing on H.R. 9 Before the H. Subcomm. on the Const. of the H. Judiciary Comm., 109th Cong. 40 (2006) (prepared statement of K. Narasaki, citing a 2000 U.S. Census Report).

Hispanic Origin, for States: November 2006 (2006), Table 4b, available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2006/tables.html> (hereinafter “2006 Table 4b”). This stands in stark contrast to the percentage of non-Hispanic white citizens in Georgia who were registered (69 percent) and who voted (47 percent). *See id.*⁷ In the 2008 general election, only 58 percent of Georgia’s Asian American registered voters turned out to vote compared to 77 percent of the state’s white registered voters. *See* Ga. Sec’y of State Voter Registration Sys., *Active Voters by Race/Gender, General Election Voting History* (Jan. 23, 2009), available at http://sos.georgia.gov/elections/voter_registration/2008%20stats/DocumentDirect%20SSVRZ376_Nov_2008.pdf.

In addition to these disparities in voter registration and turnout, Asian Americans continue to lack representation in elected offices nationwide. The Asian American community faces ongoing discrimination and has yet to see its political strength keep pace with its rapid growth. While the Asian American population experienced an astonishing eight-fold increase between 1970 and 2000, the number of Asian American elected officials

⁷ Similarly, in Texas, home to 319,000 Asian American citizens, only 43.0% were registered in November 2006, with 24.1% actually voting. *See* 2006 Table 4b, *supra*, at 11. In contrast, 72.8% of non-Hispanic white citizens in Texas were registered, with 45.2% voting. *See id.* In Virginia, home to 140,000 Asian American citizens, only 48.4% were registered in November 2006, with 25.2% actually voting. *See id.* In contrast, 71.1% of non-Hispanic white citizens in Virginia were registered, with 51.9% voting. *See id.*

grew comparatively modestly from 120 to 613 between 1978 and 2012. *Compare* Nat'l Comm'n on the Voting Rights Act, *Protecting Minority Voters: The Voting Rights Act at Work 1982-2005*, at 10 (2006) (citing 1970 statistics), *available at* http://www.lawyerscommittee.org/admin/voting_rights/documents/files/0023.pdf, *with 2011-12 National Asian Pacific American Political Almanac* 58 (Don T. Nakanishi and James S. Lai eds., 14th ed. 2011-2012) (presenting 2012 statistics). However, even these modest gains for the Asian American community could not have been achieved without the protections afforded under Section 5 and other provisions of the Voting Rights Act.⁸

II. SECTION 5 OF THE VOTING RIGHTS ACT PROTECTS THE VOTING RIGHTS OF ASIAN AMERICANS.

The importance of Section 5 of the Voting Rights Act in protecting the constitutional rights of Asian Americans to participate in the United States electoral process at local, state, and national levels cannot be overstated. The protections offered by the Act remain of paramount importance to the ability of the Asian American community to exercise the most fundamental of rights offered by a democratic

⁸ According to a 2005 study, approximately 75 percent “of Asian American elected officials were from jurisdictions covered by Section 203 provisions or in combination with other provisions,” including Section 5. *See* Carol Hardy-Fanta *et al.*, *Race Gender and Descriptive Representation: An Exploratory View of Multicultural Elected Leadership in the United States*, at 17 (2005), *available at* www.gmcl.org/pdf/APSA9-05-05.pdf.

system – that is, to vote, and to have that vote be counted the same as all other participants.

In 1975, Congress extended the Voting Rights Act to cover “language minorities,” including Asian Americans, recognizing that “[d]iscrimination against Asian Americans is a well known and sordid part of our history.” S. Rep. No. 94-295, at 28 n.21 (1975); 42 U.S.C. §§ 1973b(f), 1973l(c)(3); *see also* S. Rep. No. 94-295, at 28-30 (noting that “language minority citizens have been the target of discrimination in almost every facet of life”). Alabama, one of the original jurisdictions covered by Section 5, was immediately subject to these broader prescriptions for protecting the voting rights of language minorities.

Yet by 2006, when Congress was considering reauthorizing Section 5, the record before it demonstrated that the problems Section 5 sought to address, including those experienced by Asian Americans, remained ongoing, and could not be dismissed as mere sordid history. Over thirty years after passing protections for language minorities, Congress still faced evidence of profound voting discrimination against Asian Americans and other minorities, including in Alabama. *See, e.g.*, H.R. Rep 109-478 at 44, 45; *Voting Rights Act and Reauthorization Amendments Act of 2006 (Part II): Hearing on H.R. 9 Before the H. Subcomm. on the Const. of the H. Judiciary Comm.*, 109th Cong. 40 (2006) (hereinafter “Hearing on H.R. 9”); *see also* James Blacksher, Edward Still, Nick Quinton, Cullen Brown & Royal Dumas, *Voting Rights in Alabama 1982-2006*, at 5-19 (2006) (outlining

extensive voting discrimination in Alabama between 1982 and 2006, including intentional discrimination in poll worker appointment and in methods of electing local bodies), *available at* http://www.protectcivilrights.org/pdf/voting/Alabama_VRA.pdf. Overt racism and discrimination against Asian Americans at the polls persist to the present day, and Section 5 has been a tool to combat such barriers.

A. Section 5 Prevents Voter Redistricting Plans from Diluting Asian American Voting Power.

Section 5 prevents voter dilution and other retrogressive effects against Asian Americans in voter redistricting plans by allowing Asian Americans to participate in and scrutinize the redistricting process.

The protection of the Asian American voice afforded by Section 5 remains necessary today as there exists evidence of redistricting plans still being drafted with discriminatory intent. Indeed, in *Perry v. Perez*, 132 S. Ct. 934 (2012), the Texas Legislature engaged in efforts to preclear a redistricting plan, PlanH283, that would have had significant negative effects on the ability of minorities, and Asian Americans in particular, to exercise their right to vote.

Since 2004, the Asian American community in Texas State House District 149 has voted as a bloc with Hispanic and African American voters to elect Hubert Vo, a Vietnamese American, as their state representative. District 149 has a combined

minority citizen voting-age population of 62 percent. See United States and Defendant-Intervenors Identification of Issues 6, *Texas v. United States*, C.A. No. 11-1303 (D.D.C.), Sept. 29, 2011, Dkt. No. 53. Texas, a covered jurisdiction under Section 5, is home to the third-largest Asian American community in the United States, following New York and California. Asian American Center for Advancing Justice, *A Community of Contrasts: Asian Americans in the United States 2011*, App. B, at 60 (2011), available at http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf. (hereinafter “*Community of Contrasts*”). Consistent with its dramatic growth in other Southern states, the Asian American population in Texas grew 72 percent between 2000 and 2010. *Id.*

The Texas Legislature sought to eliminate Vo’s State House seat and redistribute the coalition of minority voters to the surrounding three districts. PlanH283, if implemented, would have redistributed the Asian American population in certain State House voting districts, including District 149, to districts with larger non-minority populations. See Martin Test. at 350:25-352:25. District 149 would have been relocated to a county on the other side of the State, where there are few minority voters. See <http://gis1.tlc.state.tx.us/download/House/PLANH283.pdf>. PlanH283 would have thus abridged the Asian American community’s right to vote in Texas by diluting the large Asian American populations in District 149 and other districts.

AAJC’s partner, the Texas Asian-American Redistricting Initiative (TAARI), working with a

coalition of Asian American and other civil rights organizations, participated in the Texas redistricting process and advocated on the District 149 issue.⁹ Despite the community's best efforts, the Texas Legislature pushed through this problematic redistricting plan. However, because of Section 5's preclearance procedures, Asian Americans and other minorities had an avenue to object to the Texas Legislature's retrogressive plan, and the DOJ ultimately rejected PlanH283 as not complying with Section 5. *See Texas v. United States*, C.A. No. 11-1303 (D.D.C.), Sept. 19, 2011, Dkt. No. 45, ¶ 3.

AALDEF has also long used Section 5 to protect the Asian American community in New York. After the 1980, 1990, 2000, and 2010 Censuses, AALDEF, along with many community groups, submitted comments under Section 5 on the redistricting plans for the New York City Council and New York State Legislature, highlighting the importance of keeping Asian American neighborhoods within a single district due to political cohesion among Asian American voters. *See AALDEF, Asian Americans and the Voting Rights Act: The Case for Reauthorization*, App. O (2006) (hereinafter, "AALDEF Report") (submitted to Congress and available at www.aaldef.org/docs/AALDEF-VRARauthorization-2006.pdf); Letter from M. Fung, AALDEF Exec. Dir., *et al.* to J. Rich, U.S. Dep't of Justice (Apr. 29, 2003) (submitted to

⁹ Letter from TAARI, Mexican American Legal Defense and Educational Fund, and NAACP Houston to Chairman Solomons on the elimination of HD 149 and the community's desire for it to be reinstated (April 26, 2011) (on file with author).

Congress with AALDEF Report and on file with counsel).

B. Section 5 Prevents Changes to Voting Systems from Weakening Asian American Voting Power.

Section 5 has also prevented changes to voting systems that would have retrogressive effects on Asian American voters. For example, before 2001, in New York City the only electoral success for Asian Americans was on local community school boards. In each election – in 1993, 1996, and 1999 – Asian American candidates ran for the school board and won. See Lynette Holloway, *This Just In: May 18 School Board Election Results*, N.Y. Times, June 13, 1999, available at <http://www.nytimes.com/1999/06/13/nyregion/making-it-work-this-just-in-may-18-school-board-election-results.html>; Jacques Steinberg, *School Board Election Results*, N.Y. Times, June 23, 1996, available at <http://www.nytimes.com/1996/06/23/nyregion/neighborhood-report-new-york-up-close-school-board-election-results.html>; Sam Dillon, *Ethnic Shifts Are Revealed in Voting for Schools*, N.Y. Times, May 20, 1993, available at <http://www.nytimes.com/1993/05/20/nyregion/ethnic-shifts-are-revealed-in-voting-for-schools.html>. These victories were due, in part, to the alternative voting system known as “single transferable voting” or “preference voting.” Instead of selecting one representative from single-member districts, voters ranked candidates in order of preference, from “1” to “9.” See Thomas T. Mackie & Richard Rose, *The International Almanac of Electoral History* 508 (3d ed. 1991).

In 1998, New York submitted to the DOJ for preclearance a switch from a “preference voting” system, where voters ranked their choices, to a “limited voting” system, where voters could select only four candidates for the nine-member board, and the nine candidates with the highest number of votes were elected. *See* 1998 N. Y. Sess. Laws 569-70 (McKinney). AALDEF submitted comments to the DOJ opposing the change and urged denial of preclearance because Asian American voters would be in a worse position to elect candidates of their choice. *See* Letter from M. Fung, AALDEF Exec. Dir., and T. Sinha, AALDEF Staff Attorney, to E. Johnson, U.S. Dep’t of Justice (Oct. 8, 1998) (submitted to Congress with AALDEF Report and on file with counsel). The DOJ, using its authority under Section 5, interposed an objection and prevented the voting change from taking effect. *See Voting Rights Act: Section 5 of the Act-History, Scope, and Purpose, Hearing Before the H. Subcomm. on the Const., H. Judiciary Comm., 109th Cong. 1664-66 (2005)* (appendix to statement of the Honorable Bradley J. Schlozman, U.S. Dep’t. of Justice) (providing Section 5 objection letter to Board and summarizing changes made to the voting methods, along with overall objections to the changes).

C. Section 5 Ensures that Changes to Poll Sites Do Not Deny Asian Americans the Right to Vote.

Changes to poll sites frustrate the ability of Asian Americans to vote. Since AALDEF began monitoring elections in New York City, there have

been numerous instances where the Board has failed to take reasonable steps to ensure that Asian American voters are informed of their correct poll sites. Voters have been misinformed about their poll sites before the elections or misdirected by poll workers at poll sites on Election Day. Section 5 has helped to minimize these disruptions.

Section 5's preclearance requirement serves an important and mandatory public notice function: any changes to the locations of designated poll sites must be submitted for preclearance, and, once submitted, the Attorney General must notify interested individuals and groups of the proposed submission, as well as provide copies of detailed submissions to groups who request the information. *See* 28 C.F.R. §§ 51.32, 51.33. Such advance notice is a prerequisite to the community's ability to react to a disruptive change in poll sites or other election procedures. Experience has shown that Section 5 has prevented sudden poll site closures in Asian American neighborhoods that would otherwise have been made without any notice to the community.

Section 5 ensures that voters receive notice of poll site changes, even in emergencies. *See* AALDEF Report at 41. For example, in 2001, primary elections in New York City were rescheduled due to the attacks on the World Trade Center. The week before the rescheduled primaries, AALDEF discovered that a certain poll site, I.S. 131, a school located in the heart of Chinatown and within the restricted zone in lower Manhattan, was being used by the Federal Emergency Management Agency for services related to the World Trade Center attacks.

The Board chose to close down the poll site and submitted the proposed change to the DOJ for preclearance under Section 5, but failed to inform voters of the change. *See id.*

AALDEF lodged oral comments with the DOJ urging for an objection because no notice had been given to voters. The Board provided no media announcement to the Asian language newspapers, made no attempts to send out a mailing to voters, and failed to arrange for the placement of signs or poll workers at the site to redirect voters to other sites. In fact, no consideration at all was made for the fact that the majority of voters at this site were limited English proficient, and that the site had been targeted for Asian language assistance under Section 203. AALDEF contended that the Board should have considered placing bilingual poll workers and translated signs at the poll site directing voters to alternative poll sites. *See id.*

Thereafter, the DOJ issued an objection and informed the Board that the change could not take effect. The elections subsequently took place as originally planned at I.S. 131, and hundreds of votes were cast on September 25. *See id.* Without Section 5, those voters would have undoubtedly lost their right to vote.

D. Section 5 Helps Asian Americans Exercise Their Voting Rights, Particularly in Jurisdictions Covered by the Language Assistance Provisions of the Voting Rights Act.

Section 5 has had its greatest impact on the ability of Asian Americans to participate in the political process by ensuring effective language assistance at the polls.¹⁰ Section 203 of the Voting Rights Act requires jurisdictions, based on a formula using census data, to provide translated ballots and voting materials as well as oral language assistance for voters who are limited English proficient. *See* 42 U.S.C. § 1973aa-1a(c). Section 5 requires that any plans to comply with Section 203, or changes to current practices to comply with that section, be precleared. *See* 42 U.S.C. § 1973b(f)(3)-(4) (applying Section 5 coverage trigger to language assistance obligations). Section 5 enforces Section 203 so as to ensure that any changes to the provision of language assistance are not retrogressive by allowing interested individuals and community groups to review any proposed changes and provide comments during the preclearance period. *See* 28 C.F.R. § 51.29.

¹⁰ The United States Census Bureau reports that almost two-thirds of Asian Americans are foreign-born, and approximately one in three are limited in their English proficiency. *See Community of Contrasts, supra*, at 15. Moreover, the U.S. Census Bureau estimates that among certain Asian American groups, including Vietnamese, Hmong, Cambodians, Laotians, Taiwanese, Koreans, and Chinese, roughly half the populations are “limited English proficient.” *Id.* at 28.

Thus, when jurisdictions are covered under both Sections 5 and 203 for Asian language assistance – such as New York and Kings Counties in New York and Harris County in Texas – the provisions combine as a powerful tool to ensure that language minorities have full access to political participation.

For example, Section 5 played a pivotal role in shaping the Chinese Language Assistance Program in New York City, which was first adopted after three counties in the city gained coverage under Section 203 in 1992. Limited English proficient Chinese American voters typically know the candidates by their transliterated names. These names appear in Asian-language media outlets, advertising, public notices, and campaign literature. See AALDEF, *The Asian American Vote: A Report on the AALDEF Multilingual Exit Poll in the 2004 Presidential Election* 12 (2005) (finding that 36 percent of Asian American voters turned to ethnic media outlets in Asian languages for their main source of news about politics and community issues), available at www.aaldef.org/docs/AALDEF-Exit-Poll-2004.pdf.

In the 1994 election cycle, community groups pressed for fully translated ballots that included the transliteration of the candidates' names in Chinese. The Justice Department's denial of preclearance for New York City's Chinese language program under Section 5's comment and preclearance process gave community groups and individuals the valuable opportunity to shape the nature and scope of meaningful language assistance programs, resulting in fully translated ballots for the limited English

proficient Chinese Americans who sought to exercise their civic duties. Ashley Dunn, *Board Agrees on Ballots In Chinese*, N.Y. Times, Aug. 25, 1994, available at <http://www.nytimes.com/1994/08/25/nyregion/board-agrees-on-ballots-in-chinese.html>; *Voting Rights Act: Hearing on Section 203-Bilingual Election Requirements, (Part I) Before the H. Subcomm. on the Const. of the H. Judiciary Comm.*, 109th Cong. 19 (2005) (statement of Margaret Fung, AALDEF, Exec. Dir.); see also Letter from D. Patrick, U.S. Dep't of Justice to K. King, Gen. Counsel, New York City Bd. of Elections (May 13, 1994) (denying preclearance; on file with counsel).

The growing need for Sections 5 and 203 to provide language assistance for voters became more evident after the 2000 Census, which reported a 66 percent growth in the Asian American population in New York. See Jessica S. Barnes & Claudette E. Bennett, U.S. Census Bureau, *The Asian Population: 2000*, at 5 tbl. 2 (2002), available at www.census.gov/prod/2002pubs/c2kbr01-16.pdf. Commensurate with this growth, the number of poll sites and election districts targeted to provide language assistance significantly increased. See AALDEF Report at 43.

Despite this population growth, the New York City Board of Election tried to curtail its language assistance program by proposing a change in its targeting formula, which would have resulted in the removal of Chinese language assistance at nearly 70 poll sites in heavily populated neighborhoods. The change would have also removed 16 sites for Korean language assistance. See *id.* In response, AALDEF submitted comments opposing preclearance under

Section 5, arguing that the change was retrogressive. *See* Letter from G. Magpantay, AALDEF Staff Attorney, to J. Rich, U.S. Dep't of Justice (Oct. 17, 2003) (submitted to Congress with AALDEF Report and on file with counsel).

In deciding whether to interpose an objection, the DOJ sent the Board a “more information” request letter, asking for more detailed information to refute AALDEF’s contentions. It also gave the Board another opportunity to demonstrate that the change would not place Asian Americans in a worse position to exercise their right to vote. Upon receiving DOJ’s “more information” letter, along with AALDEF’s opposition letter, the Board withdrew its submission to change the targeting formula. *See* AALDEF Report at 43. Only because of Section 5 was Section 203 fully implemented in New York City in this instance.

In short, Section 5 is a critical component of the Voting Rights Act, allowing Asian Americans full access to voting and affording them a powerful tool to fight efforts to quiet their voices. Without the safeguards provided by Section 5, Asian Americans would be denied their constitutional right to participate equally and meaningfully in the electoral process.

III. SECTION 5 OF THE VOTING RIGHTS ACT REMAINS CRITICAL IN THE CONTEXT OF DISCRIMINATION FACED BY ASIAN AMERICANS.

Discrimination against Asian American populations in Section 5 jurisdictions is of particular

concern given the perception of Asian Americans as “outsiders,” “aliens,” and “foreigners.” See, e.g., Claire Jean Kim, *The Racial Triangulation of Asian Americans*, 27 *Pol. & Soc’y* 105, 108-16 (1999) (describing history of whites perceiving Asian Americans as foreign and therefore politically ostracizing them).¹¹ Based on this perception, at various points in history Asian Americans were denied rights held by U.S. citizens. Remnants of the sentiment that evoked these denials persist today and continue to harm Asian Americans.

¹¹ In 2001, a comprehensive survey revealed that 71% of adult respondents held either decisively negative or partially negative attitudes toward Asian Americans. Committee of 100, *American Attitudes Toward Chinese Americans and Asians* 56 (2001), available at <http://www.committee100.org/publications/survey/C100survey.pdf>. Racial representations and stereotyping of Asian Americans, particularly in well-publicized instances where public figures or the mass media express such attitudes, reflect and reinforce an image of Asian Americans as “different,” “foreign,” and the “enemy,” thus stigmatizing Asian Americans, heightening racial tension, and instigating discrimination. Cynthia Lee, *Beyond Black and White: Racializing Asian Americans in a Society Obsessed with O.J.*, 6 *Hastings Women’s L.J.* 165, 181 (1995); Spencer K. Turnbull, Comment, *Wen Ho Lee and the Consequences of Enduring Asian American Stereotypes*, 7 *UCLA Asian Pac. Am. L.J.* 72, 74-75 (2001); Terri Yuh-lin Chen, Comment, *Hate Violence as Border Patrol: An Asian American Theory of Hate Violence*, 7 *Asian L.J.* 69, 72, 74-75 (2000); Jerry Kang, Note, *Racial Violence Against Asian Americans*, 106 *Harv. L. Rev.* 1926, 1930-32 (1993); Thierry Devos & Mahzarin R. Banaji, *American = White?*, 88 *J. Personality & Soc. Psychol.* 447 (2005) (documenting empirical evidence of implicit beliefs that Asian Americans are not “American”).

A. Asian Americans Have Suffered a Long History of Discrimination.

The shameful history of extensive discrimination against the Asian American community in the United States is well known. Until 1943, federal policy barred immigrants of Asian descent from even becoming United States citizens, and it was not until 1952 that racial criteria for naturalization were removed altogether. *See* Chinese Exclusion Act of 1882, ch. 126, 22 Stat. 58, 58-61 (prohibiting immigration of Chinese laborers; repealed 1943); Immigration Act of 1917, ch. 29, 39 Stat. 874, 874-98, and Immigration Act of 1924, ch. 190, 43 Stat. 153 (banning immigration from almost all countries in the Asia-Pacific region; repealed 1952); Leti Volpp, *Divesting Citizenship: On Asian American History and the Loss of Citizenship Through Marriage*, 53 UCLA L. Rev. 405, 415 (2005). Indeed, history is replete with examples of anti-immigrant sentiment directed towards Asian Americans, manifesting in legislative efforts to prevent Asian immigrants from entering the United States and becoming citizens. *See, e.g.*, Philippines Independence Act of 1934, ch. 84, 48 Stat. 456, 462 (imposing annual quota of fifty Filipino immigrants; amended 1946); Immigration Act of 1924, ch. 190, 43 Stat. 153 (denying entry to virtually all Asians; repealed 1952); Scott Act of 1888, ch. 1064, 1, 25 Stat. 504, 504 (rendering 20,000 Chinese re-entry certificates null and void); Naturalization Act of 1790, ch. 3, 1 Stat. 103 (providing one of the first laws to limit naturalization to aliens who were “free white persons” and thus, in effect, excluding African-

Americans, and later, Asian Americans; repealed 1795).

Legally identified as aliens “ineligible for citizenship,” *Ozawa v. United States*, 260 U.S. 178, 198 (1922), Asian immigrants were prohibited from voting, *see, e.g.*, Cal. Const. art. II, § 1 (1879) (“no native of China . . . shall ever exercise the privileges of an elector in this State”), and owning land, *Oyama v. California*, 332 U.S. 633, 662 (1948) (Murphy, J., concurring) (noting that California’s Alien Land Law “was designed to effectuate a purely racial discrimination, to prohibit a Japanese alien from owning or using agricultural land solely because he is a Japanese alien”). Both immigrant and native-born Asians also experienced pervasive discrimination in everyday life, *People v. Brady*, 40 Cal. 198, 207 (1870) (upholding law providing that “No Indian. . . or Mongolian or Chinese, shall be permitted to give evidence in favor of, or against, any white man” against Fourteenth Amendment challenge); *see also Gong Lum v. Rice*, 275 U.S. 78 (1927) (upholding segregation of Asian schoolchildren).

Perhaps the most egregious example of discrimination was the incarceration of 120,000 Americans of Japanese ancestry during World War II without due process. *See* Exec. Order 9066, 7 Fed. Reg. 1407 (Feb. 19, 1942) (authorizing the internment); *see also Korematsu v. United States*, 323 U.S. 214 (1944) (upholding the internment under strict scrutiny review). White immigrant groups whose home countries were also at war with the United States were not similarly detained and no

assumptions regarding their loyalty, trustworthiness and character were—similarly made. *See Korematsu*, 323 U.S. at 233, 240-42 (Murphy, J., dissenting) (noting that similarly situated American citizens of German and Italian ancestry were not subjected to the “ugly abyss of racism” of forced detention based on racist assumptions that they were disloyal, “subversive,” and of “an enemy race,” as Japanese Americans were); Natsu Taylor Saito, *Internments, Then and Now: Constitutional Accountability in Post-9/11 America*, 72 Duke F. for L. & Soc. Change 71, 75 (2009) (noting “the presumption made by the military and sanctioned by the Supreme Court that Japanese Americans, unlike German or Italian Americans, could be presumed disloyal by virtue of their national origin”).

B. Continued Discrimination Against Asian Americans Is a Barrier to Full Participation in the Political Process.

1. Anti-Immigrant and Anti-Asian American Sentiment Remains Pervasive.

Racist sentiment towards Asian Americans is not a passing adversity but a continuing reality, fueled in recent years by reactionary post-9/11 prejudice and a growing backlash against immigrants. *See* U.S. Dep’t of Justice, *Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later*, at 4 (Oct. 19, 2011) (noting that the FBI reported a 1,600 percent increase in anti-Muslim hate crime incidents in 2001), *available at* <http://www.justice.gov/crt/>

publications/post911/post911summit_report_2012-04.pdf. Numerous hate crimes have been directed against Asian Americans either because of their minority group status or because they are perceived as unwanted immigrants. *See, e.g., id.*, at 7-9 (discussing numerous incidents of post-9/11 hate crimes prosecuted by the DOJ). In 2010, the nation's law enforcement agencies reported 150 incidents and 190 offenses motivated by anti-Asian/Pacific Islander bias. Fed. Bureau of Investigation, *Hate Crime Statistics* (2010), available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/tables/table-1-incidents-offenses-victims-and-known-offenders-by-bias-motivation-2010.xls>.

Discriminatory attitudes towards Asian Americans manifest themselves in the political process as well. For example, during a 2009 Texas House of Representatives hearing, legislator Betty Brown suggested that Asian American voters adopt names that are "easier for Americans to deal with" in order to avoid difficulties imposed on them by voter identification laws. R.G. Ratcliffe, *Texas Lawmaker Suggests Asians Adopt Easier Names*, *Houston Chron.*, Apr. 8, 2009, available at <http://www.chron.com/news/houston-texas/article/Texas-lawmaker-suggests-Asians-adopt-easier-names-1550512.php>. Although this statement did not physically obstruct any voters from reaching the polls, it made clear that the Asian American community's voice was unwelcome in American politics and notably cast Asian Americans apart from other "Americans."

At a campaign rally during the 2004 U.S. Senate race in Virginia (a jurisdiction covered under Section 5), incumbent George Allen repeatedly called a South Asian volunteer for his opponent a “macaca” – a racial epithet used to describe Arabs or North Africans that literally means “monkey” – and then began talking about the “war on terror.” See Tim Craig & Michael D. Shear, *Allen Quip Provokes Outrage, Apology; Name Insults Webb Volunteer*, Wash. Post, Aug. 15, 2006, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/14/AR2006081400589.html>.

Incidents of discrimination and racism like these perpetuate the misperception that Asian American citizens are foreigners and have the real effect of denying Asian Americans the right to fully participate in the electoral process. Such discrimination has created an environment of fear and resentment towards Asian Americans, many of whom are perceived as foreigners based on their physical attributes. This perception, coupled with the growing sentiment that foreigners are destroying or injuring the country, jeopardizes Asian Americans’ ability to exercise their right to vote free of harassment and discrimination.

2. As Asian American Populations Continue to Grow Rapidly in Section 5 Jurisdictions, Levels of Discrimination Against Racial Minorities Can Be Expected to Rise.

Asian Americans have become the fastest growing minority group in the United States. See Hoeffel *et al.*, *supra* note 5, at 1, 3. While the total population in the United States rose 10 percent between 2000 and 2010, the Asian American population increased 43 percent¹² during that same time span. *Id.*

The fastest population growth occurred in the South, where the Asian American population increased by 69 percent. *Id.* at 6. Today, of the five states with the fastest Asian American population growth, two are entirely covered under Section 5 (Arizona and Georgia) and another (North Carolina) is partially covered. See 28 C.F.R. pt. 51, App.; Hoeffel *et al.*, *supra*, note 5, at 8. In Alabama (also a completely covered state), Asian Americans experienced a 70 percent increase between 2000 and 2010. Hoeffel *et al.*, *supra*, note 5, at 7.

With this demographic shift comes a continuing need for Section 5 to combat voting discrimination in

¹² The U.S. Census Bureau data in this brief reflects figures for Asian Americans who reported themselves as “Asian alone.” Counting the Asian American community’s rapidly growing multiracial population, who reported as “Asian alone or in combination,” this growth rate is 46 percent. *Community of Contrasts, supra*, at 15.

covered jurisdictions. See *Voting Rights Act: Hearing on Section 203-Bilingual Election Requirements, (Part I) Before the H. Subcomm. on the Const. of the H. Judiciary Comm.*, 109th Cong. 19 (2005) (statement of Margaret Fung, AALDEF, Exec. Dir.); Hearing on H.R. 9, 109th Cong. 47 (prepared statement of K. Narasaki, Exec. Dir., Asian Am. Justice Ctr.). When groups of minorities move into or outpace general population growth in an area, reactions to the influx of outsiders can result in racial tension.¹³ Thus, as Asian American populations continue to increase rapidly in jurisdictions covered by Section 5, levels of racial tension and discrimination against racial minorities can be expected to increase. In 2011, the growth of immigrant communities and rising anti-immigrant

¹³ See Gillian Gaynair, *Demographic shifts helped fuel anti-immigration policy in Va.*, *The Capital* (Feb. 26, 2009), available at <http://www.hometownannapolis.com/news/gov/2009/02/26-10/Demographic-shifts-helped-fuel-anti-immigration-policy-in-Va.html> (noting that longtime residents of Prince William County, Virginia, perceived that their quality of life was diminishing as Latinos and other minorities settled in their neighborhoods); James Angelos, *The Great Divide*, *N.Y. Times*, Feb. 22, 2009 (describing ethnic tensions in Bellerose, Queens, New York, where the South Asian population is growing), available at http://www.nytimes.com/2009/02/22/nyregion/thecity/22froz.html?_r=3&pagewanted=1; Ramona E. Romero and Cristóbal Joshua Alex, *Immigrants becoming targets of attacks*, *The Philadelphia Inquirer*, Jan. 25, 2009 (describing the rise in anti-Latino violence where the immigration debate is heated in New York, Pennsylvania, Texas, and Virginia); Sara Lin, *An Ethnic Shift is in Store*, *L.A. Times*, Apr. 12, 2007, at B1 (describing protest of Chino Hill residents to Asian market opening in their community where 39% of residents were Asian), available at <http://articles.latimes.com/2007/apr/12/local/me-chinohills12>.

sentiment in Alabama led to the passage of H.B. 56, the toughest immigration enforcement law in the country. Also in 2011, state lawmakers in other regions in the South, including Georgia and South Carolina, launched efforts to deny the automatic right of citizenship to the U.S.-born children of undocumented immigrants.¹⁴ At the federal level, Alabama members of the U.S. House of Representatives co-sponsored legislation to enact this restriction.¹⁵ This bill was reintroduced in 2013 and co-sponsored again by Alabama Representatives, as well as legislators from other Section 5 jurisdictions such as Arizona, Georgia, and Texas.¹⁶

Given the discrimination against Asian Americans and immigrants that persists as these populations continue to grow, the protections of Section 5 remain critical in the jurisdictions they cover.

CONCLUSION

Section 5 has proven to be an effective tool in protecting Asian American voters against a host of

¹⁴See Shankar Vedantam, *State Lawmakers Taking Aim at Amendment Granting Birthright Citizenship*, Wash. Post, Jan. 5, 2011, available at <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/05/AR2011010503134.html>; see also *United States v. Wong Kim Ark*, 169 U.S. 649 (1898) (holding Fourteenth Amendment grants U.S. citizenship to native-born children of alien parents).

¹⁵ Birthright Citizenship Act of 2011, H.R. 140, 112th Cong. (2011).

¹⁶ Birthright Citizenship Act of 2013, H.R. 140, 113th Cong., (2013).

actions that threaten to curtail their voting rights. American citizens of Asian ancestry have been targeted as foreigners and unwanted immigrants, and racism and discrimination against them in this country persist to this day. These negative perceptions have real consequences for the ability of Asian Americans to fully participate in the electoral and political process. Congress properly reauthorized Section 5 after a deliberative fact-finding process, mindful in particular of the important functions that Section 5 serves for minority communities.

For the foregoing reasons and the reasons presented by Respondent and Intervenor-Respondent, the judgment of the United States District Court for the District of Columbia should be affirmed.

Respectfully submitted,

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APPENDIX

STATEMENTS OF INTEREST OF *AMICI*

Alliance of South Asian American Labor (ASAAL)

ASAAL is a community-based organization founded by trade unionists that are of South Asian heritage. ASAAL's mission is to increase the culture of civic participation in the larger South Asian American community based on their organizing experiences in the labor movement.

American Citizens for Justice/Asian American Center for Justice

American Citizens for Justice/Asian American Center for Justice was founded in 1983 in response to the baseball bat beating case of Vincent Chin. It is an organization devoted to civil rights education and advocacy in the Asian American community.

Asian American Bar Association of the Greater Bay Area (AABA)

The Asian American Bar Association of the Greater Bay Area (AABA) represents the interests of Asian Pacific American attorneys in the Greater San Francisco Bay Area. It is one of the largest Asian Pacific American bar associations in the nation and one of the largest minority bar associations in the State of California. From its inception in 1976, AABA has been actively involved in civil rights issues and has advocated on issues regarding minority communities, diversity, and equal protection. Among other things, AABA filed an amicus brief in the *Bakke* affirmative action case before the United States Supreme Court in 1977 and

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in *In re Marriage Cases* before the California Supreme Court in 2007.

Asian American Institute (AAI)

The Asian American Institute (AAI) is a pan-Asian, non-partisan, not-for-profit organization located in Chicago, Illinois, whose mission is to empower and advocate for the Asian American community through advocacy, coalition-building, education, and research. AAI is a member of the Asian American Center for Advancing Justice, whose other members include Asian American Justice Center, Asian Law Caucus, and Asian Pacific American Legal Center. AAI's programs include community organizing, leadership development, and legal advocacy. AAI is deeply concerned about the discrimination and other challenges that immigrants face, including laws or policies that disproportionately impact and hinder eligible citizens' ability to exercise their fundamental right to vote. Accordingly, AAI has a strong interest in this case.

Asian Law Alliance (ALA)

The Asian Law Alliance (ALA) is a local non-profit, non-partisan organization whose mission is to ensure equal access to the justice system to Asian and Pacific Islanders and low income residents of Santa Clara County through legal services, community education and advocacy. Founded in 1977, ALA has a long-standing interest in voting rights and protecting the rights of Asian and Pacific Islanders to access the polls.

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Asian Law Caucus (ALC)

Established in 1972, the Asian Law Caucus (ALC) is the country's oldest civil rights and public interest legal organization serving the Asian Pacific American community. ALC is dedicated to the pursuit of equality and justice for all sectors of society. ALC represents primarily low-income, monolingual, or limited English proficient Asian Pacific Americans in the areas of employment/labor, immigration, housing/community development, and civil rights. Through its Voting Rights project, ALC works to ensure the full participation of all eligible voters in the electoral process.

Asian Pacific American Legal Center (APALC)

Founded in 1983, the Asian Pacific American Legal Center of Southern California (APALC), a member of the Asian American Center for Advancing Justice, is the nation's largest nonprofit public interest law firm devoted to the Asian American, Native Hawaiian and Pacific Islander community. APALC provides direct legal services to indigent members of our community and uses impact litigation, policy advocacy, community education and leadership development to obtain, safeguard and improve the civil rights of Asian Americans, Native Hawaiians and Pacific Islanders. APALC's civil rights litigation has covered a broad range of issues such as race and national origin discrimination, access to education, immigration and naturalization, language rights, garment worker rights and other low-wage worker exploitation. APALC has a long history of working to protect the voting rights of historically disenfranchised communities and thus has a strong interest in the outcome of this case.

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*Asian Pacific American Legal Resource Center
(APALRC)*

The Asian Pacific American Legal Resource Center (APALRC) is a non-profit civil legal services organization based in Washington, D.C. that serves the region's low-income Asian Americans with limited English proficiency. Founded in 1998, the mission of APALRC is to ensure Asian Americans' access to justice through linguistically accessible and culturally appropriate legal services, community legal education, and advocacy. Promoting language access in government services and the legal system is central to the work of the APALRC. Since 2008, APALRC has participated in election monitoring and voter assistance activities on Election Day to protect Asian Americans' right to political participation.

Asian Pacific American Network of Oregon (APANO)

The Asian Pacific American Network of Oregon (APANO) is a statewide, grassroots organization, uniting Asians and Pacific Islanders (APIs) to achieve social justice. APANO's efforts focus on creating a just and equitable world where APIs are fully engaged in the social, economic and political issues that affect us. APANO's work on redistricting issues has successfully raised awareness about the political representation of Oregon's fast-growing API community with legislative decision makers, with community partners, and with API communities.

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*Asian & Pacific Islander American Health Forum
(APIAHF)*

The Asian & Pacific Islander American Health Forum (APIAHF) is a national health justice organization that influences policy, mobilizes communities, and strengthens programs and organizations to improve the health and well-being of more than 18 million Asian Americans, Native Hawaiians, and Pacific Islanders living in the United States and its jurisdictions. Many of APIAHF's partners are located in Section 5-covered jurisdictions including Arizona, Georgia, Louisiana, Mississippi, Texas and Virginia. APIAHF believes that civic engagement and the ability to participate in the political process is a crucial aspect to achieving health equity and justice for Asian American communities.

*Asian and Pacific Islander American Vote –
Michigan (APIAVote-MI)*

APIAVote-MI is a nonpartisan 501(c)(3) nonprofit organization that serves the Asian Pacific Islander American community in Michigan through civic participation, advocacy, and education. APIAVote-MI registered over 700 voters, mobilized over 20,000 voters, conducted poll monitoring/exit polling, and distributed a multilingual voter guide during the 2012 election.

Asian Services in Action, Inc. (ASIA)

Asian Services in Action, Inc. (ASIA) is a non-profit health and human services agency in Ohio dedicated to empowering and advocating for Asian Americans/Pacific Islanders (AAPIs) and to providing AAPIs access to quality, culturally and

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linguistically appropriate information and services. Incorporated in 1995, ASIA serves over 10,000 individuals annually, the majority of whom are immigrants and refugees from Asia, through legal assistance, social services, vocational training, and issue advocacy. ASIA has witnessed firsthand that naturalized AAPI voters often require assistance at the polls due to limited English proficiency and unfamiliarity with American civic institutions. Given the widespread and persistent stereotypes of AAPIs as perpetual and 'invasive' foreigners or immigrants, ASIA believes that Section 5 of the Voting Rights Act remains necessary to protect the voting rights of AAPI citizens, especially in locales with histories of racial discrimination.

Association of Asian Pacific Community Health Organizations (AAPCHO)

The Association of Asian Pacific Community Health Organizations (AAPCHO) is a national association of community health organizations serving medically underserved Asian Americans, Native Hawaiians, and other Pacific Islanders. AAPCHO is dedicated to promoting advocacy, collaboration, leadership, access, and civic participation to improve the health status of these groups. AAPCHO shares the collective knowledge and experiences of its members with policy makers at the national, state, and local levels and seeks to improve the integration and engagement of community health centers and their patients in the electoral process.

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Center for Pan Asian Community Services, Inc.
(CPACS)

Center for Pan Asian Community Services, Inc. (CPACS) is a private nonprofit located in Atlanta, Georgia. CPACS' mission is to promote self-sufficiency and equity for immigrants, refugees, and the underprivileged through comprehensive health and social services, capacity building, and advocacy. CPACS sponsored numerous events and provided community services, such as voter registration drives, polling site assistance, exit polling, and voter education, during the most recent election cycle. CPACS seeks to protect and advance the voting rights of Asian and Pacific Islander Americans in a state that is covered by Section 5.

Chinese for Affirmative Action (CAA)

Chinese for Affirmative Action (CAA) was founded in 1969 to protect the civil and political rights of Chinese Americans and to advance multiracial democracy in the United States. Today, CAA is a progressive voice in and on behalf of the broader Asian and Pacific American community. CAA advocates for systemic change that protects immigrant rights, promotes language diversity, and remedies racial injustice.

Chinese Progressive Association (CPA)

Founded in 1972, the Chinese Progressive Association (CPA) educates, organizes and empowers the low income and working class immigrant Chinese community in San Francisco to build collective power with other oppressed communities to demand better living and working conditions and justice for all people. As part of CPA's Political

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Empowerment Campaign, CPA has trained and developed dozens of new grassroots leaders and reached thousands of Chinese immigrant voters.

Hmong American Partnership (HAP)

Hmong American Partnership (HAP) is a non-profit community development and social service agency that provides critical services and support to more than 5,000 community members within Minnesota each year. HAP's vision is to reach out to the world with profound social, economic and education transformation, and a crucial key to accomplishing this vision is to encourage Asian American community members to participate in the civic engagement process. During the last election, HAP worked closely with its subsidiary organization, Hmong National Development (HND), to launch a full-scale GOTV campaign to encourage individuals within the community to vote. In addition, HAP took a public stance against the Voter ID amendment in Minnesota and educated the community on the amendment and the importance of voting. HAP is dedicated to empowering the Asian American community and opposes any measures that discriminate and create additional barriers for community members to have a voice. Therefore, HAP strongly supports efforts to ensure that all individuals are given a voice and a chance to vote.

Japanese American Citizens League (JACL)

The Japanese American Citizens League (JACL) was founded in 1929. It is the oldest and largest civil rights organization representing persons of Japanese and other ancestry in the United States. It has over 10,000 members and chapters throughout

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the nation. JACL was a leading organization in removing state alien land laws and in securing redress for Japanese Americans imprisoned during World War II. JACL also has a long history of advocacy in issues relating to immigration, naturalization, and voting rights.

Korean Americans for Political Advancement (KAPA)

KAPA is a membership organization promoting progressive policies that advance the political and civil rights of all citizens, the rights of all immigrants, and economic and social justice for all individuals and communities. Through lobbying, grassroots organizing, and political action, KAPA also strives to encourage civic participation and to help organize the political power of individuals – particularly of Korean American individuals residing in the New York metropolitan area – in ways that advance KAPA’s advocacy purpose.

MinKwon Center for Community Action (MinKwon)

MinKwon was established to meet the needs and concerns of the Korean American community through education, civic participation, immigrant rights, social services, and culture in New York. MinKwon works with various grassroots organizations on immigration policy and voter rights. MinKwon has conducted election poll monitoring/exit polling for the past several elections, including the 2008 election.

*National Asian Pacific American Bar Association
(NAPABA)*

The National Asian Pacific American Bar Association (NAPABA) is the national association of

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Asian Pacific American attorneys, judges, law professors, and law students, representing the interests of over 40,000 attorneys and more than 60 local Asian Pacific American bar associations, who work variously in solo practices, large firms, corporations, legal services organizations, non-profit organizations, law schools, and government agencies. Since its inception in 1988, NAPABA has served as the national voice for Asian Pacific Americans in the legal profession and has promoted justice, equity, and opportunity for Asian Pacific Americans. Section 5 of the Voting Rights Act has proven to be a critical tool for ensuring that all Americans have access to the ballot, and must be upheld in order to protect the voting rights of Asian Pacific Americans. NAPABA has affiliates in many of the Section 5-covered jurisdictions, including Alabama, Arizona, Georgia, Louisiana, Texas, Virginia, California, Florida, and New York.

OCA

OCA is a national organization dedicated to advancing the political, social, and economic well-being of Asian Pacific Americans (APAs). Through the 80 chapters and affiliates from across the United States, OCA members engage in voter registration, mobilization, and protection efforts for the traditionally disenfranchised class including but not limited to the APA population. OCA has local chapters in Arizona, Georgia, Texas, Virginia, California, Florida, New York, and Michigan, which are or include Section 5-covered jurisdictions.

*Sikh American Legal Defense and Education Fund
(SALDEF)*

The Sikh American Legal Defense and Education Fund (SALDEF) is the oldest Sikh American civil rights and educational organization in the United States. SALDEF works to empower Sikh Americans and ensure the protection of their civil rights, including their voting rights.

South Asian Americans Leading Together (SAALT)

South Asian Americans Leading Together (SAALT) is a national non-profit organization whose mission is to elevate the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. As an organization that is committed to the importance of civic engagement and ensuring that the South Asian community and all immigrant communities have the fundamental right to vote and fully participate in the election and political process, SAALT joins this brief to ensure that Section 5 of the Voting Rights Act continues to protect these rights for all Americans.

*South Asian Bar Association of Northern California
(SABA-NC)*

The South Asian Bar Association of Northern California (SABA-NC) was founded in 1993 to ensure that Bay Area South Asian lawyers were provided an avenue to develop professionally, network among peers and volunteer within the South Asian community. SABA-NC supports and hosts fundraisers for South Asian community support and social service organizations and facilitates pro bono legal services to those in need.

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SABA-NC has supported and participated in voter registration drives and voter protection poll monitoring projects.

Southeast Asia Resource Action Center (SEARAC)

SEARAC was founded in 1979 to facilitate the relocation of Southeast Asian refugees into American society as well as the development of nonprofit organizations led by and for Southeast Asians. SEARAC's principal mission is to advance the interests of Southeast Asian Americans by promoting community empowerment and leadership development, as well as by advocating for and representing the diverse Southeast Asian American community on issues and concerns such as education, health care, safety, economic development, and civil rights. The Southeast Asian American population is spread throughout the United States, with high concentrations in states such as California, Texas, and Louisiana. SEARAC's work with community-based organizations that serve Southeast Asian American communities includes working with organizations in Section 5 jurisdictions such as New Orleans, Merced, and Houston.