

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., EQUAL
GROUND EDUCATION FUND, INC.,
LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., LEAGUE OF WOMEN
VOTERS OF FLORIDA EDUCATION
FUND, INC., FLORIDA RISING
TOGETHER, PASTOR REGINALD
GUNDY, SYLVIA YOUNG, PHYLLIS
WILEY, ANDREA HERSHORIN,
ANAYDIA CONNOLLY, BRANDON P.
NELSON, KATIE YARROWS, CYNTHIA
LIPPERT, KISHA LINEBAUGH, BEATRIZ
ALONSO, GONZALO ALFREDO
PEDROSO, and ILEANA CABAN,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as
Florida Secretary of State, ASHLEY MOODY,
in her official capacity as Florida Attorney
General, the FLORIDA SENATE, the
FLORIDA HOUSE OF
REPRESENTATIVES, WILTON SIMPSON,
in his official capacity as the President of the
Florida Senate, CHRIS SPROWLS, in his
official capacity as the Speaker of the Florida
House of Representatives, RAY RODRIGUES,
in his official capacity as Chair of the Senate
Committee on Reapportionment, and TOM
LEEK, in his official capacity as Chair of the
Chair of the House Redistricting Committee,

Defendants.

Case No. 2022-ca-000666

PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION

Pursuant to Florida Rule of Civil Procedure 1.610, Plaintiffs BLACK VOTERS MATTER
CAPACITY BUILDING INSTITUTE, INC., EQUAL GROUND EDUCATION FUND, INC.,

LEAGUE OF WOMEN VOTERS OF FLORIDA, INC., LEAGUE OF WOMEN VOTERS OF FLORIDA EDUCATION FUND, INC., FLORIDA RISING TOGETHER, PASTOR REGINALD GUNDY, SYLVIA YOUNG, PHYLLIS WILEY, ANDREA HERSHORIN, ANAYDIA CONNOLLY, BRANDON NELSON, KATIE YARROWS, CYNTHIA LIPPERT, KISHA LINEBAUGH, BEATRIZ ALONSO, GONZALO ALFREDO PEDROSO, and ILEANA CABAN, for the reasons set forth herein and in the memorandum of law filed concurrently with this motion, and as supported by the allegations of the Complaint, associated verifications, and affidavits submitted with the memorandum of law, respectfully move for an order temporarily enjoining Defendants from enforcing the boundaries of the congressional districts as drawn in the congressional plan (P000C0190) drawn and signed into law by Governor Ron DeSantis on April 22, 2022 (the “DeSantis Plan”).

A temporary injunction is warranted here because Plaintiffs are likely to succeed on the merits of their claim that the DeSantis Plan violates the non-diminishment provision of Article III, Section 20 of the Florida Constitution by dismantling the former Congressional District (“CD-”) 5, a North Florida district in which Black voters were previously able to elect their candidates of choice. Rather than preserve a North Florida district where Black voters would retain their ability to elect their candidates of choice to Congress, the DeSantis Plan cracks Black voters among four majority-white districts, thus diminishing their voting strength in violation of the Fair Districts Amendment. *See In re S. J. Res. of Legis. Apportionment 1176*, 83 So. 3d 597, 624–27 (Fla. 2012) (describing non-diminishment standard).

Moreover, Plaintiffs lack an adequate remedy at law because their injuries result from a violation of a fundamental constitutional right—the right to vote. *See, e.g., Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1263–64 (Fla. 2017) (finding “no adequate legal remedy at

law for the improper enforcement of’ unconstitutional law). Plaintiffs will suffer irreparable injury to their fundamental voting rights without immediate injunctive relief because Florida “law recognizes that a continuing constitutional violation, in and of itself, constitutes irreparable harm.” *Bd. of Cnty. Comm’rs v. Home Builders Ass’n of W. Fla., Inc.*, 325 So. 3d 981, 985 (Fla. 1st DCA 2021); *see also, e.g., League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (“Courts routinely deem restrictions on fundamental voting rights irreparable injury.”). And “enjoining the enforcement of a law that encroaches on a fundamental constitutional right presumptively ‘would serve the public interest,’” *Green v. Alachua Cnty.*, 323 So. 3d 246, 254 (Fla. 1st DCA 2021) (quoting *Gainesville Woman Care*, 210 So. 3d at 1264 (Fla. 2017))—especially where, as here, there is more than enough time to feasibly implement a remedial congressional plan in advance of this year’s primary and general elections.

Plaintiffs therefore request that the Court temporarily enjoin implementation of the DeSantis Plan. Plaintiffs further request that the Court expedite its consideration of this motion, including the scheduling of any hearings, to ensure that a necessary remedy is timely adopted and a lawful congressional plan is in place in North Florida in time for the 2022 congressional elections.

Plaintiffs also request that the Court, in determining the posting of bond as required by Florida Rule of Civil Procedure 1.610(b), set no more than a nominal bond, because the relief sought is against the State and to remedy a congressional plan that fails to comply with the Florida Constitution.¹

¹ Plaintiffs have requested that Defendants waive the requirement of a bond, but Defendants have not responded to that request as of the time of this filing. *See Dubner v. Ferraro*, 242 So. 3d 444, 447-48 (Fla. 4th DCA 2018) (“[A] bond is ordinarily required for a temporary injunction absent evidence of financial inability to maintain a bond, agreement of both sides, or any other recognized ground.”).

WHEREFORE, Plaintiffs request that the Court temporarily enjoin implementation of the DeSantis Plan (P000C0190), require no more than a nominal bond for injunctive relief, and expedite consideration of this matter to ensure that a necessary remedy is timely adopted and a lawful congressional plan is in place in North Florida in time for the 2022 congressional elections.

Dated: April 26, 2022

/s/ Frederick S. Wermuth
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Respectfully submitted,

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Counsel for Plaintiffs

**Pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 26, 2022 I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to counsel in the Service List below. I further certify that I have caused to be served, via Process Server, the foregoing on Defendants who have not yet made an appearance in this case.

/s/ Frederick S. Wermuth _____
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