



**REPLY OF SIMON PARTIES TO PLAINTIFFS' MEMORANDUM IN  
OPPOSITION TO MOTION TO INTERVENE**

Plaintiffs' Memorandum in Opposition to the Simon parties' Motion to Intervene is baseless and due for immediate rejection.

Plaintiffs' claim that the Simon Parties do not challenge currently existing redistricting or redistricting plans adopted in 2010 is correct. However, Plaintiffs do not merely seek to declare 2010 districting plans violative of federal law due to creeping malapportionment and population change, Plaintiffs also request that this Court "order the adoption and implementation of the Redistricting Commission Second Plan" ECF Docket #8, Prayer for Relief. Plaintiffs allege that the Simon parties have not challenged the Second State Plan . Plaintiffs however ignore the fact the Simon parties have been precluded from challenging the Second Plan because of the stay in place in ND Ohio Case No 21-CV-2267 and that the Second Plan suffers from the same defect as the First Plan, failure to consider racial demographics in connection with district configuration.

The Simon Parties have alleged in N.D. Ohio Case NO. 21-CV-2267, that the districting plans adopted by the Redistricting Commission violate the Voting Rights Act of 1965, as amended, the Fourteenth and Fifteenth Amendments and the decree in Armour v. Ohio. The State of Ohio has not remedied this statewide problem in any of its proposed plans. The claims of the Simon parties attached to the redistricting process underway in Ohio well before Plaintiffs' complaint and are thus entitled to first- to- file status . For these reasons Plaintiffs' opposition should be rejected, and if this Honorable Court is inclined to overrule the pending motion to stay or dismiss this action, permit the Simon Parties to intervene as of right and apply the first-to-file rule. Accordingly, it is respectfully

requested that the Simon Parties' motion to intervene be granted and the Plaintiffs' opposition be denied due to its lack of merit.

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served by operation of the United States District Court, Southern District of Ohio electronic filing system, on February 23, 2022.

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