

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ROBYN RENEE ESSEX, et. al.)	
)	
Plaintiff,)	
)	CIVIL ACTION
)	
)	Case No. 12-CV-04046-KHV-DJW
)	
KRIS W. KOBACH,)	
Kansas Secretary of State)	
)	
Defendant.)	

JOINT STIPULATION OF FACTS

I. Background factual information

A. Parties

Plaintiff, Defendant, and Intervenors, by and through counsel, hereby submit the following stipulation of facts for consideration by the court in ruling on this case.

1. Plaintiff Robyn Renee Essex is an individual registered to vote at 1137 E. Frontier Dr., Olathe KS, 66062 located in Johnson County.
2. Defendant Kris W. Kobach is the duly elected, acting and qualified Secretary of State of the State of Kansas. He is the chief elections officers of the state.
3. Intervenor Plaintiff Steve Abrams is a Kansas State Legislator. He is registered to vote at 4579 242nd Rd, Arkansas City, KS 67005 located in Cowley County.
4. Intervenor Plaintiff Frank Beer is an individual registered to vote at 1411 Deep Creek Ln., Manhattan, KS 66502 located in Riley County.
5. Intervenor Plaintiff Walter T. Berry is an individual registered to vote at 3550 N.

- 127th St., Wichita, KS 67226 located in Sedgwick County.
6. Intervenor-Plaintiff Lynn Nichols is an individual registered to vote at 2308 Flint Hills National Parkway, Andover, Kansas, 67002 located in Butler County, Kansas.
 7. Intervenor Plaintiff John W. Bradford is an individual registered to vote at 125 Rock Creek Loop, Lansing, KS 66043 located in Leavenworth County.
 8. Intervenor Plaintiff Benjamin D. Craig is an individual registered to vote at 12529 Knox St., Overland Park, KS 66213, located in Johnson County.
 9. Intervenor Plaintiff Richard Keller is an individual registered to vote at registered to vote at 4115 Grand Ave., Leavenworth, KS 66048, located in Leavenworth County, which is located in the 2nd Congressional District.
 10. Intervenor Plaintiff Paul T. Davis is a Kansas State Legislator. He is registered to vote at 1731 Indiana St., Lawrence, KS 66044, located in Douglas County. Plaintiff Davis is a the House Minority Leader.
 11. Intervenor Plaintiff Marearl Denning is an individual registered to vote at 8416 W. 115th St., Overland Park, KS 66210, located in Johnson County.
 12. Intevenor-Plaintiff John E. Henderson is a registered voter who resides at 3406 N. 154th St., Basehor, Leavenworth County, Kansas 66007, which is located in the 2nd Congressional District, the 3rd State Senatorial District, the 39th State Representative District and the 1st State Board of Education District.
 13. Intervenor Defendant Derek Schmidt is the duly elected, acting, and qualified Attorney General of the State of Kansas.
 14. Intervenor Plaintiff Jeff King is a Kansas State Legislator. He is registered to vote at

1212 N. 2nd St., Independence, KS 67301, located in Montgomery County.

15. Intervenor Plaintiff Brenda Landwehr is a Kansas State Legislator. She is registered to vote at 2837 N. Edwards Ave., Wichita, KS 67204, Sedgwick County, which is located in the 4th Congressional District, 25th State Senate District, and 91st State House District. On October 26, 2011, Representative Landwehr duly filed as a candidate for election to the 25th State Senate seat in 2012.

16. Intervenor Plaintiff Gary Mason is an individual registered to vote at 4245 N. Ironwood, Wichita, KS 67226, Sedgwick County, which is located in the 4th Congressional District, 31st State Senate District, and 85th State House District. On March 6, 2012, Mr. Mason duly filed as a candidate for election to the 31st State Senate seat in 2012.

17. Intervenor Plaintiff Ray Merrick is a Kansas State Legislator. He is registered to vote at 6874 W. 164th Terr., Stilwell, KS 66085, located in Johnson County.

18. Intervenor Plaintiff Lynn Nichols is an individual registered to vote at 2308 E. Flint Hills Natl. Pkwy., Andover, KS 67002, located in Butler County.

19. Intervenor Plaintiff Michael R. O'Neal is a Kansas State Legislator, Speaker of the Kansas House of Representatives, and the Chairman of the House Redistricting Committee. He is registered to vote at 8 Windemere Ct., Hutchinson, KS 67502, located in Reno County.

20. Intervenor-Plaintiff Thomas C. Owens is a registered voter and member of the Kansas State Senate representing the 8th Senatorial District. He is the Chair of the Senate Reapportionment Committee, which is the Senate Committee responsible for Kansas

- redistricting in 2012, and the Chair of the Senate Judiciary Committee. He resides at 7804 W. 100th St., Overland Park, Johnson County, Kansas 66212, which is located in the 3rd Congressional District, the 8th State Senatorial District, the 19th State Representative District, and the 2nd State Board of Education District.
21. Intervenor Plaintiff Carri Person is an individual registered to vote at 5731 Richards Cir., Shawnee, KS 66216, located in Johnson County.
 22. Intervenor Plaintiff Mary Pilcher-Cook is a Kansas State Legislator. She is registered to vote at 13910 W. 58th Pl, Shawnee, KS 66216, located in Johnson County and the 10th Senate District. Intervenor Plaintiff Mary Pilcher-Cook is a Kansas State Senator who has filed for re-election for the 2012 election. She is the chair of the joint Senate and House Legislative Post Audit Committee. Pilcher-Cook has lived in Johnson County her entire life.
 23. Intervenor Plaintiff William Roy Jr. is an individual registered to vote at 20617 W. 96th St., Lenexa, KS 66220, located in Johnson County.
 24. Intervenor-Plaintiff Bernie Shaner is a registered voter who resides at 12314 King St., Overland Park, Johnson County, Kansas 66213, which is located in the 3rd Congressional District, the 37th State Senatorial District, the 29th State Representative District and the 3rd State School Board District.
 25. Intervenor Plaintiff Greg A. Smith is a Kansas State Legislator. He is registered to vote at 8605 Robinson St., Overland Park, KS 66212, Johnson County, which is located in the 3rd Congressional District, 8th State Senate District, and 22nd State House District. On September 9, 2011, Representative Smith duly filed as a

candidate for election to the 8th State Senate seat in 2012.

26. Intervenor Plaintiff Gregg Philip Snell is an individual registered to vote at 5632 Noland Rd., Shawnee, KS 66216, located in Johnson County located in Johnson County and the 10th Senate District.
27. Intervenor Plaintiff L. Franklin Taylor is an individual registered to vote at 26391 W. Cedar Niles Cir., Olathe, KS 66061, located in Johnson County. Intervenor L. Franklin Taylor is a registered voter and votes in Kansas' 3rd Congressional District, the 9th State Senate District, 38th State House District, and 3rd State Board of Education District.
28. Intervenor-Plaintiff Ron Wimmer is a registered voter who resides at 26458 W. 109th Terr., Olathe, Johnson County, Kansas 66061, which is located in the 3rd Congressional District, the 9th State Senatorial District, the 38th State Representative District, and the 3rd State Board of Education District.
29. Intervenor Plaintiff Larry Winn III is an individual registered to vote at 8305 Outlook Ln., Overland Park, KS, 66207, located in Johnson County.
30. Intervenor Plaintiff Kevin Yoder is a United States Congressman. He is registered to vote at 5817 W. 100th Terr., Overland Park, KS 66207, located in Johnson County.

B. The United States Census and Reapportionment

31. In April, 2010, the United States Government conducted its decennial census as required by law. All parties to this litigation have relied and will rely on information obtained from that census.
32. Congress has issued a certificate of entitlement to the Kansas Secretary of State

stating that Kansas is entitled to four Congressional districts in the 2012 elections.

33. The Kansas legislature is required by Article I, Section 2 of the United States Constitution to apportion its congressional seats every ten years, with the most recent apportionment occurring in 2002.
34. By dividing the population of the State of Kansas as determined by the 2010 decennial census into four Congressional districts, the average Congressional district would contain 713,280 persons, a figure which is derived by rounding up from 713,279.5. All parties have adopted 713,280 as the ideal standard population for Kansas Congressional districts.
35. The existing four Congressional districts in Kansas, as set forth in K.S.A. 4-139, K.S.A. 4-141, and K.S.A. 4-142, were established on the basis of the 2000 decennial census of population conducted by the United States Government and are no longer constitutional as a result of substantial shifts in population reflected in the 2010 decennial census.
36. In accordance with Article 2, Section 2 of the Kansas Constitution, the State of Kansas is divided into 40 single member state senatorial districts as set forth in K.S.A. 4-4,454 through K.S.A. 4-4,493 and 125 single member state representative districts as set forth in K.S.A. 4-3,734 through K.S.A. 4-3,858. These state senatorial and representative districts were last reapportioned by the Kansas Legislature during the 2002 legislative session in accordance with section 1 of article 10 of the constitution of the state of Kansas. *See* K.S.A. 4-4,451 (senatorial districts); K.S.A. 4-3,731 (representative districts). Article 10 of the Kansas

Constitution requires the Kansas Legislature to reapportion the state senatorial districts and representative districts on the basis of the population of the state as established by the 2010 decennial census and certain required adjustments during the regular 2012 legislative session.

37. Article 10 Section 1(a) of the Kansas Constitution requires the Kansas Secretary of State to make an adjustment of the 2010 decennial census of population for the State of Kansas in order to exclude nonresident military personnel stationed within the state and nonresident students attending colleges and universities within the state, and to include military personnel stationed within the state who are residents of the state and students attending colleges and universities within the state who are residents of the state in the district of their permanent residence. Adjusted in accordance with this constitutional provision, the population of Kansas for purposes of state reapportionment is 2,839,445 (“total adjusted population”). Based on the State’s total adjusted population, the ideal population for each Kansas state senatorial district is 70,986 and the ideal population for each Kansas state representative district is 22,716. The parties have adopted these figures as the ideal standard.

38. Article 6 of the Kansas Constitution requires the Kansas Legislature to provide for districts for the Kansas State Board of Education, with each district being comprised of four contiguous Kansas Senate districts.

39. Based on the State’s total adjusted population, the ideal population for each Kansas State Board of Education district is 283,944 and all parties have adopted 283,944 as the ideal standard population for Kansas Board of Education District.

40. The Kansas Legislature adjourned its extended regular 2012 session on May 20, 2012, and has failed to reapportion the Kansas congressional districts as required by Article I, Section 2 of the United States Constitution, and has failed to reapportion the Kansas State Legislature and Kansas State Board of Education as is required by Article 10 and Article 6 of the Kansas Constitution. However, the extended regular session will not technically conclude prior to ceremonial final adjournment or sine die on June 1, 2012. The parties agree that there is no practical likelihood that the legislature will reapportion the Kansas congressional, state legislative and Kansas State Board of Education districts.

41. The parties agree and stipulate that the congressional, state senatorial, state representative, and state board of education districts based on the 2002 apportionment plans set forth in pertinent provisions of Chapter 4 of the Kansas Statutes Annotated are not apportioned based on the 2010 decennial census or the State's total adjusted population, as applicable.

42. Recognizing that Kansas Congressional, State Legislative, and State Board of Education districts must be redrawn for the 2012 primary and general elections, the 2011 Kansas Legislature began the redistricting process. Although both chambers passed several bills, no congressional, state legislative, and State Board of Education reapportionment plan passed both chambers and was signed by the Governor.

II. Legislative Information

A. The Special Committee

43. In 2011, the Special Committee on Redistricting conducted public hearings to gain

information from individuals across the State of Kansas. A copy of a news release giving details about the locations of the public hearings is attached as **Exhibit 1**. A revised schedule was later issued and is attached as **Exhibit 2**.

44. The Special Committee on Redistricting conducted six days of public hearings. The minutes of those public hearings are attached as **Exhibits 3** through **Exhibit 8**.

B. The House and Senate Committees

45. In January 2012, the Kansas House and Senate agreed to Guidelines and Criteria for the 2012 legislative and congressional redistricting process. A copy of the Guidelines is attached hereto as **Exhibit 9**.

46. The Kansas House and Senate agreed to Technical Committee Rules for the 2012 legislative and congressional redistricting process. A copy of the Rules are attached hereto as **Exhibit 10**.

47. The House Redistricting Committee conducted hearings throughout the legislative session. Minutes, written testimony, and reports from each Committee hearing are attached as **Exhibit 11** through **27**.

48. The Senate Reapportionment Committee also conducted hearings throughout the legislative session. Minutes, written testimony, and reports from each Committee hearing are attached as **Exhibit 28** through **43**.

C. Maps Considered by Kansas Legislature.

1. Congressional Maps

49. The Population Summary Report for the map entitled “34th Great State” is attached as **Exhibit 44** and a general depiction is attached as **Exhibit 45**.

50. The Population Summary Report for the map entitled “Black & White” is attached as **Exhibit 46** and a general depiction is attached as **Exhibit 47**.
51. The Population Summary Report for the map entitled “Bob Dole 1” is attached as **Exhibit 48** and a general depiction is attached as **Exhibit 49**.
52. The Population Summary Report for the map entitled “Capitol 1” is attached as **Exhibit 50** and a general depiction is attached as **Exhibit 51**.
53. The Population Summary Report for the map entitled “Ella & Jean” is attached as **Exhibit 52** and a general depiction is attached as **Exhibit 53**.
54. The general depiction for the map entitled “Free Willie” is attached as **Exhibit 54** and a Population Summary is attached as **Exhibit 55**.
55. The Population Summary Report for the map entitled “Kansas Six” is attached as **Exhibit 56** and a general depiction is attached as **Exhibit 57**.
56. The Population Summary Report for the map entitled “Sunflower 9C” is attached as **Exhibit 58** and a general depiction is attached as **Exhibit 59**.
57. The Population Summary Report for the map entitled “Sunflower 13” is attached as **Exhibit 60** and a general depiction is attached as **Exhibit 61**.
58. The Population Summary Report for the map entitled “Tradition” Amendment is attached as **Exhibit 62** and a general depiction is attached as **Exhibit 63**.
59. The Population Summary Report for the map entitled the “Groundhog 1 Amendment” is attached as **Exhibit 64** and a general depiction is attached as **Exhibit 65**.

2. State Senate Maps

60. The Population Summary Report for the map entitled “Ad Astra” is attached as

- Exhibit 66** and a general depiction is attached as **Exhibit 67**.
61. The Population Summary Report for the map entitled “Ad Astra Revised JOCO Wichita 3” is attached as **Exhibit 68** and a general depiction is attached as **Exhibit 69**.
62. The Population Summary Report for the map entitled “Buffalo 30” is attached as **Exhibit 70** and a general depiction is attached as **Exhibit 71**.
63. The Population Summary Report for the map entitled “Buffalo 30-Revised” is attached as **Exhibit 72** and a general depiction is attached as **Exhibit 73**.
64. The Population Summary Report for the map entitled “For the People 6” is attached as **Exhibit 74** and a general depiction is attached as **Exhibit 75**.
65. The Population Summary Report for the map entitled “For the People 12” is attached as **Exhibit 76** and a general depiction is attached as **Exhibit 77**.
66. Population Summary Report for the map entitled “For the People 13b” is attached as **Exhibit 78** and a general depiction is attached as **Exhibit 79**.
67. Population Summary Report for the map entitled “Wheat State 1” is attached as **Exhibit 80** and a general depiction is attached as **Exhibit 81**.
68. Population Summary Report for the map entitled “Wheat State 5” is attached as **Exhibit 82** and a general depiction is attached as **Exhibit 83**.
3. State Board of Education Maps
69. A general depiction of the map “For the People 13bv1-SBOE” is attached as **Exhibit 84**.
70. A general depiction of the map entitled “Ad Astra Revised – SBOE” is attached as

Exhibit 85.

71. A general depiction of the map entitled “Buffalo 30-Revised-SBOE” is attached as

Exhibit 86.

4. State House Maps

72. The Population Summary Report for the map entitled “Cottonwood 1” is attached as

Exhibit 87 and a general depiction is attached as **Exhibit 88.**

73. The Population Summary Report for the map entitled “Cottonwood II” is attached as

Exhibit 89 and a general depiction is attached as **Exhibit 90.**

D. The House and Senate Floors

74. On February 8, 2012, the Kansas Senate passed SB 344 (*See Exhibit 91* attached) by a vote of 23-17. *See Exhibit 92* attached. SB 344 contained the Congressional map “Sunflower 9C.” *See* February 8th Journal of the Senate, p. 1478 attached as **Exhibit 93.**

75. On February 8, 2012, the Kansas Senate voted down an amendment to SB 344 (*See Exhibit 94* attached) by a vote of 17-22 (*See Exhibit 95* attached). The amendment attempted to introduce Congressional map “34th Great State.” *See Exhibit 96* attached and February 8th Journal of the Senate, p. 1478 attached as **Exhibit 97.**

76. On February 9, 2012, the Kansas House passed HB 2606 (*See Exhibit 98* attached) by a vote of 109-14. *See Exhibit 99* attached and February 9th Journal of the House, p. 1809 attached as **Exhibit 99a.** HB 2606 contained the House map “Cottonwood 1.”

77. On March 21, 2012, SB 344 was voted down by the Kansas House on a motion to

concur by a vote of 48-76. *See Exhibit 100* attached and March 21st Journal of the House, p. 2230 as **Exhibit 101**. SB 344 contained the Congressional map “Sunflower 9C.”

78. On March 21, 2012, the Kansas Senate voted down an amendment to HB 2606 (*See Exhibit 102* attached) by a vote of 19-21. *See Exhibit 103* attached and March 21 Journal of the Senate, p. 2057 attached as **Exhibit 104**. The amendment attempted to introduce Senate map “For the People 6.”
79. On March 29, 2012, the Kansas House passed SB 176 (*See Exhibit 105* attached) by a vote of 81-43. *See Exhibit 106* attached and March 29th Journal of the House, p. 2310 as **Exhibit 107**. SB 176 contained the maps “Bob Dole 1” for Congress, and “Cottonwood II” for the Kansas House.
80. On March 30, 2012, SB 176 was voted down by the Kansas Senate on a motion to concur by a vote of 14-24. *See Exhibit 108* attached and March 30th Journal of the Senate, p. 2160 as **Exhibit 109**. SB 176 contained the maps “Bob Dole 1” for Congress, and “Cottonwood II” for the House.
81. On May 1, 2012, the Kansas Senate passed HB 2371 (*See Exhibit 110* attached) by a vote of 21-19. *See Exhibit 111* attached and May 1st Journal of the Senate, p. 2535 as **Exhibit 112**. HB 2371 contained the maps “Cottonwood 1” for the House, “Ad Astra Revised JOCO Wichita 3” for the Senate, and “Ad Astra Revised-SBOE” for the State Board of Education.
82. On May 1, 2012, the Kansas Senate voted down an amendment to HB 2371 (*See Exhibit 113* attached) by a vote of 8-28. *See Exhibit 114* attached and May 1st

- Journal of the Senate, p. 2486 as **Exhibit 115**. The amendment attempted to introduce Senate map “Wheat State 1.”
83. On May 1, 2012, the Kansas Senate voted down an amendment to HB 2371 (*See Exhibit 116* attached) by a vote of 19-21. *See Exhibit 117* attached and May 1st Journal of the Senate, p. 2453 as **Exhibit 118**. The amendment introduced Senate map “For the People 12.” (*See Exhibit 119* attached).
84. On May 2, 2012, HB 2371 was voted down by the Kansas House on a motion to concur by a vote of 43-72. *See* May 2nd Journal of the House, p. 2399 as **Exhibit 120**. HB 2371 contained the maps “Cottonwood 1” for the House, “Ad Astra Revised JOCO Wichita 3” for the Senate, and “Ad Astra Revised-SBOE” for the State Board of Education.
85. On May 10, 2012, the Kansas House voted down an amendment to SB 102 (*See Exhibit 121* attached) in an unrecorded vote. *See Exhibit 122* attached and May 10th Journal of the House p. 2562 as **Exhibit 123**. The amendment introduced Senate map “Wheat State 5.”
86. On May 10, 2012, the Kansas House passed SB 102 (*See Exhibit 124* attached) by a vote of 67 to 50. *See Exhibit 125* attached and May 10th Journal of the House, p. 2564 as **Exhibit 126**. SB 102 contained the maps “Cottonwood II” for the House, “For the People 13b” for the Senate, and “For the People 13bv1-SBOE” for the State Board of Education.
87. On May 18, 2012, the Kansas Senate passed HB 2087 (*See Exhibit 127* attached) by a vote of 21-17. *See Exhibit 128* attached and May 18th Journal of the Senate, p.

3232 as **Exhibit 129**. HB 2087 contained the maps “Buffalo 30-Revised” for the Senate and “Buffalo 30-Revised-SBOE” for the Board of Education. The House did not take action on HB 2087 and the legislature adjourned until *Sine Die*.

III. Other General Matters

88. Subject to technical defects, the Kansas Legislative Research Department (KLRD) is the custodian of certain redistricting plans that have been retained in the “Maptitude” database as well as through statutory language contained in various pieces of legislation. KLRD’s versions of the various plans are accurate representations associated with the respective map names and the Court may rely on such documents and database.
89. In addition to the Population Summaries above, KLRD has provided an analysis packet for plans considered during the 2012 legislative session. The parties agree that, subject to technical defects, such reports accurately reflect the demographic information for each respective plan and may be relied upon by the Court and they are admissible without further foundation or testimony. Such information may be accessed at <http://www.sos.ks.gov/elections/redistricting/>.
90. Parties hereto agree that all census data contained in the Kansas Legislative Research Department’s (KLRD) “Maptitude” database contains accurate adjusted and unadjusted census figures. Subject to technical defects, the population and demographic figures contained therein are accurate and may be relied upon by the Court for the purposes of reapportioning all congressional, state legislative, and State Board of Education districts in the State of Kansas.

91. Plans proposed in the legislature can also be found at <http://redistricting.ks.gov/>.

Parties agree that maps posted on this website and associated reports from KLRD are accurate representations of the various plans proposed. The parties agree that citing to particular maps and reports on this website by name or web address shall be sufficient identification for briefs and memoranda. Such documents are admissible without further foundation or testimony.

92. Parties agree that the legislative record as expressed on the Kansas Legislature's website (<http://kslegislature.org/li/>) is an accurate representation of votes and action taken on various pieces of legislation and the reapportionment plans contained therein. The parties agree that citing to legislation or legislative action on this website shall be sufficient identification for briefs and memoranda. Such documents are admissible without further foundation or testimony.

93. A list of historical redistricting maps related to state senatorial districts is attached hereto as **Exhibit 130**. The parties agree that such maps are accurate representations of the state senatorial districts throughout the times indicates and may be relied upon by the Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on counsel for Plaintiff via the Court's Electronic Filing System, this 25th day of May, 2012.

/s/ Ryan A. Kriegshauser
Attorney for the Defendant