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The Defendant Pike County School District, referred to in this Complaint as the "District", is a corporate body and has its principal place of business in Pike County Georgia. The "District" is capable of being sued and is subject to the venue and jurisdiction of this Court. The control and management of public education within the "District" is confined to the Pike County Board of Education, referred to in this Complaint as the "Board". The "District" may be served with a copy of this Complaint and Summons by serving the executive officer and secretary to the "Board", Dr. Michael Duncan, 16 Jackson Street, Zebulon, GA 30295.

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The Defendant Lynn Brandenburg, referred to in this Complaint as Defendant Brandenburg, is the elections superintendent for Pike County Georgia and is responsible for conducting all elections in Pike County Georgia. The Defendant Brandenburg may be served with a copy of this Complaint and Summons at the Pike County Courthouse, 1601 Barnesville Street, Zebulon, GA 30295. The Defendant Brandenburg is subject to the venue and jurisdiction of this Court.

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The Defendant Walter James "Jim" Brooks, referred to in this Complaint as Defendant Brooks, is a resident of Pike County Georgia and is the Pike County School Board Member-elect for election District Four. The Defendant Brooks may be served with a copy of this Complaint and Summons at 1602 Smyrna Church Road, Molena Georgia, 30258. The Defendant Brooks is subject to the venue and jurisdiction of this Court.

#### **STATEMENT OF FACTS**

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The "Board" currently consists of six members, each of whom is elected from a separate single-member district.

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The six election districts as drawn in 2002 became malapportioned because of population shifts that have occurred within Pike County since 2002.

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As a result of these population shifts, the "Board" drew new district lines for the six districts and submitted these redrawn districts to the Georgia General Assembly for approval during the 2012 session. The act that created these new districts is 2012 Georgia General Assembly Act No. 308 (H.B. 906), referred to in this Complaint as the "2012 Plan", which act became effective on February 27, 2012. The "2012 Plan" repealed and superseded the 2002 district lines.

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Under the terms of the "2012 Plan", the "Board" was required to submit the plan to the United States Department of Justice, referred to in this Complaint as the "DOJ", for preclearance under Section 5 of the United States Voting Rights Act of 1965, 42 U.S.C. 1973c, no later than 45 days after the plan became effective (February 27, 2012). The "Board" submitted the plan to the "DOJ" on April 17, 2012, which is 50 days after the plan became effective.

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Pursuant to 42 U.S.C. 1973c, the "DOJ" had 60 days from April 17, 2012, the date the "Board" submitted the "2012 Plan" for preclearance, to respond to the submission. 42 U.S.C. 1973c also provides for an expedited approval of a submission within the 60 days for good cause shown. This expedited review is routine when time constraints are an issue.

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The qualifying period for persons seeking election to the "Board" during the 2012 election occurred on May 23, 24 and 25, 2012, which was within the 60 day period for the "DOJ" to respond to the submission from the "Board".

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The "Board", already being late in submitting the "2012 Plan" for preclearance as was required in the legislation, and being faced with a qualifying period within the 60 days for the "DOJ" to respond, apparently elected not to request expedited treatment of their submission.

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The "Board" was notified by the "DOJ" in a letter dated June 15, 2012, that the "DOJ" did not interpose any objection to the "2012 Plan".

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Persons qualifying for election to the "Board" during the 2012 elections were allowed to qualify on May 23, 24 and 25, 2012 using the superseded 2002 election districts as opposed to the "2012 Plan".

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Elections were held on July 31, 2012 in election districts three, four and five using the superseded 2002 election districts. A runoff election was held on August 21, 2012 to decide the district four election also using the superseded 2002 election district.

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As a result of the actions of the Defendants "District" and "Brandenburg" in conducting the election under the superseded 2002 plan, the Defendant "Brooks" was elected to the District Four seat when he actually resides in District Five under the "2012 Plan".

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As a result of the actions of the Defendants "District" and "Brandenburg" in conducting the election under the superseded 2002 plan, several other candidates were allowed to qualify for seats in districts that they did not reside in under the "2012 Plan".

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As a result of the actions of the Defendants "District" and "Brandenburg" in conducting the election under the superseded 2002 plan, Pike County voters were allowed to cast ballots for candidates in districts other than the districts in which the voters resided under the "2012 Plan".

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As a result of the actions of the Defendants "District" and "Brandenburg" in conducting the election under the superseded 2002 plan, all of the "Board" elections held during the July 31, 2012 and the August 21, 2012 elections are illegal.

**FIRST CLAIM FOR RELIEF  
DECLARATORY AND INJUNCTIVE RELIEF IN THE  
NATURE OF A WRIT OF QUO WARRANTO**

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The Plaintiffs restate and incorporate paragraphs 1 through 18 into this claim for relief.

-20-

This claim for relief is brought pursuant to O.C.G.A. Sec. 9-4-1 et seq., 9-5-1, et seq. and 9-6-60 et seq. seeking declaratory and injunctive in the nature of a writ of quo warranto.

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Pursuant to O.C.G.A. Sec. 20-2-51(a) no person shall be eligible for election as a member of a local board of education who is not a resident of the election district for which the person seeks to represent.

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The Defendant "Brooks" was not a resident of election District Four at the time of his election. Should the Defendant "Brooks" be allowed to take his oath of office, he will be subject to a quo warranto action because he will not be able to truthfully state that he is a resident of District Four. Consequently he is legally unable to serve as the District Four representative on the "Board".

**SECOND CLAIM FOR RELIEF**  
**VIOLATION OF THE UNITED STATES CONSTITUTION**

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The Plaintiffs restate and incorporate paragraphs 1 through 22 into this claim for relief.

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Article 4, Sec. 2 of the United States Constitution provides that " the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states". The right to vote and to have one's vote counted equally is one the fundamental privileges guaranteed by this article and other provisions of the United States Constitution.

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The Fourteenth Amendment to the United States Constitution Sec. 1, provides that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

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The aforementioned Fourteenth Amendment makes it unlawful for a state or subdivision thereof to create election districts for public offices that have populations that are grossly unbalanced.

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42 U.S. C. Sec. 1983 states as follows: " Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory of the District of Columbia, subjects, or causes to be subjected any citizen of the United State or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

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The Plaintiffs are citizens of the United States and the Defendants "District" and "Brandenburg" are persons with the meaning of 42 U.S.C. Sec. 1983.

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The Plaintiffs voted in the July 31, 2012 and August 21, 2012 elections for members of the "Board", however, because the Defendants "District" and "Brandenburg" allowed the elections to take place under a plan that was unconstitutional, the Plaintiffs' votes were diluted and debased.

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The Plaintiffs' right to have their votes counted equally with other Pike County residents was violated because the Defendants "District" and "Brandenburg" allowed candidates to run in districts in which they did not reside and allowed voters to cast ballots in districts in which they did not reside.

**THIRD CLAIM FOR RELIEF**  
**VIOLATION OF THE GEORGIA CONSTITUTION**

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The Plaintiffs restate and incorporate paragraphs 1 through 30 into this claim for relief.

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The elections held on July 31, 2012 and August 21, 2012 violated Article 1, Sec. 1, Para. 1 of the 1983 Constitution of the State of Georgia.

**THIRD CLAIM FOR RELIEF**  
**VIOLATION OF VOTING RIGHTS ACT**

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The Plaintiffs restate and incorporate paragraphs 1 through 32 into this claim for relief.

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The election districts as drawn by the 2002 map were repealed and superseded by the "2012 Plan". As of June 15, 2012, the date upon which the DOJ precleared the "2012 Plan", the 2002 map no longer existed and could not legally be used for purposes of electing members to the "Board". Holding a election under a repealed map is in violation of Section 5 of the Voting Rights Act.

**FOURTH CLAIM FOR RELIEF**  
**ATTORNEY'S FEES**

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The Plaintiffs are entitled to an award of attorney's fees for the Defendants "District" and "Brandenburg" pursuant to U.S.C. Sec. 1988 because of the Defendants' violation of the Plaintiffs' constitutional and statutory rights.

WHEREFORE, the Plaintiffs pray that:

1. The Defendants be served with a copy of this Complaint and Summons;
2. The Defendant "Brooks" be declared ineligible to serve as the District Four representative on the "Board";
3. The elections held on July 31, 2012 and August 21, 2012 for seats on the "Board" be declared void and invalid;
4. The Defendants "District" and "Brandenburg" be ordered to hold new qualifying and elections for "Board" districts three, four and five pursuant to the "2012 Plan";
5. The Defendants "District" and "Brandenburg" be enjoined from holding any future elections under the 2002 map;



6. The Court order a hearing on the Plaintiffs' application in the nature of a quo warranto as required pursuant to O.C.G.A. Sec. 9-6-64(a);

7. The Plaintiffs be awarded attorney's fees pursuant to U.S.C. Sec. 1988; and

8 For any further relief deemed appropriate by the Court.

This 4th day of October, 2012.

A handwritten signature in black ink, appearing to read "M. Kendall", is written over the typed name and title.

M. MICHAEL KENDALL

Counsel For Plaintiffs

Georgia Bar No.: 414025

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