

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

LATASHA HOLLOWAY, GEORGIA
ALLEN, CARLOS PAGÁN, and NICOLE
BOEHM,

Plaintiffs,

v.

CITY OF VIRGINIA BEACH, CITY OF
VIRGINIA BEACH CITY COUNCIL,
DAVID HUTCHESON, BARBARA
HENLEY, MICHAEL BERLUCCHI,
AMELIA ROSS-HAMMOND, ROSEMARY
WILSON, WORTH REMICK, CALVERN
JACKSON-GREEN, STACY CUMMINGS,
JOSHUA SCHULMAN, JENNIFER ROUSE,
BOBBY DYER, in their official capacity as
members of the Virginia Beach City Council,
PATRICK DUHANEY, in his official capacity
as City Manager, and CHRISTINE LEWIS, in
her official capacity as Director of
Elections/General Registrar for the City of
Virginia Beach,

Defendants.

**PLAINTIFFS' SECOND
AMENDED COMPLAINT**

Civil Action No. 2:18-cv-0069

Pursuant to Rule 15 of the Federal Rules of Civil Procedure and this Court's July 8, 2025 Order, ECF No. 338, Plaintiffs file this Second Amended Complaint. Plaintiffs Latasha Holloway, Georgia Allen, Carlos Pagán, and Nicole Boehm bring this action under the U.S. Constitution, 42 U.S.C. § 1983, 52 U.S.C. § 10301 *et seq.*, 28 U.S.C. § 1367, and Va. Code Ann. § 24.2-125 *et seq.* against the City of Virginia Beach, the Virginia Beach City Council ("City Council"), Defendants David Hutcheson, Barbara Henley, Michael Berlucchi, Amelia Ross-Hamond, Rosemary Wilson, Worth Remick, Calvern "Cash" Jackson-Green, Stacy Cummings, Joshua Schulman, Jennifer Rouse, and Robert "Bobby" Dyer, in their official capacity as members of the Virginia Beach City

Council, Patrick Duhaney, in his official capacity as City Manager, and Chistine Lewis, in her official capacity as Director of Elections, and allege the following:

INTRODUCTION

1. This action challenges the 7-3-1 system of election now set to govern future Virginia Beach City Council elections and seeks to replace it with a system in which the City's Black, Hispanic/Latino, and Asian/Asian American Pacific Islander (AAPI) voters ("Minority Community") have an equal opportunity to elect their preferred candidates. The 7-3-1 system would impermissibly deny the Minority Community an equal opportunity to participate in the political process and to elect representatives of their choice, in violation of Section 2 of the Voting Rights Act 52 U.S.C. § 10301 ("Section 2") as well as the Virginia Voting Rights Act ("VAVRA"), Va. Code Ann. § 24.2-125 *et seq.*

2. The City of Virginia Beach is the largest city in Virginia, and the City Council is the governing authority in Virginia Beach. The City Council makes decisions that profoundly affect the health, well-being, and livelihood of Virginia Beach residents.

3. For decades and until 2021, the City of Virginia Beach maintained an unusual and discriminatory at-large election system that diluted the voting strength of the City's Minority Community. After years of complex litigation, including extensive discovery and testimony from numerous lay and expert witnesses at trial, this Court found that the City's at-large election system violated Section 2 of the Voting Rights Act.

4. As a result of the Section 2 violation, the Court held a fulsome remedial process, in which Plaintiffs and the City submitted proposed remedial maps, including options with 10 members elected via single-member districts and the Mayor elected at-large ("10-1 system") and an option with seven single-member districts, three members elected from super-wards, and the

Mayor elected at-large (“7-3-1 superward system”). Both parties recommended that the world’s leading redistricting expert, Dr. Bernard Grofman, be selected as a special master to ensure that a remedial map and election system would be chosen to remedy the Section 2 violation on behalf of the Minority Community, and the Court selected Dr. Grofman.

5. After thoroughly evaluating the options of election systems, including the 7-3-1 superward system, Dr. Grofman selected a 10-1 system and map. Dr. Grofman specifically found that a 7-3-1 superward system would be dilutive and not provide the Minority Community with an equal opportunity to participate in the City’s electoral process. This Court adopted Dr. Grofman’s findings.

6. The City implemented the 10-1 system while this case was on appeal to the Fourth Circuit. In July 2022, the Fourth Circuit held that the case had been mooted due to the passage of HB2198, which changed the City’s method of election for City Council to a modified 7-3-1 system by requiring that any city with residency districts elect its council members from those districts. Because Virginia Beach had 7 residency districts, HB2198 had the effect of creating a system where 7 councilmembers would be elected from districts while 3 councilmembers and the mayor would be elected at-large (“7-3-1 system”).

7. However, the Fourth Circuit remanded the case to this Court for further proceedings, explicitly allowing Plaintiffs to amend their complaint or further develop the record to challenge the City’s new 7-3-1 system. The Fourth Circuit decision came too late to impact the 2022 election, and the City utilized the 10-1 system for that election.

8. In the meantime, the City Council continued to explore its options for election systems. The City conducted public hearings and a statistically-validated survey that found that the public widely supported (81%) the 10-1 system. In 2023, the City adopted the 10-1 system via

ordinance and requested that the General Assembly amend the City's Charter to implement the 10-1 system.

9. In January 2024, parties supported by special interests filed a state lawsuit, *Linwood Branch v. City of Virginia Beach*, No. CL24-322 (Va. Cir. Ct. Jan. 24, 2024), alleging that the City's adoption of the 10-1 system violated state law and seeking instead to utilize the 7-3-1 system for City Council elections.

10. The City published a statement in response to the filing of the *Branch* lawsuit, including the conclusion that "[b]ecause a federal court found that racially polarized voting exists in Virginia Beach and an at large method of election in Virginia Beach dilutes minority voting strength, no local election system for Virginia Beach that includes an at-large method of election, including one that combines at-large elections with district- or ward-based elections (such as the system set forth in the charter) may be imposed." Statement From City of Virginia Beach Regarding Challenges to the 10-1 Election System (Jan. 25, 2024), <https://perma.cc/P498-E5VP>.

11. In the 2024 legislative session, the General Assembly approved the City's charter amendment to implement a 10-1 system and sent it to Virginia's Governor twice, but Governor Youngkin amended and then vetoed the bill.

12. Despite 81% of the City supporting the 10-1 system, this Court's findings and public testimony regarding the discriminatory impact of at-large voting in Virginia Beach, and the City Attorney's legal advice and the City's own public statements that the 10-1 system is the only way to comply with federal and state law, including the federal VRA and VAVRA, four members of the City Council voted in November 2024 *not* to request a charter amendment to implement the 10-1 system as a part of the City's 2025 legislative agenda. Because, in 2023, the City adopted a

three-fourths majority requirement for charter change requests to be added to the legislative agenda, the City therefore failed to make the 10-1 system charter change request in 2025.

13. In February 2025, the General Assembly passed a bill (SB814) which would have permitted Virginia Beach to continue implementing its 10-1 system without need for a charter change. However, in March 2025, Virginia’s Governor Youngkin vetoed the bill.

14. On March 24, 2025, the *Branch* plaintiffs filed a Motion for Summary Judgment seeking “[a]n order mandating that the Defendants adopt the 7-3-1 System” and “reinstitute the three at-large seats on City Council.” ECF No. 322-5 at 3, Mot. for Summ. J., *Linwood Branch v. City of Virginia Beach*, No. CL24-322 (Va. Cir. Ct. Mar. 24, 2025).

15. On May 6, 2025, the City Council voted in favor of placing a referendum on the November 2025 ballot asking what system of election should be used in future elections. The language approved by Defendants will ask “Should the method of City Council Elections set forth in the Virginia Beach City Charter be changed from a modified 7-3-1 system to a 10-1 system?”. ECF No. 329-1 at 3, 5.

16. This referendum will take place in an off-year election, in an electorate that this Court has found to be, and Defendants have admitted is, racially polarized, and with a history of the Minority Community supporting a 10-1 system in the face of opposition.

17. At least two newly-elected City Council members, Stacy Cummings and Calvern “Cash” Jackson-Green, and Mayor Robert “Bobby” Dyer have stated that they believe the 7-3-1 system should be used for City Council elections. At least Councilmembers Cummings and Jackson-Green have reportedly been using their connections to support the pro-7-3-1 referendum effort.

18. On June 30, 2025, the *Branch* court granted the *Branch* plaintiffs' Motion for Summary Judgment, holding that the Virginia Beach City Council was not permitted to change its system of election from the 7-3-1 system reflected in the City Charter, as modified by HB2198, to a 10-1 system without a charter change passed by the Virginia General Assembly and signed into law by the Governor.

19. As a result of the *Branch* court's Order, the 7-3-1 system of election is now set to govern future Virginia Beach City Council elections.

20. Plaintiffs request that this Court: (1) issue a declaratory judgment that the 7-3-1 system for electing members to the City Council required by state law dilutes the voting strength of the Minority Community in violation of Section 2 of the VRA; (2) issue a declaratory judgment that the 7-3-1 system for electing members to the City Council violates VAVRA by diluting the voting strength of the Minority Community and retrogressing the voting strength of the Minority Community with respect to their effective exercise of the electoral franchise; (3) issue an injunction against the City's further use of a 7-3-1 method of election for the City Council; (4) issue an order requiring the implementation of a method of election that complies with Section 2 of the VRA and VAVRA; (5) grant an award to Plaintiffs of costs, reasonable attorneys' fees, and litigation expenses incurred in bringing this action; (6) grant any further relief as the Court deems just and equitable; and (7) retain jurisdiction of this action to render any further orders that this Court may deem appropriate.

PARTIES

21. Plaintiff Latasha Holloway is a qualified, registered Black voter who lives in Virginia Beach, Virginia. Plaintiff Holloway resides in City Council District 4 in the 10-1 Plan.

The 10-1 Plan provides Plaintiff Holloway with an equal opportunity to elect candidates of choice to the City Council. Plaintiff Holloway intends to vote in future elections.

22. Plaintiff Georgia Allen is a qualified, registered Black voter who lives in Virginia Beach, Virginia. Plaintiff Allen resides in City Council District 4 in the 10-1 Plan. The 10-1 Plan provides Plaintiff Allen with an equal opportunity to elect candidates of choice to the City Council. Plaintiff Allen intends to vote in future elections.

23. Plaintiff Carlos Pagán is a qualified, registered Latino voter who lives in Virginia Beach, Virginia. Plaintiff Pagán resides in City Council District 7 in the 10-1 Plan. The 10-1 Plan provides Plaintiff Pagán with an equal opportunity to elect candidates of choice to the City Council. Plaintiff Pagán intends to vote in future elections.

24. Plaintiff Nicole Boehm is a qualified, registered Filipino, Mexican American voter who lives in Virginia Beach, Virginia. Plaintiff Boehm resides in City Council District 7 in the 10-1 Plan. The 10-1 Plan provides Plaintiff Boehm with an equal opportunity to elect candidates of choice to the City Council. Plaintiff Boehm intends to vote in future elections.

25. Plaintiffs oppose a 7-3-1 system, including on the upcoming November 2025 City referendum, because such a system does not provide Black, Latino, and AAPI voters in the City with an equal opportunity to elect candidates of their choice to the City Council and will result in a retrogression of the Minority Community's position with respect to their effective exercise of the electoral franchise.

26. Defendant City of Virginia Beach, a municipal corporation established under the laws of Virginia, is the governing authority of Virginia Beach. Va. Code Ann. §§ 15.2-1100–1131. The City of Virginia Beach is located in southeastern Virginia and is a political subdivision within the meaning of and subject to the requirements of Section 2 of the Voting Rights Act.

27. Defendant Virginia Beach City Council is the governing body of the City of Virginia Beach.

28. Defendants David Hutcheson, Barbara Henley, Michael Berlucchi, Amelia Ross-Hamond, Rosemary Wilson, Worth Remick, Calvern “Cash” Jackson-Green, Stacy Cummings, Joshua Schulman, Jennifer Rouse, and Robert “Bobby” Dyer, are members of the City Council. All councilmembers are sued in their official capacities only.¹

29. Defendant Patrick Duhaney is the City Manager for Defendant Virginia Beach. He is sued in his official capacity only.

30. Defendant Christine Lewis is the Director of Elections/General Registrar for the City of Virginia Beach, responsible for conducting City Council elections, maintaining current registration and elections processes for Virginia Beach voters, and ensuring compliance with state and federal voting laws. She is sued in her official capacity only.

JURISDICTION AND VENUE

31. This Court has jurisdiction to hear this action’s federal claims for legal and equitable relief pursuant to 28 U.S.C. §§ 1343(a) and 1357, 42 U.S.C. § 1983, and 52 U.S.C. § 10301 *et seq.* This Court also has general jurisdiction under 28 U.S.C. § 1331 for this action’s claims arising under the laws and Constitution of the United States.

32. This Court has supplemental jurisdiction over this action’s state law claims pursuant to 28 U.S.C. § 1367 which provides that “in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims

¹ Under Rule 25(d) of the Federal Rules of Civil Procedure, the successor of a public officer who is party to a lawsuit is “automatically substituted as a party” if the public officer dies, resigns, or otherwise ceases to hold office while the action is pending. *Id.* This is true for the city councilmembers who have changed since the filing of this lawsuit, as well as for the City Manager and Director of Elections.

that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” *See, e.g., Wisconsin Dep’t of Corr. v. Schacht*, 524 U.S. 381, 387 (1998); *White v. Cnty. of Newberry, S.C.*, 985 F.2d 168, 171 (4th Cir. 1993).

33. This Court has jurisdiction to grant the declaratory and injunctive relief requested by Plaintiffs, pursuant to 28 U.S.C. §§ 2201 and 2202, the Declaratory Judgment Act, and Federal Rules of Civil Procedure 57 and 65.

34. Jurisdiction for Plaintiffs’ claim for costs and attorneys’ fees is based upon Federal Rule of Civil Procedure 54, 42 U.S.C. § 1988, 52 U.S.C. § 10310(e), and Va. Code. Ann. § 24.2-129.

35. This Court has personal jurisdiction over the Defendants.

36. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred and will occur in this judicial district.

FACTS AND BACKGROUND

The City Council of Virginia Beach

37. The eleven-member City Council is the governing body for the City of Virginia Beach. The Council is made up of 10 council members, who were previously elected at-large but were elected from single-member districts in the 2022 and 2024 elections, and the mayor who is elected at-large.

38. Upon information and belief, local elections in Virginia Beach are nonpartisan, but candidates often do have known party affiliations.

39. Virginia Beach operates under a council-manager system of government in which the City Council appoints the City Manager, who is the executive and administrative head of the City, and serves at the pleasure of the Council. The City Manager has the power and the duty to appoint all officers and employees of the City, delegate power to such appointees, and remove his subordinates.

40. Since 1966 until its adoption of the 10-1 system of election, the City had elected only five Black councilmembers (Aaron Rouse, Sabrina Wooten, Dr. Amelia Ross-Hammond, Louisa M. Strayhorn, and John L. Perry), one AAPI councilmember (Ron A Villanueva), and no Latino councilmembers.

41. Prescott Sherrod, an African-America businessman in Virginia Beach, was appointed to the City Council in 2011 and was not reelected to this seat six months later, despite being the minority candidate of choice.

42. John L. Perry, Louisa M. Strayhorn, Prescott Sherrod, and Dr. Amelia Ross-Hammond were not reelected and each only served one term. Since the 10-1 system has been in place, Dr. Ross-Hammond has again been elected.

43. In 1986, John L. Perry was elected as the representative of the Bayside district, becoming the first Black candidate to hold a seat on the City Council.

44. Lousia M. Strayhorn was elected in 1994, becoming only the second Black candidate to hold a City Council seat in Virginia Beach.

45. In 1998, when Louisa M. Strayhorn unsuccessfully ran for reelection, she faced explicit racist threats stating things like “we’re going to make sure that n--ger doesn’t get elected” and, after the election, “people would drive by []and say, ‘See, n--ger, we said we’d get you.’” *Holloway v. City of Virginia Beach*, 531 F. Supp. 3d 1015, 1091 (E.D. Va. 2021). Ms. Strayhorn

testified that “on an average of 57 times I was threatened when I ran for reelection because of the color of my skin and that they did not know that I was African-American when I ran, and that now that they did – and they used the ‘N’ word” *Id.* (internal quotations omitted).

46. In 2016, Dr. Amelia Ross-Hammond lost reelection to Jessica Abbott, a 27-year-old white candidate. White bloc voting contributed to Abbott’s victory.

47. As this Court found, the elections of Rouse and Wooten were marked by special circumstances, including because they occurred after the original filing of this lawsuit. *Id.* at 1077.

48. The most recent election for seats on the City Council took place on November 5, 2024. The next scheduled City Council election will be on November 3, 2026.

The 7-3-1 System of Election Would Prevent the Minority Community from Electing Candidates of Choice under Thornburg v. Gingles

49. The United States Supreme Court, in *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986), identified three necessary preconditions (“the *Gingles* preconditions”) for a claim of vote dilution under Section 2 of the Voting Rights Act:

- (1) The minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”;
- (2) The minority group must be “politically cohesive”; and
- (3) The majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.”

50. Each of these preconditions exist here.

51. In addition to the presence of the three *Gingles* preconditions, the totality of the circumstances in this case supports Plaintiffs’ claim that the Minority Community has less opportunity than other members of the electorate to participate in the political process and elect

candidates of choice to the City Council in violation of Section 2 of the Voting Rights Act and the Virginia Voting Rights Act.

Virginia Beach Demographics

52. Virginia Beach is located in southeastern Virginia. It is the largest city in Virginia with 459,470 residents according to the 2020 Census.

53. As this Court and Dr. Grofman have found, the Black, Hispanic, and Asian American population in Virginia Beach is sufficiently large and geographically compact to form the majority in at least three single member districts. *Holloway*, 531 F. Supp. 3d at 1031, 1056-64; ECF No. 281-1 at 4-6; ECF No. 290.

54. In particular, Dr. Grofman found that the Black, Hispanic, and Asian population is geographically concentrated on the western edge of the City. ECF No. 281-1 at 4-5.

55. According to Dr. Grofman's report, which utilizes the 2020 Census total population estimates, the combined Black, Hispanic, and Asian total population in the City is 40.5%, the combined citizen voting age population ("CVAP") is 32.8%, and the combined voting age population ("VAP") is 37.2%. *Id.* at 6.

56. According to the 2022 ACS 5-Year estimates, the combined Black, Hispanic, and Asian American CVAP is 34.2% (with Black voters at 19.9%, Hispanic voters at 7.2%, and Asian American voters at 7.2%).

57. Dr. Grofman found that it was possible, particularly in a 10-1 map, to "'naturally' create reasonably compact and contiguous districts with high minority population even with no attention to race simply because of the pattern of geographic concentrations of minorities in the City." *Id.*

58. Numerous maps in the record, including Plaintiffs’ remedial proposal and the 10-1 plan adopted by this Court, demonstrate that it is possible to draw at least three geographically compact districts each with a combined minority CVAP above 50%. *Id.*

59. Dr. Grofman found that “the minority population in Virginia Beach is sufficiently concentrated that drawing three 50%+ minority CVAP districts in the area of heaviest minority population can readily be done.” *Id.*

Voting in Virginia Beach is Racially Polarized

60. Both this Court and Dr. Grofman have found that racially polarized voting exists in Virginia Beach. In particular, Minority Community voters in Virginia Beach are cohesive and white bloc voting usually defeats the Minority Community’s candidates of choice. *Holloway*, 531 F. Supp. 3d at 1064-78; ECF No. 281-1 at 8-23; ECF No. 290.

61. Relying on credible expert testimony at trial, this Court found that “Plaintiffs provided sufficient evidence showing consistent minority cohesive voting for a minority-preferred candidate and that whites overwhelmingly vote for different candidates.” *Holloway*, 531 F. Supp. 3d at 1068.

62. Plaintiffs’ expert, Dr. Douglas Spencer, used reliable statistical techniques to “estimate[] the joint preference of non-white voters overall, as well as the individual preferences of Black voters and white voters.” *Id.* at 1067-68.

63. In doing so, Dr. Spencer found that Black voters exhibited similar voting preferences as the joint preferences of non-white voters (including Latino and Asian American voters), indicating cohesion among the Minority Community. *Id.* at 1068.

64. The Court examined a host of prior elections and record evidence and concluded that they show political cohesion among Black, Hispanic, and Asian American voters. In particular,

the district court found “strong evidence of minority voter cohesion in seven [city council] elections with nine minority candidates” from 2008 to 2018, five additional city elections featuring white candidates preferred by the minority community, and in several elections for offices other than city council, such as recent presidential and congressional elections. *Id.* at 1068-72.

65. Dr. Grofman, one of the world’s leading redistricting experts, also concluded that Hispanic, Black, and Asian American voters are cohesive and that white bloc voting usually defeats their candidates of choice, resulting in racially polarized voting. ECF No. 281-1 at 8-23.

66. Dr. Grofman found that based on “high levels of demonstrated socio-economic cohesion and very high levels of minority electoral cohesion,” Hispanic, Black, and Asian American voters in Virginia Beach are “unquestionably politically cohesive in [their] support of minority candidates.” *Id.* at 19.

67. Dr. Grofman found that his assessment of racially polarized voting in his report provided “essentially indisputable evidence of political cohesive patterns of voting for both White voters and for minority voters in terms of electoral cohesion.” *Id.* at 18-20.

68. Dr. Grofman also concluded that the political cohesion of the Minority Community was confirmed by Dr. Spencer’s statistical analysis. *Id.* at 16 (noting that analysis comparing voting patterns “of exactly th[e] sort” performed by Plaintiffs’ expert “allows inferences about racially polarized voting patterns vis-à-vis the minority group as a whole”).

69. Dr. Grofman found that “as the Court previously concluded, and based on my own independent review of the evidence, the minority community is politically cohesive in its support for the set of minority candidates and the non-minority community is politically cohesive in its support for non-minority candidates.” *Id.* at 22.

70. Dr. Grofman found that “the only election year in which more than one minority candidate was elected, 2018, involved special circumstances.” *Id.* at 20.

71. Dr. Grofman concluded that “as the Court previously concluded, and based on my own independent review of the evidence, voting in the City of Virginia Beach in its non-partisan city council elections is clearly polarized along racial/ethnic lines.” *Id.* at 22.

72. Dr. Grofman also concluded that “minority candidates of choices regularly lost in at-large elections under the previous map. Minority candidates would have won far more often had only minority voters been voting, i.e., minority candidates regularly lost due to white bloc voting.” *Id.* at 23; *see also id.* at 19-22.

73. Dr. Grofman’s conclusions were also confirmed by “a statistical study by Dr. Lisa Handley establishing that voting is racially polarized in Virginia Beach” which was presented by the City at the special plea stage of the *Branch* litigation. ECF No. 327-1 at 16.

74. In addition to statistical evidence, qualitative evidence confirms that Black, Latino, and AAPI voters in Virginia Beach are cohesive.

75. After reviewing the qualitative evidence and credibility of witnesses, this Court found that the Minority Community in Virginia Beach is cohesive because they “have a history of advocating for similar political and legal issues, and have similar experiences of discrimination.” *Holloway*, 531 F. Supp. 3d at 1064.

76. This Court found that the Minority Community has long advocated together as a coalition in the City, including when seeking: abandonment of the City’s dilutive at-large system; racial justice in 2003 and the removal of Confederate monuments in 2019; creation of a Minority Business Council; a disparity study of city contracts; housing reform; improving public

transportation; and a range of reforms through the Virginia Beach Concerned Citizens coalition, which included Filipino-American leaders and organizations. *Id.* at 1064-67.

The Totality of the Circumstances Confirms the Dilutive Effect of At-Large Elections on Virginia Beach Minority Voters' Opportunity to Participate in the Political Process and Elect Candidates of Their Choice

77. This Court made detailed findings establishing that the totality of the circumstances hinders the ability of the Minority Community to participate equally in the electoral process. *Holloway*, 531 F. Supp. 3d at 1079-1102.

78. This Court found that Plaintiffs proved sufficient evidence to show that each of Senate Factors 1-9 were met in Virginia Beach. *Id.* at 1080.

79. This Court found that Senate Factor 1, the history of official discrimination, was satisfied, as “[t]here is a long history...of official discrimination against the Minority Community in Virginia Beach as well as across the Commonwealth of Virginia. The vestiges of this official history of discrimination persist today and are negatively impacting minority communities.” *Id.* at 1080.

80. Based on reliable statistical evidence, the Court found that voter turnout and registration levels for the Minority Community are lower than that of non-Hispanic whites. *Id.* at 1081, 1089-90.

81. The Court found that Senate Factor 2, the extent of racially polarized voting, was satisfied based on political cohesion between the groups, as they “consistently support the same minority-preferred candidates” and share “a long [] history of advocating for similar political and social issues.” *Id.* at 1083. The court also found “substantial evidence of white bloc voting in Virginia Beach probative elections.” *Id.*

82. The Court found Senate Factor 3, discriminatory voting practices or procedures, satisfied because “the City maintains unusually large election districts and has a single-shot system

which have both long been recognized as discriminatory electoral practices against minorities.” *Id.* at 1084.

83. In particular, the Court found that “given structural socioeconomic and social disadvantages that minority communities face, at-large districts heavily disadvantage minority candidates because they ‘are likely to have less access to the necessary resources for travel and advertising’ outside the immediate area surrounding the candidates’ homes.” *Id.* (citation omitted).

84. This is particularly so in Virginia Beach, where candidates running for at-large seats must campaign across 249 square miles and a population of over 450,000 people. *Id.*

85. The Court found Senate Factor 4 satisfied based on “evidence showing that minority candidates are denied access to the informal candidate-slating processes, campaign contributions and sample balloting, in Virginia Beach.” *Id.* at 1085.

86. Credible expert analysis, relied on by the Court, demonstrated that while 17 white Council candidates received \$250 or more from two or more other candidates, only two Black candidates (out of 20 from 2008-2018) received such financial support. *Id.* That pattern was even more exacerbated for intra-election candidates (candidates running in elections during 2008-2018, but not in the same year as the recipient of the contribution). *Id.*

87. The Court found that candidate slating also occurs during the sample ballot process, and that in 2018, Friends of the Elephant, a political action committee, handed out sample ballots at one or more polling places with recommended candidates for office. The sample ballots were color-coded, with one color for Black voters and another color for white voters. Aaron Rouse, a Black candidate for City Council, was included on sample ballots handed to Black voters, but not on the ones handed to white voters. *Id.* at 1086.

88. The Court also found that Senate Factor 5, which considers the extent that minorities bear the effects of discrimination, was satisfied. Based on detailed evidence, the Court found that “the Minority Community in Virginia Beach has suffered the consequences of official past and ongoing discrimination” and “the history of racial discrimination has had a disproportionate impact on the education, employment, economic, and social conditions of the Minority Community.” *Id.* at 1086; *see also id.* at 1086-90.

89. The Court also found that “the economic, educational, and wealth disparities caused by structural discrimination hinder the ability of the Minority Community in Virginia Beach to participate in the political process.” *Id.* at 1088; *see also id.* at 1090.

90. Based on the evidence, the Court concluded that “there is substantial evidence showing that the Minority Community continues to [] face the consequences of discrimination which has a causal impact on their political participation and mobilization in Virginia Beach City Council elections.” *Id.* at 1090.

91. As one example of continuing racial discrimination in Virginia Beach, in May 2024, Dr. Raven Baxter, a molecular biologist and Black woman, attempted to purchase an ocean-view condo in Virginia Beach, Virginia. Dr. Baxter offered the asking price, and her offer was initially accepted by the seller. During the escrow period, however, the seller, who was white, tried to cancel the sale because she did not want to sell her home to a Black person. Dr. Baxter ultimately ended up purchasing a different home and reached a settlement where the seller’s realtor and agency paid \$600,000 and agreed to provide additional training to their agents about the requirements of federal, state, and local fair housing laws.²

² Debra Kamin, *Woman Who Faced Racism When Buying a Home Speaks Out Against Bias*, NYTimes (Dec. 18, 2024), <https://www.nytimes.com/2024/12/18/realestate/racism-home-buying-settlement-raven-baxter.html>; *Dr. Raven Baxter – Housing Discrimination in Virginia Beach*,

92. The Court found Senate Factor 6, overt or subtle racial appeals, satisfied based on numerous examples of racial appeals in political campaigns in Virginia Beach, including City Council elections. *Id.* at 1090-93.

93. The Court found that City council candidate Louisa Strayhorn faced racial appeals and “racial harassment in her unsuccessful reelection bid for the City Council after becoming only the second Black member ever elected four years prior.” *Id.* at 1091.

94. The Court credited evidence establishing that Strayhorn received explicit racist threats while running for office and testimony from Strayhorn establishing that “on an average of 57 times I was threatened when I ran for reelection because of the color of my skin and that they did not know that I was African-American when I ran, and that now that they did—and they used the ‘N’ word . . .” *Id.*

95. The Court also found that two false political ads in the 2008 mayoral race constituted racial appeals. The fliers were distributed in Black neighborhoods and affiliated mayoral candidate Will Sessoms with an unknown group called “African Americans for Change” and President Barack Obama without the legally required attribution. The Court found that the fliers “clearly suggest[] that African American voters would be ignorant enough to believe a false political ad and, thus, could vote for a candidate solely based on whether Obama supports the candidate.” *Id.* at 1092.

96. The Court found that a political ad run by Delegate Rocky Holcomb (R-Virginia Beach) in the 2017 House of Delegates election was a racial appeal. The ad stated that Holcomb’s Democratic opponent “wants to bring back parole & let rapists out of jail early”, while “show[ing]

Relman Colfax (April 29, 2025), <https://www.relmanlaw.com/cases-raven-baxter-housing-discrimination-virginia-beach>

a dark hand over the mouth of a white female child.” The image was accompanied by the following caption: “Police: Convicted rapist out on parole attacked a 7-year old girl.” *Id.*

97. The Court found an incident involving color-coded sample ballots handed out in polling places in 2018, where one color was given to Black voters (that also featured Black Council candidate Aaron Rouse) and another to white voters (that did not feature Rouse) was a racial appeal. *Id.* at 1093.

98. The Court also found that a racist flyer sent in 2019 constituted a racial appeal. In 2019, Shannon Kane, a white Virginia Beach City Council member from 2014-2019 challenged Del. Kelly Fowler, who is of both Mexican and Filipino descent, in the Delegates race. “Kane’s campaign sent a flyer with a photoshopped image of Fowler next to MS-13 gang members. The flyer stated: ‘Kelly Fowler. Good for illegal immigrants. Bad for us.’” *Id.*

99. The Court found that several statewide elections featuring racial slurs (2006 U.S. Senate election), proclamations celebrating Confederate History Month (Governor Allen and Bob McDonnell), and an embrace of Confederate symbols and campaign comments about the removal of Confederate statues in Virginia (2017 gubernatorial primary) also consisted of appeals used to trigger racial animus. *Id.*

100. A 2021 campaign mailer displayed a darkened, burning photo of Virginia Beach Delegate Alex Askew’s face. In a separate 2021 mailer, Askew was depicted as bound and hanging by a rope. In response, Del. Askew wrote that the ads were a “dog whistle” and that “depicting any Black person as burning or hanging propagates some of the most dangerous, racist tropes in

history.” Del. Askew also wrote that the images “rely on some of the laziest, most blatantly racist tropes about Black people in history.”³

101. The Court found Senate Factor 7 satisfied based on the City’s “dismal history of electing minorities to public office” and the “substantial lack of racial/ethnic representation on the City Council compared with the demographic makeup of Virginia Beach.” *Id.* at 1093.

102. In particular, under at-large elections, only five Black City Council members had ever been elected to the City Council. From the City’s founding until this lawsuit was filed, only three had been elected, and none had ever won reelection. *Id.* at 1094. Two of the Black members elected in 2018, Aaron Rouse and Sabrina Wooten, were elected after the filing of this lawsuit under special circumstances. *Id.* at 1094-96.

103. The Court found that Senate Factor 8, responsiveness to the needs of the minority community, was satisfied based on substantial evidence that the City has “been unresponsive to the needs of the Minority Community.” *Id.* at 1096.

104. In particular, the Court found a lack of responsiveness based on the City’s “decades-long refusal to conduct a disparity study, as well as its results,” the neglect of the predominantly African-American neighborhood Burton Station (which did not even have a *plan* approved to provide basic water and sewer lines to the Black community until 2009), and disparate hiring practices (including a 2006 consent decree that found the City pursued discriminatory practices in employment opportunities for the police force against African Americans and Hispanics because of their race and national origin). *Id.* at 1096-1101.

³ *Virginia GOP Campaign Flyers Show Ropes Around Black Male Delegates*, NBC4 (Oct. 5, 2021), <https://www.nbcwashington.com/news/local/northern-virginia/virginia-gop-campaign-flyers-show-ropes-around-black-male-delegates/2822167/>.

105. The Court found Senate Factor 9, the tenuousness of the policy underlying the Council election system, satisfied based on the fact that “the Minority Community has advocated for decades for the City to change the at-large district” and the City offered no reasonable explanation for the unusual nature of its at-large system. *Id.* at 1101.

106. This Court and Dr. Grofman have found that a 7-3-1 superward system is dilutive, the City has admitted in its state litigation that the 7-3-1 system set to govern future elections is dilutive, and a 7-3-1 system retains three at-large districts and does not erase the socio-economic, historical and political inequalities that exist for the Minority Community in Virginia Beach that hinder their ability to participate in the electoral process.

Recent Developments Regarding the Virginia Beach Electoral System

This Court Finds Liability Under Section 2 of the Voting Rights Act and Holds a Remedial Process That Considers and Rejects a 7-3-1 Superward System

107. On March 31, 2021, this Court entered a judgment declaring the City of Virginia Beach’s at-large method of election illegal. ECF No. 242. Pursuant to Section 2 of the Voting Rights Act, the Court enjoined use of the City’s at-large system of election for diluting the votes of the City’s Minority Community, ordered that the City shall not adopt any system of election for City Council that does not comply with Section 2, and ordered that the City of Virginia Beach shall not implement or utilize any practice, policy, procedure, or other action that results in the dilution of minority participation in the electoral process. *Id.*

108. Given the need for a new, legal City Council election system, this Court held a remedial phase to consider City council maps that would provide an equal opportunity for the Minority Community to elect candidates of their choice in compliance with federal and state law.

109. During the remedial phase, Plaintiffs submitted a proposed remedy map with 10 single-member districts (three of which were minority opportunity districts), along with

accompanying expert reports. ECF No. 261. Defendants submitted two proposed remedy maps; one that included 7 single-member districts, 3 super wards, and the mayor elected at-large (“7-3-1 superward system”), and one map with a 10-1 system. ECF No. 260.

110. On August 9, 2021, the Court appointed redistricting expert Dr. Bernard Grofman (nominated by both parties) as Special Master “for the purpose of submitting a Report and Recommendation of a legally sound remedial plan that addresses the violations in Virginia Beach’s at-large election system and complies with the Federal and State Constitutions and the Voting Rights Act.” ECF No. 281; ECF No. 275.

111. On October 26, 2021, the Court released Dr. Grofman’s Report and Recommendation. ECF No. 281; ECF No 281-1.

112. Dr. Grofman’s report considered and rejected the City’s 7-3-1 superward proposal for City Council districts as dilutive “on multiple grounds.” ECF No. 281-1 at 25.

113. To begin, Dr. Grofman found the 7-3-1 superward system dilutive because it “retains an at-large feature for [several] of its districts,” even though “the degree to which an at-large district diluted minority voting in Virginia Beach was a central element of the Court’s finding that the previous map (with three at-large districts and seven districts voting at-large but with a residency requirement for candidates). violated the Voting Rights Act.” *Id.*

114. Next, Dr. Grofman concluded that the 7-3-1 superward proposal “creates at most two *minority opportunity districts* whereas, given the racial geography (and the legal conclusions of the Court as to Section 2 violation conditions having been met) the creation of three *minority opportunity districts* appears to be mandated.” *Id.*

115. This Court and Dr. Grofman also noted other unusual aspects of at-large city council elections in Virginia Beach that make them particularly dilutive.

116. As this Court found, candidates running for at-large seats in Virginia Beach “are expected to campaign across 249 square miles which requires immense resources,” *Holloway*, 531 F. Supp. 3d at 1084, and each at-large candidate must “compete for votes from approximately 450,000 eligible voters.” *Id.* at 1033.

117. The Court found that “[w]ith a population of 450,000, the City has the largest electorate for which each candidate must compete.” *Id.* at 1084 (citing testimony of then-Defendant Jessica Abbott (a former City Council member) agreeing that it is unusual for a city the size of Virginia Beach to use an at-large system).

118. Dr. Grofman found that at-large elections in Virginia Beach are dilutive because “the minority community is, on average, less wealthy and less well-educated than the non-minority community,” and “at-large elections do not allow minority candidates the potential for success [found] in a district-based election within a limited geography where door to door campaigning, street signs, [] mailers to a limited set of mailboxes, and friends and neighbors word of mouth could at least partially compensate for discrepancies in resources between minority and non-minority candidates[.]” ECF No. 281-1 at 11, n.14.

119. In line with these findings, Councilmember Jennifer Rouse has noted the dilutive nature of at-large elections in Virginia Beach. According to Councilmember Rouse, voters in District 10 in the 10-1 plan, which she represents, “were surprised to see a candidate knock on their door because ‘no one from City Council has ever campaigned here before, frankly, because no one has had to prior to the 10-1 system, because people were able to garner votes just from certain pockets of the city, which then meant many neighborhoods and communities were

underrepresented because candidates didn't go and speak to those residents to learn about their issues and then to represent them.”⁴

120. Dr. Grofman also found that “minority candidates are deterred from running for at-large elections in the city by their low chance of electoral success,” and concluded that his analysis “substantially understate[d] the actual dilutive effect” of at-large elections in the City. ECF No. 281-1 at 22.

121. As a result of the dilutive nature of the 7-3-1 superward system, Dr. Grofman recommended the adoption of a 10-1 plan for City Council elections that complied with all traditional redistricting criteria while also containing three districts that provide minority voters with an equal opportunity to elect candidates of their choice to the City Council.

122. The dilutive impact of at-large voting in the 7-3-1 system challenged in this suit, wherein 3 councilmembers would be elected by the *entire* City, would be more significant than the dilutive impact of at-large voting in the 7-3-1 superward system, wherein 3 councilmembers would be elected by just a *third* of the City.

123. On December 22, 2021, this Court adopted the 10-1 plan proposed by Dr. Grofman, as well as Dr. Grofman's report and findings, which the Court found “supports the Court's liability findings in its Memorandum Opinion and Order.” ECF No. 290 at 2-3.

The General Assembly passes HB2198 and the City Appeals to the Fourth Circuit

124. On March 18, 2021, the Virginia General Assembly changed Virginia Beach's electoral system through the enactment of HB2198. HB2198 provides that “in a [city or town] that

⁴ Jimmy LaRoue, *VB council votes down putting 10-1 voting system into charter*, 10 WAVY (Nov. 13, 2024), <https://www.wavy.com/news/local-news/vb-council-votes-down-putting-10-1-voting-system-into-charter/>; City of Va. Beach, *City Council Formal – 11/12/2024*, YouTube (Nov. 12, 2024), <https://www.youtube.com/watch?v=3nZl1RgBdzU>.

imposes district-based or ward-based residency requirements for members of the [city or town council], the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.” Va. Code Ann. § 15.2-1400(F). Because seven of Virginia Beach’s City Council districts are subject to a residency requirement, under HB2198, these seven seats changed from at-large to single-member districts. Following the bill’s effective date of January 1, 2022, HB2198 changed the City’s method of election to a 7-3-1 system.

125. Shortly following the passage of HB2198 and the district court’s liability decision, Defendants appealed. Defendants’ appeal was held in abeyance until the remedial phase of the litigation was completed. ECF No. 265-1.

126. Following the completion of the remedial phase in December 2021, Defendants’ appeal proceeded at the Fourth Circuit. On July 27, 2022, the Fourth Circuit held that HB2198 mooted the district court’s decision, because the law altered the originally challenged election system. *Holloway v. City of Virginia Beach*, 42 F.4th 266, 270 (4th Cir. 2022). The Fourth Circuit did not reach the merits of Defendants’ appeal.

127. The Fourth Circuit remanded the case to this Court “without instructions to dismiss the plaintiffs’ case” since “the plaintiffs may have residual claims against the City’s new method for electing its Council,” thus allowing plaintiffs to amend their complaint or develop the record more fully for a new challenge. *Id.* at 270.

128. On November 5, 2022, this Court stayed the litigation following remand while the City “decides upon a new election method” for the City Council. ECF No. 314 at 5.

The City Council Considers Election Systems and Takes Steps Towards a 10-1 System

129. Because the Fourth Circuit’s opinion was released well past the candidate filing deadline for the November 2022 election, the City implemented the court-ordered 10-1 plan for the 2022 City Council elections.

130. Following the first election under the 10-1 plan, voters elected the most racially diverse City Council in Virginia Beach’s history.

131. On May 25, 2023, the parties to this litigation held a status conference with the Court, where the parties and the Court discussed the City’s plan for the adoption of a new election system in light of the remand. At that hearing, Plaintiffs indicated they would challenge the adoption of a 7-3-1 system. ECF No. 322-3 at 38.

132. At the May 25 status conference, the City Attorney acknowledged that the Council had few options for a viable election system in light of federal and state law. *Id.* at 35 (City Attorney explaining “the need for any system that is adopted to comply with, not just the federal Voting Rights Act, but also the Virginia Voting Rights Act that was adopted by the General Assembly in 2021, that [] greatly narrows the City’s realistic options.”).

133. In 2023, the City Council commissioned a statistically validated public opinion survey from the Weldon Cooper Center at the University of Virginia on the City’s election system. The study found that 81% of residents prefer the 10-1 system. ECF No. 317.

134. While the City was still publicly weighing election systems in the summer of 2023, at a July 18 City Council session, the City Attorney briefed the Council and advised that “[b]etween Federal Court posture and Virginia state law, City Council has been given no path forward other than [a] 10-1 system with 3 MODs” (minority opportunity districts). City of Va. Beach, *City*

Council Informal - 07/18/2023 at 58:46, YouTube (July 18, 2023), https://youtu.be/I_p3uq-iO6o?si=cmJKjykv4kWPhD4D.

135. The City’s website also states that the “City Council conclude[d] that the 10-1 system used in the 2022 election is the only legally viable system under both federal and state law, including the Virginia Voting Rights Act.” *Statement From City of Virginia Beach Regarding Challenges to the 10-1 Election System*, City of Virginia Beach (Jan. 25, 2024), <https://perma.cc/G4DE-CJCH>.

136. On August 15, 2023, the City Council voted 10-1 to adopt a 10-1 system in its 2023 Redistricting Ordinance, and implemented the remedial plan ordered by this Court. ECF No. 317.

137. The City Council communicates legislative requests and policy positions to the Virginia General Assembly to be considered during the General Assembly session through the City Council’s annual General Assembly Legislative Agenda.

138. Prior to September 19, 2023, the City Council had no policy in place that governed placing items on the City’s legislative agenda. As a result, before that date, any councilmember could propose an item to be added to the legislative agenda and any item, including requests for changes to the city charter, could be approved with a simple majority of 6 votes.

139. On September 6, 2023, the City represented to the Court in a Notice that it would likely be pursuing a charter change regarding the 10-1 system in its upcoming 2023 legislative agenda “to address the inconsistency” between the recent city ordinance passed requiring a 10-1 system, and the City’s charter, which required a 7-3-1 system. ECF No. 317; ECF No. 317-2 at 2.

140. On September 19, 2023, the City Council changed the legislative agenda process and adoption requirements, to make it harder for councilmembers to request and approve a charter change amendment. The Council did this by increasing the threshold necessary to (1) place items

on the legislative agenda, and (2) approve a charter change request. Specifically, the Council voted 7-4 to approve an ordinance setting a distinct legislative agenda policy requiring that a legislative agenda item could only be proposed for the draft legislative agenda if done so by either the mayor, at least three councilmembers, or proposed by a City Department and approved by the City Manager. The policy also raised the threshold for the City Council to request a charter change amendment from the General Assembly to a three-fourths majority (9 votes instead of 6), and required that the adoption of any charter change request be made by separate resolution rather than as part of the full legislative agenda.⁵

141. The request for the ordinance setting the policy for the City's legislative agenda came from Mayor Bobby Dyer and Councilmember Rosemary Wilson.

142. Councilmembers Barbara Henley, Jennifer Rouse, Chris Taylor, and Sabrina Wooten voted against the changes to the process. Councilmember Wooten remarked that "I remember the process we had before never had any indication that it was problematic. This is the first time I've had a discussion about it." City of Va. Beach, *City Council Formal – 09/19/2023* at 49:36-50, YouTube (Sept. 19, 2023), <https://www.youtube.com/watch?v=T7aoXboRFks>. Councilmember Rouse testified that she preferred to go through the legislative agenda process "as has been done for the numbers of councils before us," *id.* at 54:00-05, and Councilmember Taylor similarly testified that he "would like to participate in the process that was present before," *id.* at 48:30-36.

⁵ Stacy Parker, *Virginia Beach raises threshold for adopting legislative agenda*, The Virginian-Pilot (Sept. 25, 2023), <https://www.pilotonline.com/2023/09/25/virginia-beach-raises-threshold-for-adopting-legislative-agenda/>.

143. Before adopting the ordinance setting a policy for the City's legislative agenda, City staff surveyed other localities, including Hampton, Norfolk, and Chesapeake. City staff found that none of those localities had a policy in place for approving legislative agendas.

144. Following the adoption of the 10-1 system, the City submitted the 10-1 plan to the Virginia Attorney General's office for preclearance review. On October 10, 2023, the Virginia Attorney General's office issued a Certification of No Objection, noting that "we find no reason to object to Virginia Beach's proposed changes."

145. On November 14, 2023, by a 9-1 vote, with Councilmember Henley voting against, the City Council adopted a resolution requesting a charter change through the General Assembly for a 10-1 system for Virginia Beach City Council elections.

146. The City's charter change request was HB416 in the House of Delegates, and SB189 in the Senate.

147. The House and Senate passed the charter change request with large margins and sent it to the Governor on March 11, 2024 as SB189. *See, e.g., HB416*, Virginia's Legis. Info. Sys., <https://legacylis.virginia.gov/cgi-bin/legp604.exe?241+sum+HB416> (last visited Aug. 6, 2025).

148. On March 8, 2024, the Governor amended SB189 "to include a reenactment clause to allow for a reassessment of the legislation pending a potential resolution of the ongoing lawsuit involving Virginia Beach." *Governor Glenn Youngkin Takes Action on 84 Bills*, Governor of Virginia (Mar. 8, 2024), <https://www.governor.virginia.gov/newsroom/news-releases/2024/march/name-1023240-en.html>.

149. The litigation mentioned in the Governor's amendment is *Linwood Branch v. City of Virginia Beach*, No. CL24-322 (Va. Cir. Ct. Jan. 24, 2024), a lawsuit filed in state court seeking to invalidate the City's adoption of the 10-1 system and instead put in place a 7-3-1 system. If

Governor Youngkin had allowed the charter change to become law, the *Branch* lawsuit's challenge—that the Virginia Beach City Council had unlawfully adopted a 10-1 system of election by a redistricting ordinance without a corresponding charter change—would have been mooted.

150. The 7-3-1 system is favored by one of Youngkin's biggest campaign donors, real estate developer Bruce Thompson, who has donated hundreds of thousands of dollars to Youngkin's campaign. *Glenn Youngkin: Top Donors*, VPAP, https://www.vpap.org/candidates/180223/top_donors/?start_year=all&end_year=all (last visited July 24, 2025). Thompson is also one of the top donors to Virginia Beach campaigns, including to the campaigns of Mayor Dyer, Vice Mayor Wilson, and Councilmember Berlucchi. *See Dyer for Virginia Beach Mayor – Bob: Top Donors*, VPAP, https://www.vpap.org/committees/321495/top_donors/ (last visited Aug. 6, 2025); *Wilson for Virginia Beach City Council – Rosemary: Top Donors*, VPAP, https://www.vpap.org/committees/126186/top_donors/ (last visited Aug. 6, 2025); *Berlucchi for Virginia Beach City Council – Michael: Top Donors*, VPAP, https://www.vpap.org/committees/338627/top_donors/ (last visited Aug. 6, 2025).

151. Despite the Governor's amendment, the General Assembly reconvened for a veto session and sent SB189 back to the Governor for approval on April 17, 2024.

152. The Governor vetoed SB189 on May 17, 2024.

The City Council Votes Against Including a 10-1 System Charter Change in Virginia Beach's 2025 Legislative Agenda

153. In the 2024 City Council election, Glenn Youngkin publicly endorsed Bob Dyer, Rosemary Wilson, and Stacy Cummings for seats in Virginia Beach.

154. Before the November 12, 2024 vote on whether to once again request a charter change implementing the 10-1 system, Bruce Thompson sent a letter to the City Council outlining

his support for a 7-3-1 system, opposition to a 10-1 system, and requesting that “the city [] request an opinion from the attorney general on whether an election system with seven districts, three at-large seats and the mayor is in compliance with the Voting Rights Act,” or to hold a ballot referendum on support for a 7-3-1 system.⁶

155. On November 12, 2024, the City Council voted against including the charter change request for a 10-1 system in the City’s 2025 legislative agenda. Despite having seven members in favor of the charter amendment and only four opposed, the vote failed because under the City’s altered procedure, charter changes now require a three-fourths majority.

156. The City Council members that voted in favor of including the charter amendment for a 10-1 system in the City’s 2025 legislative agenda included David Hutcheson, Robert W. “Worth” Remick, Dr. Amelia Ross-Hammond, Jennifer Rouse, Joashua “Joash” Schulman, Chris Taylor, and Sabrina Wooten.

157. The City Council members that voted against requesting the charter amendment implementing the 10-1 system in the 2025 legislative agenda were Mayor Bobby Dyer, Vice Mayor Rosemary Wilson, and Councilmembers Barbara Henley and Michael Berlucchi.

158. Mayor Dyer, Vice Mayor Wilson, and Councilmember Berlucchi each voted in September 2023 in favor of the more stringent legislative agenda adoption requirements. Under

⁶ Stacy Parker, *4 Virginia Beach state legislators rally behind elections legislation despite opposition*, The Virginian-Pilot (Nov. 21, 2024), <https://www.yahoo.com/news/4-virginia-beach-state-legislators-131200653.html>. Mayor Dyer complied with Thompson’s request that he solicit an opinion from Attorney General Miyares who responded with a January 30, 2025 letter outlining his view that the 7-3-1 system is lawful under the federal and Virginia VRA. Letter from Jason Miyares, Attorney General of Virginia, to Robert Dyer, Mayor of Virginia Beach (Jan. 30, 2025) (available at <https://embed.documentcloud.org/documents/25513943-miyares-letter-to-dyer/?embed=1&sidebar=0&title=1&pdf=0&onlyshoworg=1>) (last visited July 25, 2025). Thompson is one of Miyares’ top donors, having given tens of thousands of dollars to Miyares’ campaigns, including a \$25,000 donation on December 30, 2024. *Miyares for Attorney General – Jason: Top Donors*, VPAP, https://www.vpap.org/committees/369766/top_donors/.

the previously existing adoption requirements for legislative agenda items, which required just a simple majority, the charter change request would have succeeded and been included in the City's legislative agenda submitted to the General Assembly for 2025.

159. In the discussions regarding the charter change vote, multiple councilmembers expressed their opinion that the 10-1 system of election should be put to a referendum vote. *See City of Va. Beach, City Council Formal - 11/12/2024*, YouTube (Nov. 12, 2024), <https://www.youtube.com/watch?v=3nZl1RgBdzU> (Mayor Dyer and then Councilmember-elect Cummings stating their support for a 7-3-1 system and a referendum; Councilmember Henley stating her view that all changes to the system of election should be required to be voted upon via referendum).

160. In the Informal Session prior to the vote, City Attorney Mark Stiles identified to the Council that “what you do today does at least create an ambiguity in the minds of people about whether or not your policy choice is still 10-1.” *City of Va. Beach, City Council Formal - 11/12/2024*, YouTube (Nov. 12, 2024), <https://www.youtube.com/watch?v=3nZl1RgBdzU>. Stiles pointed out, “just as a matter of fact, that when the issue of a referendum was raised before Judge Jackson, Judge Jackson’s response was of course we know what the outcome of a referendum would be, because the white majority would control . . . You can expect that we will have another federal lawsuit if you indicate that’s your intention.” *Id.*

161. In voting against the charter change request, Mayor Dyer also referenced the *Branch* litigation, said the Governor would likely veto a charter amendment request again, and said there is “ambiguity out there.” *Id.*

162. In response to Mayor Dyer, Councilmember Remick questioned why that pending litigation would now lead Dyer to vote no on a charter change request when “[w]e had two lawsuits last year before the General Assembly.” *Id.*

163. Councilmember Rouse stated that “[t]he only thing that has changed is that we have gotten an email and a letter from a prominent developer who is opposed to this system, and I just want to very clearly say that has no credence on how we should move forward because of material conflicts with that developer and the direction that the Council has gone.” *Id.*

164. Before voting in favor of including the charter amendment request in the City’s 2025 legislative agenda on November 12, Councilmember Rouse asserted that the voters in the City are educated on the issue of the City’s election system, support the 10-1 system, and stated that a referendum is not necessary. *Id.* She testified that “[t]he public has given us feedback, and the response [from the Council] is ‘no you don’t understand, we are going to do it again.’ We have already litigated this in the courts and as a body since 2018. It’s a lot of taxpayer money that we’ve been putting forward, and it ultimately doesn’t speak to the violation of the Voting Rights Act which is what brought this all here to begin with.”

165. Councilwoman Rouse spoke regarding the 7-3-1 system: “[A] federal court judge said that, yes, this is a violation of the Voting Rights Act. We’ve been told . . . that if we do not fall into compliance, we are opening ourselves up to more lawsuits that this City will then have to spend taxpayer money defending, so that’s how many hundreds of thousands of dollars of taxpayer money that we keep re-litigating the same system.” She also highlighted how the 10-1 system “has yielded the most diverse Council in the history of this city.” *Id.*

166. Councilmember Rouse emphasized that she was “passionate about this not as a partisan issue, but as a voting rights issue in terms of access to power and shaping and influencing

power.” *Id.* She stated that “one of the commendations of the 10-1 system that I’ve heard is that it has made us more responsive to the public.” *Id.*

167. Councilmember Rouse stated that “if there is any ambiguity in the process, it is us introducing it” because the City Council “is still doing this game.” *Id.*

168. Before voting in favor of the charter amendment request for the 2025 legislative agenda, Councilmember Chris Taylor stated that “the public is not confused” about the 10-1 system. *Id.*

169. Councilmember Taylor said “if not 10-1, then what? There are no other options according to [City Attorney] Stiles.” *Id.*

170. Councilmember Taylor also said “don’t take at face value that anyone is confused, there is no confusion. The Governor came down to Virginia Beach and endorsed the candidates he wanted to endorse, got involved . . . the fact of the matter is that 10-1 prevents some special interests from influencing and the truth of the matter is you still have to go out and campaign and the voters still have their voice heard.” *Id.*

171. In explaining his vote in favor of the charter change, Councilmember Schulman stated that, “[i]f you’re talking to people who are fervently supportive of 10-1, for many of them, this is a racial issue. It’s a racial disparity, racial inequality issue, and if you take a referendum to a majority [] population . . . you end up in a place that [] isn’t necessarily reflective of what the concerns, the good concerns that were brought forward, you know, when this went to a court case.” *Id.*

172. Schulman continued that “nothing has changed since we took a vote on this last time” and that he was “leery of sending any court or any plaintiff a message that is in any way inconsistent with what we were ordered to do in connection with that litigation, because I [] think

it, you know, needlessly creates division in the community over a very, very hot button topic that is being raised.” He stated that, if some variety of the 7-3-1 system was to be adopted, “[w]e need super-Wards, probably, to make minority opportunity districts.” *Id.*

173. In addition to the statements of the councilmembers at the November 12 hearing, numerous residents, including voters of color, testified in favor of the City adopting a resolution to request that the General Assembly amend the City’s charter to implement a 10-1 system.

174. Plaintiff Georgia Allen testified twice, specifically referencing the Voting Rights Act, the flaws and racially disparate impact of at-large systems in Virginia Beach, and the merits of the 10-1 system.

175. The City Council’s failure to request a charter change rendered the General Assembly unable to propose legislation that would change the Virginia Beach charter to adopt the 10-1 system. However, in February 2025, the General Assembly passed a bill which would have permitted Virginia Beach to continue implementing its 10-1 system without need for a charter change.

176. That bill, HB1990, provided that, “[N]otwithstanding any other provision of law, general or special, the governing body of a locality that has been subject to a court order imposing a remedial election system under either the federal Voting Rights Act of 1965 or Chapter 1.1 (§ 24.2-125 et seq.) of Title 24.2, even if such order is later vacated, may adopt an ordinance to convert one or more at-large seats of such body to single-member districts Members of such governing body in office on the effective date of such ordinance shall complete their terms of office.”

177. On March 24, 2025, Governor Youngkin vetoed HB1990.

The City Council Approves a Referendum on the City Council System of Election

178. On April 1, 2025, the City Council received a briefing regarding the process for holding a referendum on the system of election for the City Council and discussed whether there should be such a referendum. City of Va. Beach, *Election System Update & Possible Charter Change Referendum Presentation, April 1, 2025*, YouTube (Apr. 1, 2025), <https://www.youtube.com/watch?v=twnbujdwcHo>.

179. At the April 1, 2025 meeting, City Attorney Mark Stiles identified that “there will be disagreement about whether those three [majority-minority] districts out of seven are as effective as three districts out of ten.” *Id.*

180. At the April 1 meeting, Councilmember Rouse read an excerpt from the City-commissioned Weldon Cooper Center study on the system of election: “For multiple decades, coalitions of racial minorities have lobbied for Virginia Beach to adopt single-member districts, claiming that [the] at-large system worked to dilute minority voting power.” *Id.* She noted that she “want[ed] to [] bring that context in” to the discussion. *Id.*

181. In response to a question by Rouse asking who writes referendum questions, Deputy City Attorney Chris Boynton answered: “We propose a neutral question to you as your attorneys, and then you decide to adopt it or not or to phrase it that way in passing a resolution.” *Id.*

182. Rouse also asked if there was a chance that either result of the referendum might not be able to be implemented, to which Boynton answered: “Absolutely. We have obviously warring factions on both sides of the legal/political issue, and it could well be that a court overturns the continued use of the 10-1 system in state court or the reimposition of the 7-3-1 system by a state court judge [] could be challenged and overruled in federal court.” *Id.*

183. Rouse also raised additional historical context from the Weldon Cooper study, including that “during the nearly 60-year period” that the previous at-large system of election was used “only six people of color were elected to Virginia Beach City Council. In 2021, the combined minority population in Virginia Beach reached 33% after steady growth over decades.” *Id.* And that, in the first election using the 10-1 system, “voters elected three new Black councilmembers, making for the most racially diverse City Council in Virginia Beach’s history. This one election cycle under the 10-1 system elected half as many Black councilmembers to serve Virginia Beach as have been elected in the previous 60 years combined.” *Id.*

184. Councilmember Rouse identified that “a return to at-large is a return to where we came from.” *Id.* Rouse noted: “I’m taking my time with this, because it’s a voting rights issue which is significant in a democratic society, but also because [] I believe in referendums, I believe that the public should have a say in major issues affecting their lives. And on this issue in particular, however, [] the waters have been muddied on this, and so, for the public, when you hear me push back on a referendum, it’s not on principle of the referendum, but the reality of where we are with this that legally the path forward depending on the outcome is unclear.” *Id.*

185. Councilmember Schulman stated that he “believe[d] that revisiting this issue in this fashion sends a signal that we’re looking backwards.” He continued that “[w]e have a map that complies with both federal and state voting rights laws, so unfortunately I cannot support a referendum at this time.” *Id.*

186. Councilmember Hutcheson stated that for him it was “a bit confounding” why the Council was returning to the question, and he referred to both the Sheldon Cooper Center’s survey finding 81% support for the 10-1 system and his own experience of asking constituents at

townhalls about their preferred electoral system and constituents overwhelmingly supporting the 10-1 system. *Id.*

187. Meanwhile, Councilmember Henley stated her support for the referendum and seemed to question whether an electoral system should be required to have minority opportunity districts, stating that, “I really question a legal system that would be determined on—determining what our voting system is going to be and what our council makeup is going to be is based on race. Please find for me a place that has a body that is required to be based on race.” *Id.*

188. Councilmember Cummings, at the April 1 meeting, spoke in favor of a referendum and said: “I am not going to speak to the merits of the 7-3-1 versus the 10-1, because I want to hear what the people have to say.” *Id.*

189. Councilmember Cummings has since donated \$10,000 to the referendum committee advocating for the 7-3-1 system. *Reports for Every Vote Counts*, Virginia State Board of Elections, <https://cfreports.elections.virginia.gov/Committee/Index/a6a7c35c-9e20-42cf-9c47-84340102783f> (last visited July 29, 2025).

190. On April 15, 2025, the City Council held a hearing to gather public input on whether to pursue a referendum on the City Council system of election. There was substantial public testimony, including from Plaintiff Georgia Allen, regarding the racially discriminatory impact of at-large voting and the 7-3-1 system in Virginia Beach as well as about the merits of the 10-1 system.

191. Of the 38 speakers, 31 spoke in opposition to the referendum.⁷

⁷ *Virginia Beach City Council Minutes* at 116, City of Va. Beach (Apr. 15, 2025), <https://edocs.vbgov.com/WebLink/DocView.aspx?id=51511565&dbid=0&repo=CityClerk>. While the council minutes indicate 30 speakers in opposition, one of the speakers to whom the minutes do not ascribe a position, Jane Bloodworth Rowe, specifically urged the councilmembers to vote no in her testimony.

192. Public comment against the referendum included testimony that the 10-1 system “protects our voter rights,” gives “federally protected minorities representation on council,” “provid[es] Virginia Beach with a fair electoral system,” “creates equity for us all,” “corrected a longstanding imbalance in power where at-large elections diluted the power of minority and geographically-concentrated communities,” “is a more accurate and equitable system,” “assures everyone that they have a fair chance,” “gives minority communities a stronger voice in local government in [] line with federal voting rights protection,” and “is a vital framework that ensures equitable representation and empowers our diverse communities.” City of Va. Beach, *City Council Formal* – 04/15/202[5], YouTube (Apr. 15, 2025), <https://www.youtube.com/watch?v=xHrL193pRTw>.

193. Public comment also included testimony that the 7-3-1 system would “suppress[] the voice of citizens who reside in disenfranchised communities,” “stop the progress of civil voting rights,” be “less representative again,” “would undermine representation,” and would “dilute[] the people’s voice, dilute[] their vote, dilute[] their representation.” *Id.*

194. Members of the public also testified that they believed the goal of the referendum was “to take away votes from districts that they have been suppressing since the era of Jim Crow;” that “for far too long, the City of Virginia Beach has utilized a voting system that discriminates against minority voters;” that since the 10-1 system has been in place, “we’ve seen a more diverse and representative city council” which has “empowered communities that were previously underrepresented;” and that the continued debate on the electoral system “tells residents, particularly those in historically underserved communities, that their voices are still negotiable” *Id.*

195. Multiple speakers also criticized the language of the referendum as misleading and confusing for seemingly suggesting that voters are currently using the 7-3-1 system. *Id.*

196. Once again, on May 6, 2025, there was significant public comment opposing the proposed referendum. This included testimony from Plaintiff Carlos Pagán who testified that “the 10-1 system ensures equality, accountability, and legal compliance” and that “this referendum would disregard residents’ preferences and waste taxpayer dollars chasing an unjust system.” City of Va. Beach, *City Council Formal – 05/06/2025*, YouTube (May 6, 2025), <https://www.youtube.com/watch?v=NmLdtX856J4&t=2881s>.

197. On May 6, 2025, the City Council voted 7-4 in favor of placing a referendum on the November 2025 ballot asking what system of election should be used in future elections. The referendum will ask: “Should the method of City Council Elections set forth in the Virginia Beach City Charter be changed from a modified 7-3-1 system to a 10-1 system?” ECF No. 329-1 at 3, 5.

198. Mayor Dyer, Vice-Mayor Wilson, Councilmembers Berlucchi, Henley, Ross-Hammond, Cummings, and Jackson-Green voted in favor of the referendum. Councilmembers Remick, Hutcheson, Schulman, and Rouse voted against.

199. Before the vote, Councilmember Jennifer Rouse highlighted that the debate on the electoral system “is at the root of it a racial issue, and it’s about racial power and racial disenfranchisement when the federal Voting Rights Act and the Virginia Voting Rights Act were violated in the City of Virginia Beach because of how we elected local power. It diluted the minority vote which is how race became a part of this.” City of Va. Beach, *City Council Formal – 5/6/2025*, YouTube (May 6, 2025), <https://www.youtube.com/watch?v=NmLdtX856J4&t=2881s>.

200. Councilmember Rouse also stated that she did “not believe that the referendum is in good faith.” *Id.*

201. On July 11, 2025, Virginia Senator and former Virginia Beach City Councilmember Aaron Rouse posted a statement urging Virginia Beach residents to vote in favor of the 10-1 system in the referendum. Senator Rouse wrote that “Virginia Beach’s electoral structure has perpetuated and protected social, economic, and racial inequalities under the guise of preserving ‘tradition’ and ‘order,’ in other words, the status quo. This status quo has directly harmed nearly every resident of Virginia Beach by systematically diluting their voices and consistently disregarding their needs. Virginia Beach’s outdated hybrid at-large voting system has long been an obstacle to genuine representation.” Statement from Sen. Aaron Rouse, Facebook (July 11, 2025), <https://www.facebook.com/AaronRouseVA/posts/pfbid01EVjC5XXnc58ySeUBUVKtDvJJhaqzEGyVzR1a6DZ8gCcDvBorC539srNtHos2eYcl?rdid=IHyl5HP0poe1M5kL#>.

The Branch Litigation Overturns the 10-1 System

202. On January 24, 2024, the *Branch* litigation was filed challenging the City’s use of a 10-1 system in the 2022, 2024, and future elections on state law grounds. The result the Plaintiffs sought in the litigation is the implementation of the 7-3-1 system.

203. The City opposed the Plaintiffs’ claims in *Branch*, and admitted that “[e]vidence and findings, including in [Dr. Grofman’s] special master’s report, indicated that a 7-3-1 system could not yield three Black minority (or coalition minority) opportunity districts.” ECF No. 322-2 at 4.

204. The City stated that it is unable to produce a 7-3-1 plan with three opportunity districts. *Id.* at 27.

205. The City also stated that the “VAVRA both requires the City to utilize a 10-1 system with three minority opportunity districts and prohibits the City from adopting a decennial

redistricting measure using the 7-3-1 charter system” and that the “VAVRA prohibits at-large elections in the City.” *Id.* at 7, 26.

206. In its briefing opposing the *Branch* Plaintiffs’ claims, the City said that following the remand in this suit, “the City Council determined that the only way to satisfy multiple competing legal obligations was to utilize a 10-1 system endorsed by a federal district court, the world’s leading voting-rights expert, and 81% of the City’s residents. That system provided the minority opportunity a federal district court declared is required under the VRA and under a separate Virginia law whose minority voting rights protections are broader than the VRA.” *Id.* at 11.

207. The City described the 7-3-1 system as an “outdated system” that “not only will be subject to challenge under federal voting rights law but that also flatly contradicts the requirements of state voting rights law” and that the *Branch* Plaintiffs “have no right to force more than 450,000 residents into a system their elected City Council has understandably rejected.” *Id.* at 12.

208. The City argued in *Branch* that it “has dispositive evidence that voting is ‘racially polarized,’” that Black voters in Virginia Beach are cohesive, and that white bloc voting usually overwhelms the preferences of Black voters in relevant elections. *Id.* at 27.

209. The City also argued that “the at-large system, if maintained, would ‘dilute[] the voting strength of members of a protected class.’” *Id.* at 27-28 (quoting Va. Code Ann. § 24.2-130(B)).

210. Because minority voters have three opportunity districts under a 10-1 plan but could not under a 7-3-1 plan, the City also argued that a 7-3-1 plan would cause illegal retrogression under the VAVRA. *Id.* at 29-30.

211. On March 24, 2025, the *Branch* plaintiffs filed a Motion for Summary Judgment seeking “[a]n order mandating that the Defendants adopt the 7-3-1 System” and “reinstitute the three at-large seats on City Council.” ECF No. 322-5 at 3.

212. On May 12, 2025, the City filed a Cross-Motion for Summary Judgment and cited the City’s presentation, at the special plea stage, of “a statistical study by Dr. Lisa Handley establishing that voting is racially polarized in Virginia Beach and the expert opinion of demographer Kim Brace that at the time City Council adopted the 10-1 districts and maps, a 7-3-1 system would not adduce three opportunity districts to match the 10-1 system.” ECF 327-1 at 16.

213. On June 30, 2025, the *Branch* court granted the *Branch* plaintiffs’ Motion for Summary Judgment, holding that the Virginia Beach City Council was not permitted to change its system of election from the 7-3-1 system reflected in the City Charter, as modified by HB2198, to a 10-1 system without a charter change passed by the Virginia General Assembly and signed into law by the Governor.

214. While the court has stayed its Order until after the results of the November 2025 referendum on the City Council system of election, the 7-3-1 system of election is in the City’s charter and otherwise set to govern future Virginia Beach City Council elections.

CAUSES OF ACTION

Count One

***Race and Language Minority Discrimination,
Discriminatory Results in Violation of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. §
10301; 42 U.S.C. § 1983***

215. Plaintiffs repeat and re-allege each and every allegation in this Complaint as though fully set forth in this paragraph.

216. Section 2 of the Voting Rights Act prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice, or procedure that results in the denial or abridgement of the right of any U.S. citizen to vote on account of race, color, or membership in a language minority group. 52 U.S.C. § 10301.

217. The population of Virginia Beach's Minority Community is sufficiently numerous and geographically compact to allow for the creation of at least three single-member districts in which they would constitute a majority.

218. Minority Community voters in Virginia Beach are politically cohesive and prefer the same candidates for political office, and white bloc voting routinely defeats their candidates of choice from winning office. Elections in Virginia Beach show a clear pattern of racially polarized voting.

219. The totality of the circumstances demonstrates that the 7-3-1 system, including seven single-member districts and three at-large seats, has the effect of denying voters in the Minority Community an equal opportunity to participate in the political process and to elect representatives of their choice by diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

220. The world's leading redistricting expert Dr. Bernard Grofman and this Court (through the adoption of Dr. Grofman's report and proposed plan) have found that a 7-3-1 plan is dilutive, can only provide two rather than three minority opportunity districts (unlike the current 10-1 plan), and does not provide voters in the Minority Community an equal opportunity to elect candidates of choice.

221. Defendants also admit that they cannot produce a 7-3-1 plan with three minority opportunity districts.

222. Absent relief from this Court, Defendants will continue to engage in the denial of Plaintiffs' Section 2 rights.

223. Virginia Beach's Minority Community is thus entitled, under Section 2 of the Voting Rights Act, to three minority opportunity districts that provide them with an effective opportunity to elect the candidates of their choice to the City Council.

Count Two
***Race and Language Minority Discrimination, Discriminatory Results,
and Retrogression in the Position of Members of a Racial or Ethnic Group in Violation of
Virginia Voting Rights Act, Va. Code Ann. §§ 24.2-126, 24.2-129, 24.2-130***

224. Plaintiffs repeat and re-allege each and every allegation in this Complaint as though fully set forth in this paragraph.

225. The Virginia Voting Rights Act prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice, or procedure that results in the denial or abridgement of the right of any U.S. citizen to vote on account of race, color, or membership in a language minority group. Va. Code Ann. § 24.2-126.

226. Such a violation is established if, based on the totality of the circumstances, it is shown that the political processes leading to nomination or election in the locality are not equally open to participation by members of a protected class in that its members have less opportunity than other members of the electorate to participate in the political processes or to elect representatives of their choice.

227. The Virginia Voting Rights Act also specifically prohibits the imposition of an at-large method of election, including one that combines at-large elections with district-based elections, "in a manner that impairs the ability of members of a protected class . . . to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the

dilution or the abridgement of the rights of voters who are members of a protected class.” Va. Code Ann. § 24.2-130.

228. The Virginia Voting Rights Act also prohibits any covered practice, including changes to the method of election of members of a governing body by converting one or more seats elected from a single-member district to one or more at-large seats and changes to the boundaries of election districts or wards, “resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.” Va. Code Ann. § 24.2-129.

229. The totality of the circumstances demonstrates that the 7-3-1 system, including seven single-member districts and three at-large seats, has the effect of denying voters in the Minority Community an equal opportunity to participate in the political process and to elect representatives of their choice by diluting their voting strength, in violation of the Virginia Voting Rights Act.

230. The world’s leading redistricting expert Dr. Bernard Grofman and this Court (through the adoption of Dr. Grofman’s report and proposed plan) have found that a 7-3-1 plan is dilutive, can only provide two rather than three minority opportunity districts (unlike the current 10-1 plan), and does not provide voters in the Minority Community an equal opportunity to elect candidates of choice.

231. Defendants also admit that they cannot produce a 7-3-1 plan with three minority opportunity districts. Indeed, the City of Virginia Beach itself has argued in the *Branch* litigation that “all elements of the VAVRA were satisfied” and that switching to the 7-3-1 system would violate the Virginia Voting Rights Act’s ban on at-large systems that dilute the voting strength of members of a protected class. ECF No. 322-2 at 28.

232. As the City argued in the *Branch* litigation, the adoption of the 7-3-1 system of election would also retrogress the Minority Community's position with respect to their effective exercise of the electoral franchise in violation of the Virginia Voting Rights Act. *Id.* at 29-30.

233. Absent relief from this Court, Defendants will continue to engage in the denial of Plaintiffs' rights.

234. Virginia Beach's Minority Community is thus entitled, under the Virginia Voting Rights Act, to three minority opportunity districts that provide them with an effective opportunity to elect the candidates of their choice to the City Council.

RELIEF SOUGHT

For the foregoing reasons, and in addition to the relief sought in Plaintiffs' Amended Complaint, Plaintiffs request that this Court:

- a. Declare that the 7-3-1 system of electing members to the Virginia Beach City Council violates Section 2 of the Voting Rights Act;
- b. Declare that the 7-3-1 system of electing members to the Virginia Beach City Council violates the Virginia Voting Rights Act;
- c. Enjoin Defendants, their agents and successors in office, and all persons acting in concert with, or as an agent of, any Defendants in this action from administering, implementing, or conducting any future elections in the City of Virginia Beach under the 7-3-1 method of election;
- d. Order the implementation of an election system for the Virginia Beach City Council that complies with Section 2 of the Voting Rights Act and with the Virginia Voting Rights Act;

- e. Grant Plaintiffs' attorneys' fees, costs, and litigation expenses pursuant to 42 U.S.C. § 1988(b), 52 U.S.C. § 10310(e), and Va. Code. Ann. § 24.2-130(c); and
- f. Grant any other relief that the Court may deem just and equitable;
- g. Retain jurisdiction of this action to render any further orders that this Court may deem appropriate.

Dated: August 7, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of August 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing to the following:

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