

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

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

Plaintiffs,

v.

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

Defendants.

Case No. 2022-ca-000666

**AFFIDAVIT OF DR. STEPHEN ANSOLABEHHERE**

STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

BEFORE ME, the undersigned authority, personally appeared Dr. Stephen Ansolabehere, who, after first being duly sworn, deposes and says:

1. I am the Frank G. Thompson Professor of Government at Harvard University.

2. I served as an expert witness for Plaintiffs in April 2022 during the temporary injunction proceedings in this matter concerning the Florida's 2022 Enacted Congressional Plan. My April 2022 report examined the topic of Tier I diminishment in North Florida. The trial court judge at the time, Judge J. Layne

Smith, found my expert report and my testimony credible and relied on them in finding that the Enacted Congressional Plan unlawfully diminished Black voters' ability to elect their candidates of choice in violation of the Florida Constitution.

3. From 2011 to 2015, I served as an expert witness for the *Romo* plaintiffs in the last redistricting cycle's challenge to Florida's congressional districts in *Romo v. Detzner*, in which the Florida Supreme Court ultimately held that the 2012 Enacted Congressional Plan violated both Tier One and Tier Two criteria in violation of the Florida Constitution. I also served as the sponsoring expert for the *Romo* plaintiffs' map in the remedy phase of that litigation.

4. I wrote multiple expert reports examining Florida's congressional district plan throughout the *Romo* litigation. Those reports are dated March 26, 2012; February 14, 2013; October 28, 2013; April 7, 2014; and September 18, 2015. These reports totaled 147 pages and took hundreds of hours of research and analysis to prepare. These reports addressed both Tier One and Tier Two factors as they applied to Florida's congressional maps. These expert reports often relied on discovery taken in that case, and the discovery process often led to requests for additional research and factual reports. For example, my report on April 7, 2014, came in response to discovery that occurred in the month leading up to the trial. Other experts in that matter conducted similarly in-depth research throughout the litigation process.

5. In addition to examining Tier One factors, the reports that I wrote as part of the litigation in *Romo v. Detzner* examined two sorts of Tier Two factors: (i) the compactness of all districts in the State of Florida and (ii) the frequency of and specific instances where county, municipal, and precinct boundaries were split by congressional district boundaries.

6. Compactness itself is a complex, multi-dimensional concept. In assessing compactness in Florida's last redistricting cycle, I followed standard academic practice examined measures of Area Compactness and Perimeter Compactness, including Reock, Polsby-Popper, Schwartzberg, and Convex-Hull. These are standard measures used in academic research and in litigation on the geographic shape of election districts.

7. Calculating measures of compactness, however, is not a straightforward task. One challenge arises because of the Earth's curvature. Before one can measure compactness, one must use software to project the curvature of the Earth onto a 2-dimensional space. Different software correct for the Earth's curvature, shorelines, and other aspects of geography, in different ways, and often produce different values for the measures of compactness. This means that experts can arrive at different calculations for compactness depending on the programming used.

8. Determining whether Defendants' reported compactness measures are reliable necessarily requires discovery into the process and programming used to

arrive at such figures. Resolving such issues when they arise is a normal part of the research and discovery process, and such research takes time and attention. These issues are likely to arise in assessing the compactness of the Florida's congressional districts in the 2022 Enacted Congressional Plan. I note, for instance, that the compactness measures that Defendants reported in their motion for partial summary judgment differ from the compactness reports generated by Dave's Redistricting, a well-known and widely utilized redistricting resource.

9. In my expert reports last cycle, in assessing the factual issues of district compactness and other Tier Two factors, I examined specific districts as well as the surrounding districts. This is because districts cannot be viewed in isolation.

10. In my experience, Tier One and Tier Two criteria also cannot be viewed in isolation. A redistricting plan may sacrifice one Tier Two factor to comply with a Tier One factor or another Tier Two factor. Conversely, if a plan unlawfully violates Tier One criteria, such as diminishing minority voters' ability to elect their candidate of choice, the plan's "compliance" with Tier Two criteria may be artificially inflated. The upshot is that Tier One and Tier Two compliance cannot be neatly separated.

11. Preparing expert reports in redistricting cases such as these often requires making comparisons between the Enacted Congressional Plan, the prior or "benchmark" congressional plan, and proposed or draft plans, some of which are

only obtained through the discovery process. I expect that such comparisons will be used this time, and that discovery will assist in analyzing in how and why mapmakers changed certain districts. From even publicly available information, for example, I can say that congressional redistricting plans originally passed by the Florida House and Senate in this redistricting cycle had meaningfully different configurations of congressional districts such as CD-4, CD-5, CD-7, CD-13, and CD-14 (the districts Defendants highlight in their motion for partial summary judgment). The discovery process is the primary way to determine the basis and explanation for these different configurations.

12. Preparing expert reports in redistricting cases such as these requires analysis of extensive data. In preparing the analyses for *Romo v. Detzner*, for example, I relied on block assignment files, shapefiles, and data files; statistical reports that provided information from the US Census and the American Community Survey on the population and demographic composition of districts, including information on the citizen voting age population; and election results and voter registration data from the State of Florida. My review of election data involved analyzing general and primary elections at the precinct and district level for statewide elections and legislative elections throughout the preceding decade. My review of registration data required examining the counts of the number of people registered in each precinct, the number of people registered with each party in each

precinct, the number of registrants who were of a given race in each precinct, the number of registrants in each precinct who voted in each general election and in each primary election, and counts of the number of registrants in each party and in each racial group in each precinct who voted in each general election and in each primary election. In the last redistricting cycle, experts also relied upon data containing the race of candidates, information which is not always publicly available. Finally, my work also relied on national exit polls in the two federal elections immediately prior to redistricting (i.e., 2008 and 2010) at the state level and district level.

13. I expect that any expert conducting an analysis of Florida's congressional redistricting plans would need to rely on similar information this cycle, and it is my understanding that not all of this information is available on the Florida redistricting website, although some of it is has been made publicly available. But even if all of this information were available today, it is my experience in both academic research and redistricting cases that, in the process of analyzing data, questions often arise about particular features of the data that might require additional discovery. For example, there may be missing data or inconsistencies in data, especially across different levels of aggregation (such as between block-level and precinct-level aggregates), that require further inquiry and discovery to resolve.

14. Accordingly, considerable factual analysis review must be completed to assist any expert examination of the 2022 congressional plan.

15. There is a significant amount of information to analyze in the Enacted Congressional Plan, even for just the Tier Two criteria. As just one data point, the Enacted Congressional Plan splits 17 counties (with 29 total county crossings), 71 municipal boundary splits, and 308 precincts/VTDs. In my experience, it is difficult to make meaningful observations about the necessity of such boundary crossings or conclude that they are constitutional or not without using the discovery process to learn what other possible maps could be or had been drawn.

16. Even a brief comparison of the 2022 Enacted Congressional Plan with the Benchmark Plan reveals divisions of counties and municipalities under the Enacted Plan that were not present in the Benchmark Plan. As just two examples, in the Benchmark Plan (in place from 2016 – 2021), Volusia County was wholly contained in CD-6, but in the Enacted Plan Volusia County is split by CD-6 and CD-7. Similarly, the City of Saint Petersburg was wholly contained in CD-13 under the Benchmark Plan but is divided by CD-13 and CD-14 in the Enacted Plan. From my experience in *Romo v. Detzner* and other redistricting cases, the new division of a county or a city, when that county or city was not split in the Benchmark Plan, would raise questions about whether the division was necessary to satisfy a Tier One objective, and whether the division might have created new problems under Tier One. These are just a few of the questions that any expert analysis and the discovery

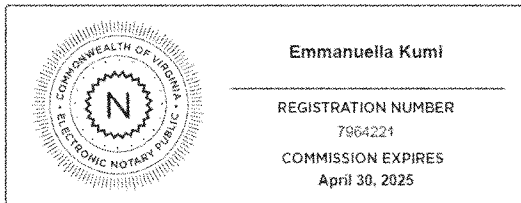
process would need to explore to make any meaningful observations about a plan's compliance with Tier Two criteria.

17. I make the foregoing statements with knowledge that they will be used in court, and I declare under penalty of perjury under the laws of the State of Florida that they are true and correct to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Stephen Daniel Ansolabehere  
DR. STEPHEN ANSOLABEHERE

SWORN TO AND SUBSCRIBED before me this 9<sup>th</sup> day of September 2022, by Stephen Daniel Ansolabehere, who (check one)  is personally known to me,  produced a driver's license (issued by a state of the United States within the last give (5) years) as identification, or  produced other identification, to wit:



Emmanuella Kumi  
Print Name: Emmanuella Kumi  
Notary Public, State of ~~Florida~~ Virginia Loudoun  
Commission No.: 7964221  
My Commission Expires: 04/30/2025

Notarized online using audio-video communication