

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

STATE OF ALABAMA; and)
MORRIS J. BROOKS, JR., Representative for)
Alabama’s 5th Congressional District,)

Plaintiffs,)

v.)

Civil Action No.
2:18-cv-00772-RDP

UNITED STATES DEPARTMENT OF)
COMMERCE; and WILBUR L. ROSS, in his)
official capacity as Secretary of Commerce;)
BUREAU OF THE CENSUS, an agency within the)
United States Department of Commerce; and)
STEVEN DILLINGHAM, in his capacity as)
performing the non-exclusive functions and duties)
of the Director of the U.S. Census Bureau,)

Defendants,)

and)

COUNTY OF SANTA CLARA, CALIFORNIA;)
KING COUNTY, WASHINGTON; and CITY OF)
JOSÉ, CALIFORNIA,)

DIANA MARTINEZ; RAISA SEQUEIRA;)
SAULO CORONA; IRVING MEDINA; JOEY)
CARDENAS; FLORINDA P. CHAVEZ; and)
CHICANOS POR LA CAUSA,)

Intervenor-Defendants.)

**OPPOSED MOTION TO INTERVENE
AND MEMORANDUM IN SUPPORT THEREOF**

Arlington County, Virginia and the City of Atlanta, Georgia (collectively, “Applicants”), by and through their undersigned counsel, hereby respectfully move for permissive intervention as defendants pursuant to Rule 24(b) of the Federal Rules of Civil Procedure or, in the alternative, to intervene as of right under Rule 24(a). As set forth in the Declaration of John Lewis, counsel for Applicants contacted counsel for the parties and have determined that Defendants, the Martinez Defendant-Intervenors, and the Local Government Defendant-Intervenors do not oppose the motion, but Plaintiffs do oppose it. *See* Ex. 1. Applicants, who are represented by the same counsel as the Local Government Defendant-Intervenors, intend to adopt and join their pleadings, and in accordance with Rule 24(c), attach their previously filed answer as Ex. 2.

In support of their motion, Applicants adopt the arguments presented by the Local Government Defendant-Intervenors in their motion to intervene and supporting memorandum. *See* Doc. 9. As is the case with the Local Government Defendant-Intervenors, the omission of undocumented persons from the 2020 Census threatens to diminish substantially the millions of dollars in Census-based federal funding that Applicants use to provide their residents with services. *See* Ex. 3, Declaration of Elizabeth Hardy; Ex. 4, Declaration of Nina Hickson. Thus, Applicants similarly have a stake in this action sufficient to warrant intervention.

Most importantly, Applicants are entitled to permissive intervention under Rule 24(b) for the same reasons the Court gave in permitting the Local Government Defendant-Intervenors to intervene. *See* Doc. 53. To start, Applicants’ motion is timely: Applicants filed this motion just weeks after the Court denied the federal government’s motion to dismiss, *see* Doc. 85, and the

case remains in the preliminary stages.¹ Moreover, Applicants will jointly file all applicable motions and briefs with the Local Government Defendant-Intervenors (so that the Court receives a single motion or brief from the local government parties on any given issue), and agree to be bound by all scheduling and procedural orders that apply to the Local Government Defendant-Intervenors. Thus, permitting Applicants to intervene “will not delay the adjudication of the litigants’ rights or the judicial process as ‘the court [has] yet to take significant action.’” Doc. 53 at 4 (quoting *Georgia v. U.S. Army Corps of Engineers*, 302 F.3d 1242, 1259-60 (11th Cir. 2002)). In contrast, Applicants “have a personal stake in the outcome of this litigation, such that they would be prejudiced if intervention was not permitted.” *Id.* at 6. Applicants “also satisfy the commonality standard required by Rule 24(b),” because Applicants “argue that the Residence Rule is lawful under both the Constitution and the APA” and thereby “intend to submit *identical* questions of fact and law with the main action.” *Id.* Thus, Applicants are entitled to permissive intervention.

In the alternative, Applicants are entitled to intervene as of right under Rule 24(a)(2). For the reasons described in the Local Government Defendant-Intervenors’ motion to intervene, Applicants have substantial interests in the subject of this action which may be impeded or impaired by a decision in this suit and which are not adequately represented by the federal government or the State of Alabama. *Compare* Ex. 3, Hardy Decl. *and* Ex. 4, Hickson Decl. *with* Doc. 9, at 7-17. However, the Court “need not address whether the Proposed Defendant-

¹ In their reply in support of intervention, the Local Government Defendant-Intervenors noted that Applicants might also seek to intervene if intervention were granted. Doc. 17, at 2 n.2. So as not to disrupt the Court’s resolution of the federal government’s motion to dismiss and to avoid motions practice that might prove to be unnecessary were the Court to grant the motion, Applicants elected to wait until the Court decided the motion before moving to intervene.

Intervenors may intervene as a matter of right under Rule 24(a)” if it concludes that permissive intervention is appropriate. Doc. 53, at 3.

Thus, Applicants respectfully request entry of an Order granting permissive intervention under Rule 24(b) or, in the alternative, granting intervention as of right under Rule 24(a) and have attached a proposed order for the Court’s convenience. *See* Ex. 5, [Proposed] Order.

Dated: August 12, 2019

Respectfully submitted,

/s/ Anil A. Mujumdar
ZARZAUR
Anil A. Mujumdar (ASB-2004-L65M)
2332 Second Avenue North
Birmingham, Alabama 35203
T: 205.983.7985
F: 888.505.0523
E: anil@zarzaur.com

LAWYERS’ COMMITTEE FOR CIVIL RIGHTS UNDER LAW

Ezra D. Rosenberg (admitted *pro hac vice*)
Dorian L. Spence (admitted *pro hac vice*)
1401 New York Avenue NW, Suite 400
Washington, DC 20005
Telephone: (202) 662-8600
Facsimile: (202) 783-9857
Email: erosenburg@lawyerscommittee.org
dspence@lawyerscommittee.org

DEMOCRACY FORWARD

Javier M. Guzman (admitted *pro hac vice*)
Robin F. Thurston (admitted *pro hac vice*)
John T. Lewis (admitted *pro hac vice*)
Democracy Forward Foundation
P.O. Box 34553
Washington, DC 20043
Telephone: (202) 448-9090
Email: jguzman@democracyforward.org
rthurston@democracyforward.org
jlewis@democracyforward.org

Attorneys for Applicants and for Defendant-Intervenors City of San José, California and King County, Washington

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Steven T. Marshall
Edmund G. LaCour
Winfield J. Sinclair
Brad A. Chynoweth
James W. Davis
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
P O Box 300152
Montgomery, Alabama 36130-0152
T: 334.242.7300
F: 334.353.8440
E: jimdavis@ago.state.al.us / elacour@ago.state.al.us / bchynoweth@ago.state.al.us /
smarshall@ago.state.al.us / wsinclair@ago.state.al.us

Attorneys for the Plaintiff State of Alabama

Brad P. Rosenberg
U.S. DEPARTMENT OF JUSTICE
Federal Programs Branch 1100 L Street, NW
Washington, DC 20005
T: 202.514.3374
F: 202.616.8460
E: brad.rosenberg@usdoj.gov

Attorney for Defendants United States Department of Commerce, Wilbur L. Ross, Bureau of the Census, Rod S. Jarmin, and Steven Dillingham

Jyotin Hamid
Lauren M. Dolecki
Ming Ming Yang
DEBEVOISE & PLIMPTON LLP
919 Third Avenue
New York, New York 10022
T: 212.909.6000
F: 212.909.6836
E: jhamid@debevoise.com / lmdolecki@debevoise.com / mmyang@debevoise.com

Ryan M. Kusmin
DEBEVOISE & PLIMPTON LLP
801 Pennsylvania Avenue NW, Suite 500
Washington, DC 20004
T: 202.383.8000
F: 202.383.8118
E: rmkusmin@debevoise.com

Attorneys for Defendant-Intervenors City of San José, California and King County, Washington

Robert D. Segall
COPELAND FRANCO SCREWS & GILL, P.A.
Post Office Box 347
Montgomery, Alabama 36101-0347
T: 334.834.1180
F: 334.834.3172
E: segall@copelandfranco.com

James R. Williams, County Counsel
Greta S. Hansen
Raphael N. Rajendra
Marcelo Quiñones
Laura S. Trice
OFFICE OF THE COUNTY COUNSEL COUNTY OF SANTA CLARA
Office of the County Counsel
County of Santa Clara
70 West Hedding Street
East Wing, 9th Floor
San José, California 95110
T: 408.299.5900
F: 408.292.7240
E: raphael.rajendra@cco.sccgov.org / marcelo.quinones@cco.sccgov.org

Jonathan Weissglass
LAW OFFICE OF JONATHAN WEISSGLASS
1939 Harrison Street, Suite 150-B
Oakland, California 94612
T: 510.836.4200
E: jonathan@weissglass.com

Attorneys for Defendant-Intervenor County of Santa Clara, California

Thomas A. Saenz
Julia A. Gomez
Denise Marie Hulett
Andrea E. Senteno
MALDEF
1016 16th Street, NW, Suite 100
Washington, DC 20036
T: 202.293.2849
F: 202.293.2849
E: tsaenz@maldef.org / jgomez@maldef.org / dhulett@maldef.org / asenteno@maldef.org

W. Edward Still
EDWARD STILL LAW FIRM LLC
429 Green Springs Hwy Ste 161-304
Birmingham, Alabama 35209
T: 205.320.2882
F: 205.320.2882
E: still@votelaw.com

James Uriah Blacksher
JAMES U. BLACKSHER, ATTORNEY
P.O. Box 636
Birmingham, Alabama 35201
T: 205.591.7238
F: 866.845.4395
E: jblacksher@ns.sympatico.ca

Attorneys for Intervenor-Defendants Diana Martinez, Raisa Sequeira, Saulo Corona, Irving Medina, Joey Cardenas, Florinda P. Chavez, and Chicanos Por La Causa

Christopher J. Hajec
Michael Hethmon
Stephen Williams
IMMIGRATION REFORM LAW INSTITUTE
25 Massachusetts Avenue NW
Suite 335
Washington, DC 20001
T: 202.232.5590
F: 202.464.3590
E: chajec@irli.org / mhethmon@irli.org

Amicus Curiae

Joyce White Vance
101 Paul W. Bryant Drive
Tuscaloosa, Alabama 35487
T: 205.305.9511
E: jvance@law.ua.edu

Barry A. Ragsdale
SIROTE & PERMUTT, PC
2311 Highland Avenue South Birmingham, Alabama 35205
T: 205.930.5100
F: 205.930.5101
E: bragsdale@sirote.com

Attorneys for the Proposed Defendant-Intervenors the States of New York, California, Colorado, Connecticut, Illinois, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Virginia, Washington, and the District of Columbia; the cities and counties of Cameron County, Texas; Central Falls, Rhode Island; Chicago, Illinois; Hidalgo County, Texas; Monterey County, California; New York, New York; Philadelphia, Pennsylvania; Providence, Rhode Island; and Seattle, Washington; and the United States Conference of Mayors

I hereby certify that on August 12th, 2019, I served the foregoing on the following counsel not yet registered with the Court's CM/ECF system via email:

LETITIA JAMES
Attorney General of the State of New York

Matthew Colangelo
Elena Goldstein
Elizabeth Morgan
Ajay Saini
OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL
28 Liberty Street
New York, New York 10005
T: 212.416.6057
E: matthew.colangelo@ag.ny.gov

Attorneys for the State of New York

Gabrielle D. Boutin
Anthony R. Hakl
R. Matthew Wise
CALIFORNIA DEPARTMENT OF JUSTICE
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, California 94244-2550
T: 916.210.6053
E: gabrielle.boutin@doj.ca.gov

Attorneys for the State of California

Mark F. Kohler
OFFICE OF THE ATTORNEY GENERAL
55 Elm Street
P.O. Box 120
Hartford, Connecticut 06106
T: 860.808.5020
E: Mark.Kohler@ct.gov

Attorney for the State of Connecticut

Eric R. Olson
ATTORNEY GENERAL OF THE STATE OF COLORADO
1300 Broadway
10th Floor
Denver, Colorado 80203
T: 720.508.6548
E: eric.olson@coag.gov

Attorney for the State of Colorado

KARL A. RACINE
Attorney General for the District of Columbia

Valerie M. Nannery
OFFICE OF THE ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA
441 4th Street, N.W., Suite 630
South Washington, DC 20001
T: 202.724.6610
E: valerie.nannery@dc.gov

Attorneys for the District of Columbia

Jeff VanDam
Public Interest Counsel
Office of the Illinois Attorney General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601
T: 312.814.1188
E: JVanDam@atg.state.il.us

Attorney for the State of Illinois

Jacob Campion
OFFICE OF THE MINNESOTA ATTORNEY GENERAL
445 Minnesota Street, Suite 1100
St. Paul, Minnesota 55101-2128
T: 651.757.1459
E: jacob.campion@ag.state.mn.us

Attorney for the State of Minnesota

GURBIR S. GREWAL
Attorney General of the State of New Jersey

Glenn J. Moramarco
Katherine A. Gregory
OFFICE OF THE ATTORNEY GENERAL
Richard J. Hughes Justice Complex
25 Market Street, 8th Floor, West Wing
Trenton, New Jersey 08625-0080
T: 609.292.4925
E: Glenn.Moramarco@law.njoag.gov

Attorneys for the State of New Jersey

Ann E. Lynch
Miranda Cover
MASSACHUSETTS ATTORNEY GENERAL'S OFFICE
One Ashburton Place
Boston, Massachusetts 02108
T: 617.727.2200
E: ann.lynch@mass.gov

Attorneys for the Commonwealth of Massachusetts

Heidi Parry Stern
OFFICE OF THE NEVADA ATTORNEY GENERAL
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101
T: 775.684.1100
E: HStern@ag.nv.gov

Attorney for the State of Nevada

Nicholas M. Sydow
Jennie Lusk
ATTORNEY GENERAL OF NEW MEXICO, CIVIL RIGHTS BUREAU
408 Galisteo Street
Santa Fe, New Mexico 87501
T: 505.490.4060
Email: tmaestas@nmag.gov

Attorneys for the State of New Mexico

Nicole deFever
Scott Kaplan
OREGON DEPARTMENT OF JUSTICE
1162 Court Street NE
Salem, Oregon 97301
T: 971.673.1800
E: nicole.defever@doj.state.or.us

Attorneys for the State of Oregon

Benjamin D. Battles
Julio A. Thompson
OFFICE OF THE VERMONT ATTORNEY GENERAL
109 State Street
Montpelier, Vermont 05609-1001
T: 802.828.5500
E: Benjamin.Battles@vermont.gov

Attorneys for the State of Vermont

Laura K. Clinton
Andrew R. W. Hughes
ATTORNEY GENERAL OF THE STATE OF WASHINGTON
Complex Litigation Division
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104
T: 206.233.3383
E: LauraC5@atg.wa.gov

Attorneys for the State of Washington

Justin Sullivan
ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND
150 South Main Street
Providence, Rhode Island 02903
T: 401.274.4400
E: jjsullivan@riag.ri.gov

Attorney for the State of Rhode Island

Michelle S. Kallen
Toby J. Heytens
Martine E. Cicconi
Brittany M. Jones
OFFICE OF THE ATTORNEY GENERAL
202 North Ninth Street
Richmond, Virginia 23219
T: 804.786.7240
E: SolicitorGeneral@oag.state.va.us

Attorneys for the Commonwealth of Virginia

Matthew Jerzyk
CITY OF CENTRAL FALLS
City of Central Falls
580 Broad Street
Central Falls, Rhode Island 02863
T: 401.727.7422
E: MJerzyk@CentralFallsRI.us

Attorney for the City of Central Falls, Rhode Island

Stephen Kane
Rebecca Hirsch
CITY OF CHICAGO LAW DEPARTMENT
Affirmative Litigation Division 1
21 N. LaSalle Street, Room 600
Chicago, Illinois 60602
T: 312.744.6934
E: stephen.kane@cityofchicago.org

Attorneys for the City of Chicago, Illinois

Benjamin H. Field
CITY OF PHILADELPHIA LAW DEPARTMENT
1515 Arch Street, 17th Floor
Philadelphia, Pennsylvania 19102
T: 215.683.5003
E: marcel.pratt@phila.gov

Attorney for the City of Philadelphia

Tonya Jenerette
100 Church Street
New York, New York 10007
T: 212.356.4055
E: tjeneret@law.nyc.gov

Attorney for the City of New York, New York

Jeffrey Dana
CITY OF PROVIDENCE
444 Westminster Street
Providence, Rhode Island 02903
T: 401.680.5333
E: jdana@providenceri.gov

Attorney for the City of Providence, Rhode Island

Rolando L. Rios
110 Broadway
Suite 355
San Antonio, Texas 78205
T: 210.222.2102
E: rrios@rolandorioslaw.com

Attorney for Cameron County, Texas and Hidalgo County, Texas

William M. Litt
OFFICE OF THE COUNTY COUNSEL, COUNTY OF MONTEREY
168 West Alisal Street, 3rd Floor
Salinas, California 93901
T: 831.755.5045
E: McKeeCJ@co.monterey.ca.us

Attorney for Monterey County, California

John Daniel Reaves
U.S. CONFERENCE OF MAYORS
1750 K Street NW, 11th Floor
Washington, DC 20006
T: 202.887.1100
E: jdreavesoffice@gmail.com

Attorney for the U.S. Conference of Mayors

Richard Doyle
Nora Frimann
CITY OF SAN JOSÉ
Office of the City Attorney
200 East Santa Clara Street, 16th Floor
San José, California 95113-1905
T: 408.535.1900
F: 408.998.3131
E: cao.main@sanjoseca.gov

Attorneys for Defendant-Intervenor City of San José

I hereby certify that on August 12th, 2019, I served the foregoing on the following *pro se* Plaintiff via the United States mail in a postage-prepaid and properly addressed envelope:

Morris J. Brooks, Jr.
2101 W Clinton Avenue
Suite 302
Huntsville, Alabama 35805
Pro Se Plaintiff