

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

BLACK VOTERS MATTER CAPACITY  
BUILDING INSTITUTE, INC., et al.,

Case No.: 2022 CA 000666

Plaintiffs,

v.

CORD BYRD, in his official capacity as  
Florida Secretary of State, et al.,

Defendants.

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**RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST REQUESTS  
FOR PRODUCTION TO DEFENDANT THE FLORIDA SENATE**

Pursuant to Florida Rules of Civil Procedure 1.280 and 1.350, Defendant the Florida Senate hereby responds to Plaintiffs' First Requests for Production as follows:

**GENERAL OBJECTIONS**

A. The Florida Senate objects to the Requests to the extent they call for information protected by the attorney-client privilege, the attorney work-product doctrine, legislative privilege, joint defense privilege, or any other privilege or doctrine available under federal or state law, either statutory, regulatory, constitutional, or common law.

B. The Florida Senate objects to the Requests to the extent they impose on the Florida Senate obligations that exceed those imposed by the Florida Rules of Civil Procedure and relevant orders issued in this case.

C. The Florida Senate objects to the Requests to the extent they are overly broad or seek information that is neither relevant to the claim or defense

of any party in this action nor reasonably calculated to lead to the discovery of admissible evidence.

D. The Florida Senate objects to the Requests as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they purport to require the Florida Senate to search every member's and employee's files, both electronic and those in hard copy or other forms, all computer-generated documents, personal notes, handwritten notes, calendar entries, video and audio recordings, and more, both business and personal, over the course of nearly two years, regardless of whether those members or employees had any material involvement in the congressional redistricting process. The Florida Senate agrees to produce non-privileged, responsive communications and documents from a relevant subset of members and employees to include those individuals who were materially involved in map drawing and map analysis for congressional redistricting on behalf of the Florida Senate.

E. The Florida Senate objects to the Requests to the extent they are duplicative or cumulative.

F. The Florida Senate's failure to object on a particular ground or grounds shall not be construed as a waiver of its rights to object on any additional grounds. In making these objections, the Florida Senate does not in any way waive or intend to waive any additional objections, but rather intends to preserve and does preserve any additional objections should they become appropriate.

G. The Florida Senate responds to the Requests to the best of its present knowledge, information, and belief. The Florida Senate continues to investigate the matters that are the subject of this litigation. The responses set forth herein are at all times subject to additional or different information that discovery or further investigation may disclose.

H. The Florida Senate objects to any Requests seeking information for an improper purpose.

I. The Florida Senate objects to the Requests to the extent they are unduly burdensome or to the extent they seek information that (a) is in the possession, custody, or control of Plaintiffs; (b) is equally available to Plaintiffs; (c) is publicly available to Plaintiffs; or (d) is available from other sources that are more convenient, less burdensome, or less expensive such as other state agencies or entities, and/or production of documents and data in this action.

J. The Florida Senate objects to the introductory definitions to the Requests to the extent they purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific Requests to the extent that such enlargement, expansion, or alteration renders the request vague, ambiguous, unintelligible, overly broad, or uncertain.

### **OBJECTIONS TO SPECIFIC INSTRUCTIONS**

A. The Florida Senate objects to Instruction #1 because it purports to impose on the Florida Senate a duty to obtain documents that are in the possession and control of third parties. The Florida Senate also objects to this Instruction because it requests documents that are protected by the attorney-

client privilege and work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, and other privileges under Florida law. Finally, the Florida Senate objects to this Instruction as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to require the Florida Senate to search every member's and employee's files, both electronic and those in hard copy or other forms, all computer-generated documents, personal notes, handwritten notes, calendar entries, video and audio recordings, and more, both business and personal, over the course of nearly two years, regardless of whether those members or employees had any material involvement in the redistricting process. The Florida Senate agrees to produce nonprivileged, responsive communications and documents from a relevant subset of members and employees to include those individuals who were materially involved in map drawing and map analysis for congressional redistricting on behalf of the Florida Senate.

B. The Florida Senate objects to Instruction #2 because it purports to impose on the Florida Senate a duty to obtain documents that are in the possession and control of third parties. The Florida Senate also objects to this Instruction because it requests documents that are protected by the attorney-client privilege and work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, and other privileges under Florida law.

C. The Florida Senate objects to Instruction #4 to the extent it requests information that is protected by the attorney-client privilege and work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, as well as other privileges under Florida law. The Florida Senate also objects to the extent this Instruction purports to impose obligations or burdens that are in addition to or inconsistent with, the Florida Rules of Civil Procedure, any orders or other rulings the Court has entered or will enter, or any other applicable source of governing law. In addition, the Florida Senate objects to this Instruction to the extent it requires the Florida Senate to produce a privilege log prior to the completion of its rolling production. Once the rolling production of documents has been completed, the Florida Senate will produce a privilege log to Plaintiffs in compliance with the Florida Rules of Civil Procedure.

D. The Florida Senate objects to Instructions #8 and 9 to the extent they require the production of documents in a format that deviates from or is inconsistent with, the requirements of the Florida Rules of Civil Procedure, any orders or other rulings the Court has entered or will enter, or any other applicable source of governing law. The parties have not discussed the format of electronic documents that will be exchanged in response to requests for production, and documents will be produced in the format in which they are kept and maintained in the Florida Senate's regular course of business. The Florida Senate also objects to the extent these Instructions purport to require the Florida Senate to create documents for production.

## **OBJECTIONS TO SPECIFIC DEFINITIONS**

A. The Florida Senate objects to the definitions of “you” or “your” to the extent they purport to refer to or encompass any individual or entity other than the Florida Senate.

B. The Florida Senate objects to the term “Fair Districts Amendments” to the extent it includes Article III, Section 21 of the Florida Constitution, which is not at issue in this litigation. Inquiries as to compliance with this provision of the Florida Constitution are not reasonably calculated to lead to the discovery of admissible evidence.

C. The Florida Senate objects to the definitions of particular plans to the extent those definitions include undefined “drafts or precursors” as vague and confusing. It is not clear what the Plaintiffs consider to be “drafts, precursors, or direct predecessors” the specifically identified congressional redistricting plans, nor is it clear why Plaintiffs would not simply name those Plans by identification number as opposed to asking for the Florida Senate to guess what other unidentified plans Plaintiffs intend for the Florida Senate to address in response to Requests identifying particular congressional redistricting plans. Where a specific plan is identified in a Request, the Florida Senate will respond to Plaintiffs’ Requests regarding that plan.

D. The Florida Senate objects to the definition of “Proposed Plans” as overly broad, unduly burdensome, and vague to the extent it refers to any congressional district maps that were neither considered by nor proposed by the

Florida Senate, the Senate Committee on Reapportionment, or the Senate Select Subcommittee on Congressional Reapportionment.

E. The Florida Senate objects to the rules of construction in paragraph 17.f) to the extent they purport to refer to or encompass individuals or entities other than the Florida Senate. The paragraph attempts to impose on the Florida Senate a duty to obtain information and documents that are in the possession and control of third parties. The Florida Senate also objects to this paragraph because it enlarges the Requests to refer to information and documents that are protected by the attorney-client privilege and work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, as well as other privileges under Florida law.

Subject to and without waiving these General Objections, the Florida Senate sets forth its responses and objections to the Requests as follows:

**REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** All documents and communications relating to the Fair Districts Amendments, including but not limited to all documents or communications regarding the applicability of or compliance with the Fair Districts Amendments.

**RESPONSE:** The Florida Senate objects to this Request as overly broad, unduly burdensome, and not proportional to the needs of this action. Plaintiffs' request for "all documents and communication" relating to the "Fair Districts Amendments" is overbroad and unduly burdensome as written. *See, e.g., Overton v. State*, 976 So. 2d 536, 549 (Fla. 2007). The Florida Senate is comprised of 40 members and hundreds of employees. Requiring the Florida Senate to search every member's and employee's files, both electronic and those in hard copy or other forms, all computer-generated documents, personal notes, handwritten notes, calendar entries, video and audio recordings, and more, both business and personal, over the course of nearly two years, regardless of whether those members or employees had any material involvement in the redistricting process, for "all documents and communication" would be unduly burdensome, overly broad, consume an exorbitant amount of time that should be spent on

other matters, is not proportional to the needs of this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs have not provided key words that the Florida Senate can use to search for such documents, nor have they identified the custodians whom the Florida Senate should search. The Florida Senate could not comply with Plaintiffs' request as written prior to deadline for the exchange of discovery in this case.

The Florida Senate also objects because the term "Fair Districts Amendments" is overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it includes Article III, Section 21 of the Florida Constitution, which is not at issue in this litigation. Requests for documents relating to this provision of the Florida Constitution are overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

The Florida Senate objects to the extent the Request seeks documents and communications that are protected by the attorney-client privilege, work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, or other privileges under Florida law. Instead, a privilege log will be produced in compliance with the Florida Rules of Civil Procedure with regard to any such documents.

**REQUEST FOR PRODUCTION NO. 2:** All documents and communications between or among members, employees, staff, agents, vendors, or consultants of the Legislature relating to the process of or substance of congressional redistricting.

**RESPONSE:** The Florida Senate objects to this Request as overly broad, unduly burdensome, and not proportional to the needs of this action. Plaintiffs' request for "all documents and communication" relating to the "process of or substance of congressional redistricting" is overbroad and unduly burdensome as written. *See, e.g., Overton v. State*, 976 So. 2d 536, 549 (Fla. 2007). The Florida Senate is comprised of 40 members and hundreds of employees. Requiring the Florida Senate to search every member's and employee's files, both electronic and those in hard copy or other forms, all computer-generated documents, personal notes, handwritten notes, calendar entries, video and audio recordings, and more, both business and personal, over the course of nearly two years, regardless of whether those members or employees had any material involvement in the redistricting process, for "all documents and communication" would be unduly burdensome, overly broad, consume an exorbitant amount of time that should be spent on other matters, is not proportional to the needs of this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs have not provided key words that the Florida Senate can use to search for such documents, nor have they identified the custodians whom the Florida Senate should search. The Florida Senate could not comply with Plaintiffs' request as written prior to deadline for the exchange of discovery in this case. The Florida



Senate also objects because the phrase “relating to the process of or substance of congressional redistricting” is vague and ambiguous.

The Florida Senate also objects to the extent the Request seeks documents and communications that are protected by the attorney-client privilege, work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, or other privileges under Florida law. Instead, a privilege log will be produced in compliance with the Florida Rules of Civil Procedure with regard to any such documents.

**REQUEST FOR PRODUCTION NO. 3:** All documents and communications related to any functional analysis performed on the Benchmark Congressional Plan.

**RESPONSE:** The Florida Senate objects to this Request as overly broad, unduly burdensome, and not proportional to the needs of this action. Plaintiffs’ request for “all documents and communication” relating to the “any functional analysis performed on the Benchmark Congressional Plan” is overbroad and unduly burdensome as written. *See, e.g., Overton v. State*, 976 So. 2d 536, 549 (Fla. 2007). The Florida Senate is comprised of 40 members and hundreds of employees. Requiring the Florida Senate to search every member’s and employee’s files, both electronic and those in hard copy or other forms, all computer-generated documents, personal notes, handwritten notes, calendar entries, video and audio recordings, and more, both business and personal, over the course of nearly two years, regardless of whether those members or employees had any material involvement in the redistricting process, for “all documents and communication” would be unduly burdensome, overly broad, consume an exorbitant amount of time that should be spent on other matters, is not proportional to the needs of this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs have not provided key words that the Florida Senate can use to search for such documents, nor have they identified the custodians whom the Florida Senate should search. The Florida Senate could not comply with Plaintiffs’ request as written prior to deadline for the exchange of discovery in this case.

The Florida Senate objects because this Request seeks documents that are (a) equally available to Plaintiffs; (b) publicly available to Plaintiffs on the Florida Senate’s website; or (c) available from other sources that are more convenient, less burdensome, or less expensive than forcing the expenditure of resources on this Request.

The Florida Senate also objects to the extent the Request seeks documents and communications that are protected by the attorney-client privilege, work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, or other privileges under Florida

law. Instead, a privilege log will be produced in compliance with the Florida Rules of Civil Procedure with regard to any such documents.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows: The Florida Senate will conduct a reasonable search for documents and communications that reflect or reference a functional analysis of the Benchmark Congressional Plan and will produce responsive, non-privileged documents identified by that search.

**REQUEST FOR PRODUCTION NO. 4:** All documents and communications related to any functional analysis performed on and any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, the Enacted Plan.

**RESPONSE:** The Florida Senate objects to this Request as overly broad, unduly burdensome, and not proportional to the needs of this action. Plaintiffs' request for "all documents and communication" relating to "any functional analysis performed on and any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, the Enacted Plan" is overbroad and unduly burdensome as written. *See, e.g., Overton v. State*, 976 So. 2d 536, 549 (Fla. 2007). The Florida Senate is comprised of 40 members and hundreds of employees. Requiring the Florida Senate to search every member's and employee's files, both electronic and those in hard copy or other forms, all computer-generated documents, personal notes, handwritten notes, calendar entries, video and audio recordings, and more, both business and personal, over the course of nearly two years, regardless of whether those members or employees had any material involvement in the redistricting process, for "all documents and communication" would be unduly burdensome, overly broad, consume an exorbitant amount of time that should be spent on other matters, is not proportional to the needs of this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs have not provided key words that the Florida Senate can use to search for such documents, nor have they identified the custodians whom the Florida Senate should search. The Florida Senate could not comply with Plaintiffs' request as written prior to deadline for the exchange of discovery in this case.

The Florida Senate objects because this Request seeks documents that are (a) equally available to Plaintiffs; (b) publicly available to Plaintiffs on the Florida Senate's website; or (c) available from other sources that are more convenient, less burdensome, or less expensive than forcing the expenditure of resources on this Request.

The Florida Senate also objects to the extent the Request seeks documents and communications that are protected by the attorney-client privilege, work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, or other privileges under Florida

law. Instead, a privilege log will be produced in compliance with the Florida Rules of Civil Procedure with regard to any such documents.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows: The Florida Senate will conduct a reasonable search for documents and communications that reflect or reference a functional analysis of the six congressional redistricting plans referenced in the Request and will produce responsive, non-privileged documents identified by that search.

**REQUEST FOR PRODUCTION NO. 5:** All documents and communications related to your response to each interrogatory in Plaintiffs' First Interrogatories to Defendant Florida Senate.

**RESPONSE:** The Florida Senate objects to the Request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks "[a]ll documents and communications related to" the Florida Senate's interrogatory responses. Plaintiffs' proposed definition of "related to" is so broad that nearly any legislative document might qualify. The Florida Senate also objects to the extent the Request seeks documents and communications that are protected by the attorney-client privilege, work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, or other privileges under Florida law. Instead, a privilege log will be produced in compliance with the Florida Rules of Civil Procedure with regard to any such documents.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows: The Florida Senate will produce responsive, non-privileged documents referenced in or relied upon in the Florida Senate's Responses and Objections to Plaintiffs' First Set of Interrogatories.

**REQUEST FOR PRODUCTION NO. 6:** To the extent not already produced in response to Request for Production #1 or #2, all documents and communications discussing, analyzing, or commenting upon Plan P000C0079, Plan P000C0094, and the Enacted Plan, or any drafts thereof.

**RESPONSE:** The Florida Senate objects to this Request as overly broad, unduly burdensome, and not proportional to the needs of this action. Plaintiffs' request for "all documents and communication discussing, analyzing, or commenting upon Plan P000C0079, Plan P000C0094, and the Enacted Plan, or any drafts thereof" is overbroad and unduly burdensome as written. *See, e.g., Overton v. State*, 976 So. 2d 536, 549 (Fla. 2007). The Florida Senate is comprised of 40 members and hundreds of employees. Requiring the Florida Senate to search every member's and employee's files, both electronic and those in hard copy or other forms, all computer-generated documents, personal notes, handwritten notes, calendar entries, video and audio recordings, and more, both business

and personal, over the course of nearly two years, regardless of whether those members or employees had any material involvement in the redistricting process, for “all documents and communication” would be unduly burdensome, overly broad, consume an exorbitant amount of time that should be spent on other matters, is not proportional to the needs of this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs have not provided key words that the Florida Senate can use to search for such documents, nor have they identified the custodians whom the Florida Senate should search. The Florida Senate could not comply with Plaintiffs’ request as written prior to deadline for the exchange of discovery in this case.

The Florida Senate objects because Request # 6 is duplicative and cumulative of Requests # 1 and 2. Because Requests # 1 and 2 are already so patently overbroad and unduly burdensome, Request #6 is also vague and confusing. It is unclear what documents and communications would fall within the scope of Request # 6 that are not already subsumed in the overly broad and unduly burdensome universe of “all documents and communications” requested pursuant to Requests # 1 and 2. The Florida Senate does not understand how a document or communication that “discuss[es], analyz[es], or comment[s] upon Plan P000C0079, Plan P000C0094, and the Enacted Plan, or any drafts thereof” would not also be a document or communication that either “relat[es] to the Fair Districts Amendments” or “relat[es] to the process or substance of congressional redistricting.” To the extent such documents or communications might exist, Request #6 now makes Requests # 1 and 2 vague and confusing as well.

The Florida Senate objects to the extent the Request seeks documents and communications that are protected by the attorney-client privilege, work product doctrine, legislative privilege as to documents that are not otherwise subject to disclosure under Florida public records laws, or other privileges under Florida law. Instead, a privilege log will be produced in compliance with the Florida Rules of Civil Procedure with regard to any such documents.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows: The Florida Senate will conduct a reasonable search for documents and communications that reflect or reference the three congressional redistricting plans referenced in the Request and will produce responsive, non-privileged documents identified by that search.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19th day of August 2022, a copy of the foregoing was filed via electronic means through the Florida Courts E-Filing portal and was served via electronic mail on all counsel of record.

*/s/ Daniel Nordby* \_\_\_\_\_  
Attorney