

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

**PLAINTIFFS' OPPOSITION TO MOTION TO QUASH DEPOSITIONS OF
LEGISLATORS AND STAFF**

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Plan 0109 entirely with the legislature's publicly available website and data. Regarding the proposed plan, the plan maintains the same number of performing majority/minority seats. It retains, as I noted before, the legislature's exact configuration for congressional districts in the Florida panhandle, Districts 1 through 2, and congressional districts in the southeastern region of the state, essentially St. Lucie County down to Monroe County, just as in the legislature's primary plan.

For the reasons set forth in the detailed memorandum that the chair referenced and is in your packets that was prepared by our office's general counsel that accompanied the governor's veto message, the compromised proposal eliminates the racially gerrymandered versions of Congressional District 5, which were including in Senate Bill 102, both in different ways, the primary plan and the secondary plan. Again, members, that legal memorandum is in your committee packets.

In summary, Congressional District 5 in both the primary and secondary maps enacted by the legislature violates the equal protection clause of the 14th Amendment of the United States Constitution because it assigns voters primarily on the basis of race but is not narrowly tailored to achieve a compelling state interest. That memorandum otherwise fully explains the governor's legal objections to both versions of the district as passed by the legislature in the primary and secondary maps. I should note as a map drawer, I'm not an attorney. So, I'm not going to play the role of an attorney today. I'll keep my comments focused on the map itself and do my best to answer your questions. But I just want to note that at the outset that I'm not legal counsel to the governor.

Plan 109 creates in Northeast Florida two new districts, Districts 4 and 5 in the area that are consistent with the other maps previously published by our office with some minor improvements. These two districts are race neutral and overall more compact than Districts 4 and 5 in the maps passed by the legislature. In addition to resolving the federal constitutional objections raised by the governor, the compromise plan makes several overall improvements with respect

to Tier 2 metrics relative to the maps passed by the legislature by bringing together some of the best concepts in the legislature's map and our office's maps.

Plan 109 adjust the congressional districts in the Tampa Bay area and the larger Gulf Coast region, stretching from Citrus down to Lee Counties, and impacting some inland counties to create sort of a hybrid, if you will, of some of the legislature's and our office's maps. These changes improve overall visual compactness, have a net effect of reducing a county split, and significantly increase usage of other Tier 2 political and geographic boundary lines.

In the Central Florida region, the plan that you have before you today aligns more closely with the map that was referred out of the House Congressional Redistricting Subcommittee, Plan 8011, with one distinction that I'll describe later that aligns with Senate Plan 8060, as you passed out of the Senate.

Sen. Gibson: Mr. Chair, sorry? Thank you, Mr. Chair. So, we're waiting until the entire packet is done to ask any questions? Because I didn't hear the explanation of the – I think Mr. Kelly said of the governor's veto language. I don't see it in the packet. Could he repeat – It was a rational for –

Sen. Rodrigues: The veto language was in the packet we provided.

Sen. Gibson: Can I have clarity, that is the language that Mr. Kelly is talking about that's in this –

Sen. Rodrigues: You understand the question?

Mr. Kelly: Yes, Chair. Senator, yes, I gave a brief synopsis of that veto message and the accompanying message from our general counsel that went with the veto message.

Sen. Gibson: I think that's the part I didn't understand how you put it together. I just want to make sure I hear it correctly, that's all, Mr. Chair. If he could repeat it?

Sen. Rodrigues: Could you repeat that, please?

Mr. Kelly: Thank you, Chair, I'd be happy to. In summary, Congressional District 5 in both the primary and secondary maps enacted by the legislature violates the Equal Protection Clause of the 14th Amendment of the United States Constitution because it assigns voters primarily based on race but is not narrowly tailored to achieve a compelling state interest.

Sen. Gibson: Okay, thank you.

Sen. Rodrigues: Thank you. Please proceed.

Mr. Kelly: Thank you. So, again, in the Central Florida region, the plan that you're looking at today, Plan 0109, aligns more closely with the map that was referred out of the House Congressional Redistricting Subcommittee, Plan 8011, with one distinction that aligns with Senate Plan 8060. With respect to similarities with House Plan 8011, specifically with respect to Congressional 10, we accept the position articulated by the House's professional staff in their subcommittee that this district is not subject to the Florida Constitution non-diminishment standard because the benchmark district does not contain an African American population sufficiently large enough to reliably elect a candidate of their choice.

We understand during the course of the testimony between House and Senate, there was a disagreement on this point. However, because districts cannot be drawn on the basis of race unless there is a compelling reason to do so, in the absence of an agreement between House and Senate on the need to treat District 10 as a minority protected district under the state constitution indicates that a compelling basis using race is lacking. Accordingly, the proposed plan defers to the House's stated testimony. And my changes to the districts in Central Florida in that region, including District 10, are drawn on race neutral principles.

Again, these changes in Central Florida result in Tier 2 improvements in the Central Florida region. And, in combination,

these changes in Central Florida and in the Gulf Coast counties result in some additional Tier 2 improvements for other impacted districts, like Districts 3, 6, and 11. Lastly, in between the submission of our office's second map plan, 0094, and my drawing of this plan, 0109, I received feedback from House and Senate staff regarding our second maps overreliance on the use of census designated place boundaries. I was encouraged to follow the House and Senate's preferred methodology for boundary usage to increase our usage of major roadways, waterways, and railways for Tier 2 compliance.

Our second map closely adhered to county and city lines, so that was not a concern. Although, less frequently to other Tier 2 recognized boundaries. Therefore, throughout the 18 districts that are revised in this plan, I adopted the House and Senate's preferred and clear articulation of Tier 2 compliance. So, even when I was trying to articulate a concept from one of our office's plans, I made such revisions using the legislature's preferred approach to Tier 2 compliance. In the next few slides, I'll walk you through some key points regarding those Tier 2 improvements.

First, the proposed plan before you today reduces by one the number of county splits from 18 to 17 by keeping Citrus and Sarasota Counties hold in lieu of Polk, effectively a two for one swap. Furthermore, where there are county splits, the number of ways in which those counties are split is reduced. Probably the most visible example of that, at least in a larger county, is the change in Hillsboro County where portions of Hillsboro County are now only divided into three districts rather than four districts.

Second, the proposed plan reduces the reliance on non-geographic and non-political boundaries from 12.5% to 11.5%. In other words, just a minute ago, when I mentioned previously I adopted the House and Senate's preferred way to articulate Tier 2 compliance by substituting major roadways, water ways, and railways, along with our map's already strong usage of county and city lines, my Tier 2 usage of compliant boundaries surpassed that of the maps passed by the legislature.

Third, although mean compactness scores are largely equivalent when comparing my revisions in Plan 0109 with the legislature's primary plan, the proposed plan improves the compactness score of the least compact district in the map. I believe this would actually be the first map considered by the legislature in which every district has a REAC or Polsby-Popper score greater than 0.2. Moreover, visually, as we go through the map, we'll see, in just a few moments, many of the districts are just plainly more circular, squared, more visually compact shapes that are more easily understandable.

Lastly, my changes in Plan 0109 stayed equal to the legislature's achievement of only splitting 16 cities in its primary plan. There are some differences about which cities are split when comparing my revision in this plan to the legislature's enacted plan, specifically Cape Coral and Plant City and Port Orange would be kept whole in this plan, while splits would occur in Lakeland, St. Petersburg, and Longboat Key. What I did take care to do is ensure that where there's essentially trades, and city splits occurred to ensure that other Tier 2 metrics were being met in the process. For example, as you know, Long Boat Key is one of four cities in Florida that crosses county lines. And I only split Long Boat Key in the process of keeping Sarasota County whole.

So, it seemed a reasonable and rational trade to keep a county whole in lieu of a city that crossed county lines. I should say in saying all of this, I don't ever mean to suggest with these slides that there is a statistical line in the sand for what is Tier 2 compliant compactness or county splits or city splits but recognizing that we could be presenting a plan to this legislature and me authorizing a compromise plan. I recognize I should come to you with a plan that recommends improvements and builds on that work of the legislature. And certainly, in no way asking you go backwards, only asking you to consider improvements. And that is exactly what I've done.

So, with that, I'll proceed to a more detailed visual presentation. The next two slides are the same content, just the second slide doesn't

have the district labels. The statewide view definitely helps get a sense of some of the visual compactness, and we'll zoom in some, the visual compactness of this map and some of the improvements. This is really here for your reference, as is the next slide. You can begin to really see the changes. In fact, I might just go to that slide. You can begin to really see the changes when I've excluded the district labels.

Again, as much as it was important to maintain statistical compactness for Tier 2 purposes, I also wanted these changes to satisfy the eyeball test. In offering some more square, circular districts, greater use of clear and visible boundary lines helped that effect. The next couple slides zoom in a little closer, just focusing on those districts that I changed in this plan. So, excluding the panhandle and excluding Southeast Florida. Again, the slide without district labels might be a little easier to see to fully appreciate some of the Tier 2 improvements.

One of the other key facets of my work on this proposed plan, that I wanted to make sure there was not, essentially, collateral, unintended consequences to my changes without making some sort of equal or better Tier 2 change. For example, as you see, I split Polk County as part of the swap for keeping Citrus and Sarasota Counties whole. I'll explain it in a little more detail later what exactly I mean by that. In doing so, I incorporated several Tier 2 related changes in Polk County to make sure the new lines of how those districts interact with districts from neighboring counties, how those lines are still very meaningful in a Tier 2 context.

That said, the District 18 that you're your looking at, still two thirds of the residents in the proposed District 18 are from Polk County. The remaining residents coming from those rural counties. So, Polk County would still be the significant portion of population in one of those districts.

Sen. Bracy: Mr. Chair, I have a question.

Sen. Rodrigues: Sen. Bracy, you're recognized.

Sen. Bracy: Thank you. All your comments are about Tier 2 compactness. But I haven't heard once about Tier 1. Tier 1, obviously, it trumps, no pun intended, but it trumps Tier 2. So, why are you focused on Tier 2 and not Tier 1, when that clearly is the most important by federal law?

Sen. Rodrigues: Mr. Kelly, you're recognized.

Mr. Kelly: Thank you, Mr. Chair, and thank you for the question. So, I did note earlier in my presentation, part of that Tier 1 analysis is not intentionally favoring or disfavoring an incumbent or political party. I noted that in no where was I ever instructed to do that and in no where did I ever intend to do that. So, I addressed Tier 1 in that context. Additionally, there's nowhere in the map where there's a contiguity issue. So, Tier 1 has been addressed in that context as well. In terms of the non-diminishment standard, when I went through the Benchmark District 5 and the governor's veto message, that really was at the heart of probably the one sort of outstanding Tier 1 question, the division between the legislature's maps and the governor's ultimate veto and objection to the map.

Because there's this tension between that district. That district, the way it was composed in both the primary and secondary plan, violate the federal constitution. So, while there is the Tier 1 diminishment requirement, that Tier 1 diminishment requirement cannot be utilized to violate federal law. So, that's what I was referring to as I was walking through that.

Sen. Bracy: How do we know that you haven't talked –

Sen. Rodrigues: You're recognized for a follow-up.

Sen. Bracy: Thank you, Chair. You said you haven't spoken to anyone, you haven't looked at any data regarding race. How do we know that? That was said before when we had the map drawing process in 2016, it proved to be wrong. Why would you even mention that if there's no way to prove that?

Sen. Rodrigues: Sen. Bracy, I'm not going to forward that question on. I think he opened in the preamble by laying out these were the parameters that he worked from. If the question is – You can ask the question why did he feel he should lay those parameters out. But I don't think it's a fair question to put out how can you prove something that you believe can't be proven. I'll yield to Mr. Kelly, if he wants to articulate why he led the preamble of these are the things I drew from.

Mr. Kelly: Thank you, Chair. Thank you for the question. Really, in due difference in respect to your process, we know these are standards by which you have to live, too. So, we know that your work, the work of your professional staff, you hold yourself to this high bar as well. So, I wanted to make sure that you understood that from our office's perspective, we were living up to that same standard that you are.

Sen. Bracy: Question.

Sen. Rodrigues: You're recognized.

Sen. Bracy: Thank you, Mr. Chair. How do you feel that District 5, District 10 violates the 14th Amendment?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Sure. Thank you, Mr. Chair. I can probably at this point, probably defer a little bit to counsel. I've probably given my best summary overview of the tension between the two. I will say that the memo that was provided to you details this significantly and explains the governor's veto message. Of course, I also walked through District 10. In District 10, we accept the House's analysis that it's not actually a performing seat. The House testified to that in committee. It was very rational and well thought out analysis. And so, we're adopting that analysis here. And in both cases, if there's absent a compelling state interest, if there's a potential violation of federal law, at that point, the state's not obligated to draw those districts in a manner that aligns with the state constitutional diminishment

standard.

Sen. Rodrigues: Sen. Bracy, did you get a copy of the veto letter in the packet we provided?

Sen. Bracy: I didn't, but if the staff can go through how this violates the 14th Amendment, I guess from the House analysis. I mean, you're here to defend this map. So, if someone can explain to me how District 5, District 10 are not protected minority access seats, when it was in our Senate map drawing map process. Now, all of a sudden, it's not. I understand that was the House position. If it could be explained for this committee so it's clear, I would appreciate it.

Sen. Rodrigues: Why don't we do this, why don't we give you some time to read over the veto letter, and then we're going to go to Sen. Rouson for a question. And then we'll come back to Sen. Bracy.

Sen. Rouson: Thank you very much, Mr. Chairman. You indicated that your rationale for not drawing Congressional District 5 the way it currently is configured and for not drawing Congressional District 10 the way it's currently configured was because it violates the Equal Protection Clause, because it assigns voters based on race, but not narrowly tailored to meet a compelling state interest. Is that correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. I don't know that I would relate the analysis of both districts identically. I did state, regarding District 5, Benchmark District 5, in subsequent attempts to redraw that, I did articulate that that's a violation of the United States Constitution. The issue with District 10 is just more plainly and we accept the House's analysis of this, that the district is not a performing minority seat. That analysis was laid out in the House record. We've adopted that analysis into our justification here. Essentially, what the House articulated is that the minority community is not on its own – it does not, on its own, have enough strength to elect a candidate of its choice.

- Sen. Rouson: Thank you.
- Sen. Rodrigues: Do you have a follow-up?
- Sen. Rouson: Yes. Thank, Mr. Chair.
- Sen. Rodrigues: You're recognized.
- Sen. Rouson: Do you believe that it's a compelling state interest to reflect diversity in representation?
- Sen. Rodrigues: You're recognized.
- Mr. Kelly: Mr. Chair, I'm not sure how to answer the question. It is a highly scrutinized process to draw a district based on racial reasons. To do so, there must be a very narrowly tailored compelling interest to do so. So, absent that, it's unlawful to do so.
- Sen. Rouson: Well, I guess – Mr. Chairman?
- Sen. Rodrigues: You're recognized.
- Sen. Rouson: Therein lies my question. Is it not a compelling interest to have representation that reflects the diversity of the great State of Florida?
- Sen. Rodrigues: You're recognized.
- Mr. Kelly: Sure, Sen. Rouson, redistricting standards, as outlined in the Florida Constitution, and outlined just the traditional redistricting standards refer to things such as compactness, keeping counties together, keeping cities together, using clearly identifiable boundary ways. These are ways to draw districts that have a lack of political intent, a lack of racial intent, a lack of any sort of manipulation. And so, that is generally speaking the way to draw a district. The Florida Constitution guides districts to be drawn that way. And so, that is the process that we followed.
- Sen. Rodrigues: Sen. Stewart?
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Sen. Stewart: Thank you, Chair. You have outlined quite a few concurrences with the criteria for 2, and, of course, since it was brought up about Tier 1, it seems to have much more need for compelling review. Oner of the Tier 1 guidelines along the federal law directs lawmakers, and we heard this in committee over and over and over again, that districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process, or to diminish their ability to elect representatives of their choice. Now, I have not heard yet from this map that was drawn if that was also considered.

Sen. Rodrigues: You're recognized.

Mr. Kelly: I think I just answered that same question a couple different ways. I'm not sure I have any more to offer.

Sen. Rodrigues: Sen. Bracy, have you had an opportunity to read the veto letter?

Sen. Bracy: I pursued the letter.

Sen. Rodrigues: You're recognized for question.

Sen. Bracy: Thank you. So, you just said that minorities cannot elect a candidate of its own, it does not have enough voting strength to do that. That is why you don't considered District 5 or District 10 a protected minority access seat. Is that correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Just to clarify, there are some points there where the analysis regarding Benchmark District 5 and Benchmark District 10 would be different. So, the analysis regarding Benchmark District 5 is very plain sited in that regard. There's not sufficient voting strength in the minority community to, by itself, elect a candidate of its choice. So, the analysis for the two is not identical.

Sen. Rodrigues: You're recognized.

Sen. Bracy: Got it. Thank you, Mr. Chair. So, what is the benchmark where minorities could elect a candidate of their choice? What would be that percentage?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Mr. Chair, thank you. That would require an analysis of the political data for any district. I don't know that there's one line in the sand. But generally, the idea is that could that minority community, on its own voting strength, without help, could that minority community elect a candidate of its choice. That's going to be different in every single district.

Sen. Bracy: Mr. Chair?

Sen. Rodrigues: You're recognized.

Sen. Bracy: So, if you didn't look at any data to determine that this is a minority access seat, how did you determine it? By eyeballing it? How did you make that determination?

Sen. Rodrigues: He said earlier that he did us the political data on District 5 when he was attempting to draw the district. So, on that, I believe he's already answered the question.

Sen. Bracy: Okay, so you did use political data. When you were looking at the political data for District 5, what determination – how did you determine that that was not a minority access seat, since you did look at the data for that? What did the data show you that told you?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. So, the look at District 5, Benchmark District 5, in different configurations the legislature considered wasn't a question so much of the political effectiveness of the community. It was a question of multiple facets at the same time. The district is clearly – the benchmark is clearly drawn from Duval to Gadsden Counties, it's clearly a racial gerrymander. That's what the district is plain sited. So, the question is does it meet some compelling state

interest in doing so.

Our analysis, particularly early on as we were weighing this question and I was personally weighing this question was was there a manner in which that district could be drawn more compactly, more in line with traditional redistricting criteria so that, in effect, from a federal law perspective, state law perspective, and sort of the traditional redistricting criteria, could you, so to speak, check all the boxes and find a way to have a compromise. The reality, through analysis of that district, including just observing the legislature's process, there was not a way to draw a compact, politically effective, minority district and check all the boxes, so to speak, without violating some manner of law.

Sen. Rodrigues: Do you have a follow-up?

Sen. Bracy: I do.

Sen. Rodrigues: You're recognized.

Sen. Bracy: You mentioned that your determination was basically did it meet a compelling interest. But I feel like you haven't answered the question about minority voting strength. You said it did not meet the criteria because it did not have enough of a minority voting strength to be a protected seat. How did you determine – I know you said it didn't have state compelling interest. But specially to why you said it did not have enough of a minority voting strength to make it a minority access seat, how did you determine that specifically? Was there a percentage that it did not meet that made you decide it did not meet the threshold?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Chair. I apologize, I think we're having a little bit of confusion, which is certainly understandable between our discussion of Benchmark District 5 and Benchmark District 10. Benchmark District 10 in Orlando – or Orange County, I should say, for that district, I was specific in saying it does not have a significant enough

minority community to have the electoral strength to elect a candidate of their choice. So, that analysis was provided in public testimony by the House's professional redistricting staff in their congressional redistricting subcommittee. The analysis was a sound analysis and we've adopted that. We've essentially adopted their judgement in our process, and we've agreed with their analysis.

So, that's where the analysis for District 10 departs some from District 5. District 5 starts with a question of the district is a racial gerrymander and done in such a way that it is so narrowly tailored to a compelling state interest. It ultimately fails a different test. It fails a test of violating the US Constitution. Obviously, we can't take any element of our state constitution and use that against the US Constitution and violate that.

Sen. Bracy: Okay, so that I understand, you did not make your determination on District 5 based on the minority voting strength. You made that determination on District 10. Is that correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: That's correct.

Sen. Bracy: Okay, so let's go to District 10, then. How did you determine that District 10 did not have enough of minority voting strength for it to be a protected access seat?

Sen. Rodrigues: I think he's answered that, Sen. Bracy. They adopted the House analysis, which the testimony in the House committee over time –

Sen. Bracy: With all due respect, this is not the House's map. This is the governor's map. So, I'm asking how the governor's office made this determination, not the House.

Sen. Rodrigues: Well, he answered that question, Sen. Bracy. He said they adopted the House position. Do you have a follow-up question?

Sen. Bracy: Okay, can you clarify what the House's position is again?

Sen. Rodrigues: Could you clarify that again, please?

Mr. Kelly: Sure. Thank you, Mr. Chair. The House's position, the House staff articulated in their committee meeting, their Congressional Redistricting Subcommittee meeting, that they looked at recent elections history. And that when they looked at that recent election's history, the Black community in Orange County, in Congressional District 10, was not sufficient enough on its own to elect a candidate of its choice. They did that analysis on their own. We didn't do that analysis. But the logic that they articulated in committee was sound logic and a sound analysis. And so, we adopted that.

Sen. Bracy: Okay, I don't serve in the House. I did not see that election data. So, I understand you took their position. But I'm asking for specifics on their data and how they made that determination. And I don't know if our staff can clarify how they came to that position. I understand what their position was, but I'm trying to understand how they came to that position.

Sen. Rodrigues: Jay, do you have insight on that?

Mr. Ferrin: Thank you, Mr. Chairman. If I'm understanding the question correctly, I believe the House reviewed the data for Benchmark CD 10 and determined that over time, over the different election cycles, the level of primary control for African American voters in the Democratic primary was slipping below 50%, and therefore concluded that the voters in that Benchmark District cannot outright control the primary. And therefore, made their determination based on that. And that's my understanding of the House's analysis on that district. That's probably all I can speak to on that.

Sen. Bracy: Just a follow-up. So, from your understanding, the Black voting age population in that CD 10 had a voting strength of less than 50% in a primary, which in turn is how they and the governor determined that that is not a protected seat. Is that the way you understand it?

Sen. Rodrigues: Jay, you're recognized.

Mr. Ferrin: Mr. Chairman, without trying to speak for the House or the governor, that is my understanding that they reviewed elections over time and noticed a trend in terms of primary control. It has nothing to do with voting age population. But in terms of primary control for African American voters on the Democratic primary and based their conclusions on that.

Sen. Bracy: So, they took an average of elections, not just the past 2020 election. They took an average of recent elections and put that together and determined together that it went less than 50%?

Sen. Rodrigues: Jay?

Mr. Ferrin: No, Sen. Bracy. We did look at the average in the Senate to try to control for electoral trends. The House looked at the trends. They looked at each election primary control and each election cycle individually and looked at that over time and noticed that it was decreasing every two years.

Sen. Bracy: Okay. So, they are anticipating, the way you understand it, that the trend will be that it will go below 50%, but maybe it's not there yet. But the trend is trending toward below 50%. Is that a correct analysis of how you understand it?

Sen. Rodrigues: Jay, do you recall what the percentage was?

Mr. Ferrin: Unfortunately, I don't recall the percentages off hand. I can't fully speak to the House's analysis of that. But that's how I understood it to work.

Sen. Bracy: Okay. Well, I'll just say I think it's troubling that the governor's office is coming before us and touting an analysis that no one really understands, and he cannot speak to either. And this is how he's determined that District 10 is not a protected access seat. I think that's important information. If you can't answer my question, we can move on. I just want to make the point that we are here for this purpose of learning more information and no one can speak to it. Thank you.

Sen. Rodrigues: Sen. Broxson, you're recognized.

Sen. Broxson: Thank you, Mr. Chairman. I'd like to kind of put this in perspective of the predicate that you started on. When you looked over the State Senate, State House, you used more of a Florida standard of what we were trying to accomplish. Now you're looking at the congressional maps, which this probably will be contested. And you believe that based on the US prototype, that these conform with the intent of the current law and gives you the position that you've stated today. Is that where we are?

Sen. Rodrigues: Alex, you're recognized.

Mr. Kelly: Thank you for the question. So, essentially, yes. If I understood correctly, we've brought forward a map that we believe complies with the US Constitution and the state constitution. So, obviously, we have an obligation to try to balance and comply with both, of course. So, we believe we've brought forward a map that complies with both and gives the legislature a work product that brings forward the best of both.

Sen. Rodrigues: Sen. Gibson?

Sen. Gibson: Thank you, Mr. Chair. In terms of the statement of apparently there was no way to meet the state's interest in joint minority access seats, in the best interest of the state to do what?

Sen. Rodrigues: Sen. Gibson, I'm not sure I understand the question. Can you restate it?

Sen. Gibson: The maps in the – I guess it's in the veto message or the way Mr. Kelly talked about it, there was language that says they could not draw maps that were in the best interest of the state that would perform for minority communities.

Sen. Rodrigues: Mr. Kelly?

- Mr. Kelly: Sure. Thank you, Mr. Chair. Thank you for the question.
- Sen. Gibson: What is in the best interest for the state?
- Mr. Kelly: Thank you. And that's not really a question I could answer. The compelling interest is for the map drawer to define. I did not draw Benchmark District 5. I did not draw any of the legislature's attempts to redraw or reconfigure Benchmark District 5. That compelling interest is something that you, the legislature, would have to define.
- Sen. Gibson: Follow-up?
- Sen. Rodrigues: You're recognized.
- Sen. Gibson: So, when you said the statement about what's in the best interest of the state in terms of the districts, those were not your words? That is just something that's written in the veto message, so you don't necessarily have any explanation of what is in the best interest of the state when it comes to creating the districts, particularly for minority voters?
- Sen. Rodrigues: Were you referring to the veto letter in that statement, Mr. Kelly?
- Mr. Kelly: Thank you, Mr. Chair. I was referring to the veto letter and also the accompanying memorandum that our general counsel wrote to further explain the veto letter. I was just giving a short summary of it.
- Sen. Gibson: Follow-up?
- Sen. Rodrigues: You're recognized.
- Sen. Gibson: Thank you, Mr. Chair. I see it now. It says, but since – Let me ask you this before I even ask you the question. Since this is the governor's language where it says, "The bill contains a primary map and secondary map that included a racially gerrymandered district, Congressional District 5, that is not narrowly tailored to achieve a
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compelling state interest.” So, since those are not your words, you cannot explain what the compelling state interest is?

Sen. Rodrigues: Mr. Kelly?

Mr. Kelly: Thank you, Mr. Chair. That obligation would be on the part of the map drawer. I did not draw the legislature’s attempts to redraw Benchmark District 5 and I didn’t draw Benchmark District 5. So, that would be a compelling interest that the legislature would have to put forward through your process if you were attempting to redraw that and narrowly tailor that to some state compelling interest.

Sen. Gibson: Follow-up? May I?

Sen. Rodrigues: You’re recognized.

Sen. Gibson: Thank you, Mr. Chair. There’s no functional analysis in the packet that I see of the districts. Is there no functional analysis because it is the – is there some understanding that if it’s not going to be a minority access seat, then there’s no reason to have a functional analysis?

Sen. Rodrigues: Sen. Gibson, I’m going to refer to Staff Director Jay Ferrin on that question because we covered that very same topic in our maps.

Mr. Ferrin: Sen. Gibson, you’re correct.

Sen. Gibson: There’s no need to do a functional analysis if there is no minority district. Is that what I said? Yes, that’s what I said.

Sen. Rodrigues: You’re recognized.

Mr. Ferrin: Yes, Senator, that’s correct. The purpose of the functional analysis is to evaluate the performance of the minority district.

Sen. Gibson: Thank you. May I?

Sen. Rodrigues: You're recognized.

Sen. Gibson: Thank you, Mr. Chair. So, since I think what I heard is there was no data looked at to come up with the Senate Bill – what's the governor's map number? 102? 109, sorry. 109, SB 2C Plan 0109. What information – I don't understand the information that was used to determine that the Senate 8019, which I want to make sure we're also clear that 8019 and the House's map, primary and secondary maps, were all voted on before special session. And those maps are not the maps that the governor or that you all drew at the governor's direction. Is that correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Mr. Chair, yes. Primary Plan 8019 and Secondary Plan 8015 are the two maps that you, the legislature approved within the contents of Senate Bill 102. That's the bill that the governor vetoed.

Sen. Gibson: Follow-up?

Sen. Rodrigues: You're recognized.

Sen. Gibson: Thank you, Mr. Chair. I wanted to make sure that was clear because there was some confusion about which came first, the chicken or the egg, whether it was the House maps that came over that were passed out and not the governor's maps because we are now addressing the governor's proposed maps. Correct?

Sen. Rodrigues: I'll answer that. We are taking up the governor's map, now.

Sen. Gibson: Thank you. Follow-up, Mr. Chair?

Sen. Rodrigues: You're recognized.

Sen. Gibson: I want to go back to – So, CD 5 which was different before it became 5 at the end of the last redistricting. How many years has an African American been elected in the maps previously that represented – that included representation of what is currently shown as CD 5?

Sen. Rodrigues: I think we're getting beyond the contents of the lines he's drawn there, but I'll give him a shot at it.

Mr. Kelly: To my knowledge, of course that district has only existed since the court adopted it in late 2015 and it went into place for the 2016 election cycle. Prior to that, the district, instead of going from Jacksonville to Gadsden County, it went from Jacksonville to Orlando. If I recall correctly, Congresswoman Brown had that seat since somewhere in the early to mid-90s. I don't remember the exact year.

Sen. Gibson: Follow-up?

Sen. Rodrigues: You're recognized.

Sen. Gibson: Thank you, Mr. Chair. And then the recent CD 5 that elected an African American, the drawing of the maps concluded that – or the drawing of the governor's maps concluded that that map was not gerrymandered, but the previous adoption of CD 5, which meant east to west, is gerrymandered?

Sen. Rodrigues: Could you restate that, please?

Sen. Gibson: He shook his head; I think he understood it.

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Chair. I think I got it. Yes, and this is articulated in the memorandum, too. But I can say unequivocally, the district currently today as drawn from Jacksonville over to Gadsden County, stretching about three and half hours, is a racial gerrymander.

Sen. Gibson: I'm sorry, Mr. Chair?

Sen. Rodrigues: Could you repeat that?

Sen. Gibson: You said what's three and a half hours?

Mr. Kelly: The drive from Jacksonville to Gadsden County. The length of the district.

Sen. Gibson: Thank you. Mr. Chair?

Sen. Rodrigues: Okay, members, we're going to go back to the map and there will be more time for questions at the end. Pick up your presentation, please.

Mr. Kelly: Thank you, Mr. Chair. So, shifting to the part of the region we're talking about, shifting to Districts 4 to 5 on this slide and the next, of course, obviously, we've already had a lengthy discussion. So, just some other general points to give you some sense of the final lines for the proposed map in front of you here today. Again, as we noted through the questioning, on the left, you see the primary plan as adopted by the legislature. On the right, the plan before you here today in Senate Bill 2C. The boundary between the two is mostly the St. John's River. As you know, Jacksonville is the single lone city in the entire state that's actually larger in population than a congressional district. So, the river, which nearly equally divides the city, stands out as, certainly, a logical recognizable Tier 2 boundary to divide Jacksonville if you're going to have to divide it somewhere.

And at the same time, the new configuration here still allows to improve overall on compactness. The southern boundaries of Districts 4 and 5 are still exactly as the legislature proposed them. So, the boundary between Clay and Putnam is as the legislature proposed it. And the split in St. John's County is exactly what the legislature proposed. So, we didn't change that.

The last point I just want to make in this slide, just zooming in a little bit on these two districts, is at some point, just for the sake of equal population, District 4 does need to come across the river, just to equalize a couple thousand residents, if I recall correctly. So, at some point, the district does have to come across the river. The original iteration of this crossing that we drew in one of our earlier maps is, I would say, less deliberative. In this improved

configuration, I used the bridges of the Arlington Expressway and Interstate 295 to literally allow a resident of District 4 to not have to leave the district in order to traverse the entire district. So, just try to use those boundary lines a little more logically if we were going to have to cross the river and gain equal population.

Sen. Bracy: Mr. Chair?

Sen. Rodrigues: Yes.

Sen. Bracy: I have a question on the map. I'm looking at District 2. How far does District 2 go from east to west?

Sen. Rodrigues: Do you have that on a slide, or do you want to answer that?

Mr. Kelly: Thank you, Mr. Chair. And I don't actually know. We didn't draw District 2. The legislature drew District 2. I will say in general, in the maps we drew out of our office, I don't recall if we ever made any changes to the legislature's configurations in Districts 1 and 2. We definitely did not change them for the purposes of this map compared to what the legislature passed.

Sen. Bracy: The reason why I bring it up is you said that District 5 was a racial gerrymander that spread 200 miles. But I'm looking at District 2, it looks like it goes about 200 miles, maybe more. So, the fact that you singled out District 5 for it going east to west that far, but you've got others one that do, you've got a problem – It seems that – anyway, I just wanted to explain how – I would like for you to explain how District 2 can go 200 miles, but District 5 can't.

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. I think if you're looking at Northeast Florida where you have Nassau, Duval, you have Clay, you have St. John's Counties, within those four counties, you can fit more than two congressional districts because a third district is even started in southern St. Johns in the configuration we're looking at today. You're comparing that to rural Florida, the panhandle, where there's

significantly less population. Naturally, a district in the panhandle is going to comprise, probably several entire rural counties.

The same is true if you look in the southern central part of the state, as well, where you have rural communities. That's just generally a reality of drawing a district that perhaps is maybe based out of a municipality or a larger city or a larger county versus drawing a district that's centered around a number of rural counties. So, a compact district in rural communities might take on a very aesthetically compact shape, but it's physically likely to be larger than, of course, a compact district in an urban community.

Sen. Rodrigues: Thank you. Please continue.

Mr. Kelly: Thank you. So, the next slides, Slides 14 through 21, visualize my changes to the Gulf counties. As I noted earlier in the opening, from Citrus down to Lee Counties, and even how those districts in those counties tie to inland counties to the east, north, and south. I'm showing you it this way to give you a sense of how I actually thought about going through the map and making those Tier 2 improvements. I really want to take you through my thought process. Essentially, what you have in this region of the state is a hybrid of the legislature's maps and our office's prior plans in this region.

In order to really achieve worthwhile Tier 2 improvements to this region, I had to revisit how the entire region was drawn. To give a sense of what I mean by that, as this slide illustrates, the legislature made a decision to keep Brevard, Osceola, and Polk Counties whole. This decision essentially places a little bit of a limitation on the map drawer. Obviously, it's a good goal to keep counties whole. But it places a little bit of a limitation on the map drawer. That limitation then, essentially, forces your hand as a map drawer in the Tampa Bay region.

Keeping Brevard, Osceola, and Polk whole essentially creates a wall across three quarters of the state. So, if, as we do in Plan 109, if we're able to essentially break that wall in Polk County, there are

means to do that in meaningful Tier 2 metric driven ways that make gains for the map overall and we can still, as we'll show later, make meaningful Tier 2 decisions in Polk County as well.

That really allows a number, then, of Gulf Coast County decisions that make a number of Tier 2 gains for this map. I'll give some specific examples. So, in this example in Slide 16, this became a means to keep Citrus County whole in District 12, which you can see here. And this district is a much more squared up, linear district. District 12 actually is still, in this configuration, a majority Pascoe County seat yielding about 141,000 of its residents in the southern part of the county into District 15.

Just while we have it on the screen, the boundaries there, this is all of Citrus, all of Hernando, and most of Pasco, the boundaries between Districts 12 and 15, 15 is the pinkish district in the south there, the boundaries there, the city of Zephyr Hills is entirely in District 15. The cities of St. Leo, San Antonio, and Dade City are entirely in 12. And those lines, despite their curves, they're predominantly state roads all through out.

Moving on to Slide 17, south of the Tampa Bay region, we were also able to keep, through changes made in the Polk County area, we were also able to keep Sarasota County whole. As I opened up, essentially, what I've done in this map is I've articulated two whole counties in exchange for splitting another county. So, gaining that net whole county in the map, Keeping Citrus whole, Keeping Sarasota whole, splitting Polk.

In this particular configuration, keeping Sarasota whole, aligning it with all of Charlotte County and aligning it with some unincorporated communities in Lee County to essentially equalize the population. The boundaries in Lee County are almost entirely either major roadways or city boundaries.

On Slide 18, taking this approach north and south of Tampa Bay then allowed me to go work in the Tampa Bay area. Because, overall, just comparing the map that we had previously worked on,

comparing that to the legislature's map, the population distribution was just simply different. So, again, as I noted earlier, really had to lift the whole region out and look at options to reconfigure it. Taking this approach north and south of Tampa Bay gave me a better chance to draw more visually compact districts in Tampa Bay and make improved usage of Tier 2 political and geographic boundary lines.

Zooming just a little bit further on Pinellas County and the Bay, it seemed from the legislature's process that there was a goal to have a seat wholly in Pinellas County. So, this map still accomplishes this goal. I literally started in this region working from west to east. Doing so, essentially, I was able to create a very squared up compact district. In the northern part of District 13, where it connects to District 14, that's just your Pinellas/Hillsboro line. The southern part of the seat just follows state road in between Pinellas – actually, through the city of St. Pete, I should say, follows a state road. Then just nice clean lines split District 13 and District 14.

And then I continued to just work my way east as I built District 14, again, seeking to utilize as clean, clear, distinguishable municipal boundary lines. Really, leaning heavily on Tier 2 standards. I essentially, then, built District 16 north at the same time. And build District 16 north with the same goal in mind of having those boundaries match, again, clearly distinguishable roadways. I should say, too, District 16 still keeps all of Manatee County whole.

Sen. Rodrigues: Sen. Rouson, you're recognized for a question.

Sen. Rouson: Thank you very much, Mr. Chairman. The way you have drawn CD 14 and CD 13, 13 being St. Pete and Pinellas, 14 being Tampa and Hillsboro, you have packed Black voters of midtown South St. Pete with Black voters in east Tampa. The current configuration of the district is different from what you suggested. Can you explain the difference?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Mr. Chair, thank you. To be frank, I'm actually unaware of the Black

voting age population of District 14. This was not even drawn with any type of racial intent at all. This was not drawn with even looking at racial data for this district. There was not, to my knowledge, any reason to do so. So, I was just drawing a district based on nice clean, compact lines, lines that adhered to major roadways, major recognizable roadways, and tried to split as few cities as possible in this area. I do trade a split of St. Pete for – My apology – one other city, my apology. There is a city split trade in this area. So, the overall city splits are equal to what the legislature adopted. But I just utilized the major roadways and worked my east and worked my way north.

Sen. Rodrigues: Sen. Rouson, do you have a follow-up?

Sen. Rouson: No.

Sen. Bracy: I do have a question.

Sen. Rodrigues: We'll go to Sen. Bracy and then Sen. Gibson.

Sen. Bracy: Thank you. Is Mr. Alex Kelly under oath for this committee?

Sen. Rodrigues: No, he's not.

Sen. Bracy: I know we do it for certain circumstances, certain secretaries. Could we make that happen in this committee?

Sen. Rodrigues: The time to have done that would have been before we began the presentation. At this point, I would rule that out of order. Sen. Gibson, did you have a question?

Sen. Gibson: Thank you, Mr. Chair. In terms of the – I think I heard the primary elections showed some that C 5 couldn't, on its own, elect a candidate of their choice. You mentioned something about some historical – I guess in any other district, that should be a minority access district. You mentioned that the primary elections showed that they couldn't. Is that correct? By themselves elect –

Sen. Rodrigues: Mr. Kelly?

Mr. Kelly: Thank you, Mr. Chair. I think the question you're asking about pertains somewhat to my comments about Congressional District 10, not Congressional District 5. But I'm not totally sure. There might have been some blurring of the line there between the two in the question.

Sen. Gibson: Follow-up?

Sen. Rodrigues: You're recognized.

Sen. Gibson: It may be blurring because they impact the same ethnic people, perhaps. But it was said that data was shown – that was in context of 5 and 10, that the primary data showed that CD 5 couldn't elect a minority member of Congress on their own, which is why we weren't following any Tier 1, because all we're talking about today is Tier 2. And that's the reason for it's not diminished. Is that what you said about the primary election data?

Sen. Rodrigues: Mr. Kelly?

Mr. Kelly: Thank you, Mr. Chair. I think your question, at least what you're referencing from my testimony refers to my comments about Congressional District 10. I was reflecting on the House professional staff's, their analysis of Congressional District 10. We didn't look at the political data for Congressional District 10. I didn't look at the political data for Congressional District 10. The House, in their subcommittee, referenced their analysis of Congressional District 10, and that based on their analysis of past year primary electoral data, that their analysis showed that the Black community in Orange County, in Congressional District 10, could not, on their own, elect a candidate of their choice.

Congressional District 5, I don't think I've heard anyone question that the district has an ability to elect – their issues are similar, but their issues are not identical. The question in Congressional District 5 is it is a gerrymandered district drawn predominantly based on one criteria, strong predominantly based on race. Was it drawn in a way

that meets a compelling state interest? Which is a question that would have to be asked of the map drawer to justify the district.

Sen. Rodrigues: You're recognized.

Sen. Gibson: Thank you, Mr. Chair. And so, the map drawer only looked at an analysis that didn't include a functional analysis in any configuration. Correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: My apology, I'm not sure I understood the question.
Sen. Rodrigues: Restate.

Sen. Gibson: Thank you, Mr. Chair. In the purported gerrymandered district based on race, and now in the map that we're dealing with today, there was – a functional analysis was not reviewed to recognize communities of interest, not gerrymandered based on race. It's all race neutral. Is that correct?

Sen. Rodrigues: Do you understand it now?

Mr. Kelly: I think so, yes. Thank you, Mr. Chair, and thank you. Let me break that down. So, our office has not done a functional analysis on any of the districts. We have not, I have not drawn districts based on communities of interest. What you did say at the end is correct, we drew districts in a race neutral way.

Sen. Gibson: Mr. Chair?

Sen. Rodrigues: Follow-up?

Sen. Gibson: I keep trying to understand the definition – is there a definition for race neutral?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. I'll give you a non-attorney definition.

Essentially, for me, race was not a driving factor of how I drew the district. It was definitely not a predominant factor. As I noted when we talked earlier about District 14, I couldn't even tell you and I still can't tell you what the actual Black voting age population of the district is. I drew that district, District 13, 14, all the districts around it solely based on trying to draw districts that are compact, aesthetically compact, statistically compact, that follow clearly definable political and geographical boundary lines that meet that Tier 2 test. So, I didn't draw a single district in this map based on race.

Sen. Gibson: Follow-up?

Sen. Rodrigues: You're recognized.

Sen. Gibson: Thank you, Mr. Chair. And so, the Tier 1 never came into play in terms of keeping communities of interest together. It doesn't have to be a majority, but certainly their ability to elect the representative of their choice, that was never a factor. It's just strictly where the lines are and let people fall where they may. Is that how it is?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. Again, I drew districts based on drawing compact districts that followed aesthetic compactness, statistical compactness, followed clearly identifiable, recognizable, political, and geographical boundary lines. I did not use communities of interest as a standard. And I did not draw race-based districts.

Sen. Rodrigues: Sen. Stewart, did you have a question?

Sen. Stewart: Thank you, Chair. A little bit toward where Sen. Gibson was going. What I'm gathering from the discussion thus far is that Tier 1 guidelines, that was the federal law, was not considered in this map. And primarily, you went by roadways and to make sure that the Tier 2 was done correctly?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. Senator, the Tier 1 guidelines are part of state law, not federal law.

Sen. Rodrigues: Do you have a follow-up, Sen. Stewart?

Sen. Stewart: That's news to me. Thank you.

Sen. Rodrigues: Sen. Bracy?

Sen. Bracy: Thank you, Mr. Chairman. Sen. Rouson talked about Black people in Pinellas and now they're moved to a district over that will know them most likely representing – having a Republican representative. You're saying you are not aware of that at all, whatsoever, did not have any impact on your decision making?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. Race and political partisan data in no way related at all to my drawings of Districts 13, 14, 15, 16, or any of the districts in the map. Really leaning heavily to Tier 2 standards of compactness and use of Tier 2 boundaries in these two districts. Again, I made a split in the northern part of District 13, along the Pinellas/Hillsboro county line, and the southern part of Districts 13 and 14, right along US 19 as a southern divider. A little bit of equal population work done just north of St. Pete in the unincorporated Feather Sound area.

Sen. Bracy: Thank you, I understand. District 10 –

Sen. Rodrigues: You're recognized for a follow-up.

Sen. Bracy: Thank you, Mr. Chairman. So, in District 10, the district I represent now, in West Orange County, all of the Black people in West Orange County have now been moved to a district that will be represented mostly by Lake County. So, you have an area that has elected Val Demings, who was a potential vice-president, Democratic nominee for president, who will now be electing possibly Rep. Anthony Sabatini, who is known for Black face. I

mean no disrespect, but I'm trying to make a point that you're telling me that this group of people who have elected someone completely different, now will be electing someone like that. And you're saying you had no idea – this is the first time that you're ever considering that point?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. My reading of the state constitution, it would have violated the law – Tier 1 law in several ways for me to even go anywhere near an analysis like that. So, I have no consideration for anything like that. I think to put something into context here, too, that is important – Mr. Chair, I can skip to District 10 if that might help.

Sen. Rodrigues: Let's do that.

Mr. Kelly: So, this is Congressional District 10. Well, this is the region. This is how it compares to the map that the legislature passed, which is not dissimilar from the Benchmark and then Congressional District 10 in the map before you today. That Congressional District 10 is a very, very Tier 2 adherent district, very compact. All of those lines are used to define either major roadways or municipal boundaries. And to put this into context, the Benchmark Congressional District 10, to my knowledge, has a Black voting age population somewhere just under 27%, somewhere in the high 26% range. The district that you're looking at there today has like a 25.98, 25.96, so very close percentage to 26. So, it's not even a one percent. It's maybe a seven or eight tenths of a percent point drop in its Black voting age population.

So, just drawing a compact seat, and I can walk through the different city and roadway boundaries, just drawing a compact seat that lines up with – you can see that's the Seminole/Orange County line. You can see some major roadways. That piece of District 9 that goes up into District 10, that's the cities of Belle Isle and Edgewood, so it's keeping some municipalities whole. Maitland, Winter Park are kept whole in 10. You've got Winter Garden, Ocoee, Apopka that are

kept whole in 11.

So, just following all those principles, we were able to draw a very compact District 10 that's not even a percentage point difference in its Black voting age population. We really adhered to the principles in Florida law and drew a very compact district. And that's something that was similar to what the House had drawn and articulated good reasons for drawing it. When I worked on this map, that is the seat that I drew. It really is a very compact, very lawfully compliant seat.

Sen. Bracy: Mr. Chairman?

Sen. Rodrigues: You're recognized.

Sen. Bracy: Thank you. You mentioned before that you had no idea on percentages. You did not use that for any outcomes. Yet, you just quoted the Black voting age population, how much it changed. So, help me understand.

Sen. Rodrigues: Would you like to provide some clarity there?

Mr. Kelly: Thank you, Mr. Chair. I noted that comment specific to District 14. District 10, we recognized that there was a tension between the testimony in the House and Senate. So, it was important to understand the Black voting age population, as well as the Hispanic voting age population of that district, that Benchmark district. Again, it's somewhere around, give or take, close to 26 something percent. I forget the exact number, but 26 something percent Black voting age population of the benchmark. And I think the Hispanic voting age population is actually larger, around 28% Hispanic voting age population.

So, this was a district where we did have to look – I had to look at the data for the Black voting age population, the Hispanic age voting population, try to come to an understanding of that tension between the House and Senate testimony, and figure out appropriate resolution.

Sen. Bracy: Okay, so you were aware –

Sen. Rodrigues: You're recognized.

Sen. Bracy: Thank you, Mr. Chair. So, you were aware of the Black voting age population, Hispanic voting age population when making the changes that you made in District 10. That is correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Yes.

Sen. Bracy: Okay. Just looking at the Federal Voting Rights Act. It protects against retrogression. It defines that as the ability of racial and language minorities to elect representatives of their choice. So, any effect to that would be considered retrogression. So, what I'm saying is to move the people from West Orange County who have elected Val Demings as their congresswoman, to now move them to a district in Lake County with the Villages and others, where now they won't be able to elect the representative of their choice, from this definition, it clearly goes against the Voting Rights Act. It clearly is retrogression. How do you explain that group of Black people having the choice to vote for one, now they will not be able to elect the candidate of their choice?

Sen. Rodrigues: Mr. Kelly, you're recognized.

Mr. Kelly: Thank you, Mr. Chair. I won't claim to be an expert on every facet of the Voting Rights Act, but in general, I don't know of any way in which a Voting Rights Act challenge could be brought to a district that 26% of it is the Black community, 28% of it's the Hispanic community. I don't know that there's any connection at all to the Voting Rights Act for a district like that. Generally, that type of challenge, to my knowledge, and counsel could probably clarify, but to my knowledge is applicable to a district where the majority of the district is a particular minority community. So, a district, in other words, where it has a 50% plus voting age population. There's

further analysis required more than just that. But in general, this district and the Voting Rights Act wouldn't have anything to do with each other.

Sen. Rodrigues: Sen. Bracy?

Sen. Bracy: But you said before you don't even know the percentages the House used to determine if this is even a minority seat or not.

Sen. Rodrigues: He did say he looked at District 10.

Sen. Bracy: He looked at the Black voting age population. But to determine if it is a minority – You know, we'll go in circles. What I would ask, Chairman, is that we've got a lot of people here. I think there's, honestly, only three, four districts that are really what people are paying attention to. I appreciate the presentation from the governor's office. But just so that we have time for debate and that people have a chance to speak, I would ask that we could conclude the presentation or really expedite it and allow for people to speak.

Sen. Rodrigues: Sen. Gibson?

Sen. Gibson: Thank you, Mr. Chair. Certainly, we'll save time for public testimony. I appreciate those who have come today. I'm unclear as to when there was data reviewed, when there wasn't data reviewed. But just in the House primary map, I believe that was one that you all utilized, I think, a little bit, or tweaked it a little bit, the Black voting age population, according to this full analysis, was around 35%, a little over 35%. In the data for the race neutral maps, that goes down to 12%. And so, it's your testimony today that because – that there's no diminishment because that population couldn't elect a candidate of their choice in a primary?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. I apologize, I don't have the benefit of the data that you're looking at. So, I'm not sure what you're looking at.

- Sen. Rodrigues: Do you have a follow-up?
- Sen. Gibson: Yes. So, I have the packet with the map that we're discussion, which district by district includes percentages for the various districts based on the map that we received. So, this is the staff data?
- Sen. Rodrigues: Our staff prepared that data.
- Sen. Gibson: Okay. Well – Mr. Chair, may I?
- Sen. Rodrigues: Yes.
- Sen. Gibson: Regardless of the preparation, and I trust what our staff does, those are the percentages. And that is not diminishment because CD 5 is no longer considered to have need for a minority access district. Would that be the premise?
- Sen. Rodrigues: Mr. Kelly?
- Mr. Kelly: I have to apologize, I'm not sure, are we talking about District 5 or District 10. And I'm still not really sure what data – I don't know if we're referencing data regarding racial and language minorities. I don't know if we're referencing elections data. I'm having trouble following the question.
- Sen. Rodrigues: He's at a disadvantage not having the packet.
- Sen. Gibson: May I explain it?
- Sen. Rodriguez: Sure.
- Sen. Gibson: Thank you, Mr. Chair. So, we have something called a voter age voting data or the voting age population in each of the congressional districts that were drawn in Plan 109. And the projection for the CD 5 in 109, Black voting age population in CD 5 is now 12%. Which was previously, in the map I believe you referenced that the Senate passed, you chose this one, 8019, was 35%. And so, my question – Because you don't have the data, can you not answer the question

based on the percentages I gave?

Sen. Rodrigues: Mr. Kelly?

Mr. Kelly: Thank you and thank you for clarification. I think I'm starting to understand what you're asking. So, you're referring to District 5 in Map 8019. District 5's Black voting age population in Map 8019 is 35.32%. I wouldn't say that District 5 in Map 0109 is the comparable district. Neither district really resembles it. But I wouldn't say it's the comparable district. District 4 in Map 0109 has a Black voting age population of 31.66%. That achieved that 31.66% without attempting, in any way, to draw it with race as a consideration.

Sen. Gibson: District 4 has the 30%.

Sen. Rodrigues: That's what he said.

Sen. Gibson: Okay. And District 5 is 12%.

Sen. Rodrigues: He'll have to take your word for that.

Sen. Gibson: Thank you, Mr. Chair. So, collectively, in previous maps, it's the split between the districts that then create a difference in the numbers and also go to a different area. Correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. I think this visual helps articulate based on the districts that the legislature drew in its primary plan and the districts that I've drawn in this plan before you today, when you look to the left, District 5 that the legislature drew, and you try to compare the geography, therefore the population, to District 4 that I drew, really most of the legislature's District 5, most of it – but obviously not all of it, most of it, population wise, is in that District 4 that I drew. You can see there's a little portion of not fully Southwest Jacksonville but getting into Southwest Jacksonville in the legislature's District 5 that for the map that I drew, is in a different district. That would explain the changes in the numbers because the

populations don't match perfectly.

Sen. Gibson: Follow-up?

Sen. Rodrigues: You're recognized.

Sen. Gibson: Thank you, Mr. Chair. It's still diminishment, is that correct, in each of the districts? It's not 35% any longer, correct?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. As I noted in my opening, the district as drawn in the different configurations by the legislature violates the Equal Protection clause of the 14th Amendment in the United States Constitution. So, in effect, the plain language way of looking at that is there was no benchmark district to be redrawn. So therefore, there is no diminishment to be considered.

Sen. Gibson: Last question?

Sen. Rodrigues: Last question.

Sen. Gibson: Thank you Mr. Chair. I'll put it in a compound question. In terms of compactness, are the two districts in Jacksonville area equal in compactness? And is there another configuration that could be drawn that keeps more of the African American community of interest together and have the same compactness? And did you try? Thank you, Mr. Chair.

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. In terms of compactness, the Plan 0109 on the right compared to the primary plan the legislature adopted, Plan 0109 is – those two districts combined, is statistically more compact than the primary plan the legislature drew. The main reason being is that District 4, as the legislature drew it, is very non compact. So, it brings down the overall compactness of those two districts combined. So, Plan 0109 is an improvement upon compactness.

Sen. Rodrigues: Are there any other members of the committee that have a question?

Sen. Bracy: Mr. Chairman, sorry?

Sen. Rodrigues: Sen. Bracy?

Sen. Bracy: Thank you, Sen. Gibson, I get your point. Last two questions. Mr. Kelly, how do you justify splitting the minority population in Orlando into two separate districts when it had been contained in CD 10 in the Benchmark?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. As I noted before, there was no obligation in any way to redraw District 10, the Benchmark district. There's no lawful obligation to redraw that seat that way. What I did was I drew a District 10, which, again, for reference is nearly equal, maybe a seven or eight tenths of a percentage point different in terms of its Black voting age population. I drew a District 10 in an area that includes Winter Park, Maitland, is more centrally located in Orange County, a very compact seat. Drawing of that district actually allowed for some Tier 2 compliance in several other ways around the seat, as well. Essentially helping with District 9, District 11.

So, I followed the outline of Florida law to draw those seats, draw those seats compactly, utilize political and geographical boundary lines. And I didn't consider race in any way in the drawing of the seat.

Mr. Bracy: Thank you, Mr. Chairman. Last question. In doing it that way, aren't you putting Tier 2 requirements above Tier 1?

Sen. Rodrigues: You're recognized.

Mr. Kelly: Thank you, Mr. Chair. As I noted in my opening, part of Tier 1 is contiguity, obviously, which I follow that. And then part of Tier 1 is not intentionally favoring or disfavoring an incumbent or political party. As I noted in my opening, I did not do that, and I did not

intend to do that. And I did not, in any way, take any feedback from anyone to try to do something like that. So, I didn't violate that Tier 1 standard. And there was no diminishment obligation for that district. So, I complied with Tier 1, moved to Tier 2, and drew very compact districts that followed political and geographic boundary lines.

Sen. Rodrigues: Are there any other questions from members of the committee? Seeing none, we have a new member to the Senate who's not on the committee who has joined us. If you would like, please introduce yourself to the crowd and you may ask your question.

Sen. Osgood: Thank you, Mr. Chair. I am Sen. Rosalind Osgood, newly elected for District 33. Thank you so much. Just trying to understand in listening at the responses to Sen. Bracy where it keeps being said that we didn't use race, but then we've determined that one district is racial gerrymandering. You just said that when you were asked about Tier 1 and Tier 2, that when you looked at CD 5, that there was no attempt to – you said you didn't discuss with anyone about favoring a political party, you didn't have a conversation. But if that is the outcome of what has been done, then how do we address that?

You clearly said it was not your intent. Sometimes we can work and do things, especially when we're just using maps and highways, the result ends up being something other than what we intended. Because when we look at what's going on with 5, 10, and the overall schemes of these maps, it does appear to be politically motivated. And it also appears to not take the hard-working Black working citizens of this state serious. And I'm sorry if I don't know all the correct languages. I'm just asking my question so that I would be able to respond to the people that elected me to represent them.

Sen. Rodrigues: Could you restate your question, please?

Sen. Osgood: So, in the conversations and questions back and forth with the senators here, Mr. Kelly has expressed the process he took and his intent. That's not my question. But the results means that we're eliminating two seats that give minority access, where one political

party is being diminished in numbers and another is gaining. That clearly, to me, when I look at Tier 1, violates when it talks about favoring a political party. So, I'll stop there first. So, I'm just trying to understand. We talk about race neutral and then we talk about racial gerrymandering. We're either using race or we're not.

Sen. Rodrigues: I'm sorry, could you restate your question again?

Sen. Osgood: I'll start with the first question.

Sen. Rodrigues: It sounds like we're getting into debate, and I just want to make sure we're asking a question.

Sen. Osgood: Okay, I'll start with the first question. Mr. Kelly has stated that he didn't have any conversations with anybody to favor a political party. When we look at the results we got, Tier 1 says clearly that we cannot favor a political party. And we haven't talked a lot about Tier 1. It's been mentioned a couple of times. So, how do we substantiate with what you've given us does not violate Tier 1. I'm asking that.

Sen. Rodrigues: Thank you. Mr. Kelly?

Mr. Kelly: Thank you, Mr. Chair and thank you, Senator. As I noted in my opening – the Tier 1 standard is intent. I noted in my opening that I've never had any conversation that would compromise that intent. I've never had any one push or encourage any type of intent such as that would either favor or disfavor an incumbent or political party. And that's not what I intend to do. So, I've not violated the Tier 1 standard of intent. Speaking of the results of the map, I don't know what the results are. I couldn't even begin to provide an answer to that question.

Sen. Rodrigues: Do you have a follow-up?

Sen. Osgood: If I could have one follow-up. Let me go back to District 5. I'm trying to understand what District 5 – I understood your comments about the 14th Amendment and about the racial gerrymandering, but

- it appears to me to violate the Voting Rights Act. Can you tell me how what you're recommending to eliminate District 5 does not violate the Voting Rights Act?
- Sen. Rodrigues: You're recognized.
- Mr. Kelly: Thank you, Chair. Senator, one of the questions earlier was similar when we were talking about District 10. My general understanding of the Voting Rights Act is it's not implicated, it's not a potential Voting Rights Act question unless a majority of the district's population, a majority of the voting age population, I should say, of the district, is of the same minority community. So, if a majority of the district – that's not the only question as to whether or not there could be a Voting Rights Act implication. But that Benchmark district, Congressional District 5, a majority of that district is not represented by any particular minority community. So, the Voting Rights Act should not be implicated in any way.
- Sen. Osgood: In District 5, not 10 but 5.
- Sen. Rodrigues: You're recognized.
- Mr. Kelly: Thanks, Chair. My statement there would actually apply to both 5 and 10.
- Sen. Osgood: Thank you, Mr. Chair and thank you for allowing me to ask the questions.
- Sen. Rodrigues: Yes, Ma'am. That concludes questions. And it concludes the presentation. Thank you, Mr. Kelly. Next, we do have an amendment from Sen. Rouson. Let's take up Amendment Bar Code 917356. Sen. Rouson, you are recognized to explain your amendment.
- Sen. Rouson: Thank you very much, Mr. Chair. There are a lot of things to say in a short period of time. I do want to give respect to those who traveled here and want to speak in public comment. So, I'll keep my description of the amendment fairly brief. First, this amendment restores District 5 in Northern Florida as a minority access seat as it

has been. Secondly, it restores the 10th District in Orlando area as a minority seat as it has been. It also keeps the city of Tampa entirely within District 14 and keeps the city of St. Petersburg whole in District 13.

The intent of this amendment is to protect minority access districts from retrogression, as the Black communities in those areas have had access for decades. And it continues the legacy of minority representation. That's the amendment.

Sen. Rodrigues: Are there questions on the amendment? Sen. Broxson, you're recognized.

Sen. Broxson: Senator, you are an attorney. But in your opinion, would this violate the federal intent of how we draw congressional maps?

Sen. Rodrigues: Sen. Rouson, you're recognized.

Sen. Rouson: No.

Sen. Rodrigues: Are there any other questions? Seeing no questions, we do not have appearance forms for the amendment. So now we'll move to debate. Is there debate on the amendment. Hearing no debate, Sen. Rouson, you are recognized to close on the amendment.

Sen. Rouson: Thank you very much, Mr. Chairman. Diversity and diversity in representation matters. Like the late, great Charles Rangel, congressman from Harlem, said, "Full participation in government and society has been a basic right of this country and this state, symbolizing the full citizenship and equal protection of all." The amendment seeks to not allow retrogression, which reduces in the main bill the opportunity of minorities to elect a person of their choice. The underlying bill screams of diminishment because it eliminates two minority districts.

As divisions, both real and imagined, deep in our political socio-economic, and our health and just worlds, even our education worlds, it becomes increasingly important, even critical, that

everyone have a seat at the table where decisions are being made. This amendment goes a long way towards ensuring that. With that, I close and ask for your favorable support.

Sen. Rodrigues: All those in favor of the amendment say yeah.

Some Senators: Yea.

Sen. Rodrigues: All opposed say Nay.

Some Senators: Nay.

Sen. Rodrigues: The amendment fails. There is another amendment, which I have filed, Bar Code 644248. Without objection, show that that amendment has been withdrawn. We're now going to move to appearance forms for the bill. We have quite a few. I'm going to start with those who are waiving against the bill so that we have their statements on the record. We have Rev. Dr. Joe Paramour who is waiving against the bill. We have Debra Baker Rein, from Niceville, Florida, who is waiving against the bill. We have Gene Siminelor, from Milton, Florida, who is waiving against the bill. We have Matt Daily from Tallahassee, who is waiving against the bill. We have Lisa Perry from St. Petersburg, Florida, who is waiving against the bill.

Next, we're going to move to individuals from Jacksonville, Florida who are also waiving against the bill. We have Robert McKinnon, waiving against the bill. We have Joy Burgess from Jacksonville, Florida waiving against the bill. We have Jonathan Burgess from Jacksonville, Florida waiving against the bill. Next we're going to continue with Jacksonville individuals who are waiving against the bill. We have Gwendolyn Coleman from Jacksonville waiving against the bill. We have, looks like, I'm having difficulty reading the handwriting, but it looks like Horasca Levashal from Jacksonville, Florida waiving against the bill. Semile Davis from Jacksonville, Florida waiving against the bill.

Sheila Singleton from Jacksonville, Florida waiving against the bill. Joanne Brooks from Jacksonville, Florida waiving against the bill. Next, we have additional people from Orlando who are waiving

against the bill. Looks like Ryland Wagner from Orlando waiving against the bill. Laura Cordova from Orlando waiving against the bill. John Kemper from Orlando waiving against the bill. Anastacia Jackson from Orlando waiving against the bill. Allison Clark from Maitland, Florida waiving against the bill. Mecca Godwin from Orlando waiving against the bill. Jasmine Hernandez from Orlando waiving against the bill.

Now we're into our list of speakers. We're going to begin with speakers from Orlando who have filled out the appearance card and are not being compensated for their appearance. We're going to get the non-compensated forms up first. And then as time permits, move through those who have been compensated for their testimony. We're going to begin with Rev. Dr. Martin M. Spooney from Orlando. Thank you, sir. And you're recognized for two minutes, sir.

Rev. Dr. Spooney: Thank you. Good afternoon. That's Rev. Dr. Robert M. Spooney from Orlando, Florida, but I'll take Martin. To the committee chair and these committee members, again, my name is the Rev. Dr. Robert M. Spooney. I'm pastor of Mt. Zion Missionary Baptist Church in Orlando, Florida, which is in Congressional District 10. I also live in Congressional District 10. I'm not a politician but I consider myself a public servant. Some people also may consider me a subject matter expert on servant leadership.

I'm here today because the church is called to be engaged. The church is called to lead. The church is called to lend voice, moral authority, resources in an effort to resist evil and to bring reorder to the common life of those who are most vulnerable, those who need to be protected. We are servants to our congregations. As servant leaders, one of the things I do understand is that servant leadership consists of ethicalness and moral. You're ethical and moral. Leadership can be taught, but ethics is tied to your character.

So, what I'm here to talk about in these two short minutes is the fact that morally, is this the right thing to do, to eliminate two congressional districts which will in turn marginalize many, many

people. I've heard all of these statistics spouted this afternoon. Many of them, I know for a fact that they're just not necessarily true. I wonder what you looked at to determine that the amount of African Americans and Latinos who live in the district. Because I live in the 10th District. I know that the numbers are not the same as I just heard today.

So, my point is, will you morally be able to live with yourself if you really make this decision to just push a whole group of people out of the way and allow them not to participate in the American system. This is your decision. You've already vetted your process. You came up with your answers. You came up with a map. Now it's being vetoed and turned around. Will you stand up and do the right thing or will you bow down and be bullied? That's the question that's just resonating in my mind. We've elected you to do the right thing and I just ask that you do the right thing. Remember we are one. Our cause is one. And if we are to be successful in this world, we ought to help one another, help other people get a chance to vote. Thank you.

Sen. Rodrigues: Thank you for your comments. Carla Jones? And on deck we'll have Lashonda Hallaway. Ms. Jones, you're recognized for two minutes.

Ms. Jones: Thank you. My name is Carla Jones. I am from Orlando, Florida. I'm a candidate, I'm running for Chief Financial Officer of State of Florida. I'm not an attorney but I wake up with one every morning. I'm here to, as you know, let you all know that I am against the redistricting plan. I am because I know the representative from the governor's office, he stood here, and he said race did not play a role in the redistricting process. I'm here to tell you that I don't believe it. I think it's the main factor that we are looking at. It's unfortunate because minorities, they vote, they pay taxes, they own property, they have rights. And a lot of that's been looked over. I'm highly disappointed in the redistricting.

I'm the mother of six children and they are all of voting age. A couple of them approached me about this redistricting. So, I'm here today to stand up and say it's wrong. I think race plays a big, big

factor in the decisions that's being made. And unfortunately, we are one, but we are not living as one. United we stand, divided we fall. I would like to ask everyone standing within – if you can hear me today, please reconsider this bill. Please. It's racist, in my opinion. I don't know how much that means, but it is racist. And I need to take some true answers back to my children. I don't want them to be lied to.

Sen. Rodrigues: You need to bring it in for a landing.

Ms. Jones: Okay. I don't want them to be lied to. So, please reconsider. Please reconsider this bill. It is racist. I thank you for listening to me.

Sen. Rodrigues: Thank you for your comments today. We have Lashonda Hallaway. On deck, Dr. **Eddie Welch**. You're recognized for two minutes.

Ms. Hallaway: Good afternoon. My name is Lashanda L. J. Hallaway. I am a candidate to represent the people of the 5th Congressional District. But moreover, I am a fourth generation Jacksonvillian and Floridian. It is an abomination that we are wasting taxpayer dollars regarding this reapportionment and regarding redistricting when we elected citizens – I'm sorry, we elect you, the legislators to come here and make laws and to draw the lines. However, notwithstanding your willingness to stand up to the governor, I am here to say that this map denies equal access to the political process, and it discriminates on the basis of not only the African American race, but Black and Brown people, and also language minorities in the vein of Hispanics.

Furthermore, Mr. Kelly stated that he used the Tier 2 standard. I believe – Not I believe, the law states, one, that all persons in the state of Florida, the fair district laws, the law that the citizens stated they wanted fair districts. Look 20 seats is not fair. 20 Republican seats versus eight Democratic seats is not fair. So, not only does it violate the will of the people, under the equal protection of the law, the equal protection argument, in particular, Section 2 of the Voting Rights Act of 1965, it specifically prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in one language minority group.

We must protect minority access districts from retrogression. I'll repeat that. We must protect minority access districts from retrogression.

Sen. Rodrigues: Please bring it in for a landing.
Ms. Hallaway: I'll bring it in for the landing. Last, I will say that representation of all citizens is indeed a compelling state interest. Minority representation matters. We deserve representation. And this outright attempt by Gov. DeSantis to dilute the voice of minorities, it is an abomination, and all voices deserve to be heard. Protect our democracy and maintain the maps. Thank you.

Sen. Rodrigues: Dr. Evie Welch. On deck is Gail Frances Gardner. Dr. Welch, you're recognized for two minutes.

Dr. Welch: My name is Evie.

Sen. Rodrigues: I'm sorry. Dr. Evie Welch.

Dr. Welch: Adams Welch.

Sen. Rodrigues: I apologize.

Dr. Welch: I vote in District 5. I am the committee woman for voting district 713 in Jacksonville, Florida. You're looking at one of the warriors of the boots on the ground. Before I give my disappointment, I must comment Sen. Rouson for giving me a ray of hope. Before I came here, it appeared to me that you weren't in keeping with any of the laws that really looks at the minority people who are marginalized. I couldn't believe my ears. And so, I'm here today. At least there is a glimmer of hope.

We must contain the ideas of the constitution, Amendment 14, Section 2. We must go back and read what the people voted for in the revision of the constitution. The people of Florida, not the governor himself, said we must look at the federal statutes and we must consider what the Voting Rights Act of 1965 really made us to

look at making this a more perfect union. As a person who has spent most of her life, professionally and academically, working very hard to make sure that Amendment 19 was always remembered, do consider what you're doing to the state of Florida. You are dividing us. We don't want to go back, and we will not go back. Thank you for listening to me.

Sen. Rodrigues: Thank you for your comments. We have Gail Frances Gardner. David Rucker, you're on deck.

Ms. Frances Gardner: Good afternoon.

Sen. Rodrigues: You have two minutes, ma'am.

Ms. Frances Gardner: In the 60s my ancestors who lived in the north where I was born and grew up, would board a charter bus and head south where they were born and grew up. Now, I too boarded a charter bus today for the same reason my ancestors did. I too want to defend theirs, mine, and generations to come voting rights. The Congressional Redistricting map, not just to draw the lines, but hold the line and make this legislative body accountable and not allow the persuasive executive decision by the governor to be a force to diminish the Black vote, of which those of you who benefited from the fair districts amendments of 5 and 6, that profit politicians from drawing districts to favor themselves and their parties. And to ensure that minorities will have the opportunity to elect representatives of their choice. Let's not allow history to repeat itself. Thank you.

Sen. Rodrigues: Thank you for your comments. David Rucker. And on deck is Odwan Whitfield. Mr. Rucker, you have two minutes. Thank you.

Mr. Rucker. Good afternoon, Chair and members, representatives. My name is David Rucker. I'm from Orlando, Florida. I also live in District 10. I am highly disappointed on the way things are being done right now. For 57, almost 58 years, we are still fighting about minorities voting. Currently, the governor want to cut two seats when we already have four. I don't understand that. You're demising the vote for minorities, and I want to say Black folks first. Then we can trickle down to the rest, Latinos and other people.

But it's unfair the way that you had a map going. You decided not to use your map and use what the governor wants to do. I think it's a bigger disappointment for the people that you represent and the people that you don't represent but are voters. I am a super voter. I've been voting since 1965. I haven't missed but one vote in my whole life doing this. So, somethings has to change, and somethings don't. But what you need to do is make a conscious decision on what you're going to do about drawing these maps. Let us have our own voice and do what we need to do for us and not include us with everyone else. But that would be fair to do, and I don't know if you all know how to be fair sometimes.

So, I think you need to look at this at really make a concentration on keeping the four that we have now instead of cutting it down like the governor want to do with two. Thank you.

Sen. Rodrigues: Thank you for your comments. We have Mr. Whitfield followed Dr. Carolyn Zumia. Mr. Whitfield, you're recognized for two minutes.

Mr. Whitfield: Thank you. My name is Odwan Whitfield. I am a taxpayer in District 5, Congressional District 5. I am here today because this is a serious matter. I have the senator here who's been looking at her laptop the whole time. I have two senators back there that have been looking at their laptops. I've been watching them. This is a serious matter. There's lives at stake here. There are lives at stake here. The representative from the governor's office said that Tier 1 is only intent and that he didn't converse or that he didn't talk to anybody that helped him to decide these matters. Yet he looked at public testimony on video or he read the record. So, technically, he looked at everybody's opinion on these maps before he drew them.

How is that not – Disregard that. Disregard that. Even if the governor's office said, "You know what, I think it's better for this environment, for this government, for this state that one percent of everybody needs to be killed. He came up here, gave those statistics to you all in a nice matter. It is still left up to you all to make that decision. This is people's livelihoods. I am a United States Army

veteran. Served in Iraq and Kuwait. Some of you would say, "So, did my son, so did my daughter, so did my father, so did my sister." None of them have to come back to this United States and do what I'm doing here today. They don't have that. They have a luxury. They have a benefit.

I'm standing here today fighting for my livelihood after I fought in Desert Storm, after I fought in Iraq and other countries, only to come back here to fight for my right to vote, for my right to representation. Senators, do your jobs. This is not right, and this is not fair. I don't care what statistics says. You know it in your hearts. You know it. Do the right things.

Sen. Rodrigues: Thank you for your comments and thank you for your service. Dr. Zumia and *Zayzay* Ingram Fitzpatrick, you're on deck. Dr. Zumia.

Dr. Zumia: Thank you Mr. Chairman and Senators. Thank you for the opportunity to speak. I really can't say it any better than the previous speaker. I'm asking you to follow Florida's constitution and remind you of your promise to support, protect, and defend the Constitution of the United States and Florida. I'm also here as a physician working on the front lines to speak for families who are struggling to keep up. Essential workers cannot find or afford a place for their families to live. Homeowners can no longer find or afford property insurance. Folks are working hard but cannot afford the basic necessities like utilities.

Amid a looming prospect of many losing healthcare in the next few months adds to the pain that many are feeling. By the governor's own proclamation, legislative business, this week may be transacted if introduced by consent of two thirds of the membership of both houses of legislature. So, on behalf of Florida families, I'm asking you to please follow the constitution on redistricting and vote no on the governor's map. And to use the special session to also address the real emergencies that are crushing our constituents. Thank you.

Sen. Rodrigues: Thank you for your comments. We have *Zayzay* Ingram Fitzpatrick with Dr. Nancy Strats or Strotes on deck. Ms. Ingram Fitzpatrick

here? Dr. Strats? And then we'll have Judy Shecklin on deck.

Dr. Stots: Good afternoon, my name is Dr. Nancy Stots.

Sen. Rodrigues: Stots. Thank you I apologize for mispronouncing that. You're recognized for two minutes.

Dr. Stots: No worries. Thank you. I'm a board-certified medical doctor, but you don't need an advanced degree to see what's happening here. We know this is the blatant disenfranchisement of African American communities and their representatives. It's unfortunate that some of you can't even look at me. Just two months ago, you all worked very hard making maps that adhered to Florida statutes. And then the governor proposed his own maps, which you rightfully said no, Gov, this is too far. But then he vetoed yours, came back with his, and now suddenly you folded like a cheap suit.

I'm wondering what happened in those two months. Were there backroom talks? Maybe working out the budget details. I don't know. Arm twisting? I'm not sure. Your arms all look fine. But maybe we need to think about what you are here for, which is to, as people have said, represent your constituents. It's painfully to me, to everyone in this room, and everyone outside this room that this special session is a farce. There is not even another map being considered. And you won't consider amendments. And also, has been mentioned, this Harvard educated governor of ours must be well aware that his maps violate both the Fair Districts Amendment and the Voting Rights Act. But perhaps he wants the attention. Perhaps he wants to go to the Supreme Court case. That may be exactly what he wants.

At any rate, you're making it easy for him. But he must know that he's necessitating more lawsuits, which more appeals after that. All of this at the expense of all Florida citizens, like these special sessions. As we all learned in early grade American history, our government was formed in response to an authoritarian ruler, King George. Remember that? Our founding fathers created a system of three distinct autonomous branches of government. Yet here we are today seeing complete complicity to a new king.

As a physician, I pledged to uphold the Hippocratic oath. You too, all of you, took an oath, too, to uphold your state's constitution, which demands – mandates that you form these maps and you have not done so.

Sen. Rodrigues: Please bring it in for a landing.

Dr. Stots: Please remember the oath you took, which you seem to have forgotten. We will not forget. Thank you.

Sen. Rodrigues: Thank you for your comments. Judy Shecklin and Trish Brown will be on deck.

Ms. Shecklin: My name is Judy Shecklin. I'm from Jacksonville, Florida. I too am opposed to the governor's proposed maps. It is the responsibility of the legislature to create congressional maps during redistricting according to Article 3 of the Florida Constitution. The House and Senate did that, created, approved maps and that they were satisfied with. As we now know, we've heard this all day, were then vetoed and redrawn by the governor. This is unprecedented in legislatures all over the country. This hasn't been done.

You, as legislators, quickly acquiesced to the governor, creating a dramatic imbalance of power in our state government. This is very troubling. The governor's maps are a radical departure, and they aren't in compliance with state and federal law. These maps, as we've heard again here today, reduce the likelihood of minorities to elect congressional members of their choice, eliminating two minority districts, and violating the Voting Rights Act. In 2010, Florida passed the Fair Districts Amendment and the citizens of this state overwhelmingly spoke. They deserve and expect fairness in redistricting decisions.

The governor's plan creates 20 Republican majority districts and eight Democratic majority districts. This blatantly demonstrates partisan gerrymandering. Please stand up for all Floridians and oppose these unfair maps. Thank you.

Sen. Rodrigues: Thank you for your comments. Trish Brown. And we have Rodney Long on deck. Trish Brown? Rodney Long? For the record, Trish Brown is against the bill. Mr. Long, you're recognized for two minutes.

Mr. Long: Thank you, Mr. Chairman. I'm Rodney Long. I don't live in Congressional District 5 or 10. I'm from Alachua County, Gainesville, Florida. Because I am a concerned resident of this state, I drove here today to speak to you in opposition of the proposed plan, SB 2C Plan 019, for three reasons. First, because if you approve this map, it will reduce minority representation in the state of Florida by 50%. Second is there's no doubt in my mind that these maps, if you approve them, will lead to retrogression, which violates the Voter's Rights Act. Thirdly, I'm a person who believes in process. I've served in local government for 17 years. I was president of the Florida Association of Counties. Served two terms. I understand how government works, very well.

What I do not understand is this, we have a process that we follow. We all are sworn to oaths. And we follow those oaths. What I do not understand here, as a person who understands process is how do you acquiesce the authority given to you as a legislative body to draw district lines under reapportionment/ I'm a person who believes in process. I can accept the fact if you approve the maps and I don't like the maps, but you approved the maps, I can live with that. What I cannot live with is that you're just not going to approve any maps. That is a dereliction of your oath and your duties. Do the right thing. I can live with whatever maps you all approve. But what I cannot live with is you abdicating your responsibility to do your jobs. Do the right thing.

Sen. Rodrigues: Thank you for your comments. Next we have Matt Van Wormer with Whitney Wogan on deck. You're recognized for two minutes.

Mr. Van Wormer: Thank you. I was just going to waive, but I'm going to say a couple of words because I'm on the other side of this bet and will be the first to speak to that. The map looks very square to me, it looks very

logical. Now, I don't live in Orlando. I moved in here recently. So, I don't understand what much of the politics are that have gone before. I don't see weird little lines going in here and there to try and protect or do weird things. It seems very logical. So, I'm in favor of what Senate Plan 2C 109. Thank you.

Sen. Rodrigues: Thank you for your comments. We have Whitney Wogan with Bridgette Smith on deck. Ms. Wogan, you have two minutes.

Ms. Wogan: Thank you. My name is Whitney Wogan. I just wanted to voice my support for SB 2C Plan 109. Thank you.

Sen. Rodrigues: Thank you for your comments. Bridgette Smith. And we have Carman Soto on deck.

Ms. Smith: Bridgette Smith, I'm from Marion County, Florida. A lot of PhDs here, a lot of physicians here. I'm a nurse. So, I don't have a redistricting degree. It is a science in and of itself. I was here for the House and Senate debates during session. It is a lot. I commend you all for even understanding all this. It's a lot. But me as a lay person to this, redistricting to me is to equalize population among electoral districts after publication of the census. But it seems today it's been all about race issues and color. From what I understand, the Fair District Act, it was to state that a minority group would not be prohibited from voting in their candidate. But looking at the maps currently, with the contiguousness of them, which is what we're supposed to do, and not make it about race, according to everything we talked about today. It has become about race. It's very confusing to all of us.

I support this bill. The 2017 Supreme Court decision, this is different, the Supreme Court decision in a North Carolina case brought up the fact that the gerrymandering had too many Blacks in that district. So, they threw that map out because it was gerrymandered. Now, based on that decision, District 5 is considered gerrymandered, the previous District 5. So, that's my interpretation of it. I do support the bill. Thank you very much.

Sen. Rodrigues: Thank you for your comments. We have Carmen Soto and Robert Schmidt is on deck.

Ms. Soto: Hi, my name is Carmen Soto and I'm waiving in favor of the bill.

Sen. Rodrigues: Thank you for your comment. Robert Schmidt and then we've got John Berry on deck.

Mr. Schmidt: Good afternoon. I'm speaking in support of SB 2C Plan 109, 0109. While this plan was drawn for common sense districting, today's discussions have devolved into political accusations. Not one voice has been silenced today by this map. Everyone still has a voice. I am happy this governor has shown backbone. We hear people discuss the unprecedented nature of this map. I might remind those that look to other states such as New York to see what real gerrymandering looks like for political gains.

This map represents common sense and allows for the seismic shifts that are happening in Florida today. Thank you.

Sen. Rodrigues: Thank you for your comments. John Berry. I don't see John. John is in support of the map. Lauren Dickenson. Waives in support. Thank you. That concludes testimony from the non-compensated. We're going to move to the compensated. We've got about 40 minutes. I believe the members are going to want to debate. So, we're going to do one minute testimony. We'll start with Marcia Davis and on deck will be Christian Cardona. Marcia Davis. Thank you, ma'am.

Ms. Davis: I waive against Governor DeSantis' legislative map. Floridians, and I was one of them, voted the Fair District Act amendments into the state constitution to protect minority voters and to prevent legislators from doing what appears has been done, making sure that you protect your party. It's not right. Minority growth alone by the last census indicates that there should probably be more minority representation in the legislature. But the governor plans to cut our representation in half. That's not right. The plan is unfair, and I believe that it is unconstitutional. Thank you.

Sen. Rodrigues: Thank you for your comments. Christian Cardona. And we have

Stacy Williams on deck.

Mr. Cardona: Thank you. My name is Christian Cardona. I am a worker and leader with the Fight for \$15 in the Union from Orlando, Florida. Different movements are gathered here today because Florida's Republican leadership is trying to silence Black and Brown communities by passing voter suppression laws by eliminating protections that Fair Districts Amendment provides. This map is a direct attack on Black representation in our democracy and that ain't right. By proposing a congressional map that reduces Florida's Black and Brown representation by 50%, the governor is trying to advance his political career at the expense of Black and Brown voters.

Let me tell you about my experiences as a voter and why this issue is important to me. I moved to Orlando, Florida with my family in 2009. I gained citizenship just in time to vote for Amendment 2. Amendment 2 brought us one step closer to a living wage, which is something I have been organizing and speaking up about for years. This amendment has a direct impact on the community around me, my family, my friends, and my neighbors. It felt powerful to organize and campaign to raise the standard of living for millions of Floridians. The day I got to vote yes on Amendment 2 –

Sen. Rodrigues: Please bring it in for a close.

Mr. Cardona: All right. After months of campaigning and yelling it out to the world, I finally had the chance to cast my vote with my community. This is why it's important that workers have a strong voice and a vote. I want to thank everyone for showing up and taking time out of their day because I know workers have never been given rights.

Sen. Rodrigues: Thank you for your comments. Appreciate it. Stacy Williams and Larry Collington is on deck. You're recognized for a minute.

Mr. Collington: Ms. Williams is not here. I'm Larry Collington. The writer James Baldwin said, "Not everything that is faced can be changed. But nothing can be changed until it is faced." The columnist Leonard Pitts wrote that one party in America is steering the ship of this state

toward jagged rocks. And that's where we find ourselves. I like what the former and late president John Kennedy asked, he wrote a book called *Profiles in Courage*. Within these next few days, we're going to see one of two things, either profiles in courage or profile in cowardness.

We have a bully as a governor. Unfortunately, we have members of this body, Mr. Chairman, that have essentially capitulated your constitutionally required responsibilities.

Sen. Rodrigues: Please bring it in for a close.

Mr. Collington: It's up to you. It's either going to be courage or cowardice. Unfortunately, the fear is it will cowardice.

Sen. Rodrigues: Thank you for your comments. We have Hedder Pierre Joseph with Gail Presley on deck.

Ms. Pierre Joseph: Good afternoon to the committee and committee members. My name is Hedder Pierre Joseph. I am a member of Congressional District 10 for the last 19 years. Redistricting is the process by which new congressional and state legislative districts are drawn. Federal law stipulates that districts must have nearly equal protection – equal population and must not discriminate on the basis of race or ethnicity. The current redistricting map, which eliminates Congressional House Representation for Black people is based on fear. Fear that Black people are voting. As Black people who are descendants of enslaved Africans, we know our history and we have seen this devil before.

I implore you not to continue down the path of your ancestors and deny Black people their constitutional right of representation. I remind all of you to remember the Boston Tea Party of 1773. Finally, I ask you to look around, to remember the presence of the people that were in this room. For me, I see the promise of the enslaved African. We are on the side of justice. And with the God of Abraham, Isaac, and Jacob, and our ancestors, we shall overcome. Remember this. We win with God and time. Thank you for your

consideration.

Sen. Rodrigues: Thank you for your comments. Gail Presley with Cheryl Jones on deck. Ms. Presley, you're recognized for a minute.

Ms. Presley: Thank you. Good afternoon to each and every one of you, Chairman, and also to Mr. Randolph Bracy. Thank you so very much. It is indeed my pleasure to be here today but in an awe of disbelief. I'm very heart broken as a resident of Congressional District 10, long life resident. I come from a family that marched those march in 1960. I come from a family who knows about how it feels when it comes to voters right and standing for the injustice that are done to the people who are Black and Brown. I come from a family who is very proud to know that it is your vote and your voice that matters.

And today I come to you very disappointed. I oppose C0109 because I feel that it is a disparity on the Black and Brown people. And I come from a congressional district where I want to see someone who looks like me and representing know how we feel. So, with that being said, it is your right. You took the oath. You said that you would serve us. We are looking here now and listening to statics, and I don't understand where those statistics are coming from. Because I am a proud resident of Orange County.

Sen. Rodrigues: Thank you for your comments today.

Ms. Presley: And I thank you for this time, Chairman. And you all have a wonderful day.

Sen. Rodrigues: Thank you. Cheryl Jones with Pastor Marcus McCoy on deck. I do not see Cheryl. She is against the bill. We have Pastor McCoy on the way. After Pastor McCoy, we'll have Barney Roberts on deck. You're recognized for a minute.

Pastor McCoy: Thank you. Blessings to all with special recognition to my own senator, Sen. Bracy. My name is Marcus McCoy Jr. I serve as the senior pastor of the historical Greater Refuge Memorial Church, which sits in Congressional District 10, existing now over 150 years.

I stand on behalf of my community to strongly urge this committee to vote no on the proposed map C0109 by our governor that removes Black representation in Congress. Currently, Florida has four Black access seats of 27. If the map were to be approved, that number would reduce to 50 and would leave Florida with less than 10% of the congressional district represented by members in Black access seats.

It is disheartening to see that with already such low representation, this governor wants to dilute representation even more. While I and those that I represent do not fully agree with the decision made to offer a two-map solution during this year's legislative session, at least it was the decision of this legislature. The map being considered today is not your own. I stand here urging you to reject political games and partisanship and join Florida's new congressional districts. Thank you.

Sen. Rodrigues: Thank you for your comments. Barney Roberts. And on deck will be Rosemary McCoy. Mr. Roberts, you're recognized for a minute.

Mr. Roberts: Hi, I'm Barney Roberts. I stand opposing the governor's bill. I think that it's another disheartening thing to consider as Florida. In 2010, the Florida voters added amendments to the state constitution in the Article 3, Sections 20 and 21. These amendments prohibited line drawing that intentionally favors or disfavors a political party or an incumbent. The amendment also afforded protection to racial and language minorities. Districts may not be drawn with the intent or resulting in denying or abridging the equal opportunity of racial or language minority to participate in the political process. Or to diminish their ability to elect representatives of their choice.

Finally, unless it will conflict with the standards described above, amendments require that district populations be as neatly equal as practical and that district be compact where feasible, follow existing political geographic boundaries. Ladies and Gentlemen, I will beg and ask as you all consider this that the things we do today, our children are going to have live with it. For me as a veteran and a man in the US, I love it when kids see us and they're proud about

what we do. We should make our kids proud. And we should bring them together, not divide them on all facets. Thank you.

Sen. Rodrigues: Thank you for your comments and thank you for your service. Rosemary McCoy and then on deck is Troy Squire. You're recognized for a minute.

Ms. McCoy: Thank you so much, Chair. And thank you so much for Senator Audrey Gibson for allowing us to be here. And I do respect all of you. But I want to prick your hearts. This is not about just signing off because of your party. This is about real-life situations. There's a war going on, Ukrainians and Russians. We do not want that here in the United States, nor do we want it in the State of Florida. But if we keep on – and it starts with you. Everything trickles down. From your leadership, it comes down. And if we have a war here among you all against you people, we have Ukrainian and Russia. I don't want that.

So, I'm asking you to check your own hearts out. I'm asking you to just look at it. If it's fair, then go with it. But if you check your hearts out and you find out that it isn't fair, then I'm asking you to vote new. See this? It's blue. But you know what they have, pink. Act like this is pink. And if you fail to vote correctly, you need a pink slip. Do your job. That's all we're asking you to do. You want me to do my job so I can pay taxes, guess what, the people want you to do your job. That's all we ask. I think it's fair. Do you think it's fair? I do. Do your job.

Sen. Rodrigues: Thank you for your comments. Troy Squire and then we'll have Tameka Hobbs on deck. I don't see Mr. Squire. He is against the map. Tameka Hobbs. I don't see Temeka. She is against the map. Ebony Hardy Allen. Also, against the map. Hazel Gillis and on deck will be Myrtle Lucas. Thank you Ms. Gillis. You have a minute.

Ms. Gillis: Thank you. Good afternoon. My name is Hazel Gillis. I am a member of the James Weldon Johnson branch of ASALH, the Association for the Study of African American Life and History. And I live in Congressional District 5 in Jacksonville, Florida. Gov.

Ron DeSantis' rejection of the Florida legislature drawn political map is a direct attack on Black representation in our democracy. By proposing a congressional map that reduces Florida's Black representation in Congress by 50%, the governor is attempting to silence the voices of hundreds of thousands of Black voters. We oppose any map that has been drawn by Gov. Ron DeSantis.

In 2010, Florida passed the Fair Districts Amendments 5 and 6 that prohibits politicians from drawing districts to favor themselves and their parties and to ensure minority opportunity to participate in the political process and have a fair opportunity to elect representatives of their choice, their party. We must end this manipulation at all cost to protect our democracy and Black vote. Thank you so much.

Sen. Rodrigues: Thank you for your comments. Hazel Gillis – that was you. Thank you. Myrtle Lucas. And then on deck is Ingrid Montgomery.

Ms. Lucas: Good evening. My name is Myrtle Lucas. I am a member of the James Weldon Johnson Branch of ASALH, the Association for the Study of African American Life and History. I oppose any map that has been drawn by Gov. Ron DeSantis. We vote to – I'm sorry. We vote for to drop maps for fair districts, and we want them to do their job and not for Gov. Ron DeSantis to be a dictator and a bully. That's it.

Sen. Rodrigues: Thank you for your comments. Ingrid Montgomery with Walter Smith Junior on board. Ms. Montgomery, you're recognized for a minute.

Ms. Montgomery: Good afternoon. My name is Ingrid Montgomery and I live in Duval County. I'm here today to voice my condemnation of this redistricting plan for Northern Florida. This plan splits Black communities across three different congressional districts, which personally impacts me because it results in the loss of my congressional district, CD 5, which has been the "Black opportunity district" linking Jacksonville and Tallahassee. SB 2C, also C0109 is intentionally and unconstitutionally designed to make it ever more challenging for us Black voters to elect Black Democratic members

of Congress.

You elected took the oath to stand up for equal grand. “If we merge mercy with might and might with right, then love becomes our legacy and change our children’s birthright,” Amanda Gorman, *The Hill We Climb*. Do the right thing. Thank you.

Sen. Rodrigues: Thank you for your comments. Walter Smith Junior. And on deck is Lee Harris. Are you Mr. Smith?

Mr. Smith: Yes.

Sen. Rodrigues: You’re recognized for a minute. Thank you.

Mr. Smith: Good afternoon. I am Command Sergeant Major Walter Smith Junior, Retired US Army, 30 years of military service for this country. I oppose this proposal by the governor. This proposal will remind me of what took place after reconstruction. Thank you.

Sen. Rodrigues: Thank you for your comments. I’ve been told that Lee Harris is not here. We’ll have the record show that he is against the bill. Next up, Johnathan Webber with Florida Conservation Voters. Mr. Webber, you’re recognized for a minute.

Mr. Webber: Thank you so much. My name’s Johnathan Webber. I’m the deputy director of Florida Conservation Voters. Just for the record, I am a resident of CD 5, Al Lawson’s district here in Tallahassee, just south of Apalachee. We at Florida Conservation Voters, we strongly believe that the health of our environment is directly tied to the health of our republic. Just as we monitor our water for pollution, we monitor our government for signs of sickness. Fair representation is one of the best metrics we have to measure the health of our government. The census and ensuing redistrict process is the test.

Today, we are asking ourselves questions like was this map drawn with complete transparency? Does it respect the rules set forth in the Voting Rights and the state and federal constitutions? Were the

people of Florida given ample opportunity to participate and comment on this map? And most importantly, considering the profound legacy of state sponsored oppression in Florida, does it protect or diminish the right of Black Floridians to elect leaders of their choice? You all know the answers to these questions. And while fair representation is vital, fear of doing the right thing is the ultimate terminal sickness in democracy.

Our republic is only strong as the right of minority groups to participate. I love this country, not so much for its history, but for its promise.

Sen. Rodrigues: Please bring it in for a close.

Mr. Webber: I will. That promise must be guaranteed to everyone, not just the powerful, the monied, or the ruling class. We stand in solidarity with our friends and allies across the state in opposition to these maps. Thank you. And thank you to everyone who showed up today.

Sen. Rodrigues: Thank you for your comments. Cecile Scoon with the League of Women Voters of Florida.

Ms. Scoon: Good afternoon. My name is Cecile Scoon with the League of Women Voters. I've been here a few times. I'm very disappointed, as many people are, that we're in this position. When this whole thing started, there was many promises made to adhere to all of the laws. It was interesting that Mr. Kelly did not mention that the Tier 1, which is a citizen's initiative of the fair districts, it not only has an intent provision, it has an impact provision. So, it doesn't matter if he came here, and he drew the maps and he did not intend anything. That's irrelevant to the other half, which says if you have this impact that harms the ability to select a representative of your choosing if you're a racial or language minority, that's a problem under our law.

And so, what they have done is completely violated Tier 1 of our constitution, which was found lawful and correct by our Florida Supreme Court. So, that is the status of the law as we stand. Anything that comes now the rebukes that or does anything like that

is looking for a new court to make a different decision. But the law right now says that is illegal. We would ask you to adhere to the law as we all know it, Fair District and the Voting Rights Act. Thank you.

Sen. Rodrigues: Thank you for your comments.

Sen. Gibson: May I ask a question?

Sen. Rodrigues: We still have another speaker, and we are doing a hard stop at 4:30.

Sen. Gibson: It's a 30 second answer.

Sen. Rodrigues: I'm not going to recognize it at this time. Matthew Isabelle.

Sen. Gibson: May I ask you a question, Mr. Chair?

Sen. Rodrigues: What's that?

Sen. Gibson: May I ask the question of you? Maybe our staff may know the answer.

Sen. Rodrigues: Yes.

Sen. Gibson: Thank you. I'm just wondering if we know how many hundreds of thousands of votes across the state did the Fair Districts Amendment pass by.

Sen. Rodrigues: I don't know. We'll have staff look into that and get back to you. Mr. Isabelle, you're recognized for a minute.

Mr. Isabelle: Members of this committee, for months the vast majority of you pledged your support to preserving districts that gave African Americans the ability to elect a candidate of their choice. You defended seats that were in some form or fashion drawn three decades ago to correct centuries of injustice. The laws and cases from the late 20th century saw an explosion of minority representation. Since the passage of the 1982 Voting Rights Act, the

number of African American congresspeople has gone from 18 to 60. Florida is part of this very tradition.

Redistricting in Florida began with such promise. Draft maps from both chambers had anywhere from three to four seats designed to give African Americans a chance to elect any of their choice. Efforts from alt-right Twitter activists to dismantle districts like CD 5 and 10 were ignored by you lawmakers for the longest time. But now with the governor's intervention, you have backtracked on all of these principles in the name of party unity. And for what reason? To appease a governor who sees his path to the presidency by acting like a modern-day George Wallace. We see the private grumblings that many of you have fed to the press, expressing your off-the-record concern. Most of you openly admit in private to being afraid of the governor.

He's threatened primaries to you, to your colleagues, and he's threatened to veto budget items.

Sen. Rodrigues: Please bring it in for a close.

Mr. Isabelle: I'm closing. Why don't you just come out and say that he's blackmailing you, instead of coming up with fake legal justification? Why don't you at least admit that you're afraid of him and you want him to like you? Why don't you just admit that you are cowards?

Sen. Rodrigues: Thank you for your comments. That concludes public testimony. Is there debate?

Sen. Stargel: Mr. Chair?

Sen. Rodrigues: Sen. Stargel, you're recognized.

Sen. Rodrigues: Mr. Chair, I move that this committee vote on SB 2C on or before 4/27.

Sen. Rodrigues: That motion is made. Show it adopted without objection. We're now in debate. Sen. Gibson?

Sen. Gibson:

Thank you, Mr. Chair. First I want to start with the whole idea that the state of Florida's constitution doesn't cover Tier 1. It absolutely does. Which is why I was trying to determine approximately the hundreds of thousands of votes from our constituents that support the Fair Districts Amendment to our state constitution, which is also part of our first packet that we got on the Florida redistricting packet. Which I, of course, thank the staff again for. I have papers all over the place.

In the Fair Districts Amendment to the constitution, and I wrote a note that I don't believe that the constitutional revision commission in 2018 made any changes or changed at all the Fair Districts Amendment, which speaks to the fact that districts may not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or diminish their ability to elect representatives of their choice. There are other parts of this, but I want to hasten so that others get to debate, and I don't lose some other important points that I wanted to make.

One of those is if you've never been denied anything, then you have no context as to why representation is returned and why it is important that the representative understands the community that they're representing in totality. And so, what's on the line? First of all, CD 5 came about as a largely representing minority population because of a lawsuit years ago. That is why that congressional district existed as a minority access district in Jacksonville. The suit was filed by our previous member of congress. I don't know, it was 19 – whatever it was, 70s, 60s, in order for there to be representation – to include representation of people of color.

In a conversation I had the other day, when people try to figure out, oh, it's about race. Well, it's more about race. It's also about need. And so, in order for those folks with more health disparities – or health disparities, I don't know how you can have any more, neighborhoods that have been crumbling historically, infrastructure needs, cleaning of brownfields of community of color that weren't

anywhere else. Who represents those communities matter. Yes, there's growth and upward mobility, as well. But there are still healthcare disparities. There are still holes in things that need to happen.

So, when a member doesn't understand in totality that population, the funding requests that have been put forward over the years disappear. The blend of everyone takes the focus off some of those who are the neediest of particularly healthcare, improvement of their neighborhoods, education, those kinds of things. While it's getting better, it's been behind for so many years that catching up becomes difficult without a representative that doesn't understand exactly all of the people they're representing. I think every individual in any district is just as important as the neighbor next door or across the street. Everyone is. That's the way I've always done my job. But unfortunately, the maps in front of us, CD 5 is one of them where there's such a split, unnecessarily cut the community right down the middle, the community of color, without having to do that. And making sure that all resources are delivered to all parts of the community. It would be great if we all lived in health disparity districts, and then we'd all get the same attention. But we don't. It'd be great if we all lived in low-income communities. But we don't. And so, those who do need representation to speak to that issue. I just think that the purpose of the maps was to make two Republican forming, it has nothing to do with race, there are Black Republicans, Hispanic Republicans, but has everything to do with party, as well. So, there's a double whammy in Duval. We have a separation of culture. And then we also have two seats that will perform for Republican members of Congress.

I don't know if we can even sit here and call that the right thing to do. And also in CD 10 as well. What wants to be put forward to us as innocence is not there. I hope that people remember that this is not for tomorrow or next week. It doesn't change for 10 more years. I refuse to believe that the people of color population in Duval shrunk in the past census. Or if it didn't shrink, people are now living on top of each other. That is definitely not the case. I'm done, Mr. Chair. Thank you.

Sen. Rodrigues: Sen. Bracy.

Sen. Bracy: Thank you, Mr. Chairman. This clearly violates Fair Districts. It clearly violates the federal law, the Federal Voting Rights Act. I don't even think it's worth debating. I think that's clear. The fact that Alex Kelly would get in front of us and say he had no idea that he was taking a swath of Black folks and putting them in the same district with the Villages and saying he didn't know that it would affect their ability to elect the candidate of choice is a joke. It's a joke and it's insulting. So, I'm not even going to go there.

What I will say to you members is that what the governor is doing and bullying you all and dictating what you're going to do, you are essentially losing the power and the independence of the Senate. And you are making the governor the de facto president from now on. Because with a bully, once you give in, it doesn't stop. He's going to continue this. You will not be able to defy him again. He's threatened to primary you all. He's threatened to primary endorsed candidates from the president. And he's not going to stop. You laying down, you are setting the stage for this to happen over and over again. And if that's what you want, you want him to be the House Speaker, the Senate President, and the Governor, so be it.

But I just want to lay out what we're actually doing today. And I love you all. I've served with you. You all are friends. And so, I'm speaking to you genuinely. And this is how I feel. If this is what we're going to do, so be it. But I at least want to be on record to say I don't think it's right and I don't think this is in tradition of what the Senate stands for. We have been an independent body. And we made a decision before. And now we are caving. We are folding. And I think we are better than that.

Sen. Rodrigues: Sen. Stewart for two minutes.

Sen. Stewart: Thank you, chair. Frankly, I never thought we'd be here today. I know that when we had months and months of meetings and we came up with a map that was extremely fair and we gave that map

to the governor, we didn't expect to have any consequences. But today we see that I was really, really wrong. We sit here today. This map that was produced and we were able to see it a few days ago, I didn't like it. I don't like being here because I think we did a really good job when we had the opportunity to do it.

But this map has no connection to Tier 1. Everything stated by the governor's map drawer and perhaps some of the attorneys that helped him, all the paperwork is on Tier 2. Well, Tier 2 is not nearly as important as Tier 1. And so, when you've got them totally ignoring Tier 1 for whatever the reasons were stated, I think we might as well just leave here and go straight out that door and get our attorneys because we're going to be going to court anyway. I just think this is the wrong approach to what we have signed on to do. We did a really good job. I want to thank everybody here how hard they worked. I'm just not in favor of overturning the nearly perfect map that we put together. Thank you.

Sen. Rodrigues: It's now 4:27, time certain. Dana, please call the roll on Senate Bill 2 C.

Dana: Senator Bean?

Sen. Bean: Yes.

Dana: Senator Bracy?

Sen. Bracy: No.

Dana: Senator Bradley? Senator Brodeur?

Sen. Brodeur: Yes.

Dana: Senator Burgess?

Sen. Burgess: Yes.

Dana: Senator Gibson?

Sen. Gibson: No.

Dana: Senator Harrell?

Sen. Harrell: Yes.

Dana: Sen. Rodriguez?

Sen. Rodriguez: Yes.

Dana: Senator Rouson?

Sen. Rouson: No.

Dana: Senator Stargel?

Sen. Stargel: Yes.

Dana: Senator Stewart?

Sen. Stewart: No.

Dana: Vice Chair Broxson?

Sen. Broxson: Yes.

Dana: Chair Rodrigues?

Sen. Rodrigues: Yes. By your vote, Senate Bill 2C is reported favorable. Is there any other business before the committee? Seeing none, Sen. Rouson moves we adjourn. Show the motion adopted.

[End of Audio]

Duration: 176 minutes



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A handwritten signature in black ink, appearing to read "Beth Worthy", written in a cursive style.

Beth Worthy
President

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Exhibit 11

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

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

Petitioners,

v.

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

Respondents.

Case No.: 2022-ca-000666

**PLAINTIFFS' NOTICE OF SERVICE OF FIRST SET OF INTERROGATORIES
TO DEFENDANT FLORIDA HOUSE OF REPRESENTATIVES**

IN ACCORDANCE with Rule 1.340(e), Florida Rules of Civil Procedure, notice is hereby given that Plaintiffs propound their First Set of Interrogatories to Defendant Florida House of Representatives consisting of eleven (11) questions, which shall be answered within thirty (30) days after the service of the interrogatories.

Dated: July 20, 2022

/s/ Frederick S. Wermuth

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 20, 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.

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

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

Petitioners,

v.

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

Respondents.

Case No.: 2022-ca-000666

PLAINTIFFS' FIRST SET OF INTERROGATORIES
TO DEFENDANT FLORIDA HOUSE OF REPRESENTATIVES

Pursuant to Florida Rules of Civil Procedure 1.280 and 1.340, Plaintiffs serve their First Set of Interrogatories to Defendant Florida House of Representatives and, in accordance with the Definitions and Instructions set forth below, request that Defendant Florida House of Representatives answer the following eleven (11) interrogatories, separately, in writing and under oath, and serve a copy of its responses on the undersigned counsel within thirty (30) days from the date of service of these interrogatories.

These interrogatories are to be interpreted and answered in accordance with the Instructions and Definitions below.

INSTRUCTIONS FOR INTERROGATORIES

1. In responding to these interrogatories, you must make a diligent search of the information available to you. In answering these interrogatories, furnish all information available to you or subject to your reasonable inquiry, including, but not limited to, information in the possession of your members, committees, current and former staff, attorneys, investigators,

experts, advisors, agents, or other persons directly or indirectly employed by, or connected with, you or your attorneys, and anyone else otherwise subject to your control.

2. If you are unable to respond to any of the interrogatories fully and completely, after exercising due diligence to obtain the information necessary to provide a full and complete response, so state, and answer each such interrogatory to the fullest extent possible, specifying the extent of your knowledge and your inability to answer the remainder, and setting forth whatever information or knowledge you may have concerning the unanswered portions thereof and efforts you made to obtain the requested information.

3. If you object to any part of an interrogatory, answer all parts of such interrogatory to which you do not object. As to each part to which you do object, set forth the basis for the objection.

4. If you object to the scope or time period of an interrogatory, please state your objection and answer the request for the scope or time period you believe is appropriate.

5. If you object to any interrogatory as vague or unclear, assume a reasonable meaning, state what the assumed meaning is, and respond to the interrogatory according to the assumed meaning.

6. If you object to any interrogatory as overbroad, provide a response that narrows the interrogatory in a way that eliminates the purported overbreadth, state the extent to which your response has narrowed the interrogatory, and respond to the narrowed interrogatory.

7. If you object to any interrogatory on the grounds that, in whole or in part, a response is unduly burdensome or disproportionate to the needs of the case, describe the burden or expense that you would incur in connection with the proposed discovery and/or identify each of the reasons why you believe it would be disproportionate to the needs of the case for you to respond.

8. If you withhold the answer to any part of any interrogatory on the claim of privilege, state the specific factual and legal basis for doing so and answer any part of the interrogatory that you have not alleged to be objectionable. Such information should be supplied in sufficient detail to permit Plaintiffs to assess the applicability of the privilege claimed. If the information withheld is an oral Communication, please identify:

- a) the name of the person making the Communication;
- b) the names of persons present while the Communication was made;
- c) if not apparent, the relationship of the persons present to the person making the Communication;
- d) the date and place of the Communication; and
- e) the general subject matter of the Communication.

If the information withheld is in a Document, please provide the information set forth in Florida Rule of Civil Procedure 1.280(b)(6), including, but not limited to, the type of document, the general subject matter of the Document, the date of the Document, and such other information as is sufficient to identify the Document, including, where appropriate, the author(s), addressee(s), custodian(s), and any other recipient(s) of the Document, and, where not apparent, the relationship of the author(s), addressee(s), custodian(s) and any other recipient(s) to each other, in a manner that, without revealing the information claimed to be protected, will enable the parties and/or, if necessary, the Court to assess the applicability of the privilege or protection claimed.

9. If your response to any interrogatory refers to Documents you have produced or will produce, specify the Bates numbers of those Documents.

10. If any Document has been destroyed that would have provided information responsive to these interrogatories or used or referenced in formulating your answers to these interrogatories, please identify each such Document—including the nature of the Document and

its contents, the person(s) who prepared or authored the Document, the person(s) to whom the Document was sent, and the date(s) on which the Document was prepared and/or transmitted—and state the circumstances of its destruction, including the identity of the person who actually destroyed the Document, the identity of any person who ordered or directed its destruction, the date and location of its destruction, and any policy or procedure that you contend allows, relates to, compels, or explains such destruction.

DEFINITIONS

1. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Florida Rules of Civil Procedure.

2. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.

3. The following terms shall have the meanings indicated below:

- a) The terms “you,” and “your” shall mean the Florida House of Representatives, its committees, members, employees, staff, associates, representatives, attorneys, and other persons or entities acting or purporting to act on its behalf.
- b) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and those bodies’ respective members and staff.
- c) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of

Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.

- d) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.
- e) The term “Benchmark Congressional Plan” refers to the congressional plan that was adopted by the Florida Supreme Court in the last redistricting cycle, which was in place for the 2016, 2018, and 2020 congressional election cycles.
- f) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- g) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- h) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- i) The term Plan “H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- j) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if Plan H000C8019 was found unconstitutional, or any drafts or precursors thereof.
- k) The term “Plan S035C8060” shall mean the congressional district plan passed by the Florida Senate in January 2022, and any drafts or precursors thereof, including its direct predecessors considered by the Florida Senate Reapportionment Committee, including Plan S027C8058 submitted by Senator Rodrigues.
- l) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature during 2021 and 2022, as well as any drafts or precursors of those plans or subsequent amendments thereof.
- m) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services.
- n) The term “functional analysis” refers to the analysis used to determine whether racial or language minorities have the opportunity to elect the candidate of

their choice, which may include consideration of population statistics, voter registration data, voter turnout data, and an analysis of election outcomes, among other factors.

- o) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- p) The term “document” or “communication” is used in the broadest sense of data compilations subject to production and includes any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents.
- q) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- r) The phrase “describe in detail” means to narrate and recount any and all facts and circumstances that describe – and to identify any and all persons, documents and communications involved in or that may reflect or provide evidence of – the event or occurrence, or series of events or occurrences referenced in the interrogatory, and to narrate and recount all such information that relates to, supports, or forms the basis for a contention, allegation, denial or affirmative defense referenced in response to the interrogatory.

- s) The term “identify” means:
 - i. when used in connection with a natural person, to state the individual’s full name; his or her home and business address; his or her present employer; and his or her position, title, or job description;
 - ii. when used in reference to a company, corporation, association, firm, partnership, joint venture, or any legal entity other than a natural person, to state its full name and type of organization or entity; the address of its principal place of business; its date and place of incorporation; and the identity of its officers, directors, and/or managing agents;
 - iii. when used in reference to an oral statement, to state the name of the speaker; the date of the statement; the place at which the statement was made; the person or persons to whom the statement was addressed, if known, or, if not, a general description of the person(s) to whom the statement was addressed; the subject matter of the statement; and if the statement was memorialized in writing or otherwise recorded by mechanical, digital or other means, the date and present location of the writing or recording; and
 - iv. when used in reference to a document, to state, to the extent known, the type of document; author(s); date of the document; addressee(s); recipient(s) or general description of the person(s) to whom the document was distributed; general subject matter; Bates number (or other litigation document control number); title or other identifying information; and present location and custodian.

4. The following rules of construction apply to all requests:

- a) The terms “all” and “any” shall each be construed as encompassing any and all;
- b) All uses of the word “each” include “every” (and vice versa);
- c) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information and documents is achieved;
- d) The term “including” shall be construed without limitation;
- e) The use of a verb in any tense encompasses the use of the verb in all tenses;
- f) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current

and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- g) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
- h) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.

INTERROGATORIES

INTERROGATORY NO. 1: Identify by name, job title, and work address every person who had any responsibility, formal or informal, official or unofficial, for assisting, advising, or consulting the Florida House of Representatives with respect to congressional redistricting in 2021 and 2022 and, for each such individual, please describe the nature of those responsibilities. This request includes without limitation members of the House Redistricting Committee or its subcommittees and any staff members, consultants, experts, map drawers, and other individuals who assisted or advised the Committee or House with respect to any issue relating to the redistricting process, including: (a) technical assistance, (b) map drawing of proposed maps, partial maps, or final maps, (c) goals, issues, or objectives to be achieved (or avoided) in the map drawing process, or (d) legal advice. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 2: Describe if and how you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, of the Enacted Plan, and of the Benchmark Congressional Plan, including (a) the person, people, entity, and/or entities responsible for the analysis; (b) the approximate date that the analysis was performed; (c) the specific data used to perform such an analysis, (d) the districts analyzed, (e) results of the analysis, and (f) who was provided the analysis and when. If no functional analysis was performed of a Proposed Plan, of the Enacted Plan, or of the Benchmark Congressional Plan, please state that no analysis was performed.

RESPONSE:

INTERROGATORY NO. 3: If you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, of the Enacted Plan, or of the Benchmark Congressional Plan, describe in detail your conclusion as to which congressional districts provided racial or language minorities the ability to elect the candidates of their choice in those Plans and the reasons for reaching those conclusions. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 4: Identify all individual legislators, staff members, attorneys, or any other individuals known to you who tested, analyzed, advised, or commented upon the expected or desired political or partisan performance of any Proposed Plans (or partial maps or individual districts) that were considered by or enacted by the Legislature in 2021 or 2022. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 5: Describe in detail all communications (whether written or verbal), informal or formal meetings, or presentations relating to congressional redistricting in 2021 and 2022 between Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis and the Legislature, its members, committees, staff, agents, attorneys, or representatives. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 6: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida House of Representatives and any employees, agents, consultants to, or representatives of the Republican National Committee, Republican Party of Florida, National Republican Congressional Committee, Republican State Leadership Committee, Redistricting Majority Project (or REDMAP), National Republican Redistricting Trust, Ballard Partners, Adam Foltz, or any other consultant or agent for the Republican Party. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 7: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida House of Representatives and any person who was a Member of the United States House of Representatives from the State of Florida or any staff member, campaign staff member, employee, agent, or consultant for any Member of the United States House of Representatives from the State of Florida. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 8: Identify all persons who, prior to the public release of any Proposed Plan, including but not limited to Plan S035C8060, Plan HOOOC8015, Plan HOOOC8019, P000C0079, Plan P000C0094, and the Enacted Plan, evaluated, reviewed, analyzed, were shown, or commented on those plans, or on maps, data, or plans that were used to draft those plans, incorporated into those plans, or adopted as part or all of those plans. For each person identified, describe to the best of your ability their role in assisting, advising, or consulting on those plans. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 9: Identify and describe in detail any and all attempts that were made by you and/or the Legislature to comply with the Tier I requirements of the Fair Districts Amendments in the Proposed Plans and Enacted Plan. Please refer to the instructions above for the definition of “identify” and “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 10: Identify all data and information to which the map drawer(s) had access during the process of drawing any Proposed Plan or Enacted Plan, including but not limited to data or information showing partisan performance, incumbent addresses, and racial demographics. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 11: Identify by name, job title, and work or home address every person who participated in investigating, collecting, or preparing information or documents in response to these interrogatories and requests for production of documents. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

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

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

Petitioners,

v.

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

Respondents.

Case No.: 2022-ca-000666

**PLAINTIFFS' NOTICE OF SERVICE OF FIRST SET OF INTERROGATORIES
TO DEFENDANT FLORIDA SENATE**

IN ACCORDANCE with Rule 1.340(e), Florida Rules of Civil Procedure, notice is hereby given that Plaintiffs propound their First Set of Interrogatories to Defendant Florida Senate consisting of eleven (11) questions, which shall be answered within thirty (30) days after the service of the interrogatories.

Dated: July 20, 2022

/s/ Frederick S. Wermuth

Frederick S. Wermuth

Florida Bar No. 0184111

Thomas A. Zehnder

Florida Bar No. 0063274

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Respectfully submitted,

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Counsel for Plaintiffs

***Admitted pro hac vice*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 20, 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.

/s/ Frederick S. Wermuth
Frederick S. Wermuth
Florida Bar No. 0184111

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Counsel for the Florida House of Representatives

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

BLACK VOTERS MATTER CAPACITY
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Case No.: 2022-ca-000666

PLAINTIFFS' FIRST SET OF INTERROGATORIES
TO DEFENDANT FLORIDA SENATE

Pursuant to Florida Rules of Civil Procedure 1.280 and 1.340, Plaintiffs serve their First Set of Interrogatories to Defendant Florida Senate and, in accordance with the Definitions and Instructions set forth below, requests that Defendant Florida Senate answer the following eleven (11) interrogatories, separately, in writing and under oath, and serve a copy of its responses on the undersigned counsel within thirty (30) days from the date of service of these interrogatories.

These interrogatories are to be interpreted and answered in accordance with the Instructions and Definitions below.

INSTRUCTIONS FOR INTERROGATORIES

1. In responding to these interrogatories, you must make a diligent search of the information available to you. In answering these interrogatories, furnish all information available to you or subject to your reasonable inquiry, including, but not limited to, information in the possession of your members, committees, current and former staff, attorneys, investigators,

experts, advisors, agents, or other persons directly or indirectly employed by, or connected with, you or your attorneys, and anyone else otherwise subject to your control.

2. If you are unable to respond to any of the interrogatories fully and completely, after exercising due diligence to obtain the information necessary to provide a full and complete response, so state, and answer each such interrogatory to the fullest extent possible, specifying the extent of your knowledge and your inability to answer the remainder, and setting forth whatever information or knowledge you may have concerning the unanswered portions thereof and efforts you made to obtain the requested information.

3. If you object to any part of an interrogatory, answer all parts of such interrogatory to which you do not object. As to each part to which you do object, set forth the basis for the objection.

4. If you object to the scope or time period of an interrogatory, please state your objection and answer the request for the scope or time period you believe is appropriate.

5. If you object to any interrogatory as vague or unclear, assume a reasonable meaning, state what the assumed meaning is, and respond to the interrogatory according to the assumed meaning.

6. If you object to any interrogatory as overbroad, provide a response that narrows the interrogatory in a way that eliminates the purported overbreadth, state the extent to which your response has narrowed the interrogatory, and respond to the narrowed interrogatory.

7. If you object to any interrogatory on the grounds that, in whole or in part, a response is unduly burdensome or disproportionate to the needs of the case, describe the burden or expense

that you would incur in connection with the proposed discovery and/or identify each of the reasons why you believe it would be disproportionate to the needs of the case for you to respond.

8. If you withhold the answer to any part of any interrogatory on the claim of privilege, state the specific factual and legal basis for doing so and answer any part of the interrogatory that you have not alleged to be objectionable. Such information should be supplied in sufficient detail to permit Plaintiffs to assess the applicability of the privilege claimed. If the information withheld is an oral Communication, please identify:

- a) the name of the person making the Communication;
- b) the names of persons present while the Communication was made;
- c) if not apparent, the relationship of the persons present to the person making the Communication;
- d) the date and place of the Communication; and
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If the information withheld is in a Document, please provide the information set forth in Florida Rule of Civil Procedure 1.280(b)(6), including, but not limited to, the type of document, the general subject matter of the Document, the date of the Document, and such other information as is sufficient to identify the Document, including, where appropriate, the author(s), addressee(s), custodian(s), and any other recipient(s) of the Document, and, where not apparent, the relationship of the author(s), addressee(s), custodian(s) and any other recipient(s) to each other, in a manner that, without revealing the information claimed to be protected, will enable the parties and/or, if necessary, the Court to assess the applicability of the privilege or protection claimed.

9. If your response to any interrogatory refers to Documents you have produced or will produce, specify the Bates numbers of those Documents.

10. If any Document has been destroyed that would have provided information

responsive to these interrogatories or used or referenced in formulating your answers to these interrogatories, please identify each such Document—including the nature of the Document and its contents, the person(s) who prepared or authored the Document, the person(s) to whom the Document was sent, and the date(s) on which the Document was prepared and/or transmitted—and state the circumstances of its destruction, including the identity of the person who actually destroyed the Document, the identity of any person who ordered or directed its destruction, the date and location of its destruction, and any policy or procedure that you contend allows, relates to, compels, or explains such destruction.

DEFINITIONS

1. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Florida Rules of Civil Procedure.
2. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.
3. The following terms shall have the meanings indicated below:
 - a) The terms “you,” and “your” shall mean the Florida Senate, its committees, members, employees, staff, associates, representatives, attorneys, and other persons or entities acting or purporting to act on its behalf.
 - b) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and those bodies’ respective members and staff.
 - c) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron

DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.

- d) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.
- e) The term “Benchmark Congressional Plan” refers to the congressional plan that was adopted by the Florida Supreme Court in the last redistricting cycle, which was in place for the 2016, 2018, and 2020 congressional election cycles.
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- i) The term “Plan H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- j) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if Plan H000C8019 was found unconstitutional, or any drafts or precursors thereof.
- k) The term “Plan S035C8060” shall mean the congressional district plan passed by the Florida Senate in January 2022, and any drafts or precursors thereof, including its direct predecessors considered by the Florida Senate Reapportionment Committee, including Plan S027C8058 submitted by Senator Rodrigues.
- l) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature during 2021 and 2022, as well as any drafts or precursors of those plans or subsequent amendments thereof.
- m) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services.

- n) The term “functional analysis” refers to the analysis used to determine whether racial or language minorities have the opportunity to elect the candidate of their choice, which may include consideration of population statistics, voter registration data, voter turnout data, and an analysis of election outcomes, among other factors.
- o) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- p) The term “document” or “communication” is used in the broadest sense of data compilations subject to production and includes any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents.
- q) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- r) The phrase “describe in detail” means to narrate and recount any and all facts and circumstances that describe – and to identify any and all persons, documents and communications involved in or that may reflect or provide evidence of – the event or occurrence, or series of events or occurrences

referenced in the interrogatory, and to narrate and recount all such information that relates to, supports, or forms the basis for a contention, allegation, denial or affirmative defense referenced in response to the interrogatory.

- s) The term “identify” means:
 - i. when used in connection with a natural person, to state the individual’s full name; his or her home and business address; his or her present employer; and his or her position, title, or job description;
 - ii. when used in reference to a company, corporation, association, firm, partnership, joint venture, or any legal entity other than a natural person, to state its full name and type of organization or entity; the address of its principal place of business; its date and place of incorporation; and the identity of its officers, directors, and/or managing agents;
 - iii. when used in reference to an oral statement, to state the name of the speaker; the date of the statement; the place at which the statement was made; the person or persons to whom the statement was addressed, if known, or, if not, a general description of the person(s) to whom the statement was addressed; the subject matter of the statement; and if the statement was memorialized in writing or otherwise recorded by mechanical, digital or other means, the date and present location of the writing or recording; and
 - iv. when used in reference to a document, to state, to the extent known, the type of document; author(s); date of the document; addressee(s); recipient(s) or general description of the person(s) to whom the document was distributed; general subject matter; Bates number (or other litigation document control number); title or other identifying information; and present location and custodian.
- 4. The following rules of construction apply to all requests:
 - a) The terms “all” and “any” shall each be construed as encompassing any and all;
 - b) All uses of the word “each” include “every” (and vice versa);
 - c) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information and documents is achieved;
 - d) The term “including” shall be construed without limitation;
 - e) The use of a verb in any tense encompasses the use of the verb in all tenses;

- f) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and
- g) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
- h) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.

INTERROGATORIES

INTERROGATORY NO. 1: Identify by name, job title, and work address every person who had any responsibility, formal or informal, official or unofficial, for assisting, advising, or consulting the Florida Senate with respect to congressional redistricting in 2021 and 2022 and, for each such individual, please describe the nature of those responsibilities. This request includes without limitation members of the Florida Senate Committee on Reapportionment or its subcommittees and any staff members, consultants, experts, map drawers, and other individuals who assisted or advised the Committee or Senate with respect to any issue relating to the redistricting process, including: (a) technical assistance, (b) map drawing of proposed maps, partial maps, or final maps, (c) goals, issues, or objectives to be achieved (or avoided) in the map drawing process, or (d) legal advice. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 2: Describe if and how you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, or the Enacted Plan, or of the Benchmark Congressional Plan, including (a) the person, people, entity, and/or entities responsible for the analysis; (b) the approximate date that the analysis was performed; (c) the specific data used to perform such an analysis, (d) the districts analyzed, (e) results of the analysis, and (f) who was provided the analysis and when. If no functional analysis was performed of a Proposed Plan, of the Enacted Plan, or of the Benchmark Congressional Plan, please state that no analysis was performed.

RESPONSE:

INTERROGATORY NO. 3: If you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, or the Enacted Plan, or of the Benchmark Congressional Plan, describe in detail your conclusion as to which congressional districts provided racial or language minorities the ability to elect the candidates of their choice in those Plans and the reasons for reaching those conclusions. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 4: Identify all individual legislators, staff members, attorneys, or any other individuals known to you who tested, analyzed, advised, or commented upon the expected or desired political or partisan performance of any Proposed Plans (or partial maps or individual districts) that were considered by or enacted by the Legislature in 2021 or 2022. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 5: Describe in detail all communications (whether written or verbal), informal or formal meetings, or presentations relating to congressional redistricting in 2021 and 2022 between Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis and the Legislature, its members, committees, staff, agents, attorneys, or representatives. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 6: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida Senate and any employees, agents, consultants to, or representatives of the Republican National Committee, Republican Party of Florida, National Republican Congressional Committee, Republican State Leadership Committee, Redistricting Majority Project (or REDMAP), National Republican Redistricting Trust, Ballard Partners, Adam Foltz, or any other consultant or agent for the Republican Party. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 7: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida Senate and any person who was a Member of the United States House of Representatives from the State of Florida or any staff member, campaign staff member, employee, agent, or consultant for any Member of the United States House of Representatives from the State of Florida. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 8: Identify all persons who, prior to the public release of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, P000C0079, Plan P000C0094, and the Enacted Plan, evaluated, reviewed, analyzed, were shown, or commented on those plans, or on maps, data, or plans that were used to draft those plans, incorporated into those plans, or adopted as part or all of those plans. For each person identified, describe to the best of your ability their role in assisting, advising, or consulting on those plans. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 9: Identify and describe in detail any and all attempts that were made by you and/or the Legislature to comply with the Tier I requirements of the Fair Districts Amendments in the Proposed Plans and Enacted Plan. Please refer to the instructions above for the definition of “identify” and “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 10: Identify all data and information to which the map drawer(s) had access during the process of drawing any Proposed Plan or Enacted Plan, including but not limited to data or information showing partisan performance, incumbent addresses, and racial demographics. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

INTERROGATORY NO. 11: Identify by name, job title, and work or home address every person who participated in investigating, collecting, or preparing information or documents in response to these interrogatories and requests for production of documents. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE:

VERIFICATION

FLORIDA SENATE

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF _____)
) ss:
COUNTY OF _____)

SWORN TO AND SUBSCRIBED before me via physical presence OR online notarization this ____ day of _____, 2022, by _____, who duly acknowledged to me that he/she executed the above instrument. He/she is:

- personally known to me; or
- produced a driver's license issued by the _____ Department of Highway Safety and Motor Vehicles as identification; or
- produced the following identification: _____

SIGNATURE OF NOTARY PUBLIC

(Print, Type or Stamp Commissioned Name of Notary Public)

My Commission Expires:
My Commission Number:

Exhibit 12

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

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

Petitioners,

v.

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

Respondents.

Case No.: 2022-ca-000666

**PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION TO
DEFENDANT FLORIDA HOUSE OF REPRESENTATIVES**

Pursuant to Florida Rules of Civil Procedure 1.280 and 1.350, Plaintiffs serve their First Requests for Production of Documents, which are to be answered in writing and under oath, and request that Defendant Florida House of Representatives produce the following documents at the office of King, Blackwell, Zehnder & Wermuth, P.A., 25 East Pine Street, Orlando, Florida 32801 within thirty (30) days from the date of service of these requests, for the purpose of inspection and/or copying as provided by applicable rules, or through a mutually agreeable alternative method of production (including, but not limited to, electronic production via email attachment or secure file transfer).

These requests are to be interpreted and answered in accordance with the Instructions and Definitions below.

INSTRUCTIONS FOR REQUESTS FOR PRODUCTION

1. You are required by Florida law to produce all requested documents, wherever located, that are in your possession, custody, or control, including documents that you have a right to

obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).

2. With respect to each document request, Plaintiffs request that you identify and produce all documents that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your members, committees, employees, agents, representatives or other persons acting on your behalf or under your control.

3. Each request for documents shall be construed according to its most inclusive meaning so that if information or a document is responsive to any reasonable interpretation of the request, the information or document is responsive.

4. If you deem any request for documents to call for the production of privileged or otherwise nondisclosable materials and you assert such claim, furnish a list at the time of production identifying each document so withheld together with the following information:

- a) the reason for withholding each such document or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
- b) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
- c) a brief description of each such document or other material, including:
 1. the type of document;
 2. the date of the document;
 3. the name of its author(s) or preparer(s) and an identification by employment and title of each such person(s);

4. the name of each person to whom the document or other material was sent or who has had access to, or custody of, the document or other material, together with an identification of each such person(s);
5. the subject matter of the document;
6. the paragraph of this request to which the document or other material is responsive; and
7. in the case of any document or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.

5. Plaintiffs request that, if you have no documents responsive to a request, then you shall state so.

6. If you assert that any requested document has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information: the nature of the Document and its contents, the person(s) who prepared or authored the Document, the person(s) to whom the Document was sent, and the date(s) on which the Document was prepared and/or transmitted—and state the circumstances of its destruction, including the identity of the person who actually destroyed the Document, the identity of any person who ordered or directed its destruction, the date and location of its destruction, and any policy or procedure that you contend allows, relates to, compels, or explains such destruction.

7. Plaintiffs request that you produce all responsive documents and other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document or other material, the file in which the document or other material was maintained, the person to whom such file belongs, and the specific request to which the document or other material is responsive.

8. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. For any election or voter

data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents, to the extent documents can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

9. For documents produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document (that is, the custodian from whom the document was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents,

the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.

10. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.

11. Produce any password-protected documents with any applicable passwords.

12. Notwithstanding any of the provisions below which request all documents and communications, you need not produce any documents or communications that are currently publicly available on the Legislature’s official website.

13. Unless otherwise specified, the time period for all documents requested is January 1, 2021 to the present day.

DEFINITIONS

14. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Florida Rules of Civil Procedure.

15. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.

16. The following terms shall have the meanings indicated below:

- a) The terms “you,” and “your” shall mean the Florida House of Representatives, its committees, members, employees, staff, associates, representatives, attorneys, and other persons or entities acting or purporting to act on its behalf.
- b) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and those bodies’ respective members and staff.
- c) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
- d) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.
- e) The term “Benchmark Congressional Plan” refers to the congressional plan that was adopted by the Florida Supreme Court in the last redistricting cycle, which was in place for the 2016, 2018, and 2020 congressional election cycles.
- f) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- g) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors therefor.
- h) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- i) The term “Plan H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- j) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation

that the plan take effect if Plan H000C8019 was found unconstitutional.

- k) The term “Plan S035C8060” shall mean the congressional district plan passed by the Florida Senate in January 2022, and any drafts or precursors therefor, including its direct predecessors considered by the Florida Senate Reapportionment Committee, including Plan S027C8058 submitted by Senator Rodrigues.
- l) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature during 2021 and 2022, as well as any drafts or precursors of those plans or subsequent amendments thereof.
- m) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services or participated in an official or unofficial capacity.
- n) The term “functional analysis” refers to the analysis used to determine whether racial or language minorities have the opportunity to elect the candidate of their choice, which may include consideration of population statistics, voter registration data, voter turnout data, and an analysis of election outcomes, among other factors.
- o) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- p) The term “document” or “communication” is used in the broadest sense of data compilations subject to production and includes any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or

tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents.

- q) “Communication” refers to any transmission or communication, whether in person, by telephone, in writing, by facsimile, by e-mail, by voicemail, by instant messaging, by text messaging, by social media (including, but not limited to, by Facebook or by Twitter), or otherwise.
- r) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.

17. The following rules of construction apply to all requests:

- a) The terms “all” and “any” shall each be construed as encompassing any and all;
- b) All uses of the word “each” include “every” (and vice versa);
- c) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information and documents is achieved;
- d) The term “including” shall be construed without limitation;
- e) The use of a verb in any tense encompasses the use of the verb in all tenses;
- f) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and
- g) References to any entity include all of that entity’s agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities’ behalf.
- h) The singular number and masculine gender shall include, and be applied as, the

plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.

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.

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.

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

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

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

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.

Dated: July 20, 2022

/s/ Frederick S. Wermuth

Frederick S. Wermuth

Florida Bar No. 0184111

Thomas A. Zehnder

Florida Bar No. 0063274

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Respectfully submitted,

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Counsel for Plaintiffs

***Admitted pro hac vice*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 20, 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.

/s/ Frederick S. Wermuth

Frederick S. Wermuth

Florida Bar No. 0184111

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

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

Petitioners,

v.

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

Respondents.

Case No.: 2022-ca-000666

**PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION TO
DEFENDANT SECRETARY OF STATE**

Pursuant to Florida Rules of Civil Procedure 1.280 and 1.350, Plaintiffs serve their First Requests for Production of Documents, which are to be answered in writing and under oath, and request that Defendant Secretary of State produce the following documents at the office of King, Blackwell, Zehnder & Wermuth, P.A., 25 East Pine Street, Orlando, Florida 32801 within thirty (30) days from the date of service of these requests, for the purpose of inspection and/or copying as provided by applicable rules, or through a mutually agreeable alternative method of production (including, but not limited to, electronic production via email attachment or secure file transfer).

These requests are to be interpreted and answered in accordance with the Instructions and Definitions below.

INSTRUCTIONS FOR REQUESTS FOR PRODUCTION

1. You are required by Florida law to produce all requested documents, wherever located, that are in your possession, custody, or control, including documents that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial

institution and telephone carrier).

2. With respect to each document request, Plaintiffs request that you identify and produce all documents that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your members, committees, employees, agents, representatives or other persons acting on your behalf or under your control.

3. Each request for documents shall be construed according to its most inclusive meaning so that if information or a document is responsive to any reasonable interpretation of the request, the information or document is responsive.

4. If you deem any request for documents to call for the production of privileged or otherwise nondisclosable materials and you assert such claim, furnish a list at the time of production identifying each document so withheld together with the following information:

- a) the reason for withholding each such document or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
- b) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
- c) a brief description of each such document or other material, including:
 1. the type of document;
 2. the date of the document;
 3. the name of its author(s) or preparer(s) and an identification by employment and title of each such person(s);
 4. the name of each person to whom the document or other material was sent or who has had access to, or custody of, the document or other material,

together with an identification of each such person(s);

5. the subject matter of the document;
6. the paragraph of this request to which the document or other material is responsive; and
7. in the case of any document or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.

5. Plaintiffs request that, if you have no documents responsive to a request, then you shall state so.

6. If you assert that any requested document has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information: the nature of the Document and its contents, the person(s) who prepared or authored the Document, the person(s) to whom the Document was sent, and the date(s) on which the Document was prepared and/or transmitted—and state the circumstances of its destruction, including the identity of the person who actually destroyed the Document, the identity of any person who ordered or directed its destruction, the date and location of its destruction, and any policy or procedure that you contend allows, relates to, compels, or explains such destruction.

7. Plaintiffs request that you produce all responsive documents and other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document or other material, the file in which the document or other material was maintained, the person to whom such file belongs, and the specific request to which the document or other material is responsive.

8. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF

format. For other documents, to the extent documents can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

9. For documents produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document (that is, the custodian from whom the document was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents, the data load files shall also include the following metadata: sent date; sent time; received date;

received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.

10. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.

11. Produce any password-protected documents with any applicable passwords.

12. Notwithstanding any of the provisions below which request all documents and communications, you need not produce any documents or communications that are currently publicly available on the Legislature’s official website.

13. Unless otherwise specified, the time period for all documents requested is January 1, 2021 to the present day.

DEFINITIONS

14. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Florida Rules of Civil Procedure.

15. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.

16. The following terms shall have the meanings indicated below:

- a) The terms “you,” and “your” shall mean the Secretary of State’s Office, its employees, staff, associates, representatives, attorneys, and other persons or

entities acting or purporting to act on its behalf.

- b) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and those bodies’ respective members and staff.
- c) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
- d) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.
- e) The term “Benchmark Congressional Plan” refers to the congressional plan that was adopted by the Florida Supreme Court in the last redistricting cycle, which was in place for the 2016, 2018, and 2020 congressional election cycles.
- f) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- g) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- h) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- i) The term Plan “H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- j) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if Plan H000C8019 was found unconstitutional, or any drafts or precursors thereof.

- k) The term “Plan S035C8060” shall mean the congressional district plan passed by the Florida Senate in January 2022, and any drafts or precursors thereof, including its direct predecessors considered by the Florida Senate Reapportionment Committee, including Plan S027C8058 submitted by Senator Rodrigues.
- l) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature during 2021 and 2022, as well as any drafts or precursors of those plans or subsequent amendments thereof.
- m) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services.
- n) The term “functional analysis” refers to the analysis used to determine whether racial or language minorities have the opportunity to elect the candidate of their choice, which may include consideration of population statistics, voter registration data, voter turnout data, and an analysis of election outcomes, among other factors.
- o) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- p) The term “document” or “communication” is used in the broadest sense of data compilations subject to production and includes any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether

or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents.

- q) “Communication” refers to any transmission or communication, whether in person, by telephone, in writing, by facsimile, by e-mail, by voicemail, by instant messaging, by text messaging, by social media (including, but not limited to, by Facebook or by Twitter), or otherwise.
- r) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.

17. The following rules of construction apply to all requests:

- a) The terms “all” and “any” shall each be construed as encompassing any and all;
- b) All uses of the word “each” include “every” (and vice versa);
- c) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information and documents is achieved;
- d) The term “including” shall be construed without limitation;
- e) The use of a verb in any tense encompasses the use of the verb in all tenses;
- f) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and
- g) References to any entity include all of that entity’s agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities’ behalf.
- h) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: All documents and communications related to your response to each interrogatory in Plaintiffs' First Interrogatories to Defendant Secretary of State.

REQUEST FOR PRODUCTION NO. 2: 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.

REQUEST FOR PRODUCTION NO. 3: All documents and communications discussing, analyzing, or commenting upon any Proposed Plans or the Enacted Plan.

Dated: July 20, 2022

Respectfully submitted,

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Counsel for Plaintiffs

***Admitted pro hac vice*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 20, 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.

/s/ Frederick S. Wermuth
Frederick S. Wermuth
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Exhibit 13

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

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

Plaintiffs,

Case No. 2022-CA-000666

v.

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

Defendants.

_____ /

**THE FLORIDA HOUSE OF REPRESENTATIVES’
ANSWERS TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**

Pursuant to Florida Rule of Civil Procedure 1.340, Defendant, the Florida House of Representatives, answers Plaintiffs’ First Set of Interrogatories to Defendant Florida House of Representatives, dated July 20, 2022.

PRELIMINARY STATEMENT

1. The House objects to the extent that Plaintiffs’ definitions and instructions purport to impose obligations different from or additional to the requirements of the Florida Rules of Civil Procedure, or to limit the discretion of answering parties under the Florida Rules of Civil Procedure. For example, the House objects that Instructions Nos. 2 and 10 purport to impose obligations that the Florida Rules of Civil Procedure do not, and objects to Instruction No. 8 to the extent it purports to impose obligations different from or additional to the requirements of Florida Rule of Civil Procedure 1.280(b)(6).

2. The House answers these interrogatories upon reasonable inquiry. The House objects to Instruction No. 1 to the extent it instructs the House to solicit information from each of the House's 120 elected members, all House committees, and all current and former staff, attorneys, investigators, experts, advisors, agents, or other persons employed by, or connected with, the House or the House's attorneys, and any other person subject to the House's control. A scope of inquiry so broad would impose on the House undue burden and expense. Instead, the House has made reasonable inquiry of those members and employees whom it determined are likely to possess relevant information.

3. The House objects that Definitions Nos. 1 and 2 are ambiguous. Definition No. 1 is ambiguous because it is unclear whether the House should apply the definitions that Plaintiffs provided or instead "the broadest meaning permitted under the Federal Rules of Civil Procedure." Similarly, Definition No. 2 is ambiguous to the extent it provides that "no definition is intended as exclusive," which leaves the House in doubt as to the meaning of the terms defined in Plaintiffs' requests. Except as otherwise noted, the House attributes to all defined terms only the meanings set forth in the definitions provided by Plaintiffs.

4. The House objects to Plaintiffs' definitions of particular redistricting plans to the extent those definitions include "drafts or precursors." Drafts and precursors to redistricting plans are not relevant to the subject matter of this action. Moreover, the reference to "drafts or precursors" is vague to the extent any redistricting plan was not developed in an insulated, linear process.

5. The House understands the term "functional analysis" to have the same meaning as in *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597 (Fla. 2012).

6. The House objects that Plaintiffs' definition of "describe in detail" imposes undue burden and expense. Plaintiffs' definition purports to require the House to narrate not only material facts, but every fact or circumstance, no matter how trivial, that might have some relation to the interrogatory, and to identify and itemize every document and communication that might reflect or furnish evidence of the matters referenced in the interrogatory. The House instead attributes a plain and ordinary meaning to the phrase "describe in detail."

7. The House's review of information and documents is continuing, as is discovery. The House reserves the right to revise, correct, supplement, clarify, and amend its answers as additional information is identified. The House's answers and objections are based on information and documents now known to it and are made without prejudice to the House's right to assert additional objections, or to supplement its answers, if the House discovers additional responsive information or additional grounds for objections. The House's answers and objections are made without waiving or intending to waive, and the House expressly preserves, all applicable privileges, exemptions, and protections from discovery, including all legislative privileges and immunities of its elected members and staff.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1: Identify by name, job title, and work address every person who had any responsibility, formal or informal, official or unofficial, for assisting, advising, or consulting the Florida House of Representatives with respect to congressional redistricting in 2021 and 2022 and, for each such individual, please describe the nature of those responsibilities. This request includes without limitation members of the House Redistricting Committee or its subcommittees and any staff members, consultants, experts, map drawers, and other individuals who assisted or advised the Committee or House with respect to any issue relating to the

redistricting process, including: (a) technical assistance, (b) map drawing of proposed maps, partial maps, or final maps, (c) goals, issues, or objectives to be achieved (or avoided) in the map drawing process, or (d) legal advice. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

ANSWER: All members of the House participated in floor activities, including debate, questions, and a vote on congressional maps.

Members of the House Redistricting Committee (Chair Thomas Leek, Vice Chair Randy Fine, Ranking Member Joseph Geller, and Representatives Alex Andrade, Bryan Avila, James Bush, Cord Byrd, Chuck Clemons, Brad Drake, Fentrice Driskell, Joy Goff-Marcil, Erin Grall, Michael Grant, Evan Jenne, Chris Latvala, Amber Mariano, Stan McClain, Anika Omphroy, Bobby Payne, Will Robinson, Bob Rommel, Tyler Sirois, Emily Slosberg-King, Geraldine Thompson, and Kaylee Tuck) workshopped redistricting concepts, reviewed maps brought before committee, and took committee votes on the presented maps.

Members of the House Congressional Redistricting Subcommittee (Chair Tyler Sirois, Vice Chair Kaylee Tuck, Ranking Member Kelly Skidmore, and Representatives Mike Beltran, Christopher Benjamin, Kamia Brown, Tom Fabricio, Elizabeth Fetterhoff, Jason Fischer, Joe Harding, Christine Hunchofsky, Dotie Joseph, Chris Latvala, Randy Maggard, Ralph Massullo, Lawrence McClure, Daisy Morales, Daniel Perez, Scott Plakon, David Silvers, Jackie Toledo, Dana Trabulsky, Jay Trumball, Keith Truenow, and Jayer Williamson) workshopped redistricting concepts, reviewed maps proposed in committee, and took committee votes on the presented maps.

Representatives Chuck Clemons, Tracie Davis, Fentrice Driskell, Andrew Learned, Thomas Leek, and Kelly Skidmore participated in one or more meetings of the House

Redistricting Committee or the House Congressional Redistricting Subcommittee as *ex-officio* members.

Speaker Chris Sprowls and Chief of Staff Mat Bahl provided oversight of the redistricting process.

The following staff members had some responsibility, formal or informal, official or unofficial, for assisting, advising, or consulting with the House with respect to congressional redistricting in 2021 and 2022:

- Leda Kelly, Staff Director, House Redistricting Committee – managed committee staff, liaised with Senate staff, drafted and presented educational materials, coordinated the creation, analysis, and presentation of redistricting plans, and related tasks.
- Jason Poreda, Chief Map Drawer, House Redistricting Committee – drafted and presented educational materials and performed duties related to the creation, analysis, and presentation of redistricting plans, and related tasks.
- Kyle Langan, Legislative Analyst, House Redistricting Committee – drafted and presented educational materials and performed duties related to the creation, analysis, and presentation of redistricting plans, and related tasks.
- Karen Dearden, External Affairs, House Redistricting Committee – assisted with tasks related to compiling committee presentations, staffing committee meetings, and liaising with the House’s Communications team when necessary.
- Sam Wagoner, Legislative Analyst, House Redistricting Committee – assisted with tasks related to compiling committee presentations, staffing committee meetings, and research.
- DJ Ellerkamp, Administrative Assistant, House Redistricting Committee – assisted with committee office and administrative tasks, committee meeting logistics, and posting of public submissions to www.floridaredistricting.gov.
- Michael Maida, Acting General Counsel – served as counsel for the House.
- Michelle Davila, Deputy Chief of Staff for Operations – assisted Staff Director with personnel and administrative items, and public-records requests.
- Kerri McEwan, Deputy Chief IT Officer – provided committee staff with IT-related assistance such as establishing the help@floridaredistricting.gov email account and the www.floridaredistricting.gov website domain.

- Jenna Sarkissian, Communications Director – served as the main point of contact for members of the press who had questions about redistricting.

The following attorneys provided legal counsel to the House in connection with congressional redistricting: Andy Bardos, George Levesque, Ashley Lukis, Tim Moore, Dean Cannon, and Jason Unger with GrayRobinson, P.A.; Pete Dunbar and Mark Dunbar with Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.; and Anne Corcoran with Nelson Mullins Riley & Scarborough LLP.

Dr. Derek Morgan, Associate Professor at the University of West Florida, provided introductory Esri/GIS training to House committee staff.

Professors John Alford and Randy Stevenson of Rice University and Michiko Wolcott of Msight Analytics, LLC, served as consulting experts retained in anticipation of litigation by the House’s outside legal counsel. The House does not waive or intend to waive, and expressly preserves, all applicable privileges, exemptions, and protections from discovery afforded to its consulting experts.

The House and Senate contracted with Environmental Systems Research Institute, Inc., a/k/a Esri, to produce the web-based map-drawing application used by legislative staff and the public to draw districts this redistricting cycle. While several Esri employees were involved at various stages of the application setup process, Project Manager Kaitlin Szedlar, Sales Team Lead Anthony Puzzo, and Geospatial Engineer Aaron Hrenak were the main points of contact for House committee staff.

INTERROGATORY NO. 2: Describe if and how you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, of the Enacted Plan, and of the Benchmark

Congressional Plan, including (a) the person, people, entity, and/or entities responsible for the analysis; (b) the approximate date that the analysis was performed; (c) the specific data used to perform such an analysis, (d) the districts analyzed, (e) results of the analysis, and (f) who was provided the analysis and when. If no functional analysis was performed of a Proposed Plan, of the Enacted Plan, or of the Benchmark Congressional Plan, please state that no analysis was performed.

ANSWER: The House objects that Plaintiffs’ definition of “Proposed Plans,” which encompasses all congressional redistricting maps that the House or Senate drew, considered, reviewed, proposed, or adopted in 2021 or 2022, including drafts of or precursors or amendments to those maps, renders this interrogatory overly broad and unduly burdensome. House committee staff reviewed, considered, or drew a large number of congressional redistricting maps, including those submitted by members of the public. Whether and how the House performed a functional analysis on each and every congressional redistricting map it reviewed, considered, or drew is not relevant to the subject matter of this action. The House therefore limits its answer to this interrogatory to the seven congressional redistricting maps specifically identified in Interrogatory No. 2: Plans S035C8060, H000C8015, H000C8019, P000C0079, and P000C0094, the Enacted Plan, and the Benchmark Congressional Plan.

House committee staff—Leda Kelly, Jason Poreda, or Kyle Langan—performed a functional analysis in consultation with legal counsel on districts in the seven congressional redistricting plans identified above. The data used to perform each functional analysis were the publicly available data contained in the Legislature’s web-based map-drawing application. The data consisted of P.L. 94-171 redistricting data (including population data by race) provided by the U.S. Census Bureau and election results and voter turnout and registration data provided by

the Florida Department of State, Division of Elections, for statewide primary and general elections from 2012 to 2020. The functional analyses were performed in the manner indicated in *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597 (Fla. 2012). House committee staff performed a functional analysis on the Benchmark Congressional Plan to identify the congressional districts in which racial or language minorities were able to elect the representatives of their choice, and on Plans S035C8060, H000C8015, H000C8019, P000C0079, P000C0094, and the Enacted Plan to determine whether those maps reduced the number of districts in which racial or language minorities would be able to elect the representatives of their choice or weakened the ability of racial or language minorities in those districts to elect the representatives of their choice.

House committee staff's functional analysis of the Benchmark Congressional Plan was performed in the fall of 2021, after the release of census data and the debut of the Legislature's web-based map-drawing application. The functional analysis was performed on Congressional Districts 5, 9, 10, 20, 24, 25, 26, and 27. The functional analysis indicated that, under the Benchmark Congressional Plan, Black voters were able to elect the representatives of their choice in Congressional Districts 5, 20, and 24, and Hispanic voters were able to elect the representatives of their choice in Congressional Districts 25, 26, and 27.

House committee staff performed a functional analysis of Congressional Districts 5, 20, 24, 26, 27, and 28 in Plans H000C8015 and H000C8019 as each was being crafted before its public release. With respect to Congressional District 5 in Plan H000C8019, House committee staff's functional analysis indicated that, while numerical measures of the ability of Black voters to elect the representatives of their choice declined in comparison with the Benchmark Congressional Plan, the district nevertheless afforded Black voters a plausible opportunity to

elect the representatives of their choice. Otherwise, House committee staff's functional analyses indicated that Plans H000C8015 and H000C8019 neither reduced the number of districts in which racial or language minorities would be able to elect the representatives of their choice nor weakened the ability of racial or language minorities in those districts to elect the representatives of their choice.

House committee staff performed a functional analysis of Congressional Districts 5, 10, 24, 26, and 27 in Plan S035C8060 in connection with the development of Plans H000C8015 and H000C8019. House committee staff's functional analyses indicated that Congressional Districts 5, 24, 26, and 27 in Plan S035C8060 did not weaken the ability of racial or language minorities in those districts to elect the representatives of their choice.

House committee staff performed a functional analysis of Plans P000C0079 and P000C0094 soon after each was submitted to the Legislature. House committee staff performed a function analysis of Congressional Districts 3, 7, 9, 14, 23, 24, 26, 27, and 28 in Plan P000C0079 and Congressional Districts 3, 7, 9, 14, 20, 23, 24, 26, 27, and 28 in Plan P000C0094. House committee staff's functional analyses indicated that Congressional Districts 3, 7, 9, and 14 in Plans P000C0079 and P000C0094 did not afford racial or language minorities an ability to elect the representatives of their choice, while Congressional Districts 23 and 24 in Plans P000C0079 and P000C0094 afforded racial or language minorities an ability to elect the representatives of their choice.

House committee staff performed a functional analysis of Congressional Districts 4, 20, 24, 26, 27, and 28 in the Enacted Map in April 2022 before the Legislature convened in special session. House committee staff's functional analyses indicated that Congressional Districts 20, 24, 26, 27, and 28 did not weaken the ability of racial or language minorities in those districts to

elect the representatives of their choice, and that Congressional District 4 did not afford racial or language minorities an ability to elect the representatives of their choice.

House committee staff provided the results of their functional analyses on a routine basis only to legal counsel, but also discussed their functional analyses of specific districts in individual conversations with members and staff throughout the redistricting process. The results of functional analyses were also presented at committee and subcommittee meetings as proposed maps were reviewed and on the House floor before the full chamber voted. The relevant data were displayed in each map's data packet, which was posted online and provided to all members before committee meetings and floor sessions.

INTERROGATORY NO. 3: If you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, of the Enacted Plan, or of the Benchmark Congressional Plan, describe in detail your conclusion as to which congressional districts provided racial or language minorities the ability to elect the candidates of their choice in those Plans and the reasons for reaching those conclusions. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

ANSWER: The House incorporates its answer and objections to Interrogatory No. 2.

INTERROGATORY NO. 4: Identify all individual legislators, staff members, attorneys, or any other individuals known to you who tested, analyzed, advised, or commented upon the expected or desired political or partisan performance of any Proposed Plans (or partial maps or individual districts) that were considered by or enacted by the Legislature in 2021 or

2022. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

ANSWER: The House did not test, analyze, advise, or comment on the expected or desired political or partisan performance of any congressional redistricting maps or congressional districts that were considered or enacted by the Legislature in 2021 or 2022, except as necessary to complete the functional analysis described by the Florida Supreme Court in *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597 (Fla. 2012).

Speaker Chris Sprowls and Chairs Thomas Leek and Tyler Sirois publicly stated on multiple occasions that discussion or consideration of the partisan performance of congressional redistricting maps or congressional districts would not be tolerated. However, the record of proceedings in committee and on the floor indicates that the following members—all of whom voted against the Enacted Map—nevertheless commented on the expected or desired political or partisan performance of congressional redistricting maps or congressional districts that were considered or enacted by the Legislature in 2021 or 2022: Representatives Kamia Brown, Tracie Davis, Ben Diamond, Fentrice Driskell, Joseph Geller, Dotie Joseph, Andrew Learned, Anika Omphroy, Kelly Skidmore, Carlos Guillermo Smith, and Geraldine Thompson.

INTERROGATORY NO. 5: Describe in detail all communications (whether written or verbal), informal or formal meetings, or presentations relating to congressional redistricting in 2021 and 2022 between Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis and the Legislature, its members, committees, staff, agents, attorneys, or representatives. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary

of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

ANSWER: The House objects that the information sought by this interrogatory is protected by the legislative privilege.

INTERROGATORY NO. 6: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida House of Representatives and any employees, agents, consultants to, or representatives of the Republican National Committee, Republican Party of Florida, National Republican Congressional Committee, Republican State Leadership Committee, Redistricting Majority Project (or REDMAP), National Republican Redistricting Trust, Ballard Partners, Adam Foltz, or any other consultant or agent for the Republican Party. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

ANSWER: To the extent this interrogatory seeks information responsive to Interrogatory No. 5, or information about communications, meetings, or presentations solely between members, staff, or attorneys of the House or Senate, the House objects that the information sought by this interrogatory is protected by the legislative privilege. Subject to this limitation, and after reasonable inquiry, the House responds that it has no knowledge of information responsive to this interrogatory.

INTERROGATORY NO. 7: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida House of Representatives and any person who was a Member of the United States House of Representatives from the State of Florida or any staff member, campaign staff member, employee, agent, or consultant for any Member of the United States House of Representatives from the State of Florida. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

ANSWER: During the regular legislative session, a staff member in the office of Congressman Al Lawson called the main line of the House Redistricting Committee to inquire about committee meeting protocols and logistics.

INTERROGATORY NO. 8: Identify all persons who, prior to the public release of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, P000C0079, Plan P000C0094, and the Enacted Plan, evaluated, reviewed, analyzed, were shown, or commented on those plans, or on maps, data, or plans that were used to draft those plans, incorporated into those plans, or adopted as part or all of those plans. For each person identified, describe to the best of your ability their role in assisting, advising, or

consulting on those plans. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

ANSWER: House committee staff (Leda Kelly, Jason Poreda, or Kyle Langan) crafted and evaluated congressional redistricting maps. Legal counsel identified in answer to Interrogatory No. 1 also evaluated congressional redistricting maps before their public release. Speaker Chris Sprowls and Chief of Staff Mat Bahl reviewed congressional redistricting maps in connection with their oversight of the redistricting process. The Chairs of the House Redistricting Committee and House Congressional Redistricting Subcommittee also reviewed congressional redistricting maps before their public release. Congressional Districts 4 and 5 in Plan H000C8019 were provided to Ryan Newman, General Counsel to the Governor, shortly before Plan H000C8019 was publicly released.

INTERROGATORY NO. 9: Identify and describe in detail any and all attempts that were made by you and/or the Legislature to comply with the Tier I requirements of the Fair Districts Amendments in the Proposed Plans and Enacted Plan. Please refer to the instructions above for the definition of “identify” and “describe in detail” to ensure that you have provided a complete response to this interrogatory.

ANSWER: The House objects that Plaintiffs’ definition of “Proposed Plans,” which encompasses all congressional redistricting maps that the House or Senate drew, considered, reviewed, proposed, or adopted in 2021 or 2022, including drafts of or precursors or amendments to those plans, renders this interrogatory overly broad and unduly burdensome. House committee staff drew, considered, or reviewed a large number of congressional redistricting maps, including

those submitted by members of the public, that are not relevant to the subject matter of this action.

The House further objects to this interrogatory as vague and overly broad. At all stages of the redistricting process, the House sought to comply with article III, section 20(a) of the Florida Constitution, as well as all other state and federal legal requirements. Virtually every aspect of the redistricting process in the House was designed to ensure compliance with the standards set forth in the United States and Florida Constitutions. Without more particularity, the House cannot determine what specific information this interrogatory seeks.

INTERROGATORY NO. 10: Identify all data and information to which the map drawer(s) had access during the process of drawing any Proposed Plan or Enacted Plan, including but not limited to data or information showing partisan performance, incumbent addresses, and racial demographics. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

ANSWER: The House objects that this interrogatory is vague and overly broad to the extent it asks the House to identify all “data and information” that its map-drawers had the ability to “access” while drawing congressional districts. The House instead understands this interrogatory to seek a specification of the data that the House’s map-drawers relied upon or referenced when drawing congressional districts. In drawing congressional districts, the House’s map drawers relied upon or referenced the data in the web-based map-drawing application publicly available at www.floridaredistricting.gov. These data include P.L. 94-171 redistricting data (including population data by race) provided by the U.S. Census Bureau and, for purposes of the functional analysis, election results and voter turnout and registration data provided by the

Florida Department of State, Division of Elections. It also includes compactness scores and information about counties, municipalities, and other features of Census geography. The House's map-drawers did not rely upon or reference any individual's address while drawing congressional districts or, except as necessary to complete the functional analysis described by the Florida Supreme Court in *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597 (Fla. 2012), any election results or voter turnout or registration data.

INTERROGATORY NO. 11: Identify by name, job title, and work or home address every person who participated in investigating, collecting, or preparing information or documents in response to these interrogatories and requests for production of documents. Please refer to the instructions above for the definition of "identify" to ensure that you have provided a complete response to this interrogatory.

ANSWER: Besides legal counsel, the following individuals participated in the investigation, collection, or preparation of information or documents in response to these interrogatories or Plaintiffs' First Request for Production to Defendant Florida House of Representatives, dated July 20, 2022:

- Leda Kelly, Staff Director, House Redistricting Committee.
- Jason Poreda, Chief Map Drawer, House Redistricting Committee.
- Kyle Langan, Legislative Analyst, House Redistricting Committee.
- Sam Wagoner, Legislative Analyst, House Redistricting Committee.

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing answers and that, to the best of my knowledge and belief, the facts stated in them are true.

A handwritten signature in black ink, appearing to read 'Leda Kelly', written over a horizontal line.

Leda Kelly
Former Staff Director
House Redistricting Committee
Florida House of Representatives

Respectfully submitted,

/s/ Andy Bardos

Andy Bardos (FBN 822671)

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CERTIFICATE OF SERVICE

I certify that, on August 26, 2022, the foregoing document was furnished by email to all individuals identified on the Service List that follows.

/s/ Andy Bardos

Andy Bardos (FBN 822671)

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Exhibit 14

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.

**RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST SET
OF INTERROGATORIES TO DEFENDANT THE FLORIDA SENATE**

Pursuant to Florida Rules of Civil Procedure 1.280 and 1.340, Defendant the Florida Senate hereby responds to Plaintiffs' First Set of Interrogatories as follows:

GENERAL OBJECTIONS

A. The Florida Senate objects to the interrogatories 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 interrogatories 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 interrogatories 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 Interrogatories 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 answer Plaintiffs' Interrogatories based on a reasonable inquiry from a relevant subset of 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 interrogatories 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 interrogatories 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 interrogatory seeking information for an improper purpose.

I. The Florida Senate objects to the interrogatories to the extent they necessarily call for a legal conclusion.

J. The Florida Senate objects to the interrogatories 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.

K. The Florida Senate objects to the introductory definitions to the interrogatories to the extent they purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific interrogatory to the extent that such enlargement, expansion, or alteration renders the interrogatory 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 information that is in the

possession and control of third parties. The Florida Senate also objects to this Instruction because it requests information that is protected by the attorney-client privilege and work product doctrine, legislative privilege, and other privileges under Florida law.

B. The Florida Senate objects to Instruction #6 to the extent it shifts the burden to the Florida Senate with regard to discovery or otherwise 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.

C. The Florida Senate objects to Instruction #7 to the extent it shifts the burden to the Florida Senate with regard to discovery or otherwise 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.

D. The Florida Senate objects to Instruction #8 to the extent it requests information that is protected by the attorney-client privilege and work product doctrine, 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.

E. The Florida Senate objects to Instruction #9 to the extent it requires the Florida Senate to anticipate and provide the Bates numbers of documents that will be produced in the future.

F. The Florida Senate objects to Instruction #10 to the extent it shifts the burden to the Florida Senate with regard to discovery or otherwise 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.

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” of 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 interrogatories seeking information about particular redistricting plans. Where a specific plan is identified in an interrogatory, the Florida Senate will respond to Plaintiffs' interrogatories 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 definition of "describe in detail" because it is overbroad and unduly burdensome to the extent it requires the narration of "any and all facts and circumstances" and the "identification of] any and all persons, documents and communications involved in or that may reflect or provide evidence," as well as the obligation to "narrate and recount all such information" relating to or supporting "a contention, allegation, denial or affirmative defense."

F. The Florida Senate interprets the term "functional analysis" to have the same meaning as in *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597 (Fla. 2012).

G. The Florida Senate objects to the rules of construction in paragraph 4.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 interrogatories 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 the above Objections, the Florida Senate sets forth its responses and objections to the interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 1: Identify by name, job title, and work address every person who had any responsibility, formal or informal, official or unofficial, for assisting, advising, or consulting the Florida Senate with respect to congressional redistricting in 2021 and 2022 and, for each such individual, please describe the nature of those responsibilities. This request includes without limitation members of the Florida Senate Committee on Reapportionment or its subcommittees and any staff members, consultants, experts, map drawers, and other individuals who assisted or advised the Committee or Senate with respect to any issue relating to the redistricting process, including: (a) technical assistance, (b) map drawing of proposed maps, partial maps, or final maps, (c) goals, issues, or objectives to be achieved (or avoided) in the map drawing process, or (d) legal advice. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it extends to “every person” who had “any responsibility” with respect to congressional redistricting in 2021 and 2022. All members of the Florida Senate were responsible for evaluating legislative proposals, to include congressional redistricting proposals, may have been assisted by their legislative staff, and had the opportunity to vote on those legislative proposals. Moreover, various members of the Senate’s professional staff had responsibility for legislative process aspects of congressional redistricting, including the scheduling and noticing of committee/subcommittee meetings and floor sessions at which congressional redistricting proposals were debated and voted upon; the provision of security for Senate meetings; the publication of press releases and responses to press inquiries; and information technology support. The Senate will instead respond to this interrogatory by identifying persons who assisted or advised the Committee or Senate with respect to the specific issues identified in (a) through (d) in this interrogatory: technical assistance; map drawing of proposed maps, partial maps, or final maps; goals, issues, or objectives to be achieved (or avoided) in the map drawing process; or legal advice.

The Senate further objects on the basis that the interrogatory requests information that is (a) equally available to Plaintiffs; (b) publicly available to Plaintiffs on the Florida Senate’s website and the State of Florida’s redistricting website; and (c) available from other sources that are more convenient, less burdensome, or less expensive than forcing the expenditure of resources on this interrogatory. The Florida Senate objects to the extent the inquiry as to legal advice seeks information as to the “nature of th[e] responsibilities” of attorneys for the Florida Senate, as this information is protected by the attorney-client privilege under Florida law.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

The following individuals are members of the Florida Senate Committee on Reapportionment, who reviewed congressional district maps and registered votes in committee meetings:

- Chair, Senator Ray Wesley Rodrigues
- Vice Chair, Senator Doug Broxson
- Senator Aaron Bean
- Senator Randolph Bracy
- Senator Jennifer Bradley
- Senator Jason Brodeur
- Senator Danny Burgess
- Senator Audrey Gibson
- Senator Gayle Harrell
- Senator Ana Maria Rodriguez
- Senator Darryl Ervin Rouson
- Senator Kelli Stargel
- Senator Linda Stewart

The following individuals are members of the Florida Senate Subcommittee on Congressional Reapportionment, who reviewed congressional district maps and registered votes in committee meetings:

- Chair Senator Jennifer Bradley
- Senator Aaron Bean
- Senator Gayle Harrell
- Senator Darryl Ervin Rouson
- Senator Linda Stewart

The following individuals are professional staff of the Florida Senate who were responsible for assisting the Florida Senators during the congressional redistricting process, to include technical assistance, map drawing, or other legislative assistance:

- Jay Ferrin, Florida Senate, Tallahassee—Staff Director of the Committee on Reapportionment and the Select Subcommittee on Congressional Reapportionment
- Thomas Justin Eichermuller, Florida Senate, Tallahassee—Legislative Analyst, Committee on Reapportionment
- Yen Le, Florida Senate, Tallahassee—Legislative Analyst, Committee on Reapportionment

The following individuals were responsible for providing legal advice and representation to the Florida Senate during the congressional redistricting process:

- Daniel Nordby; Partner; Shutts & Bowen, Tallahassee, Florida
- George Meros; Partner; Shutts & Bowen, Tallahassee, Florida
- Tara Price; Partner; Shutts & Bowen, Tallahassee, Florida
- Jason Rojas, Florida Senate, Tallahassee—Special Counsel to the Committee on Reapportionment

The following individuals were retained as consulting experts in anticipation of litigation by the Florida Senate's outside counsel. The Florida Senate does not waive and expressly asserts all applicable privileges, exemptions, and protections from discovery afforded to its consulting experts:

- Professor Jeffrey Lewis, University of California Los Angeles
- Professor Dario Moreno, Florida International University

The Florida Legislature retained Environmental Systems Research Institute, Inc., a/k/a Esri, to develop the web-based map-drawing application used by Florida Senate staff. The principal individuals with Esri who interacted with Florida Senate staff were:

- Kaitlin Szedlar, Project Manager
- Anthony Puzzo, Sales Team Lead
- Aaron Hrenak, Geospatial Engineer

The Florida Legislature retained the Florida Resources and Environmental Analysis Center (FREAC) within the Institute of Science and Public Affairs (ISPA) at Florida State University through June 30, 2021 to evaluate applicable data and apply consistent methodologies to construct precinct maps conflated to the geometry of spatial features in the U.S. Census Bureau Topologically Integrated Geographic Encoding and Referencing system and digital database (TIGER), for the sole purpose of assembling precinct-level map data depicting precinct boundaries for all 67 Florida counties for statewide elections held in 2012 through 2020. The principal individuals with FREAC who interacted with Florida Senate staff were:

- Stephen Hodge, ISPA/FREAC Director
- Beverly Renard, GIS Analyst

The Florida Senate retained The GIS Shop Inc. through October 1, 2021 for the purpose of consulting and rendering other professional services relating to Geographic Information Systems (GIS) technology, programs, applications, systems, and best practices. The services provided were to support the overall technical effort associated with redistricting, including technical support for developing a scope of services and contract with a vendor to provide software or applications related to redistricting, evaluation of the functionality of software or applications related to redistricting, evaluation and validation of output

products, analyses, and reports generated by software or applications related to redistricting, validation of metrics included in output products, analyses, and reports generated by software or applications related to redistricting, and provision of general GIS knowledge and experience with redistricting in Florida. The individual with The GIS Shop Inc. who interacted with Florida Senate staff was:

- Robert Lincoln “Linc” Clay, GIS Consultant

INTERROGATORY NO. 2: Describe if and how you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, or the Enacted Plan, or of the Benchmark Congressional Plan, including (a) the person, people, entity, and/or entities responsible for the analysis, (b) the approximate date that the analysis was performed, (c) the specific data used to perform such an analysis, (d) the districts analyzed, (e) results of the analysis, and (f) who was provided the analysis and when. If no functional analysis was performed of a Proposed Plan, of the Enacted Plan, or of the Benchmark Congressional Plan, please state that no analysis was performed.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, and unduly burdensome to the extent its definition of “Proposed Plan” encompasses 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. Whether, when, and how the Florida Senate performed a functional analysis on any congressional district plan other than those considered by or proposed by the Florida Senate is not relevant to the subject matter of this action and is not likely to lead to the discovery of relevant or admissible evidence. The Florida Senate further objects because this interrogatory requests information that is (a) equally available to Plaintiffs; (b) publicly available to Plaintiffs on the Florida Senate’s website; and (c) available from other sources that are more convenient, less burdensome, or less expensive than forcing the expenditure of resources on this interrogatory. The Florida Senate therefore limits its answer to the congressional district plans specifically identified in this interrogatory.

The Florida Senate also objects because this Interrogatory calls for a legal conclusion. Plaintiffs’ request that the Florida Senate “describe in detail” any conclusions from its functional analysis necessarily involves the Florida Senate’s legal conclusions, different legal approaches to the redistricting process, and ultimate issues that are properly determined by a court of law. These legal issues and the reasons for the Florida Senate’s choices are not factual issues that fall within the permissible scope of discovery under Florida law.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

Florida Senate Committee Staff Director Jay Ferrin, in consultation with legal counsel, performed a functional analysis on certain districts in the Benchmark Congressional Plan, Plan H000C8015, Plan H000C8019, Plan S035C8060, and the Enacted Plan. The data contained in Florida web-based Redistricting Application was used to perform each functional analysis, including the 2020 Census Redistricting Data (P.L. 94-171) from the U.S. Census Bureau; and election data provided by the Florida Department of State’s Division of Elections (2012-2020 General Election Voter Registration Information; 2012-2020 General

Election Voter Turnout Information; 2012-2020 Primary Election Voter Turnout Information; and 2012-2020 Elections Results). The functional analyses performed by redistricting committee staff were performed on appropriate districts in accordance with Florida Supreme Court precedent to identify congressional districts in the Benchmark Plan in which racial or language minorities were able to elect the representatives of their choice, and on districts in the specific proposed plans identified above to determine whether those maps diminished the ability of racial or language minorities to elect representatives of their choice in the corresponding districts. The results of the functional analyses were provided to legal counsel, to members of the Florida Senate and its Committee on Reapportionment, and to the general public during Committee meetings, in floor debate, and as part of the meeting packets distributed in advance of meetings of the Florida Senate Committee on Reapportionment and Select Subcommittee on Congressional Reapportionment.

Florida Senate Committee staff, in consultation with legal counsel, performed a functional analysis of the Benchmark Congressional Plan following the receipt of redistricting data from the U.S. Census Bureau in August/September 2021 and the integration of applicable functional analysis data into the Florida Redistricting application in October 2021. The Florida Senate's functional analysis examined congressional districts 5, 9, 10, 20, 24, 25, 26, and 27 in the Benchmark Congressional Plan and determined that black voters had the ability to elect representatives of their choice in districts 5, 10, 20, and 24 and Hispanic voters had the ability to elect representatives of their choice in districts 25, 26, and 27.

Florida Senate Committee staff, in consultation with legal counsel, performed a functional analysis of Plan S035C8060 shortly before its public submission by Senator Jones on January 18, 2022. To the extent congressional districts in Plan S035C8060 were unchanged from prior Senate-drafted maps on which a functional analysis had been conducted (including Plan S000C8040), Florida Senate Committee staff did not conduct a new functional analysis on those unchanged districts. The Florida Senate's functional analysis on Plan S035C8060 concluded that the plan did not diminish the ability of racial or language minorities to elect representatives of their choice in congressional districts 5, 9, 10, 20, 24, 25, 26, and 27 as compared to corresponding districts in the Benchmark Congressional Plan.

Florida Senate Committee staff, in consultation with legal counsel, performed a functional analysis of Plans H000C8015 and H000C8019 while those plans were under consideration by the Florida House of Representatives in February/March 2022. The Florida Senate's functional analysis on Plan H000C8015 examined congressional districts 5, 10, 20, 24, 26, 27, and 28 and concluded that the Plan H000C8015 did not diminish the ability of racial or language minorities to elect representatives of their choice in these congressional districts as compared to corresponding districts in the Benchmark Congressional Plan. The Florida

Senate's functional analysis on Plan H000C8019 examined congressional districts 5, 10, 20, 24, 26, 27, and 28 and concluded that Plan H000C8019 did not diminish the ability of racial or language minorities to elect representatives of their choice in congressional districts 10, 20, 24, 26, 27, and 28 as compared to corresponding districts in the Benchmark Congressional Plan. With respect to congressional district 5 in Plan H000C8019, the Florida Senate's functional analysis concluded that, notwithstanding numerical reductions from congressional district 5 in the Benchmark Congressional Plan in some statistical categories relevant to a functional analysis, the district preserved the opportunity for racial minorities to elect representatives of their choice.

Florida Senate Committee staff, in consultation with legal counsel, performed a functional analysis of the Enacted Plan before the Florida Legislature convened for Special Session C in April 2022. The Florida Senate's functional analysis on the Enacted Plan examined congressional districts 20, 24, 26, 27, and 28 and concluded that the Enacted Plan did not diminish the ability of racial or language minorities to elect representatives of their choice in these congressional districts as compared to corresponding districts in the Benchmark Congressional Plan. The Florida Senate did not perform a functional analysis on other congressional districts in the Enacted Plan.

Florida Senate Committee staff did not perform a functional analysis on Plan P000C0079 or Plan P000C0094.

INTERROGATORY NO. 3: If you performed a functional analysis of any Proposed Plan, including but not limited to Plan S035C8060, Plan H000C8015, Plan H000C8019, Plan P000C0079, Plan P000C0094, or the Enacted Plan, or of the Benchmark Congressional Plan, describe in detail your conclusion as to which congressional districts provided racial or language minorities the ability to elect the candidates of their choice in those Plans and the reasons for reaching those conclusions. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action. The phrase “describe in detail” is overbroad and unduly burdensome to the extent it requires the narration of “any and all facts and circumstances” and the “identif[ication of] any and all persons, documents and communications involved in or that may reflect or provide evidence,” as well as the obligation to “narrate and recount all such information” relating to or supporting “a contention, allegation, denial or affirmative defense.” The Florida Senate also objects because this interrogatory requests information that is (a) equally available to Plaintiffs; (b) publicly available to Plaintiffs on the Florida Senate’s website; and (c) available from other sources that are more convenient, less burdensome, or less expensive than forcing the expenditure of resources on this interrogatory.

The Florida Senate also objects because this Interrogatory calls for a legal conclusion. Plaintiffs’ request that the Florida Senate “describe in detail” any conclusions from its functional analysis necessarily involves the Florida Senate’s legal conclusions, different legal approaches to the redistricting process, and ultimate issues that are properly determined by a court of law. These legal issues and the reasons for the Florida Senate’s choices are not factual issues that fall within the permissible scope of discovery under Florida law.

Subject to and without waiving the foregoing objections, the Florida Senate responds by adopting its objections and responses to Interrogatory Number 2.

INTERROGATORY NO. 4: Identify all individual legislators, staff members, attorneys, or any other individuals known to you who tested, analyzed, advised, or commented upon the expected or desired political or partisan performance of any Proposed Plans (or partial maps or individual districts) that were considered by or enacted by the Legislature in 2021 or 2022. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it extends to “any . . . individuals” or “commented upon” the political performance of “any Proposed Plans” or districts, which would include countless members of the news media the public who engaged in discourse and commentary throughout the legislative process. The Florida Senate further objects to the extent this interrogatory would require disclosure of individual legislators or members of the public who commented upon any Proposed Plans (or partial maps or individual districts) during committee meetings or on the Senate Floor on the basis that this information is (a) equally available to Plaintiffs; (b) publicly available to Plaintiffs on the Florida Senate’s or the Florida Channel’s websites; and (c) available from other sources that are more convenient, less burdensome, or less expensive than forcing the expenditure of resources on this interrogatory. The Florida Senate will respond to this interrogatory with respect to individual legislators, staff members, and attorneys who assisted or advised the Committee or Senate on the drawing, consideration of, and passage of congressional redistricting plans.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

The Florida Senate did not test, analyze, advise, or comment upon “the expected or desired political or partisan performance” of any congressional districts or congressional district plans that were considered or proposed by the Florida Senate in 2021 or 2022, except where consideration of political data was necessary to comply with the federal Voting Rights Act or to perform a functional analysis on specific districts in compliance with Florida Supreme Court precedent. Members of the Senate Committee on Reapportionment and relevant staff identified in the response to Interrogatory Number 1 advised on and evaluated compliance with these legal requirements.

INTERROGATORY NO. 5: Describe in detail all communications (whether written or verbal), informal or formal meetings, or presentations relating to congressional redistricting in 2021 and 2022 between Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis and the Legislature, its members, committees, staff, agents, attorneys, or representatives. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it extends requires inquiry beyond individual legislators, staff members, or attorneys who assisted or advised the Committee or Senate on the drawing, consideration of, and passage of congressional redistricting plans. The Florida Senate also objects on the basis that the phrase “describe in detail” is overbroad and unduly burdensome to the extent it requires the narration of “any and all facts and circumstances” and the “identif[ication of] any and all persons, documents and communications involved in or that may reflect or provide evidence,” as well as the obligation to “narrate and recount all such information” relating to or supporting “a contention, allegation, denial or affirmative defense.”

The Florida Senate further objects on the basis that the information sought by this interrogatory is protected by the legislative privilege.

INTERROGATORY NO. 6: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida Senate and any employees, agents, consultants to, or representatives of the Republican National Committee, Republican Party of Florida, National Republican Congressional Committee, Republican State Leadership Committee, Redistricting Majority Project (or REDMAP), National Republican Redistricting Trust, Ballard Partners, Adam Foltz, or any other consultant or agent for the Republican Party. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it requires inquiry beyond individual legislators, staff members, or attorneys who assisted or advised the Committee or Senate on the drawing, consideration of, and passage of congressional redistricting plans. To the extent this interrogatory seeks information responsive to Interrogatory Number 5, or information about communications, meetings, or presentations solely between members, staff, or attorneys of the House or Senate, the Florida Senate objects that the information sought by this interrogatory is protected by the legislative privilege. The Florida Senate also objects to portions of this interrogatory as vague and ambiguous. It is unclear what noun the phrases “informal or formal” and “official or unofficial” relate to and modify. The Florida Senate objects to this Interrogatory 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 redistricting process, in search of responsive information. The Florida Senate agrees to answer this Interrogatory based on a reasonable inquiry from a relevant subset of members and employees to include those individuals who materially involved in map drawing and map analysis on behalf of the Florida Senate.

The Florida Senate objects to the scope of this Interrogatory as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory purports to include mass emails sent to thousands of individuals found on a mailing list or news clipping service. The Florida Senate will not include any communications in response to

this Interrogatory that were not specifically and purposefully directed to the subset of relevant members or employees of the Florida Senate.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

Upon reasonable inquiry, the Florida Senate has no knowledge of information responsive to this interrogatory.

INTERROGATORY NO. 7: Describe in detail all communications (whether written or verbal), informal or formal, official or unofficial, meetings, or presentations relating to congressional redistricting in 2021 and 2022 between any member, staff member, agent, attorney, or representative of the Florida Senate and any person who was a Member of the United States House of Representatives from the State of Florida or any staff member, campaign staff member, employee, agent, or consultant for any Member of the United States House of Representatives from the State of Florida. For any meeting identified, provide: (i) the date and location, (ii) the names and job titles of all participants, (iii) a description of the purpose of the meeting, and (iv) a summary of the substance of the meeting. Please refer to the instructions above for the definition of “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it requires inquiry beyond individual legislators, staff members, or attorneys who assisted or advised the Committee or Senate on the drawing, consideration of, and passage of congressional redistricting plans. The Florida Senate also objects to portions of this interrogatory as vague and ambiguous. It is unclear what noun the phrases “informal or formal” and “official or unofficial” relate to and modify. The Florida Senate objects to this Interrogatory 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 redistricting process, in search of responsive information. The Florida Senate agrees to answer this Interrogatory based on a reasonable inquiry from a relevant subset of members and employees to include those individuals who materially involved in map drawing and map analysis on behalf of the Florida Senate.

The Florida Senate objects to the scope of this Interrogatory as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory purports to include mass emails sent to thousands of individuals found on a mailing list or news clipping service. The Florida Senate will not include any communications in response to this Interrogatory that were not specifically and purposefully directed to the subset of relevant members or employees of the Florida Senate.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

Upon reasonable inquiry, the Florida Senate has no knowledge of information responsive to this interrogatory.

INTERROGATORY NO. 8: Identify all persons who, prior to the public release of any Proposed Plan, including but not limited to Plan S035C860, Plan H000C8015, Plan H000C8019, [Plan] P000C0079, Plan P000C0094, and the Enacted Plan, evaluated, reviewed, analyzed, were shown, or commented on those plans, or on maps, data, or plans that were used to draft those plans, incorporated into those plans, or adopted as part or all of those plans. For each person identified, describe to the best of your ability their role in assisting, advising, or consulting on those plans. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it requires inquiry beyond individual legislators, staff members, or attorneys who assisted or advised the Committee or Senate on the drawing, consideration of, and passage of congressional redistricting plans. The Florida Senate also objects to this interrogatory as overly broad, and unduly burdensome to the extent its definition of “Proposed Plan” encompasses 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. The Florida Senate therefore limits its answer to the congressional district plans specifically identified in this interrogatory. The Florida Senate further objects on the basis that information sought by this interrogatory is protected by the legislative privilege or the attorney-client privilege.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

The Florida Senate’s professional staff identified in response to Interrogatory 1 drew, reviewed, analyzed, and evaluated Plan S035C8060 prior to its public release. Legal counsel identified in response to Interrogatory 1 reviewed, analyzed, and evaluated Plan S035C8060 prior to its public release. Senator Shevrin Jones, who requested the drawing of Plan S035C8060 and filed it as a floor amendment, was shown and reviewed Plan S035C8060 prior to its public release. Senator Ray Rodrigues, Chairman of the Florida Senate Committee on Reapportionment, was shown and reviewed Plan S035C8060 prior to its public release.

As disclosed in a Memorandum dated April 13, 2022, Senator Ray Rodrigues, Chairman of the Florida Senate Committee on Reapportionment, who filed the Enacted Plan as SB 2-C, was shown and reviewed the Enacted Plan on April 12, 2022, prior to its public release. Senator Rodrigues evaluated the Enacted Plan in consultation with legal counsel identified in response to Interrogatory 1.

The Florida Senate did not review Plan P000C0079, Plan P000C0094, Plan H000C8015, or Plan H000C8019 prior to their public release.

INTERROGATORY NO. 9: Identify and describe in detail any and all attempts that were made by you and/or the Legislature to comply with the Tier I requirements of the Fair District Amendments in the Proposed Plans and Enacted Plan. Please refer to the instructions above for the definition of “identify” and “describe in detail” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate also objects to this interrogatory as overly broad, and unduly burdensome to the extent its definition of “Proposed Plans” encompasses 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. The Florida Senate also objects because the term “Fair Districts Amendments” is overly broad 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. The Florida Senate therefore limits its answer to the congressional district plans specifically identified in this interrogatory. The Florida Senate also objects to portions of this interrogatory as vague and ambiguous. It is unclear why Plaintiffs are asking the Florida Senate to both “identify” and “describe in detail” attempts to comply with the Tier 1 requirements of the Fair District Amendments when the latter term would appear to subsume the former.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

The Florida Senate sought to comply with all state and federal constitutional and statutory requirements throughout the congressional redistricting process. The steps taken by the Florida Senate to comply with these requirements were described at length in presentations to the Committee on Reapportionment and the Select Subcommittee on Congressional Reapportionment and written memoranda and correspondence available on www.floridaredistricting.gov.

INTERROGATORY NO. 10: Identify all data and information to which the map drawer(s) had access during the process of drawing any Proposed Plan or Enacted Plan, including but not limited to data or information showing partisan performance, incumbent addresses, and racial demographics. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of this action to the extent it requires inquiry beyond individual legislators, staff members, or attorneys who assisted or advised the Committee or Senate on the drawing, consideration of, and passage of congressional redistricting plans. The Florida Senate agrees to answer this Interrogatory based on a reasonable inquiry from a relevant subset of members and employees to include those individuals who materially involved in map drawing and map analysis on behalf of the Florida Senate. The Florida Senate also objects to this interrogatory as overly broad, and unduly burdensome to the extent its definition of “Proposed Plans” encompasses 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.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

The Florida Senate’s map drawers had access to the following data contained in the Florida Redistricting web-based application:

- 2020 Census Redistricting Data (P.L. 94-171) from the U.S. Census Bureau; specifically¹:
 - o Total Population;
 - o Single-Race Non-Hispanic White Population;
 - o Non-Hispanic Black Population, including respondents who identified as being Black either singly or in combination with some other race;
 - o Hispanic Black Population, including respondents who identified as being Black either singly or in combination with some other race;
 - o Hispanic Population excluding those in the Hispanic Black category;
 - o Non-Hispanic Population excluding those in Single-Race Non-Hispanic White and Non-Hispanic Black categories;

¹ For redistricting purposes, Florida aggregates multi-racial population according to Section II of OMB Bulletin No. 00-002 – Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement.

- o All Black Population, including respondents who identified as being Black either singly or in combination with some other race and/or ethnicity, including Hispanic;
- o All Hispanic Population who identified as Hispanic and of any race or combination of races, including Black;
- o Total Voting Age Population;
- o Single-Race Non-Hispanic White Voting Age Population;
- o Non-Hispanic Black Voting Age Population, including respondents who identified as being Black either singly or in combination with some other race;
- o Hispanic Black Voting Age Population, including respondents who identified as being Black either singly or in combination with some other race;
- o Hispanic Voting Age Population excluding those in the Hispanic Black category
- o Non-Hispanic Voting Age Population excluding those in Single-Race Non-Hispanic White and Non-Hispanic Black categories;
- o All Black Voting Age Population, including respondents who identified as being Black either singly or in combination with some other race and/or ethnicity, including Hispanic;
- o All Hispanic Voting Age Population who identified as Hispanic and of any race or combination of races, including Black;
- 2020 Census geography from the U.S. Census Bureau;² and
- 2020 Census TIGER/Line³ geography from the U.S. Census Bureau used for the Boundary Analysis and viewed as reference layers within the mapping application:
 - o County boundaries (MTFCC⁴ = G4020);
 - o Municipal boundaries (incorporated places) (MTFCC = G4110);

² Census geography is hierarchical, with 390,066 census blocks nested within 13,388 block groups, nested within 5,160 tracts, nested within 67 counties.

³ “TIGER/Line files” are Topologically Integrated Geographic Encoding and Referencing layers for use with GIS software.

⁴ “MTFCC” is a MAF/TIGER Feature Class Code. The Census Bureau’s definition of a county is “the primary division of a state.” The definition of an incorporated place is “a legal entity incorporated under state law to provide general-purpose governmental services to a concentration of population . . . usually is a city, borough, municipality, town, village.” See 2020 TIGER/Line Shapefiles Technical Documentation available at: [https://www.census.gov/programs-surveys/geography/technical-documentation/complete-technical-documentation/tiger-geo line.2020.html](https://www.census.gov/programs-surveys/geography/technical-documentation/complete-technical-documentation/tiger-geo%20line.2020.html).

- o RTTYP⁵ = I, U, or S (MTFCC = S1100⁶ and S1200⁷);
- o Railroads (MFTCC = R1011); and
- o Significant water bodies (Area Hydrography features combined to create single-part features, and then selected to include only those greater than 10 acres in area).

The map-drawing application in use included over 350 data points in the following categories to enable users to perform a functional analysis. These data included:

- 2012 - 2020 General Election Voter Registration Information;
 - o Total Registration
 - o Registration by Party
 - o Registration by Race or Ethnicity
 - o Registration by Race or Ethnicity and Party
 - o Registration by Party and Race or Ethnicity
- 2012 - 2020 General Election Voter Turnout Information;
 - o Total Turnout
 - o Turnout by Party
 - o Turnout by Race or Ethnicity
 - o Turnout by Party and Race or Ethnicity
 - o Turnout by Race or Ethnicity and Party
- 2012 - 2020 Primary Election Voter Turnout Information;
 - o Total Turnout
 - o Turnout by Party

⁵ “RTTYP” is an MTFCC field code that describes the type of road. See <https://www.census.gov/library/reference/codelists/route-type-codes.html>.

⁶ “S1100” is the MTFCC code for primary roads. Primary roads are limited-access highways that connect to other roads only at interchanges and not at at-grade intersections. This category includes Interstate highways as well as other highways with limited access (some of which are toll roads). See 2020 TIGER/Line Shapefiles Technical Documentation available at: <https://www.census.gov/programs-surveys/geography/technicaldocumentation/complete-technical-documentation/tiger-geoline.2020.html>.

⁷ “S1200” is the MTFCC code for secondary roads. Secondary roads are main arteries that are not limited access, usually in the U.S. highway, state highway, or county highway systems. These roads have one or more lanes of traffic in each direction, may or may not be divided, and usually have at-grade intersections with many other roads and driveways. Secondary roads often have both a local name and a route number. See 2020 TIGER/Line Shapefiles Technical Documentation available at: <https://www.census.gov/programs-surveys/geography/technicaldocumentation/complete-technical-documentation/tiger-geoline.2020.html>. Note that county roads that are not also secondary roads are not included in the Boundary Analysis.

- o Turnout by Race or Ethnicity
- o Turnout by Party and Race or Ethnicity
- o Turnout by Race or Ethnicity and Party
- 2012 - 2020 Elections Results;
 - o General Elections results by candidate
 - o Primary Elections results by candidate
 Elections data were compiled and disaggregated to 2020 Census Blocks using the following data sets:
 - Florida Precinct Geography collected in accordance with s. 101.001, F.S. (2021) and obtained from the Florida Division of Elections and County Supervisors of Elections;
 - Election Recap Reports collected in accordance with s. 98.0981(1), F.S. (2021) and obtained from the Florida Division of Elections; and
 - Election Results collected in accordance with s. 98.0981(2), F.S. (2021) and obtained from the Florida Division of Elections.

The Florida Redistricting Application used this data to generate compactness scores and boundary analyses. The Florida Senate's professional staff did not consider incumbent addresses for any purpose in drawing or evaluating congressional district maps and considered political and electoral data only for the purpose of conducting the functional analysis required by Florida Supreme Court precedent.

INTERROGATORY NO. 11: Identify by name, job title, and work or home address every person who participated in investigating, collecting, or preparing information or documents in response to these interrogatories and requests for production of documents. Please refer to the instructions above for the definition of “identify” to ensure that you have provided a complete response to this interrogatory.

RESPONSE: The Florida Senate objects to the extent the inquiry seeks information that is protected by the attorney-client privilege under Florida law.

Subject to and without waiving the foregoing objections, the Florida Senate responds as follows:

- Jay Ferrin, Florida Senate, Staff Director of the Committee on Reapportionment and the Select Subcommittee on Congressional Reapportionment; Tallahassee, Florida.
- Carlos Rey, Florida Senate, General Counsel; Tallahassee, Florida; legal advice and representation
- Jason Rojas, Florida Senate, Special Counsel to the Committee on Reapportionment; Tallahassee, Florida; legal advice and representation
- Daniel Nordby; Partner; Shutts & Bowen; Tallahassee, Florida; legal advice and representation
- George Meros; Partner; Shutts & Bowen; Tallahassee, Florida; legal advice and representation
- Tara Price; Partner; Shutts & Bowen; Tallahassee, Florida; legal advice and representation

VERIFICATION

The Florida Senate

By: [Signature]

[Print Name] JAY FERRIN

[Print Title] STAFF DIRECTOR

STATE OF FLORIDA)
COUNTY OF Leon)

The foregoing instrument was acknowledged before me this 15th day of September, 2022, by Jay D. Ferrin, who is personally known to me or who has produced Driver License as identification and who did (did not) take an oath.

[Signature]

NOTARY PUBLIC

Elisabet Humaran

Typed or Printed Name of Notary
My commission expires: 1/17/2024
Commission No.: 65918379

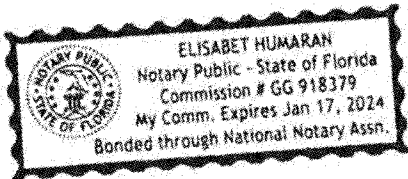


Exhibit 15

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

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

Plaintiffs,

Case No. 2022-CA-000666

v.

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

Defendants.

_____ /

**THE FLORIDA HOUSE OF REPRESENTATIVES’
RESPONSES TO PLAINTIFF’S FIRST REQUESTS FOR PRODUCTION**

Pursuant to Florida Rule of Civil Procedure 1.350, Defendant, the Florida House of Representatives, responds to Plaintiffs’ First Requests for Production to Defendant Florida House of Representatives, dated July 20, 2022.

GENERAL OBJECTIONS

1. The House objects to the extent that Plaintiffs’ definitions and instructions purport to impose obligations different from or additional to the requirements of the Florida Rules of Civil Procedure, or to limit the discretion of responding parties under the Florida Rules of Civil Procedure. For example, the House objects to Instruction No. 4 to the extent it purports to impose obligations different from or additional to the requirements of Florida Rule of Civil Procedure 1.280(b)(6).

2. The House objects that Instruction No. 8 is ambiguous because it purports to require the production of electronically stored information both in native format and as single-page TIFF files. The House need not produce electronically stored information in more than one

form. The House accordingly objects to the production of electronically stored information in the forms requested. The House will produce electronically stored information in the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

3. The House objects that the production of metadata would impose undue burden and expense and that the burden or expense of the discovery of metadata outweighs its likely benefit. For the same reason, the House objects to the instruction to OCR documents.

4. The House objects that Definitions Nos. 1 and 2 are ambiguous. Definition No. 1 is ambiguous because it is unclear whether the House should apply the definitions that Plaintiffs provided or instead “the broadest meaning permitted under the Federal Rules of Civil Procedure.” Similarly, Definition No. 2 is ambiguous to the extent it provides that “no definition is intended as exclusive,” which leaves the House in doubt as to the meaning of the terms defined in Plaintiffs’ requests. The House attributes to all defined terms only the meanings set forth in the definitions provided by Plaintiffs.

5. The House objects to Plaintiffs’ definitions of particular redistricting plans to the extent those definitions include “drafts or precursors.” Drafts and precursors to redistricting plans are not relevant to the subject matter of this action. Moreover, the reference to “drafts or precursors” is vague to the extent any redistricting plan was not developed in an insulated, linear process.

6. The House objects to the production of any document protected by the attorney-client privilege, the work-product doctrine, or the common-interest or joint-defense privilege. To the extent that documents are confidential under the Public Records Act, *see, e.g.*, §§ 11.0431(2)(e), 119.071(1)(d), Fla. Stat., the House objects to their production on the basis of legislative privilege.

7. In any search of House-maintained email accounts, the House will develop reasonable search parameters that return a reasonable number of email documents for review. The House objects that any search that requires the review of an unreasonable number of email documents imposes undue burden that outweighs the likely benefit of discovery. On the same ground, the House objects to any review and production of bulk communications (such as email newsletters) that originate outside the Legislature, automated email notifications (such as Google News alerts), or constituent correspondence transmitted through the “Contact Member” feature on the House’s public website.

8. The House understands the reference in Instruction No. 12 to “the Legislature’s official website” to include both the House’s website at <https://www.myfloridahouse.gov> and the Legislature’s redistricting website at <https://www.floridaredistricting.gov>.

9. The House’s review of information and documents is continuing, as is discovery. The House reserves the right to revise, correct, supplement, clarify, and amend its responses as additional documents are identified. The House’s responses and objections are based on information and documents now known to it and are made without prejudice to the House’s right to assert additional objections, or to supplement its responses, if the House discovers additional responsive documents or additional grounds for objections. The House’s responses and objections are made without waiving or intending to waive, and the House expressly preserves, all applicable privileges, exemptions, and protections from discovery, including all legislative privileges and immunities of its elected members and staff.

REQUESTS FOR PRODUCTION

REQUEST 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 House objects that this request for “all documents and communications relating to” article III, section 20 or 21 of the Florida Constitution is facially overbroad and fails to identify with reasonable particularity the documents that Plaintiffs seek. The House cannot feasibly review all documents and communications in its possession, custody, or control to locate all documents and communications “relating to” the broad subject matter of this request. Apart from its elect members, the House employs more than 410 people. It also maintains more than 640 computers with a total of 72.5 terabytes of locally saved electronically stored information, and an additional 8.8 terabytes of electronically stored information on House-maintained shared drives and 2.8 terabytes of data in House-maintained email accounts. Given the volume of documents and communications (including electronically stored information) in the House’s possession, custody, or control, the sweeping search that this request demands would be prohibitively labor-intensive and burdensome. Moreover, because of its overbreadth, this request imposes undue burden that outweighs the likely benefit of discovery, and encompasses much information that is not relevant to the subject matter of this action. This request is also vague because it purports to require the House to determine which documents and communications have some amorphous “relationship” to article III, section 20 or 21 of the Florida Constitution.

The House further objects to the production of any responsive document protected by the attorney-client privilege, the work-product doctrine, or the common-interest or joint-defense

privilege. To the extent responsive documents are confidential under the Public Records Act, *see*, *e.g.*, §§ 11.0431(2)(e), 119.071(1)(d), Fla. Stat., the House objects to their production on the basis of legislative privilege.

REQUEST 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 House objects that this request for “all documents and communications” within the Legislature “relating to” either the “process” or “substance” of congressional redistricting is facially overbroad and fails to identify with reasonable particularity the documents that Plaintiffs seek. The House cannot feasibly review all documents and communications in its possession, custody, or control to locate all documents and communications “relating to” the broad subject matter of this request. Apart from its elect members, the House employs more than 410 people. It also maintains more than 640 computers with a total of 72.5 terabytes of locally saved electronically stored information, and an additional 8.8 terabytes of electronically stored information on House-maintained shared drives and 2.8 terabytes of data in House-maintained email accounts. Given the volume of documents and communications (including electronically stored information) in the House’s possession, custody, or control, the sweeping search that this request demands would be prohibitively labor-intensive and burdensome. Moreover, because of its overbreadth, this request imposes undue burden that outweighs the likely benefit of discovery, and encompasses much information that is not relevant to the subject matter of this action. This request is also vague because it purports to

require the House to determine which documents and communications have some amorphous “relationship” to congressional redistricting.

The House further objects to the production of any responsive document protected by the attorney-client privilege, the work-product doctrine, or the common-interest or joint-defense privilege. To the extent responsive documents are confidential under the Public Records Act, *see, e.g.*, §§ 11.0431(2)(e), 119.071(1)(d), Fla. Stat., the House objects to their production on the basis of legislative privilege.

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

RESPONSE: The House will conduct a reasonable search for documents and communications that reflect or reference a functional analysis of the Benchmark Congressional Plan and will produce all responsive and non-privileged documents and communications identified by that search.

The House objects to the production of any responsive document protected by the attorney-client privilege, the work-product doctrine, or the common-interest or joint-defense privilege. To the extent responsive documents are confidential under the Public Records Act, *see, e.g.*, §§ 11.0431(2)(e), 119.071(1)(d), Fla. Stat., the House objects to their production on the basis of legislative privilege.

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

RESPONSE: The House objects that Plaintiffs’ definition of “Proposed Plans,” which encompasses all congressional redistricting maps that the House or Senate drew, considered, reviewed, proposed, or adopted in 2021 or 2022, including drafts of or precursors or amendments to those maps, renders this request overly broad and unduly burdensome. House committee staff reviewed, considered, or drew a large number of congressional redistricting maps, including those submitted by members of the public. All functional analyses performed by the House on congressional redistricting maps are not relevant to the subject matter of this action. The House therefore limits its answer to this request to the congressional redistricting maps specifically identified in this request: Plans S035C8060, H000C8015, H000C8019, P000C0079, and P000C0094, and the Enacted Plan.

Subject to that limitation, the House will conduct a reasonable search for documents and communications that reflect or reference a functional analysis of any of the six congressional redistricting maps identified in the preceding sentence and will produce all responsive and non-privileged documents and communications identified by that search.

The House objects to the production of any responsive document protected by the attorney-client privilege, the work-product doctrine, or the common-interest or joint-defense privilege. To the extent responsive documents are confidential under the Public Records Act, *see, e.g.*, §§ 11.0431(2)(c), 119.071(1)(d), Fla. Stat., the House objects to their production on the basis of legislative privilege.

REQUEST NO. 5: All documents and communications related to your response to each interrogatory in Plaintiffs’ First Interrogatories to Defendant Florida House of Representatives.

RESPONSE: The House objects that this request for “all documents and communications related to” its answers to Plaintiffs’ First Interrogatories to Defendant Florida House of Representatives is facially overbroad and fails to identify with reasonable particularity the documents that Plaintiffs seek. The House cannot feasibly review all documents and communications in its possession, custody, or control to locate all documents and communications “related to” the broad subject matter of this request. Apart from its elect members, the House employs more than 410 people. It also maintains more than 640 computers with a total of 72.5 terabytes of locally saved electronically stored information, and an additional 8.8 terabytes of electronically stored information on House-maintained shared drives and 2.8 terabytes of data in House-maintained email accounts. Given the volume of documents and communications (including electronically stored information) in the House’s possession, custody, or control, the sweeping search that this request demands would be prohibitively labor-intensive and burdensome. Moreover, because of its overbreadth, this request imposes undue burden that outweighs the likely benefit of discovery, and encompasses much information that is not relevant to the subject matter of this action. This request is also vague because it purports to require the House to determine which documents and communications have some amorphous “relationship” to the House’s answers to Plaintiffs’ First Interrogatories to Defendant Florida House of Representatives.

The House objects to the production of any responsive document protected by the attorney-client privilege, the work-product doctrine, or the common-interest or joint-defense privilege. To the extent responsive documents are confidential under the Public Records Act, *see, e.g.*, §§ 11.0431(2)(e), 119.071(1)(d), Fla. Stat., the House objects to their production on the basis of legislative privilege.

The House therefore limits this request to all preexisting documents and communications that the House relied upon or referenced in connection with its preparation of answers to Plaintiffs' First Interrogatories to Defendant Florida House of Representatives. Subject to that limitation, the House will produce all documents and communications responsive to this request.

REQUEST 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 House will conduct a reasonable search for documents and communications responsive to this request and will produce all responsive and non-privileged documents and communications identified by that search.

The House objects to the production of any responsive document protected by the attorney-client privilege, the work-product doctrine, or the common-interest or joint-defense privilege. To the extent responsive documents are confidential under the Public Records Act, *see, e.g.*, §§ 11.0431(2)(c), 119.071(1)(d), Fla. Stat., the House objects to their production on the basis of legislative privilege.

/s/ Andy Bardos

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CERTIFICATE OF SERVICE

I certify that, on August 19, 2022, the foregoing document was furnished by email to all individuals identified on the Service List that follows.

/s/ Andy Bardos

Andy Bardos (FBN 822671)

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Exhibit 16

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.

**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,

CARLOS REY (FBN 11648)
JASON ROJAS (FBN 640001)
FLORIDA SENATE
404 South Monroe Street
Tallahassee, Florida 32399
(850) 487-5855

/s/ Daniel Nordby
DANIEL E. NORDBY (FBN 14588)
GEORGE N. MEROS, JR. (FBN 263321)
TARA R. PRICE (FBN 98073)
SHUTTS & BOWEN LLP
215 South Monroe Street,

Rey.Carlos@flsenate.gov
Rojas.Jason@flsenate.gov

Suite 804
Tallahassee, Florida 32301
(850) 241-1717
DNordby@shutts.com
GMeros@shutts.com
TPrice@shutts.com
MMontanaro@shutts.com
CHill@shutts.com

Counsel for the Florida Senate

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

Exhibit 17

From: [Christina Ford](#)
To: [Andy Bardos](#); [Dan Nordby](#)
Cc: [Abha Khanna](#); [Devaney, John \(Perkins Coie\)](#); [Fritz Wermuth](#); [Thomas Zehnder](#); [Graham White](#); [Harleen Gambhir](#); [Joseph Posimato](#)
Subject: RE: BVM v. Byrd Representation
Date: Wednesday, September 7, 2022 3:58:00 PM

Andy,

We do not understand why the answer would change based on what ROG or RFP we are asking about. But we will follow up shortly.

Best,
Christina

Christina Ford
Elias Law Group LLP
202-968-4558

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From: Andy Bardos <Andy.Bardos@gray-robinson.com>
Sent: Wednesday, September 7, 2022 3:47 PM
To: Christina Ford <cford@elias.law>; Dan Nordby <dnordby@shutts.com>
Cc: Abha Khanna <akhanna@elias.law>; Devaney, John (Perkins Coie) <JDevaney@perkinscoie.com>; Fritz Wermuth <FWermuth@kbzwlaw.com>; Thomas Zehnder <TZehnder@kbzwlaw.com>; Graham White <gwhite@elias.law>; Harleen Gambhir <hgambhir@elias.law>; Joseph Posimato <jposimato@elias.law>
Subject: RE: BVM v. Byrd Representation

Got it. With respect to discovery objections, I think it would be most productive to discuss them concretely, so if you have specific questions about specific objections or limitations, then let me know, and we will be glad to clarify.

With respect to contacts with individual members, are there specific members you'd like to follow up with?

Thanks,
Andy

Andy Bardos
Shareholder

T 850.577.9090
D 850.577.6959
F 850.577.3311



GrayRobinson, P.A. • 301 South Bronough Street, Suite 600, Tallahassee, Florida 32301

From: Christina Ford <cford@elias.law>

Sent: Wednesday, September 7, 2022 3:38 PM

To: Andy Bardos <Andy.Bardos@gray-robinson.com>; Dan Nordby <dnordby@shutts.com>

Cc: Abha Khanna <akhanna@elias.law>; Devaney, John (Perkins Coie) <JDevaney@perkinscoie.com>; Fritz Wermuth <FWermuth@kbzwlaw.com>; Thomas Zehnder <TZehnder@kbzwlaw.com>; Graham White <gwhite@elias.law>; Harleen Gambhir <hgambhir@elias.law>; Joseph Posimato <jposimato@elias.law>

Subject: RE: BVM v. Byrd Representation

This message originated outside of GrayRobinson.

Hi Andy,

We are trying to understand your discovery responses, including what you mean when you object to responding on behalf of third parties and whether that includes individual House and Senate members. We'd also like to know who you represent in case we need to follow up with any individual members.

Best,
Christina

Christina Ford
Elias Law Group LLP
202-968-4558

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From: Andy Bardos <Andy.Bardos@gray-robinson.com>

Sent: Wednesday, September 7, 2022 3:24 PM

To: Christina Ford <cford@elias.law>; Dan Nordby <dnordby@shutts.com>

Cc: Abha Khanna <akhanna@elias.law>; Devaney, John (Perkins Coie) <JDevaney@perkinscoie.com>; Fritz Wermuth <FWermuth@kbzwlaw.com>; Thomas Zehnder <TZehnder@kbzwlaw.com>; Graham White <gwhite@elias.law>; Harleen Gambhir <hgambhir@elias.law>; Joseph Posimato <jposimato@elias.law>

Subject: RE: BVM v. Byrd Representation

Hi Christina,

Thanks for the inquiry. Why do you ask?

Andy Bardos
Shareholder

T 850.577.9090
D 850.577.6959
F 850.577.3311

GrayRobinson, P.A. • 301 South Bronough Street, Suite 600, Tallahassee, Florida 32301

[Redacted]

This e-mail is intended only for the individual(s) or entity(s) named within the message. This e-mail might contain legally privileged and confidential information. If you properly received this e-mail as a client or retained expert, please hold it in confidence to protect the attorney-client or work product privileges. Should the intended recipient forward or disclose this message to another person or party, that action could constitute a waiver of the attorney-client privilege. If the reader of this message is not the intended recipient, or the agent responsible to deliver it to the intended recipient, you are hereby notified that any review, dissemination, distribution or copying of this communication is prohibited by the sender and to do so might constitute a violation of the Electronic Communications Privacy Act, 18 U.S.C. section 2510-2521. If this communication was received in error we apologize for the intrusion. Please notify us by reply e-mail and delete the original message without reading same. Nothing in this e-mail message shall, in and of itself, create an attorney-client relationship with the sender.

From: Christina Ford <cford@elias.law>
Sent: Wednesday, September 7, 2022 3:13 PM
To: Andy Bardos <Andy.Bardos@gray-robinson.com>; Dan Nordby <dnordby@shutts.com>
Cc: Abha Khanna <akhanna@elias.law>; Devaney, John (Perkins Coie) <JDevaney@perkinscoie.com>; Fritz Wermuth <FWermuth@kbzwlaw.com>; Thomas Zehnder <TZehnder@kbzwlaw.com>; Graham White <gwhite@elias.law>; Harleen Gambhir <hgambhir@elias.law>; Joseph Posimato <jposimato@elias.law>
Subject: BVM v. Byrd Representation

This message originated outside of GrayRobinson.

Andy and Dan,

We'd like some clarification on your representation and clients in this case. When you say you represent "the Florida House" and "Florida Senate" respectively, can you clarify who you represent in that capacity? And if that representation includes individual House and Senate members, do you represent members of both parties?

Thanks,
Christina

Christina Ford

Elias Law Group LLP

10 G St NE Ste 600

Washington DC 20002

202-968-4558

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Exhibit 18

From: [Mohammad O. Jazil](#)
To: [Christina Ford](#); [Andy Bardos](#); [Daniel E. Nordby](#)
Cc: [Fritz Wermuth](#); tzehnder@kbzwlaw.com; [Devaney, John \(Perkins Coie\)](#); [Abha Khanna](#); [Joseph Posimato](#); [Graham White](#); [Harleen Gambhir](#); [Jonathan Hawley](#); [Michael Beato](#); [McVay, Brad R.](#); [George N. Meros, Jr.](#); [Garv V. Perko](#); [Jason Torchinsky](#); [Tara R. Price](#)
Subject: Schedule & Depositions
Date: Tuesday, August 16, 2022 3:49:31 PM

Good afternoon, John and Christina,

On a related note, I write to confer regarding the deposition(s) of the Governor, legislators, and legislative staff.

1. If you are planning to depose legislators and legislative staff, in addition to the Governor, could you serve the relevant subpoenas so the trial court can hear the parties' arguments for and against the depositions all at the same time? That will ensure an efficient hearing and appellate process on arguments that overlap, like the legislative privilege.
2. To make this process more efficient, can we also agree on a briefing schedule before the trial court? As you know, I have to file a reply brief in the SB 90 appeal on August 31, and I have oral arguments on September 15. Could we begin the briefing schedule, then, on September 25? (There should be room in the schedule for this briefing, especially, as you note in your most recent discovery responses to us, that it's too soon to even identify fact witnesses.)
3. Moreover, can we agree the Governor (and the legislators and staff) will not be deposed pending the resolution of privileges and objections the non-parties might raise?

Please let me know your thoughts or if you need any additional information. And we'll take your responses into account in considering the proposed schedule you provided.

Many thanks,
Mo

From: Christina Ford <cford@elias.law>
Sent: Tuesday, August 16, 2022 12:50 PM
To: Mohammad O. Jazil <mjazil@holtzmanvogel.com>; Andy Bardos <andy.bardos@gray-robinson.com>; Daniel E. Nordby <dnordby@shutts.com>
Cc: Fritz Wermuth <fwermuth@kbzwlaw.com>; tzehnder@kbzwlaw.com; Devaney, John (Perkins Coie) <jdevaney@perkinscoie.com>; Abha Khanna <akhanna@elias.law>; Joseph Posimato <jposimato@elias.law>; Graham White <gwhite@elias.law>; Harleen Gambhir <hgambhir@elias.law>; Jonathan Hawley <jhawley@elias.law>; Michael Beato <mbeato@HoltzmanVogel.com>; McVay, Brad R. <brad.mcvay@dos.myflorida.com>; George N. Meros, Jr. <GMeros@shutts.com>; Gary V. Perko <gperko@HoltzmanVogel.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Tara R. Price <TPrice@shutts.com>
Subject: RE: FL Redistricting Proposed Schedule

Hi Mo, Andy, and Dan,

Thanks for providing input on the schedule. We took your input into account in drafting the attached joint proposed schedule. Please let us know if the Defendants can sign onto this by Thursday.

Best,
Christina

Christina Ford
Elias Law Group LLP
202-968-4558

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From: Mohammad O. Jazil <mjazil@holtzmanvogel.com>

Sent: Friday, July 29, 2022 7:54 PM

To: Christina Ford <cford@elias.law>; Fritz Wermuth <FWermuth@kbzwlaw.com>; tzehnder@kbzwlaw.com; Devaney, John (Perkins Coie) <jdevaney@perkinscoie.com>; McVay, Brad R. <brad.mcvay@dos.myflorida.com>; Andy Bardos <andy.bardos@gray-robinson.com>; Daniel E. Nordby <dnordby@shutts.com>; Michael Beato <mbeato@HoltzmanVogel.com>; Tara R. Price <TPrice@shutts.com>; George N. Meros, Jr. <GMeros@shutts.com>; Gary V. Perko <gperko@HoltzmanVogel.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>

Subject: Proposed Schedule

Dear Christina,

Here's a redline reflecting the State Defendants' perspective on scheduling. We're happy to talk through it with you next week.

Best,
Mo

Get [Outlook for iOS](#)

Exhibit 19

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

RENE ROMO, et al,

CASE NO: 2012-CA-412

Plaintiffs,

vs.

KEN DETZNER and PAM BONDI,

Defendants.

THE LEAGUE OF WOMEN VOTERS
OF FLORIDA, et al,

CASE NO: 2012-CA-490

Plaintiffs,

vs.

KEN DETZNER, et al,

Defendants.

ORDER GRANTING IN PART AND DENYING IN PART
MOTION FOR PROTECTIVE ORDER

This case is before me on motions for protective order filed by the legislative defendants. They assert that legislative privilege protects them and their staff from having to sit for depositions or otherwise provide information relating to their legislative duties, including the production of certain documents. The plaintiffs agree that legislative privilege exists in Florida but do not agree that it affords the defendants protection from the discovery sought. For the reasons set forth below, I conclude that the motion should be granted in part and denied in part.

The case of *Florida House of Representatives v. Expedia, Inc.*, 85 So. 3d 517 (Fla. 1st DCA 2012), is the most recent authority on the subject of legislative privilege. In that case, the court confirmed that legislative privilege does exist in the State of Florida, both

because it existed at common law, and because the privilege is an essential implied component of the separation of powers doctrine implicit in constitutional government. The court held that the privilege was broad in scope and applied to both legislators and their staff. The court also held, however, that the privilege is not absolute and must be balanced against other compelling government interests.

The legislative defendants argue that, per *Expedia*, only in criminal cases might a compelling government interest trump legislative privilege. However, the court in *Expedia* did not so hold. Had the panel wished to limit the instances in which the governmental interest might override the legislative privilege to criminal cases, it certainly could have said so. Indeed, the case before it was a civil case, so it would have been logical for the court to note that, regardless of the application of the privilege and any exceptions thereto in criminal cases, the case before it was civil and there could be no compelling government interest to balance against the privilege. Instead, the court engaged in a balancing test and found the competing governmental interest wanting.

In *Expedia*, the governmental interest was extremely minimal. One side in a civil case wanted to establish that it had not provided certain information and documents to a legislator. They wished to depose the legislator and ask him from whom he had received a certain document which he later passed along to other legislators. The court noted that the other side of the lawsuit had offered to stipulate that its counsel was the person who had provided the document and information to the legislator. On balance, the court said, the governmental interest in clearing up this issue in a civil case was not sufficient to override legislative privilege.

Thus, it is clear that the *Expedia* court contemplated instances in civil cases in which, on balance, the legislative privilege must give way to a compelling government interest in the information sought. The court in *Expedia* did not, however, elaborate on how this balancing test was to be conducted and there are no other Florida cases on point. I must, thus, look to other jurisdictions for guidance, mindful of the particular constitutional provisions, statutes and case law of Florida that might suggest a different result.

The parties have cited cases from other jurisdictions which offer some options, and some guidance. Of the cases cited, I find *Committee for a Fair and Balanced Map v. Illinois State Bd. of Elections*, 2011 WL 4837508 (N.D. Ill 2011),¹ to be illustrative of a practical and reasoned approach consistent with principles of Florida constitutional case law. The *CFBM* court was presiding over a redistricting challenge brought under the Voting Rights Act and United States Constitution. The issues being explored in the litigation were similar in nature to those in the instant case.

The court concluded that the Illinois Legislature enjoyed a qualified legislative privilege. It analyzed the following factors in determining when the privilege should yield: “(i) the relevance of the evidence sought to be protected; (ii) the availability of other evidence; (iii) the seriousness of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable.” *Id.* at 7. After applying the test the court found that information regarding the motives,

¹ I will refer to this case as *CFBM*

objectives, or procedures was privileged. However, the privilege yielded as to information regarding consultants and objective data relied upon by lawmakers.

A question inherent in this balancing exercise, and not answered in *Expedia*, is whether the applicability of the legislative privilege is an all-or-nothing proposition. In other words, do I look at the governmental interest involved, weigh it against legislative privilege, and determine whether it should apply at all? It would, of course, be much easier and cleaner to do so, but both the privilege and the governmental interest would be better served, in most cases, by carefully considering and differentiating between the legislative functions most in need of protection and those least in need of the protection offered by the privilege.

Some of the public policies or reasons behind recognizing a legislative privilege are, at their essence, practical in nature. Legislators could not properly do their job if they had to sit for depositions every time someone thought they had information that was relevant to a particular court case or administrative proceeding. We also recognize the importance of legislators being able to develop policy without fear that every iteration leading up to the ultimate policy choice can be second guessed with 20/20 hindsight, or that their communications will be taken out of context, requiring them to try to defend their decisions. There is a reason the old saying about making sausages and laws is an old saying.

And the legislature is not alone in this. The same applies for the workings of the executive and judicial branches of government. Inherent in the constitutional separation of powers is the concept that no branch should interfere with the essential core functions of the others, so that each may properly perform those functions. Each should be able to

work through various issues and problems in their own mind, and discuss with their colleagues various options, without the chilling effect of third parties, who perhaps wish to be critical, being able to inquire into the thought processes and the confidential communications that are inherent in the process.

Considering the public policy and practical reasons for such a privilege, it naturally follows that there are some categories of information and communications that are most in need of the protection offered by the privilege and some that are less in need of such protection. The thought processes of a legislator or the communications between legislators, or between legislators and their staff fall into the first category and the second category would include routine transmittal communications between legislators, between legislators and their staff, and communications with outside consultants or constituents. Though not completely descriptive, these two categories may be distinguished by calling the first "subjective" information and the second, "objective" information.

Similarly, the public policy behind the privilege is also better served by drawing a distinction between discovery aimed at oral examination of a legislator by deposition, at a particular place and time, and discovery which requires the production of documents. In general, the latter will be less onerous and less likely to take a legislator away from his or her legislative duties. The former is more intrusive and more difficult to apply on a case-by-case basis because one does not know what questions will be asked at a deposition.

In applying this balancing test to the case at bar, I find it difficult to imagine a more compelling, competing government interest than that represented by the plaintiffs' claim. It is based upon a specific constitutional direction to the Legislature, as to what it can and cannot do with respect to drafting legislative reapportionment plans. It seeks to

protect the essential right of our citizens to have a fair opportunity to select those who will represent them. In this particular case, the motive or intent of legislators in drafting the reapportionment plan is one of the specific criteria to be considered when determining the constitutional validity of the plan. The information sought is certainly relevant and probative of intent. Frankly, if the compelling government interest in this case does not justify some relaxing of the legislative privilege, then there's probably no other civil case which would. I thus find that the legislative privilege must bend somewhat to allow inquiry into certain areas. The scales tip in favor of the Plaintiffs here, though not completely.

Although the motive and intent of legislators in drafting the legislative redistricting plan is of crucial importance in this case, it must be balanced against the public policy behind the application of legislative privilege. Specifically, the subjective thought processes of legislators and the confidential communication between them and between legislators and their staff should remain protected by the privilege. Of course, to the extent that these subjective thoughts and ideas were shared with third persons who are not within the legislative branch, i.e., not legislators or staff, or contracted consultants, those third persons are not protected by nor bound by legislative privilege. Those persons can be compelled to provide information relevant to the case at bar.

All other "objective" information or communications should not be protected by the privilege. This allows the plaintiffs access to important and probative information, while still accommodating the strong policy in favor of the separation of powers doctrine, which is implicit in the legislative privilege. What is subjective versus objective material

may be difficult to determine in some instances but this demarcation should give some guidance.

This demarcation or distinction applies to documents sought by plaintiffs as well, with the proviso that any documents that qualify as public records pursuant to section 11.0431, Fla. Stat. and do not fall under a specific exemption, are discoverable by Plaintiffs notwithstanding a claim of legislative privilege. A related issue in this respect is whether drafts of redistricting plans and supporting documents, which the defendants say are specifically exempted under the public records law, should be discoverable by plaintiffs.

Florida has a long and rich tradition of open government and the case law in this area suggests that questions about the interpretation of the Public Records Act should be resolved in favor of access by the public. Any specific exemptions are therefore to be strictly construed. Noting the legislative history of the exemption under which the defendants seek protection, I conclude that their very broad interpretation of the exemption is not supported by the language of the statute nor the case law in this area. The plaintiffs' interpretation might be a little too narrow, as they suggest that once any plan has been passed, any documents that might have been exempted from the act, are no longer so.

It is difficult for me to know where to draw the line between the plan that was actually proposed and adopted by the legislature and any other draft of a plan. The plaintiffs' argument is that the entire process is designed to create a plan, not several plans. Without having precise knowledge of how plans are proposed, discussed, and developed, it is difficult for me to evaluate that assertion. The only way I know how to do

so is to have any disputed documents presented to me in camera, with explanatory testimony as to their nature and how they compare or contrast with the plan ultimately adopted.

Two other issues remain: 1. May the legislative privilege be waived if a legislator speaks about the legislation in public, or to others who are not a part of the legislative branch? 2. Is there any adverse inference to be drawn in this case from the invocation of legislative privilege?

After reviewing the memoranda submitted by the parties on these additional issues, I'm convinced that the privilege is not waived by speaking in public or to non-legislative persons about the legislation. To the extent, of course, that they have done so, there is no legislative privilege involved as to those statements. Although the legislator cannot be required to submit to further inquiry into the subject area, his statements can't be "taken back" by invoking legislative privilege.

I am also convinced that it would be counterproductive to the public policy reasons behind the privilege to allow an adverse inference to be drawn from its invocation. In that sense, it is analogous to the invocation of the Fifth Amendment privilege in a criminal case, which by law, carries no adverse inference. Hence the jury instruction to the jury that they are not to infer guilt or otherwise hold it against a defendant who chooses not to be a witness in his case.

Of course, if at trial in a criminal case the State presents strong evidence of a defendant's guilt, and the defendant chooses not to contest that evidence by testifying or otherwise, a jury may very well be convinced beyond a reasonable doubt of his guilt. Similarly, in the case at bar, if the plaintiffs present compelling evidence of improper

motive or intent in the drafting of the legislative plan under challenge, and the legislative defendants choose not to present any contrary evidence, it may put them at a disadvantage. And, once the legislative defendants invoke the privilege and deprive the plaintiffs of the discovery necessary for them to properly prepare their claim, it may be difficult to overcome the prejudice inherent in a last moment decision to waive the privilege and testify at trial.

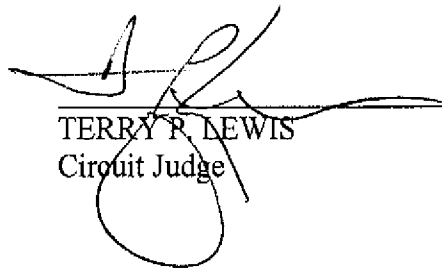
There are also practical and public perception reasons why a legislator may wish to waive the privilege. Some constituents may not understand why he or she refuses to answer questions or provide information relevant to the issues. While there may be no legal adverse inference, the court of public opinion is not bound by the rules of evidence or the rule of law. In this respect, legislators perhaps face a damned if you do and damned if you don't dilemma.

Finally, I note that the legislative privilege is to be invoked by the individual legislator and his or her staff. Each individual legislator is free to invoke the privilege or waive it as he or she sees fit. The Speaker of the House and the President of the Senate cannot dictate to an individual legislator how they should respond if asked to give information related to this case. Thus, this ruling only applies to the Speaker, the President, and those legislative staff directly under their supervision. It is hoped, of course, that this order will give guidance to those individual legislators who are considering whether to invoke legislative privilege.

Accordingly, it is ORDERED AND ADJUDGED that Defendant's Motion is GRANTED in part and DENIED in part as follows:

1. The legislative defendants and their staff, and any individual legislators or staff members who assert legislative privilege shall not be deposed regarding their “subjective” thoughts or impressions or regarding the thoughts or impressions shared with them by staff or other legislators.
2. Plaintiffs may depose legislators or staff, notwithstanding an assertion of legislative privilege, regarding “objective” information or communication which does not encroach into the thoughts or impressions enumerated above.
3. Defendants shall produce all documents requested which do not contain “subjective” information as described above. The parties are directed to schedule an in camera review as to any disputed documents.

DONE AND ORDERED this 3rd day of October, 2012.


TERRY R. LEWIS
Circuit Judge

Copies to:
Counsel of Record

Exhibit 20

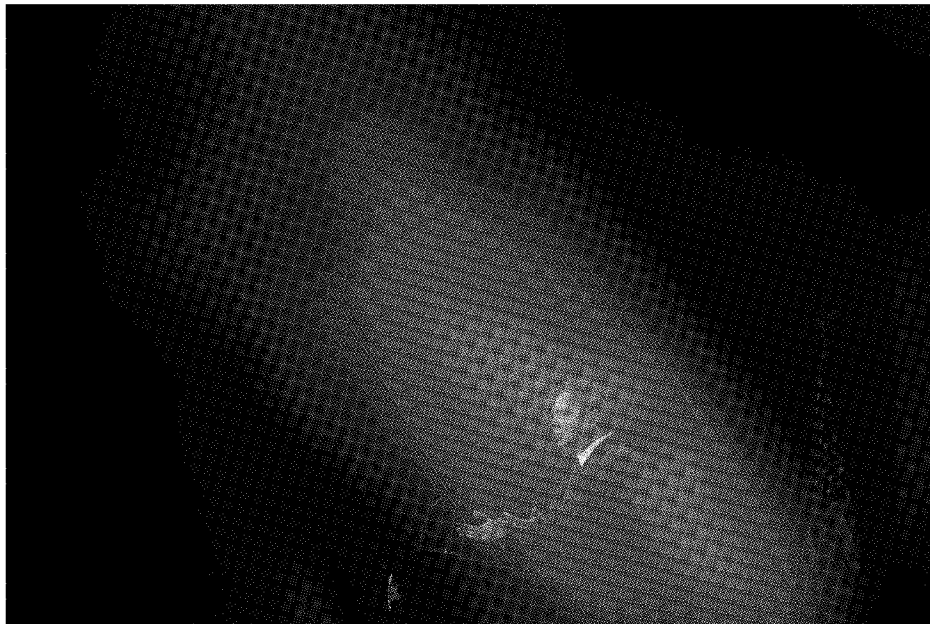
Democracy

How Ron DeSantis Blew Up Black-Held Congressional Districts and May Have Broken Florida Law

by Joshua Kaplan

Oct. 11, 6 a.m. EDT

DeSantis' move, secretly aided by GOP-linked national operatives, came over the objections of the Republican-controlled state legislature.



Florida Gov. Ron DeSantis made Florida's congressional map far more favorable to Republicans. This may have violated the state constitution. Rebecca Noble/The New York Times/Redux

Sign up for [*ProPublica's User's Guide to Democracy*](#), a series of personalized emails that help you understand the upcoming election, from who's on your ballot to how to cast your vote.

Florida Gov. Ron DeSantis was incensed. Late last year, the state's Republican legislature had drawn congressional maps that largely kept districts intact, leaving the GOP with only a modest electoral advantage.

DeSantis threw out the legislature's work and redrew Florida's congressional districts, making them far more favorable to Republicans. The plan was so aggressive that the Republican-controlled legislature balked and fought DeSantis for months. The governor overruled lawmakers and pushed his map through.

DeSantis' office has publicly stressed that partisan considerations played no role and that partisan operatives were not involved in the new map.

A ProPublica examination of how that map was drawn — and who helped decide its new boundaries — reveals a much different origin story. The

new details show that the governor's office appears to have misled the public and the state legislature and may also have violated Florida law.

DeSantis aides worked behind the scenes with an attorney who serves as the national GOP's top redistricting lawyer and other consultants tied to the national party apparatus, according to records and interviews.

Florida's constitution was amended in 2010 to prohibit partisan-driven redistricting, a landmark effort in the growing movement to end gerrymandering as an inescapable feature of American politics.

Barbara Pariente, a former chief justice of the state Supreme Court who retired in 2019, told ProPublica that DeSantis' collaboration with people connected to the national GOP would constitute "significant evidence of a violation of the constitutional amendment."

"If that evidence was offered in a trial, the fact that DeSantis was getting input from someone working with the Republican Party and who's also working in other states — that would be very powerful," said Pariente, who was appointed to the Supreme Court by Democrat Lawton Chiles.

A meeting invite obtained by ProPublica shows that on Jan. 5, top DeSantis aides had a "Florida Redistricting Kick-off Call" with out-of-state operatives. Those outsiders had also been working with states across the country to help the Republican Party create a favorable election map. In the days after the call, the key GOP law firm working for DeSantis logged dozens of hours on the effort, invoices show. The firm has since billed the state more than \$450,000 for its work on redistricting.

A week and a half after the call, DeSantis unveiled his new map. No Florida governor had ever pushed their own district lines before. His plan wiped away half of the state's Black-dominated congressional districts, dramatically curtailing Black voting power in America's largest swing state.

One of the districts, held by Democrat Al Lawson, had been created by the Florida Supreme Court just seven years before. Stretching along a swath of north Florida once dominated by tobacco and cotton plantations, it had drawn together Black communities largely populated by the descendants of sharecroppers and slaves. DeSantis shattered it, breaking the district into four pieces. He then tucked each fragment away in a majority-white, heavily Republican district.

DeSantis' strong-arming of his Republican allies was covered extensively by the Florida press. But until now, little has emerged about how the governor crafted his bold move and who his office worked with. To reconstruct DeSantis' groundbreaking undertaking, ProPublica interviewed dozens of consultants, legislators and political operatives and reviewed thousands of pages of documents obtained through public records requests and from the nonpartisan watchdog group American Oversight.

DeSantis' office did not respond to detailed questions for this story.

"Florida's Governor fought for a legal map — unlike the gerrymandered plan the Governor rightly vetoed," Adam Kincaid, executive director of the National Republican Redistricting Trust, whose top lawyer was hired by

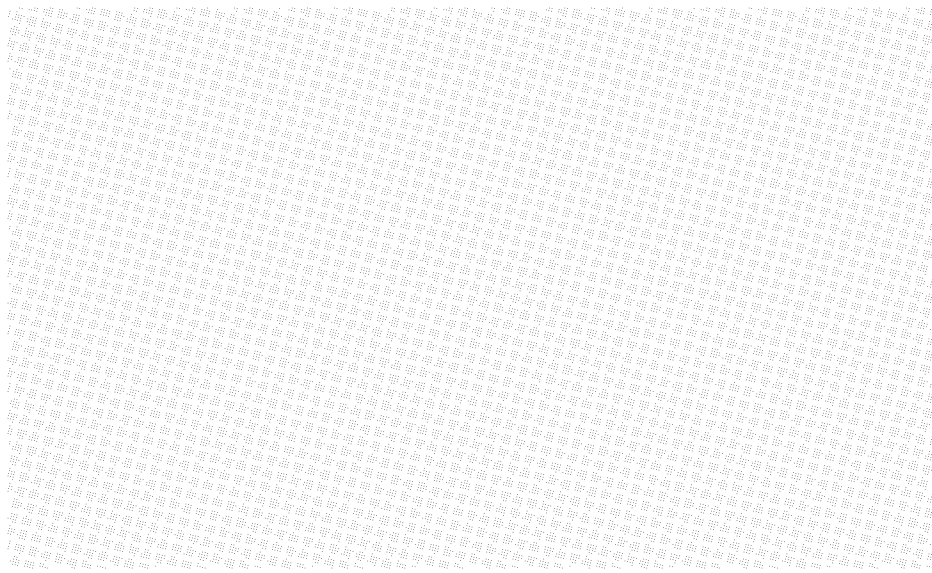
DeSantis' office, said in an email to ProPublica. "If Governor DeSantis retained some of the best redistricting lawyers and experts in the country to advise him then that speaks to the good judgment of the Governor, not some alleged partisan motive."

In four years as governor, DeSantis has championed an array of controversial policies and repeatedly used his power to punish his political opponents. A presumptive candidate for the Republican presidential nomination in 2024, he has often made moves that seemed tailored to attract headlines, such as his recent stunt sending migrants to Martha's Vineyard. But it's the governor's less flashy commandeering of the redistricting process that may ultimately have the most long-lasting consequences.

Analysts predict that DeSantis' map will give the GOP four more members of Congress from Florida, the largest gain by either party in any state. If the forecasts hold, Republicans will win 20 of Florida's 28 seats in the upcoming midterms — meaning that Republicans would control more than 70% of the House delegation in a state where Trump won just over half of the vote.

The reverberations of DeSantis' effort could go beyond Florida in another way. His erasure of Lawson's seat broke long-held norms and invited racial discrimination lawsuits, experts said. Six political scientists and law professors who study voting rights told ProPublica it's the first instance they're aware of where a state so thoroughly dismantled a Black-dominated district. If the governor prevails against suits challenging his map, he will have forged a path for Republicans all over the country to take aim at Black-held districts.

"To the extent that this is successful, it's going to be replicated in other states. There's no question," said Michael Latner, a political science professor at California Polytechnic State University who studies redistricting. "The repercussions are so broad that it's kind of terrifying."

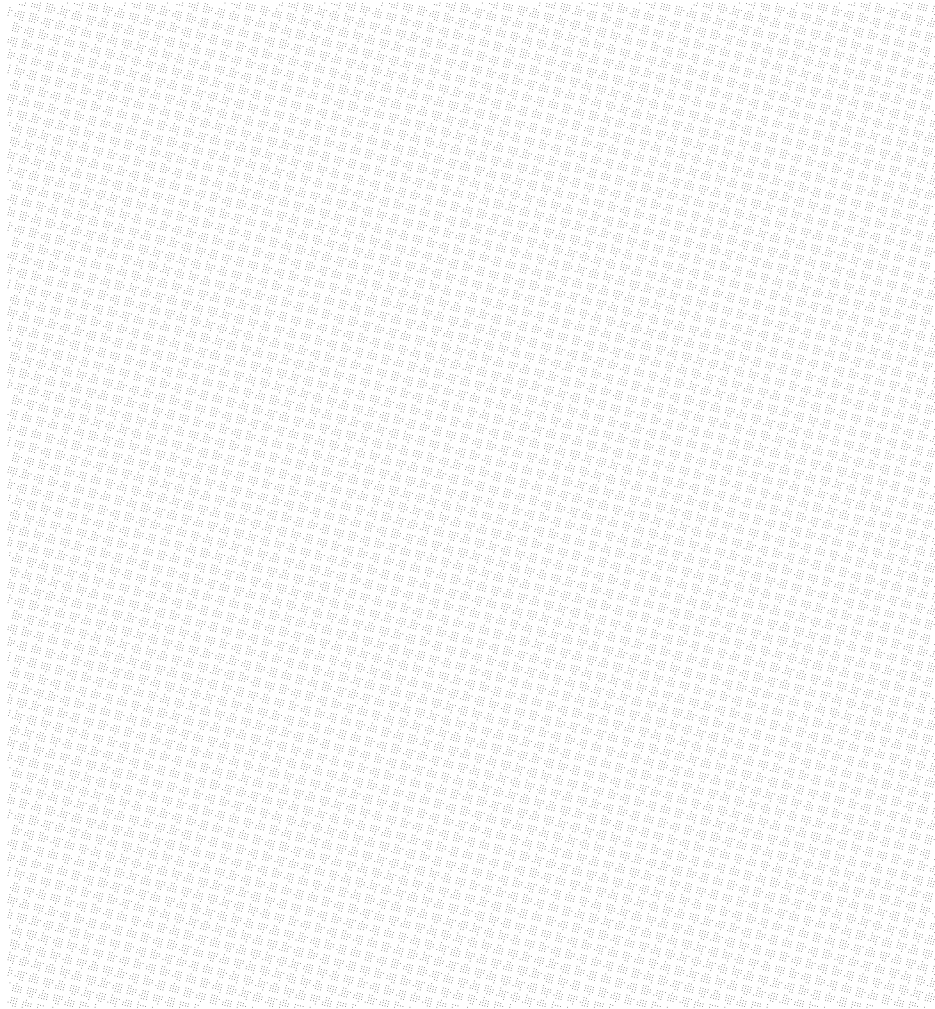


Rep. Al Lawson had his district broken into four pieces by DeSantis, reducing the share of the Black population in each. Bill Clark/CQ Roll Call/AP Images

Al Lawson's district, now wiped away by DeSantis, had been created in response to an earlier episode of surreptitious gerrymandering in Florida.

Twelve years ago, Florida became one of the first states to outlaw partisan gerrymandering. Through a ballot initiative that passed with 63% of the vote, Florida citizens enshrined the so-called Fair Districts amendment in the state constitution. The amendment prohibited drawing maps with "the intent to favor or disfavor a political party." It also created new protections for minority communities, in a state that's 17% Black, forming a backstop as the U.S. Supreme Court chipped away at the federal Voting Rights Act.

Florida elected its first Black member of Congress, a former slave named Josiah Walls, in 1870, shortly after the end of the Civil War. But Florida rapidly enacted new voter suppression laws, and Walls soon lost his office as Reconstruction gave way to the era of Jim Crow.



Josiah Walls was elected to the U.S. House of Representatives from Florida in 1870. Buyenlarge/Getty Images

Thanks to distorted maps, Florida did not elect a second Black representative to Congress until 1992. That year, a federal court created three plurality-Black districts in Florida — and then three Black politicians won seats in the U.S. House.

After the Fair Districts amendment became law in 2010, state legislators promised to conduct what one called "the most transparent, open, and interactive redistricting process in America." Policymakers went on tour

across the state, hosting public hearings where their constituents could learn about the legislature's decision-making and voice their concerns.

The hearings also served a more nefarious purpose, a judge would later rule. They were instrumental in what state circuit judge Terry Lewis described as "a conspiracy to influence and manipulate the Legislature into a violation of its constitutional duty."

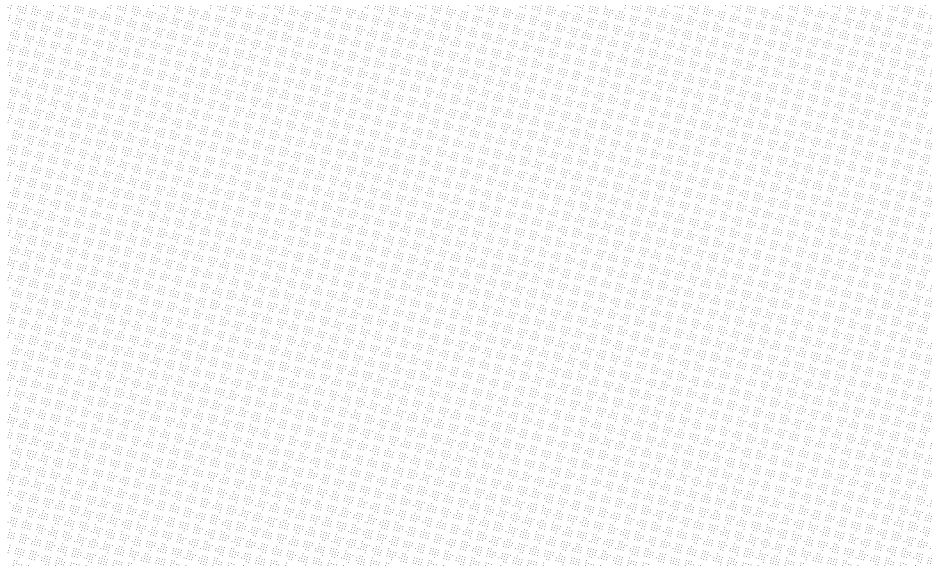
For months, a team of state-level Republican operatives worked in secret to craft maps that favored the GOP, coordinating with both statehouse leadership and the Republican National Committee. Then they recruited civilians to attend the hearings and submit the maps as their own.

An email detailed the advice the operatives gave their recruits. "Do NOT identify oneself orally or in writing," it read, "as a part of the Republican party. It is more than OK to represent oneself as just a citizen."

It took years of litigation for the details of the scheme to come to light. But in 2015, the Florida Supreme Court responded with force. In a series of rulings that ultimately rejected the Republicans' efforts, the court laid out the stringent new requirements under Fair Districts, making clear that partisan "practices that have been acceptable in the past" were now illegal in the state of Florida.

After ruling that the legislature's process was unconstitutional, the court threw out the Republicans' congressional district lines and imposed a map of their own. That is how Lawson's district came to be.

"It was important," Pariente, who authored the key opinions, told ProPublica, "to make sure the amendment had teeth and was enforceable."



Former Florida Supreme Court Chief Justice Barbara Pariente, right, said DeSantis' collaboration with people connected to the national GOP would constitute "significant evidence of a violation" of Florida's constitution. Phil Coale/AP

The amendment took on even greater significance in 2019, when the U.S. Supreme Court issued a landmark ruling on redistricting.

The court's decision in *Rucho v. Common Cause* barred federal court challenges to partisan gerrymanders. Writing for the 5-4 majority, Chief Justice John Roberts said it was not an issue for the federal judiciary to

decide, but emphasized the ruling did not “condemn complaints about districting to echo into a void.”

In fact, the issue was being actively addressed at the state level, Roberts wrote. He cited Florida’s amendment and one of Pariente’s opinions. Responding to liberal justices who wanted to reject Rucho’s map as an unconstitutional gerrymander, Roberts wrote they could not because “there is no ‘Fair Districts Amendment’ to the Federal Constitution.”

In 2021, state legislative leaders were more careful.

The senate instructed its members to “insulate themselves from partisan-funded organizations” and others who might harbor partisan motivations, reminding legislators that a court could see conversations with outsiders as evidence of unconstitutional intent. The legislature imposed stringent transparency requirements, like publishing emails that it received from constituents. And they ordered their staff to base their decisions exclusively on the criteria “adopted by the citizens of Florida.”

The Senate leadership “explained to us at the beginning of the session that because of what happened last cycle, everything had to go through the process,” Sen. Joe Gruters, who is also chairman of the Florida Republican Party, told ProPublica.

In November, the state senate proposed maps that largely stuck to the status quo. Analysts predicted they would give Republicans 16 seats in Congress and Democrats 12.

“Were they the fairest maps you could draw? No,” said Ellen Freidin, leader of the anti-gerrymandering advocacy group FairDistricts Now. “But they weren’t bad Republican gerrymanders.”



DeSantis was incensed after the Republican-controlled legislature put forward its redistricting proposal.
Scott McIntyre/The New York Times/Redux

DeSantis wasn't satisfied. "The governor's office was very pissed off about the map. They thought it was weak," said a well-connected Florida Republican, who spoke on the condition of anonymity so he could be candid. "They thought it was ridiculous to not even try to make it as advantageous as possible."

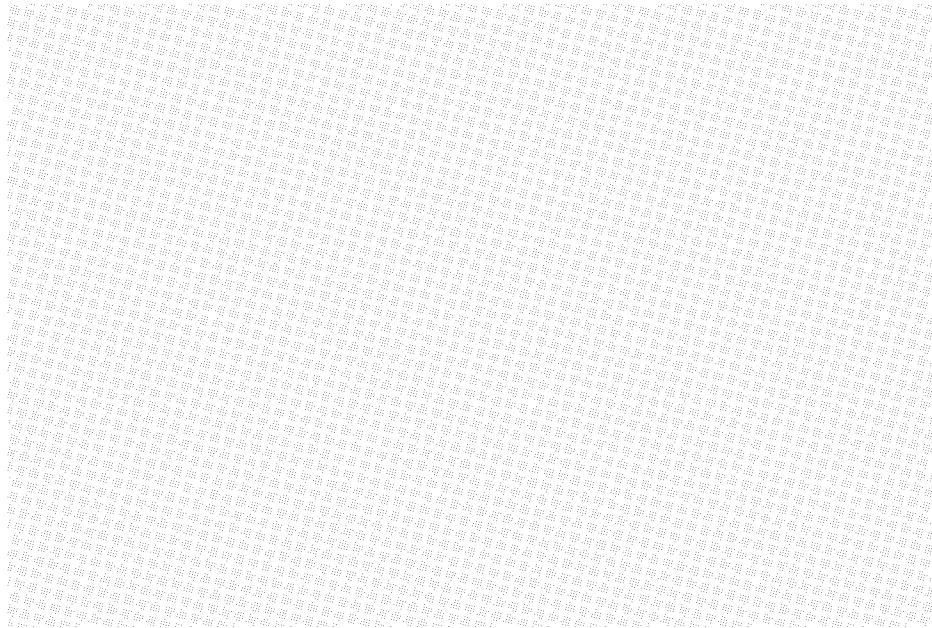
In early January, DeSantis' deputy chief of staff, Alex Kelly, was quietly assigned to oversee a small team that would devise an alternative proposal, according to Kelly's later testimony.

State employees often spend years preparing for the redistricting process — time that DeSantis did not have. As Kelly and his colleagues set to work, they brought in critical help from the D.C. suburbs: Jason Torchinsky, a Republican election attorney and one of the leading GOP strategists for redistricting nationwide.

On Jan. 5, Kelly and two other top DeSantis aides had the redistricting "kick-off call," according to the meeting invite, which was provided to ProPublica by American Oversight. The invitation included Torchinsky and another guest from out of state: Thomas Bryan, a redistricting specialist.

In an interview with ProPublica, Bryan explained the connection between the national Republican Party and his work with DeSantis. "There's a core group of attorneys that works with the party and then they work with specific states," he said. "It's not a coincidence that I worked on Texas, Florida, Virginia, Kansas, Michigan, Alabama."

He added that the main lawyer he works with is Torchinsky: "Jason will say, 'I want you to work on this state.'"



Jason Torchinsky, center, logged more than 100 hours working on the redistricting for DeSantis. Joe Raedle/Getty Images

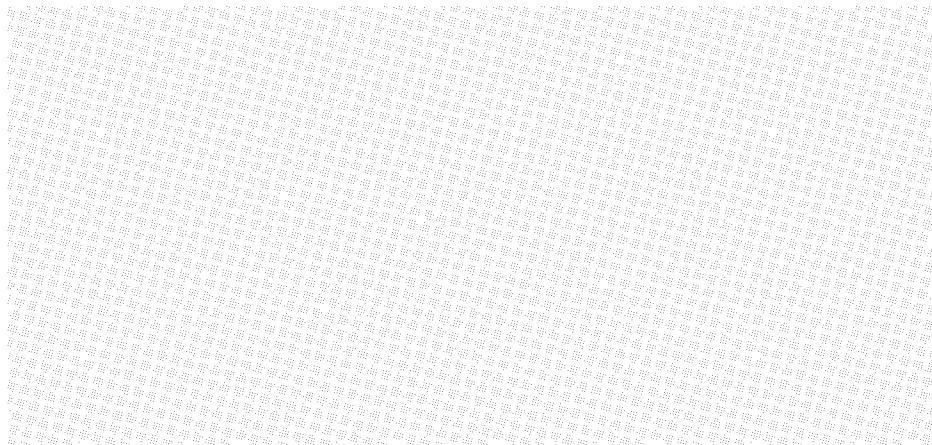
A top partner at a conservative law firm, Torchinsky has represented the RNC, the Republican Party of Florida and many of America's most influential right-wing groups, such as the Koch network's Americans for Prosperity.

He also occupies a central role in the Republican Party's efforts to swing Congress in its favor in 2022. Torchinsky is the general counsel and senior advisor to the National Republican Redistricting Trust, the entity the Republican National Committee helped set up to manage the party's redistricting operations.

The NRRT boasts millions of dollars in funding and a roster of prominent advisors that includes Mike Pompeo and Karl Rove. Earlier this year, Kincaid, the trust's executive director, summarized its objective bluntly: "Take vulnerable incumbents off the board, go on offense and create an opportunity to take and hold the House for the decade."

In a statement to ProPublica, Kincaid said that the trust is one of Torchinsky's many clients and that the lawyer's work in Florida was separate: "When I would ask Jason what was happening in Florida, he would tell me his conversations were privileged." Kincaid added that he personally did not speak with anyone in the DeSantis administration "during this redistricting cycle."

Torchinsky's involvement in the creation of DeSantis' map has not been previously reported. His role in the process appears to have been intimate and extensive, though the specifics of his contributions are largely unclear. He spent more than 100 hours working for the DeSantis administration on redistricting, according to invoices sent to the Florida Department of State.



Redacted invoice from Jason Torchinsky's firm for its work on Florida redistricting Screenshot by ProPublica

Torchinsky held repeated meetings with DeSantis' team as the group crafted maps and navigated the ensuing political battles, according to documents obtained by ProPublica. And he brought in other operatives who'd worked around the country in priority states for the national GOP.

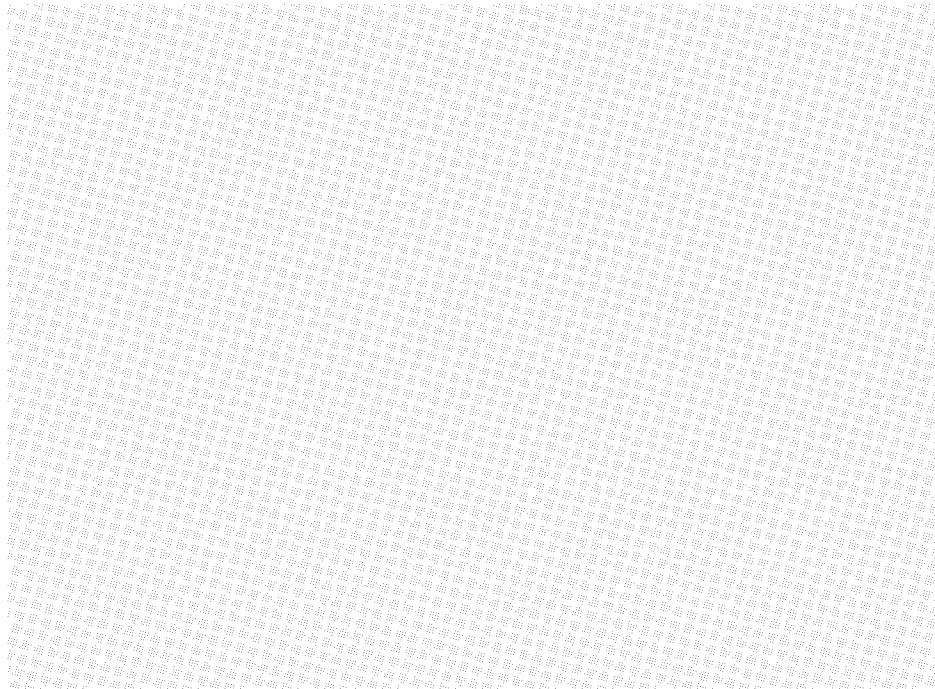
A week after the kickoff meeting, Torchinsky scheduled a Zoom call between Kelly, Bryan and a second consultant, Adam Foltz.

Foltz and Bryan arrived in Florida just as they were becoming go-to mapmakers for the GOP. They appeared together in multiple states where the NRRT was directly involved last year, generating controversy in their wake.

In Texas, Foltz, Bryan and the NRRT's leader, Kincaid, all worked behind the scenes helping draw maps, court records show. After they finished, the

U.S. Department of Justice filed a lawsuit against the state of Texas, contending that the map violated the Voting Rights Act and illegally diluted Black and Latino votes. The case is still pending.

Last fall in Virginia, each party submitted three candidates to the state supreme court to guide the state's redistricting process. The Democrats put forward three professors. Republicans submitted Bryan, Foltz and Kincaid. The court's conservative majority rejected all three Republican nominees, citing conflicts of interest and "concerns about the ability" of the men to carry out the job neutrally.



Adam Kincaid, executive director of the National Republican Redistricting Trust, whose top lawyer helped DeSantis with his congressional maps. T.J. Kirkpatrick/The New York Times/Redux

In a statement, Kincaid said Foltz and Bryan are not partisan operatives and "the Virginia Supreme Court erred" in rejecting them. He also downplayed his own relationship to the consultants, saying they are not "employees or retained consultants" for his group.

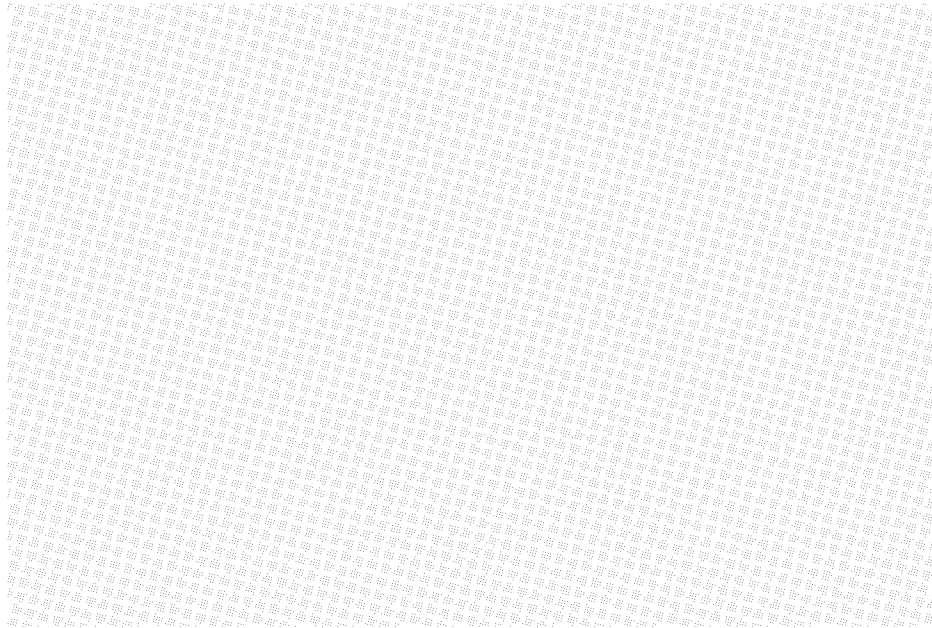
"Adam and Tom are two of the best political demographers in the country," Kincaid wrote. "It would only make sense that states looking for redistricting experts would retain them."

Until last year, Foltz had spent his entire career working in Wisconsin politics, on state GOP campaigns and for Republican state legislators, according to court records. He was introduced to redistricting a decade ago when he spent months helping craft maps that became notoriously effective Republican gerrymanders. When he testified under oath that partisanship played no role in the Wisconsin process, a three-judge panel dismissed his claim as "almost laughable."

Bryan was also a new figure on the national stage. Before 2020, he was a "bit player" in the redistricting industry, he said, running a small consulting company based in Virginia. He'd drawn maps for school districts and for local elections, but never for Congress, and he held a second job in consumer analytics at a large tobacco conglomerate.

“In 2020, my phone started going off the hook, with states either asking to retain me as an expert or to actually draw the lines,” Bryan told ProPublica. “I get phone calls from random places, and I’m on the phone with a governor.” While he mostly worked with Republicans, he was also retained by Illinois Democrats this cycle, according to court records.

Foltz and Bryan’s rapid ascension culminated in Florida. On Jan. 14, Torchinsky set up a third call with Foltz and Kelly. Then two days later, DeSantis released his map.



At left, Alex Kelly, deputy chief of staff for Gov. DeSantis, answers questions about the new district lines his office developed, during a Committee on Reapportionment meeting in April at the state capitol in Tallahassee. Phil Sears/AP

According to Kelly’s subsequent testimony, Foltz drew the map himself.

“I was completely blindsided,” said Rep. Geraldine Thompson, a Democrat on the House redistricting committee. “That is the purview of the legislature.”

Foltz declined an interview when reached by phone and did not respond to subsequent requests for comment. Kelly and Torchinsky, who went on to defend DeSantis in a lawsuit against the redistricting, did not respond to repeated requests for comment.

The House redistricting subcommittee later brought Kelly in to answer questions about DeSantis’ proposals. Before the deputy chief of staff testified, the Democrats’ ranking member moved to place him under oath. Republican legislators blocked the committee from swearing Kelly in.

In his opening statement, Kelly took pains to emphasize that the governor’s office colored within the lines of the Florida constitution.

“I can confirm that I’ve had no discussions with any political consultant,” he testified. “No partisan operative. No political party official.”

This appears to have been misleading. By the time he testified, Kelly had been personally invited to at least five calls to discuss redistricting with Torchinsky, Bryan or Foltz, records show.

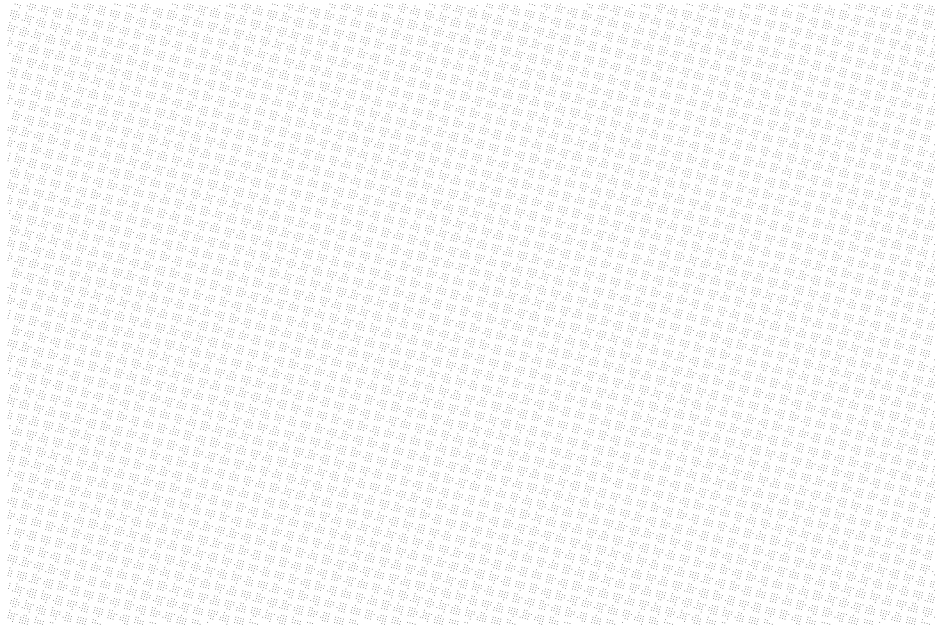
Kelly mentioned Foltz only briefly in his testimony. Torchinsky and Bryan's names didn't come up.

DeSantis holds as much sway in Tallahassee as any governor in recent memory. But even after he publicly weighed in with a map of his own, Republicans in the legislature didn't bow down. The state Senate refused to even consider the governor's version. In late January, they passed their original plan.

DeSantis' aides argued that Lawson's district was an "unconstitutional gerrymander," extending recent precedent that limits states' ability to deliberately protect Black voting power.

Florida Republicans were skeptical. House Speaker Chris Sprowls told reporters that DeSantis was relying on a "novel legal argument" that lawmakers were unlikely to adopt.

"In the absence of legal precedent," Sprowls said, "we are going to follow the law."



Florida House Speaker Chris Sprowls and fellow Republicans initially objected to DeSantis' aggressive redistricting plan. AP Photo/Rebecca Blackwell

On Feb. 11, DeSantis ratcheted up the pressure. He held a press conference reiterating his opposition to Lawson's district. He vowed to veto any map that left it intact. But he still needed to win over Republican policymakers. Again, DeSantis' top aides turned to Torchinsky.

In February, Torchinsky helped DeSantis' staff pick out an expert witness to sell the governor's vision to the legislature, according to emails provided to ProPublica by American Oversight. Once the group chose an expert, Torchinsky had a call with him in advance of his appearance.

With a deadline to prepare for the November midterms looming, the legislature moved toward compromise. In early March, it passed a new bill that was much closer to DeSantis' version — but still kept a Democrat-leaning district with a large Black population in North Florida.

The governor's attempts at persuasion were over.

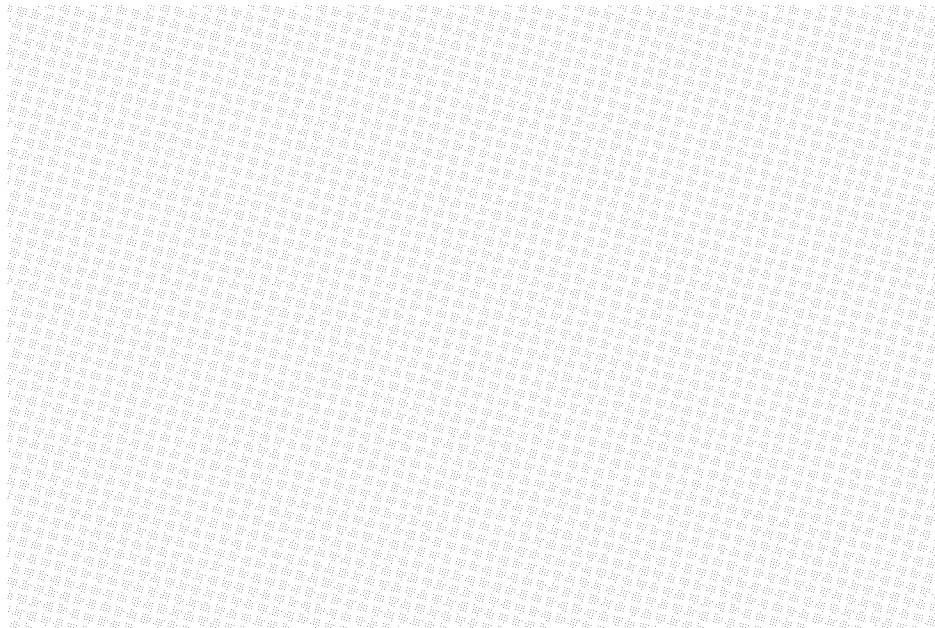
On Mar. 28, Foltz and Kelly had another call, along with a partner at Torchinsky's law firm. The next day, DeSantis vetoed the compromise plan.

Democrats were outraged; many Republicans were shocked. "A veto of a bill as significant as that was definitely surprising," Gruters, the state senator and chair of the Florida GOP, told ProPublica.

Kelly soon submitted a slightly modified version of Foltz's map to the legislature. This time, the legislature took DeSantis' proposal and ran with it.

On Apr. 20, Rep. Thomas Leek, the Republican chair of the House redistricting committee, formally presented DeSantis' plan before the general assembly. When his colleagues asked him who the governor's staff consulted while drawing the map, Leek told them that he didn't know.

"I can't speak to the governor's entire process," Leek said. "I can only tell you what Mr. Kelly said."



Florida Rep. Thomas Leek during a Florida House of Representatives Redistricting Committee hearing on Jan. 13. Phelan M. Ebenhack/AP

The legislature had required everyone submitting a map to file a disclosure form listing the "name of every person(s), group(s), or organization(s) you collaborated with." Kelly left the form blank.

The legislature voted on party lines and passed DeSantis' proposal the next day. Anticipating litigation, they also allocated \$1 million to defend the map in court.

Before DeSantis even signed the bill into law, a coalition of advocacy groups filed a lawsuit challenging the map in state court.

They soon scored a major victory. Circuit Court Judge J. Layne Smith, a DeSantis appointee, imposed a temporary injunction that would keep Lawson's district intact through the midterm elections.

"This case is one of fundamental public importance, involving fundamental constitutional rights," Smith wrote. His ruling cited the

lengthy history of Black voter suppression in North Florida and across the state.

That victory was short-lived. Torchinsky’s firm quickly filed an appeal on DeSantis’ behalf. Then, in a unanimous decision in late May, the appellate court allowed DeSantis’ map to move ahead.

The higher court’s opinion was authored by Adam Tanenbaum, a familiar face in Tallahassee. Until DeSantis appointed him to the court in 2019, Tanenbaum was the Florida House’s general counsel, and before that he was general counsel to the Florida Department of State — both of which were parties to the case.

The very day Tanenbaum issued the opinion, he completed an application to fill a vacancy on the Florida Supreme Court, records show. In Florida, Supreme Court justices are appointed by the governor, in this case DeSantis.

Tanenbaum was not chosen for the position. He didn’t respond to requests for comment.

The broader case is still pending and is expected to eventually be decided by the state supreme court. Every justice on Florida’s supreme court was appointed by Republicans. The majority of them were chosen by DeSantis.

The deeply conservative body has already demonstrated its willingness to overturn precedent that’s only a few years old. DeSantis’ senior aides have indicated they hope it will do so here.

During his public testimony, Kelly was asked how Lawson’s district could be unconstitutional when it was recently created by Florida’s highest court.

Kelly responded tersely: “The court got it wrong.”

Do you know about how the redistricting industry is evolving nationwide or about partisan efforts to influence the process? Contact Josh Kaplan by email at joshua.kaplan@propublica.org or securely on Signal at 734-834-9383.

Filed under —
Democracy

Joshua Kaplan

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Exhibit 21

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

RENE ROMO, an individual; BENJAMIN
WEAVER, an individual; et al.,

Plaintiffs,

v.

KENNETH W. DETZNER, in his official
capacity as Florida Secretary of State;
PAMELA JO BONDI, in her capacity as
Attorney General,

Defendants.

CASE NO.: 2012-CA-00412

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CLERK CIRCUIT COURT
LEON COUNTY, FLORIDA

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FILED

THE LEAGUE OF WOMEN VOTERS
OF FLORIDA, et al.,

Plaintiffs,

v.

KENNETH W. DETZNER, in his official
capacity as Florida Secretary of State; THE
FLORIDA SENATE; et al.,

Defendants.

CASE NO.: 2012-CA-00490

COALITION PLAINTIFFS' OPPOSITION TO LEGISLATIVE DEFENDANTS'
MOTION FOR PROTECTIVE ORDER BASED ON LEGISLATIVE PRIVILEGE

INTRODUCTION

The first line of the Florida Constitution states that "all political power is inherent in the people." FLA. CONST. Art. 1, § 1. In reaction to decades of blatant partisan gerrymandering and incumbent protection by the Florida Legislature, the Florida voters in November 2010 passed the "Fair Districts Amendments" to the Florida Constitution, which explicitly prohibit the state

Legislature from drawing apportionment plans or districts “with the intent to favor or disfavor a political party or incumbent.” FLA. CONST. Art. 3, §§ 20, 21. In this case, Plaintiffs seek vindication of their rights under the Fair Districts Amendments, and specifically Amendment 6, “to elect representatives in a fair manner so that each person’s vote counts equally and so that all citizens receive ‘fair and effective representation.’” *In re Senate Joint Resolution of Legislative Apportionment 1176* (“*In re Legislative Apportionment*”), 83 So. 3d 597, 600 (Fla. 2012).

Granting the Legislative Defendants’ motion for a broad protective order that would enable them to conceal from Plaintiffs and the public the most direct evidence of their intent during the redistricting process would frustrate the will of the people clearly expressed in the Fair Districts Amendments. It is also unjustified under existing law.¹

Further, both this Court and the Florida Supreme Court have stated that looking only at the face of the congressional map and the written legislative history of its passage is likely insufficient to determine the Legislature’s intent. Thus, if the Legislative Defendants are permitted to shield from discovery all non-public documents and testimony regarding their intent in enacting a congressional map with such demonstrable partisan effects, they may succeed in preventing Plaintiffs from obtaining the very type of evidence this Court and the Supreme Court have said is necessary to determine whether the Legislature’s actions violated the Fair Districts Amendments. This would effectively render the Amendments unenforceable.

The League of Women Voters of Florida, the National Council of La Raza, Common Cause Florida, and four individual registered Florida voters (the “Coalition Plaintiffs”) respectfully submit this brief in opposition to the Legislative Defendants’ Motion for Protective

¹ Moreover, to the extent such a privilege even arguably applies in this case, it may have been waived to the extent the Legislature used outside consultants to prepare the congressional map.

Order Based on Legislative Privilege (“Defendants’ Motion”). In addition to these and other arguments set forth below, the Coalition Plaintiffs adopt and incorporate herein the arguments advanced by the Plaintiffs in *Romo et al. v. Detzner et al.* in their Opposition to Defendants’ Motion. Defendants’ motion should be denied.

BACKGROUND

I. THE FAIR DISTRICTS AMENDMENTS CHANGED THE LEGAL LANDSCAPE BY MAKING INTENTIONAL PARTISAN GERRYMANDERING AND INTENTIONAL INCUMBENT PROTECTION UNCONSTITUTIONAL IN FLORIDA

On November 2, 2010, Florida voters took the historic step of amending their state Constitution to restrict the discretion of the Florida Legislature in the redistricting process. The Fair Districts Amendments imposed new restraints on the Legislature designed to ensure that voters will choose their representatives, rather than having the representatives choose their voters. By an overwhelming margin, Florida citizens amended their state Constitution by adopting two provisions that provide standards the Legislature must abide by when drawing state legislative and congressional districts. The purpose of the Fair Districts Amendments is to prevent partisan gerrymandering and incumbency protection, and to protect the traditional redistricting principles of equal population, compactness, contiguity, and respect for political and geographic boundaries.²

In supporting the Fair Districts Amendments, the voters were responding to a long history of political gerrymandering in Florida. See Motion of Plaintiffs The League of Women Voters of Florida, et al., For Summary Judgment on the Facial Unconstitutionality of the Legislature’s Congressional Redistricting Plan Or, Alternatively, For Preliminary Injunctive Relief and

² Amendment 5 and 6 adopted identical standards. Amendment 5 governs legislative redistricting, whereas Amendment 6, at issue in this case, governs congressional redistricting.

Memorandum of Law in Support at 3-4 (hereinafter, "Coalition Summary Judgment Brief"). Indeed, in the 2002 redistricting cycle, the Legislature "stipulated . . . at trial" that in drawing the last congressional map, "the intent of the Florida legislature, comprised of a majority of Republicans, was to draw the congressional districts in a way that advantages Republican incumbents and potential candidates." *Martinez v. Bush*, 234 F. Supp. 2d 1275, 1300-01, 1340 (S.D. Fla. 2002) (the "legislature's overriding goal with respect to congressional reapportionment was to adopt a plan that would . . . maximize the number of districts likely to perform for Republicans"). The Fair Districts Amendments made such partisan and incumbent gerrymandering unconstitutional under the Florida Constitution.

In passing the amendments, the voters emphatically expressed their desire to rid the state redistricting process of rampant and acknowledged partisan and incumbent favoritism. They sought to eliminate back-room dealing and to ensure that Florida's voting districts are drawn to benefit the people, not the self-serving interests of politicians. The Fair District Amendments completely changed the legal landscape for redistricting in Florida and impose a substantial limitation on legislators' discretion in drawing reapportionment plans and voting districts. This restriction is unprecedented for Florida's state legislators; there is no other provision of Florida law that imposes a similar prohibition on them. In order to eliminate the partisan and incumbent favoritism that has pervaded the redistricting process in Florida, the Amendments focus squarely on the *intent* of the legislators in drawing apportionment plans and districts.

As the Florida Supreme Court has recognized, these new legal obligations "requir[e] a commensurately more expanded judicial analysis of legislative compliance." *In re Legislative Apportionment*, 83 So. 3d at 607. The Court has a "constitutional obligation to conduct . . . the heightened review contemplated and expressed by the citizens of Florida who voted to add this

amendment to our constitution.” *Id.* at 687 (Lewis, J. concurring). Assessing compliance with the Constitution now *requires* an inquiry into the *intent* of the legislators and the decision making process that resulted in the challenged congressional plan. In the words of the Florida Supreme Court, under the new Amendments “there is no acceptable level of improper intent.” *Id.* at 617.

II. THE LEGISLATIVE DEFENDANTS’ MOTION FOR A PROTECTIVE ORDER

Defendants seek a blanket protective order that would prevent Plaintiffs from asking state legislators or any of their staff members about what transpired during the redistricting process and from gaining access to any draft maps – or any supporting documents – that might evidence the intent of the legislators.³

This request for a protective order is the latest in a series of efforts by state legislators to frustrate the people’s desire to limit the Legislature’s discretion during the redistricting process – first by attempting to prevent the passage of the Fair District Amendments in their current form⁴

³ It is clear that much of the redistricting process took place behind closed doors, and that if Plaintiffs are unable to ask about such non-public discussions, the most direct evidence of legislators’ intent will be shielded from view. For instance, as part of the Senate redistricting process, there were meetings between legislative staff and, in some instances, the leadership of the redistricting committees and individual Senators to discuss their individual districts. Fla. S. Comm. on Reapportionment, Transcript of proceeding at 165-168 (Dec. 6, 2011) (Tallahassee, Fla.) (Statements of Sens. Rich and Gaetz and Staff Director of the Senate Reapportionment Committee John Guthrie). There are no transcripts of these individual meetings, and thus, no public record of whether any legislators made statements in those meetings that betray an intent to favor an incumbent or party.

⁴ The Florida Supreme Court removed the legislators’ alternative proposal from the ballot. *Fla. Dept. of State v. Fla. State Conf. of NAACP Branches*, 43 So. 3d 662, 662 (Fla. 2010). The Court noted that the Legislature’s proposal was misleading: “While purporting to create and impose standards upon the Legislature in redistricting, the amendment actually eliminates actual standards and replaces them with discretionary considerations.” *Id.*

and then, after it passed, by challenging the Amendments in federal court.⁵ Through the current motion, the Legislative Defendants attempt to shield from Plaintiffs, the public, and the Court the best and most direct evidence of intentional partisan gerrymandering and incumbent favoritism – the very behavior Florida voters amended their Constitution to eliminate.

ARGUMENT

I. APPLYING LEGISLATIVE PRIVILEGE TO PREVENT PLAINTIFFS FROM OBTAINING THE REQUESTED DISCOVERY WOULD CONFLICT WITH THE PURPOSES OF THE FAIR DISTRICTS AMENDMENTS AND THWART THE WILL OF THE PEOPLE

Granting Defendants' motion would impose a substantial barrier to the Court's ability to assess compliance with Amendment 6 and Plaintiffs' efforts to uncover evidence of the Legislature's intent in adopting the congressional map – a map the Coalition Plaintiffs have shown bears all the outward hallmarks of unconstitutional incumbent favoritism and partisan gerrymandering.⁶ As discussed below, despite the Legislative Defendants' contentions, Florida law does not support application of legislative privilege to allow Defendants to avoid the discovery Plaintiffs seek. To the contrary, applying the privilege here would be inconsistent with the Florida Constitution and would thwart the will of the people as expressed in Amendment 6, which puts the intent of the legislators involved in drawing the challenged map squarely at issue. "Constitutional provisions must never be construed in such a manner as to make it possible for the will of the people to be frustrated or denied." *In re Legislative Apportionment*, 83 So. 3d at 631 (quoting *Lewis v. Leon Cnty.*, 73 So. 3d 151, 153-54 (Fla.

⁵ The legislators unsuccessfully challenged the amendment in *Brown v. Sec'y of State*, 668 F.3d 1271 (11th Cir. 2012).

⁶ See Coalition Summary Judgment Brief at 8-41.

2011)). “Every word of the Florida Constitution should be given its intended meaning and effect.” *In re Apportionment Law, etc.*, 263 So. 2d 797, 807 (Fla. 1972).

The Legislative Defendants’ assertion of legislative privilege in this matter is yet another attempt to eviscerate the Fair Districts Amendments by shielding from discovery the most direct, and possibly the only, source of evidence of improper legislative intent: the testimony and documents of the legislators and staff who drew and enacted the map, and even potentially third-party consultants.⁷ Indeed, allowing the use of the privilege here would provide legislators – particularly those acting with prohibited intent – a clear path to circumvent the Constitution and a free pass to do so. It will mean that the very behavior that the people of Florida, through their Constitution, have forbidden, *i.e.*, backroom deals favoring or disfavoring a party or an incumbent, may be conducted with impunity so long as legislators and their staff are careful enough not to reveal their intent on the public record. This was clearly not the people’s will in enacting the Fair Districts Amendments – which the Florida Supreme Court has held permit “no

⁷ Defendants have refused even to identify outside consultants who were involved in the redistricting process. In response to the Coalition Plaintiffs’ Interrogatories and Document production requests requesting the identify of outside consultants or organizations and production of documents pertaining to communications with them, the Legislative Defendants do not deny that they used outside consultants, but decline even to provide their identities, claiming that information is protected from discovery. See Florida Senate’s Resp. and Objections to LOWV Pls’ First Req. for Interrogs, Responses to Interrogs. 1, 2, Exhibit 1 hereto; Florida House of Representatives’ Resp. and Objections to LOWV Pls’ First Interrogs and Req. for Produc. Of Docs.: Responses to Req. for Prod. 7, 13 and Response to Interrog. 1, Exhibit 2 hereto. Not only does this prevent Plaintiffs from seeking information from those sources, it precludes an assessment of whether the privilege has been waived. Even if this court were to find that legislative privilege does potentially apply, the privilege has likely been waived. As noted by one Court, it is “all but disingenuous” for the state legislature to claim legislative privilege in a proceeding determining the constitutionality of the Legislature’s actions, when the Legislature “clearly did not concern itself with maintaining that privilege when it hired outside consultants to help develop its plans.” *Baldus v. Members of the Wis. Gov’t Accountability Bd.*, 2011 U.S. Dist. LEXIS 142338, *7 (E.D. Wis. Dec. 8, 2011) (citation omitted).

acceptable level of improper intent.” In re Legislative Apportionment, 83 So. 3d at 617 (emphasis added).

Neither the Florida Constitution nor any Florida statute provides for a legislative privilege for Florida state legislators. As discussed below, one court has recently recognized a *limited* common law legislative privilege for Florida state legislators. This limited common law privilege should not be permitted to override a constitutional provision expressing the will of the people.

II. THE LIMITED COMMON LAW PRIVILEGE RECENTLY RECOGNIZED FOR FLORIDA STATE LEGISLATORS DOES NOT JUSTIFY NONDISCLOSURE IN THIS CASE

Under Florida law, the legislative privilege is quite limited and does not shield production of documents and testimony where, as here, the Florida Constitution requires inquiry into legislative intent. The Legislative Defendants rely heavily on the one case that has directly addressed the question of whether there is a legislative privilege for Florida state legislators, *Florida House of Representatives v. Expedia*, 85 So. 3d 517 (Fla. Dist. Ct. App. 1st Dist. 2012). This reliance is misplaced. *Expedia* supports disclosure in this case.

In *Expedia*, the First District Court of Appeal found that, despite the fact that neither Florida’s Constitution nor Florida’s statutes provide for such a privilege, Florida state legislators may assert a limited legislative privilege based on common law. However, the *Expedia* court made clear that the legislative privilege it was recognizing for the first time under Florida law “*is not absolute.*” *Expedia*, 85 So. 3d at 525 (emphasis added). The court emphasized that “[a] court will always have to make a preliminary inquiry to determine whether the information is within the scope of the privilege and *whether the need for privacy is outweighed by a more important governmental interest.*” *Id.* at 525 (emphasis added). In this matter, it could not be

clearer that the enforcement of the voters' constitutional right to fair districts far outweighs whatever minimal interest, if any, the Legislature has in shielding its deliberations over the very public business of redistricting from disclosure. "The obligations set forth in the Florida Constitution [by the Fair Districts Amendments] are directed not to the Legislature's right to draw districts, but to the people's right to elect representatives in a fair manner so that each person's vote counts equally and so that all citizens receive 'fair and effective representation.'" *In re Legislative Apportionment*, 83 So. 3d at 600.

In *Expedia*, the dispute that gave rise to the court's application of legislative privilege was peripheral to the case, and the Court noted that Expedia claimed to need the subpoenaed documents to refute a potential argument that Expedia had waived a privilege, which the opposing party had not even raised. In that context, the court determined that "no [important governmental] interest has been demonstrated in the present case." *Expedia*, 85 So. 3d at 525. This case is at the opposite end of the spectrum from *Expedia*. Plaintiffs seek the most direct and potentially the only available evidence that the Florida Legislature violated the state's Constitution in order to make out their core claims in this action.

Here, the important governmental interest at stake clearly outweighs the legislators' claimed need for privacy. Plaintiffs seek to vindicate the people's constitutional right to a fair and unbiased reapportionment plan that will give them a true opportunity to elect the political representatives of their choice, as opposed to the candidates favored by the powers-that-be in the current Legislature. The discovery sought by Plaintiffs would be highly probative, since improper legislative intent would establish a violation of Amendment 6, and the testimony and

documents requested will likely be the best available evidence of the legislators' intent.⁸ It is unlikely that revealing information about the legislators' intent will be available to Plaintiff's through other means.⁹

Further, obtaining this evidence is vital to Plaintiffs' case, as both this Court and the Florida Supreme Court have stated that the partisan results of the Legislature's actions – evidenced by the map itself – are likely insufficient to prove the legislators' intent. *See* Order Denying Pls.' Summary Judgment Mot at 8-9 (“There are simply too many other factors at play... to find unlawful intent based merely on the projected partisan breakdown of the congressional plan.”) (citing *In re Legislative Apportionment* 83 So. 3d at 641-42). *See also In*

⁸ “[M]otive is often most easily discovered by examining the unguarded acts and statements of those who would otherwise attempt to conceal evidence of . . . intent.” *Cano v. Davis*, 193 F. Supp. 2d 1177, 1182 (C.D. Cal. 2002) (Reinhardt, J., concurring in part). “The statements of legislators involved in the process, especially leaders and committee chairmen, as well as the authors of the legislation involved, may in some instances be the best available evidence as to legislative motive.” *Id.* Moreover, as noted below, this Court and the Supreme Court have already rejected the very argument Defendants are making here – that the face of the statute and other objective indicia of legislative intent are sufficient to determine whether the Legislature has complied with the Amendments. *See* Order Denying Pls.' Summary Judgment Mot at 8-9; *In Re Joint Resolution of Legislative Apportionment 2-B*, 89 So. 3d 872, 897 (Fla. 2012).

⁹ Defendants suggest in their brief that “legislative motive is most appropriately ascertained from objective evidence, such as the enactment itself and the legislative record,” Def’s Mot. p. 19. They point out that there is a substantial legislative record available to Plaintiffs in publicly available sources and through documents being produced. *Id.* at 21. However, during the redistricting process that led to the congressional map, all of the legislators were aware of the proscriptions of Amendment 6. Legislators were unlikely to make damning statements in public, and indeed during the public hearings on redistricting, the Chairman of the Senate Reapportionment Committee, Don Gaetz, wrote a letter to his Senate colleagues stating that leaders of both chambers had agreed lawmakers “will not be recognized for comments or discussion or even for questions” at the hearings. Bill Kaczor, “Redistricting Group Calls Fla. Hearings ‘Charade’” Real Clear Politics, June 14, 2011, http://www.realclearpolitics.com/news/ap/politics/2011/Jun/14/redistricting_group_calls_fla_hearings_charade.html; *see also* Aaron Deslatte, “Florida Legislators Gird for Redistricting Battles,” Orlando Sentinel, June 19, 2011, http://articles.orlandosentinel.com/2011-06-19/news/os-redistricting-battle-begins-20110619_1_incumbents-or-political-parties-legislative-districts-congressional-districts (reporting that “Florida House and Senate leaders have already instructed their members to zip their lips during public hearings this summer.”).

Re Joint Resolution of Legislative Apportionment 2-B, 89 So. 3d 872, 897 (Fla. 2012)

(“Restricted to only a facial review of the Legislature’s *intent*, there will be times when this Court may seriously question the drawing of certain lines or the partisan balance of the plan but nevertheless uphold it because impermissible intent has not been proven based on the limited nature of the record before us”). Thus, if the Legislative Defendants are permitted to shield from discovery documents and testimony regarding their intent in enacting a congressional map with such demonstrable partisan effects, they may succeed in preventing any meaningful inquiry into whether their actions violated the Fair Districts Amendments, effectively rendering the Amendments unenforceable. However far the limited legislative privilege announced in *Expedia* extends, it should not extend that far.

On the other side of the balance required by *Expedia*, there is no apparent *legitimate* need for legislators and their staff to withhold documents and information concerning their reasons for drawing the congressional map the way they did. Apart from general assertions about the need of legislators to be free from the supposedly chilling effects of disclosure of their redistricting work prior to announcing and enacting the final product, *see, e.g.*, Def’s Mot. at 14, 16-17, the Legislative Defendants make no serious case concerning the need for privacy with regard to their redistricting deliberations.

That is not surprising. Redistricting is *public business* that plays a “crucial role . . . with respect to the right of citizens to elect representatives.” *In re Legislative Reapportionment*, 83 So. 3d at 600. “Indeed, the right to elect representatives – and the process by which we do so – is the very bedrock of our democracy.” *Id.* The Fair Districts Amendments reflect the people’s will that the Legislature redistrict in an open and fair manner, which is free of the partisan and incumbent-protecting taint so prevalent in past cycles. *See id.* at 599 (“With the recent addition

of [Amendment 6] to article III of the Florida Constitution, the Legislature is governed by a different and more comprehensive constitutional measurement than before – the limitations on legislative authority in apportionment decisions have increased and the constitutional yardstick has more measurements”).

As the court opined in *Baldus v. Members of the Wis. Gov't Accountability Bd.*, 843 F. Supp. 2d 955, 959 (E.D. Wis. 2012), “the truth here – regardless of whether the Court ultimately finds the redistricting plan unconstitutional – is extremely important to the public, whose political rights stand significantly affected by the efforts of the Legislature. On the other hand, no public good suffers by the denial of privilege in this case.” There is no legitimate reason for relevant information about the Legislature’s intent in drawing the congressional map to be shielded from public view; it must be disclosed so that Florida citizens may see and the Court may determine whether the Legislature faithfully complied with the requirements of the Florida Constitution.

Applying the *Expedia* court’s balancing test to the facts of this case weighs heavily in favor of allowing the discovery Plaintiffs’ seek. This Court should not expand the legislative privilege to enable Defendants to avoid this discovery.

III. DECISIONS FROM MANY OTHER COURTS SUPPORT PLAINTIFFS’ POSITION THAT THE LEGISLATIVE PRIVILEGE IS A QUALIFIED PRIVILEGE AND DOES NOT APPLY HERE

A. Legislative Privilege Does not Permit Legislators to Avoid Disclosure where, as Here, the Plaintiffs’ Interest in Obtaining the Discovery Sought Outweighs the Legislators’ Interest in Confidentiality.

As in *Expedia*, other courts, including the United States Supreme Court, have recognized that to the extent a legislative privilege exists, it is a qualified privilege that must yield in certain circumstances, and the need for requested testimony or documents may outweigh any arguable

harm to the legislative process caused by requiring legislators to provide them. For instance, in *U.S. v. Gillock*, 445 U.S. 360 (1980), the Supreme Court found that the privilege did not apply to state or local legislators in federal criminal prosecutions. *Gillock*, 445 U.S. 360 at 373 (“[W]e believe that recognition of an evidentiary privilege for state legislators for their legislative acts would impair the legitimate interest of the Federal Government in enforcing its criminal statutes with only speculative benefit to the state legislative process.”); *Village of Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252 (1977) (stating that in extraordinary instances members of a legislative body might be called to testify at trial in civil case concerning the purpose of official action); see also *Girardeau v. State*, 403 So. 2d 513, 514 (Fla. Dist. Ct. App. 1st Dist. 1981) (legislative privilege based only on “generalized interest in confidentiality” does not permit legislator to avoid testifying before grand jury).¹⁰

In *Baldus v. Members of the Wis. Gov’t Accountability Bd.*, 2011 U.S. Dist. LEXIS 142338 (E.D. Wis. Dec. 8, 2011), a three judge panel of the U.S. District Court for the Eastern District of Wisconsin considered motions to quash subpoenas issued to a legislative aide to the Wisconsin State Senate Majority Leader and a lawyer employed by a firm the legislature had hired as a consulting expert to provide legal advice related to the development of a state redistricting plan. The Court found that legislative privilege would not apply, since legislative privilege is “a qualified privilege that can be overcome by a showing of need.” *Id.* at 8.

¹⁰ In general, privileges are to be strictly construed since “testimonial exclusionary rules and privileges contravene the fundamental principle that ‘the public ... has a right to every man’s evidence’” *Trammel v. United States*, 445 U.S. 40, 50 (1980), quoting *United States v. Bryan*, 339 U.S. 323, 331 (1950). They must be construed narrowly because “[p]rivileges impede the search for the truth.” *Pierce County v. Guillen*, 537 U.S. 129, 144-145 (2003), citing *Baldrige v. Shapiro*, 455 U.S. 345, 360 (1982). The Supreme Court has made clear that it does not apply an evidentiary privilege unless it “promotes sufficiently important interests to outweigh the need for probative evidence.” *Trammel*, 445 U.S. at 51.

After determining that the requested deposition testimony and documents pertaining to the legislative body's intent were both relevant and important as direct evidence, the court ordered that the depositions should proceed and the documents be produced. The Court opined that while allowing the plaintiffs access to the requested discovery "may have some minimal 'chilling effect' on the legislature," it was outweighed by the "highly relevant and potentially unique nature of the evidence." *Id.* at 8. In a subsequent opinion, the court characterized the Defendants' efforts to avoid disclosure as an apparent "desperate attempt to hide from both the Court and the public the true nature of exactly what transpired in the redistricting process." *Baldus v. Members of the Wis. Gov't Accountability Bd.*, 843 F. Supp. 2d 955, 958 (E.D. Wis. 2012). "[T]he Legislature has taken action that affects the voting rights of Wisconsin's citizens and now attempts to cloak the record of that action behind a charade masking as privilege." *Id.* See also *Florida Assoc. of Rehabilitation Facilities v. Fl. Dep't of Health & Rehabilitative Serv.*, 164 F.R.D. 257, 268 (N.D. Fla. 1995) ("even if a privilege as to particular questions is to be recognized, it may be overcome by a showing of need"); *United States v. Irvin*, 127 F.R.D. 169, 174 (C.D. Cal. 1989) ("[The Voting Rights Act] requires vigorous and searching federal enforcement [T]he Supervisors' deliberative process privilege must yield in this instance to the need for disclosure. . . . This Court is not convinced that the occasional instance in which disclosure may be ordered in a civil context will add measurably to the inhibitions already attending legislative deliberations").

Similarly, in *Manzi v. DiCarlo*, 982 F. Supp. 125 (E.D.N.Y. 1997), an employment termination case, the court ordered the production of certain documents concerning allocations of funds to a state senator because "the discovery and trial needs of plaintiff in enforcing her rights under federal law clearly outweigh the State Defendants' need for confidentiality." *Manzi*, 982 F.

Supp. at 129.¹¹ As argued above, the negligible privacy interests of individual legislators in shielding their discussions concerning the very public business of enactment of the Florida congressional map must give way to the public's right to know whether their representatives have faithfully fulfilled their duties under the Florida Constitution – particularly when that determination turns on the intent of the legislators – and to challenge an unconstitutional map effectively.

B. Legislative Privilege Does Not Permit Legislators to Avoid Disclosure Where, as Here, the Legislative Process Itself is at Issue in the Case.

When the subject of the legal claims at issue is the legislative process itself, legislative privilege does not apply. *See, e.g., East End Ventures et al. v. Village of Sag Harbor*, 2011 U.S. Dist. LEXIS 145472, *12-13 (E.D.N.Y. Dec. 19, 2011) (“Because the subject matter on which Plaintiffs seek testimony is one of the central issues in this case, the legislative privilege is inapplicable.”) (*citations omitted*). *See also Children First Found., Inc. v. Martinez*, No. 04-0927, 2007 U.S. Dist. LEXIS 90723, *26-27 (N.D.N.Y. Dec. 10, 2007) (holding that the deliberative process privilege only protects the government's deliberative process from inquiry if

¹¹ In balancing a party's need for the evidence against the legislature's interest in protecting it from disclosure, some courts have applied a five factor test including "(i) the relevance of the evidence sought to be protected; (ii) the availability of other evidence; (iii) the 'seriousness' of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable." *See, e.g., Rodriguez v. Pataki*, 293 F. Supp. 2d 302, 304 (S.D.N.Y. 2003). As discussed above, the information Plaintiffs seek is (i) clearly highly relevant, and (ii) unlikely to be available through other sources. With respect to the seriousness of the litigation (iii), Plaintiffs allege violation of a constitutional provision and raise serious questions about the legitimacy of the Florida state Legislature's redistricting process and the viability of the challenged map. Regarding the role of the government (iv), state legislators were directly involved in the allegedly unlawful conduct. With respect to factor (v), while the need to encourage frank and open discussions among the legislators is not unimportant, in this case – where a constitutional provision explicitly limits the motivations upon which legislators may take certain action – the privacy interest must take a back seat to the people's right to enforce the Constitution.

it is collateral to the litigation); *Fl. Ass'n of Rehab. Fac., Inc.*, 164 F.R.D. at 268 (“[E]ven if the information sought is privileged, the privilege may not be applicable in this case. Plaintiffs have made a persuasive argument that the subject matter of this case . . . is in part the legislative process itself.”).

“The privilege was fashioned in cases where the governmental decision making process is collateral to the plaintiff’s suit.” *In re Subpoena Duces Tecum Served on the Office of the Controller of the Currency*, 145 F.3d 1422, 1424 (D.C. Cir. 1998). But “[i]f either the Constitution or a statute makes the nature of governmental officials’ deliberations *the* issue, the privilege is a nonsequitur.” *Id.* (emphasis in original); *see also Jones v. City of College Park*, 237 F.R.D. 517, 521 (N.D. Ga. 2006) (finding that the deliberative process privilege which protects against disclosure of governmental deliberations “is simply inapplicable [where] government intent is at the heart of the issue”). This is because where the government information protected by the privilege – legislators’ deliberative process – is the basis for a constitutional or statutory cause of action, “the privilege’s *raison d’etre* evaporates.” *In re: Subpoena Duces Tecum*, 145 F.3d at 1424 (D.C. Cir. 1998).¹² In short, if the plaintiff’s cause of action is directed at the government’s intent, as here, “it makes no sense to permit the government to use the privilege as a shield.” *Id.*

The intent of the Legislature in enacting the redistricting plan is *the* primary issue to be assessed in evaluating Plaintiffs’ claims; an inquiry into the Legislature’s intent is required to determine whether or not there has been a violation of the Florida Constitution. Creating districts with improper intent is a direct violation of the Florida Constitution, and it is this alleged

¹² While some courts have made this finding in the context of discussing application of the “deliberative process” privilege as opposed to “legislative” privilege, the distinction is not significant for purposes of this argument. *See East End Ventures* 2011 U.S. Dist. LEXIS 145472 at *7 [citation format](discussing the interchangeability of the two privileges).

unlawful conduct that is being challenged in this action. Assessing the legislature's intent includes considerations such as how the challenged map – and the districts within it – came about, what factors were taken into account in drafting the map, and what the legislators' motivations were when doing so. The legislative process – and specifically the legislators' decision making process – are the *focus* of the assessment.

As Defendants recognize in their brief, the purpose of the legislative privilege is ultimately to benefit the people, not to protect legislators individually. Def's Mot. at 14. Legislative privilege does not exist "to protect legislators' individual interests, 'but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear.'" *Id.* at 14 (quoting *Coffin v. Coffin*, 4 Mass. 1, 27 (1808)). As one court put it,

Government documents are protected from discovery so that the public will benefit from more effective government; when the public's interest in effective government would be furthered by disclosure, the justification for the privilege is attenuated. Thus, [when the information] sought may shed light on alleged government malfeasance, the privilege is denied.

In re Franklin Nat'l Bank Sec. Litig., 478 F. Supp. 577, 582 (E.D.N.Y. 1979). Amendment 6 imposes specific limitations on how the legislative decision making process takes place, and the defendants should not be permitted to use legislative privilege as a shield to conceal any such potentially illegal conduct.

For all of these reasons, the plaintiffs' need for the discovery requested clearly outweighs the Legislature's alleged privacy interests. Amendment 6 explicitly limits the freedom of legislators to draw apportionment plans and districts in a manner that advances whatever intentions they may have. Enabling more effective government and furthering the public interest

– the rationales for the privilege in the first place – are better served in this case by disclosure than by allowing the legislative process to remain cloaked in secrecy.

CONCLUSION

Preventing the Plaintiffs in this action from obtaining information about the legislators' process in drawing the challenged map beyond what is available in the public record provides the Legislature a clear path to violating the will of the people as expressed in Amendment 6. If the Court grants the Legislative Defendants' motion for a protective order, it would be expanding the scope of the legislative privilege and frustrating the will of the people of Florida by imposing a significant and unnecessary barrier to enforcement of Amendment 6. For the reasons stated herein, and those stated in the Romo Plaintiffs' brief, the Court should deny Defendants' motion.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that the foregoing was furnished by electronic mail to the following parties on this 28th day of August, 2012:

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EXHIBIT 1

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

RENE ROMO, an individual; BENJAMIN
WEAVER, an individual; *et. al.*,

Plaintiffs,

v.

Case No. 2012-CA-000412

KEN DETZNER, in his official capacity
as Florida Secretary of States, PAMELA
JO BONDI, in her official capacity as
Attorney General,

Defendants.

THE LEAGUE OF WOMEN VOTERS OF
FLORIDA; THE NATIONAL COUNCIL
OF LA RAZA; *et al.*,

Plaintiffs,

v.

Case No. 2012-CA-000490

KEN DETZNER, in his official capacity as
Florida Secretary of State; THE FLORIDA
SENATE; *et al.*,

Defendants.

**FLORIDA SENATE'S RESPONSES AND OBJECTIONS TO LOWV
PLAINTIFFS' FIRST REQUEST FOR INTERROGATORIES**

The Florida Senate (the "Senate") serves this response to the First Request for Interrogatories served by Plaintiffs, the League of Women Voters of Florida, *et al.*, on June 22, 2012. The Senate will respond consistent with the Florida Rules of Civil Procedure and other applicable law, and the Senate objects to the Discovery Requests' Instructions to the extent they

purport to impose additional duties. The Senate's responses to the Discovery Requests are made without in any way waiving or intending to waive, and the Senate expressly preserves:

- (A) All objections it may have as to the competence, relevance, materiality, and admissibility as evidence for any purpose of the information to be produced, or the subject matters thereof;
- (B) The right to object on any ground to the use of the information in any aspect of this or any other action;
- (C) All applicable privileges, exemptions, and protections from discovery;
- (D) All legislative privileges and immunities of its 120 independently elected constitutional officers and staff; and
- (E) The right at any time to supplement these responses.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: Identify by name, job title, and work address every person who had any responsibility, formal or informal, for assisting, advising, or consulting with the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them, with respect to the Redistricting Process in 2011 or 2012 and, for each such individual, please briefly describe the nature of those responsibilities. This request includes without limitation Legislators on the aforementioned Committees and any staff members, consultants, experts, map drawers, and other individuals who assisted or advised the aforementioned Committees with respect to: (a) technical assistance; (b) map drawing (including map drawing software); (c) proposed or draft maps; (d) goals, issues, or objectives to be achieved (or avoided); or (e) any other issue relating to the Redistricting Process.

ANSWER: Objection. This request is overbroad and unduly burdensome. Without limitation, the request is overbroad and unduly burdensome in that (i) it seeks information regarding the "Redistricting Process" generally, which included redistricting of state legislative

districts that are not at issue in this case, (ii) it seeks information regarding each individual member of the Florida Legislature, each of whom had some responsibility regarding the Redistricting Process, as they would with any legislative action, (iii) it seeks information regarding the Redistricting Process that is available publicly on its websites and through less intrusive or burdensome means, (iv) it seeks information regarding members of the public whose ideas were considered, and (v) it seeks information regarding Senate members and staff. Additionally, the Senate objects to the extent the request seeks disclosure of non-testifying experts who may have provided consultation regarding redistricting, as such requests are beyond the scope of discovery permitted by Florida Rule of Civil Procedure 1.280(b)(4). With respect to attorneys, the Senate objects to the request as being not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the Senate responds with the following information. Inquiries of listed individuals should be directed to undersigned counsel.

Senator Mike Haridopolos, President of the Florida Senate appointed the following members to the Committee on Reapportionment: Senator Don Gaetz, Chair, Senator Gwen Margolis, Vice Chair, Senator Thad Altman, Senator Lizbeth Benacquisto, Senator Oscar Braynon, II, Senator Larcenia J. Bullard, Senator Charles S. "Charlie" Dean, Sr., Senator Nancy C. Detert, Senator Miguel Diaz de la Portilla, Senator Greg Evers, Senator Anitere Flores, Senator Rene Garcia, Senator Andy Gardiner, Senator Audrey Gibson, Senator Alan Hays, Senator Arthenia L. Joyner, Senator Jack Latvala, Senator Evelyn J. Lynn, Senator Bill Montford, Senator Joe Negron, Senator Nan H. Rich, Senator Maria Lorts Sachs, Senator David Simmons, Senator Gary Siplin, Senator Eleanor Sobel, Senator Ronda Storms, and Senator John Thrasher. These committee members heard or read public testimony, considered alternatives, and reported legislation to the Senate. After Senate Bill 1174 was enacted, President

Haridopolos appointed the following members to the Committee on Reapportionment: Senator Christopher L. "Chris" Smith, and Senator Stephen R. Wise. The Committee on

Reapportionment was assisted by professional staff or consultants:

- John Guthrie, Staff Director, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in application and database development, staff support for public hearings and committee meetings, correspondence, content for Senate Redistricting website, and preparation and analysis of maps.
- Jay Ferrin, Senior Administrative Assistant, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in application and database development, staff support for public hearings and committee meetings, correspondence, and content for Senate Redistricting website.
- Alexis Lambert, Attorney, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in staff support for public hearings and committee meetings, correspondence, content for Senate Redistricting website, and preparation and analysis of maps.
- Benjamin Shankle, Legislative Analyst, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in staff support for public hearings and committee meetings, correspondence, content for Senate Redistricting website, and preparation and analysis of maps.
- Robert L. Clay, Information Systems Chief, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in application and database development, testing, deployment, operations, and support.

- Chris Judd, Information Systems Engineer, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in application and database development, testing, deployment, operations, and support.
- Tamas Juhasz, Information Systems Engineer, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in application and database development.
- April Williford, Information Systems Engineer, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in database development.
- James Farr, Information Systems Engineer, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in database development.
- Daniel Porter, Information Systems Support Specialist, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in application and database development and testing.
- Amy Convery, Consultant, Senate Committee on Reapportionment, 404 South Monroe Street, Tallahassee, Florida 32399-1100. Assisted in database development.
- Daryl Huffman, Information Systems Engineer, Office of Economic and Demographic Research. Assisted in database development.
- Colin Beggs, Legislative Research Assistant, Office of Economic and Demographic Research. Assisted in database development.

- Stephen Hodge, Principal Consultant, Florida Resources and Environmental Analysis Center, UCC 2200 - Florida State University, Tallahassee, Florida 32306-2641. Assisted in testing and database development.
- Jeff McKenna, Consultant, Gateway Geomatics, P.O. Box 446, Lunenburg, NS, Canada, BOJ2CO. Assisted in custom build of MapServer for Windows technology stack.
- Joseph S. Testa II, Consultant, c/o Positron Security LLC, P.O. Box 93, Fairport, NY 14450. Assisted in security testing.

INTERROGATORY NO. 2: Identify by name, address and, if applicable, job title, all lawyers who provided legal advice to the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them, relating to redistricting in 2011 or 2012, including without limitation outside counsel..

ANSWER: Objection. Interrogatory No. 2 is not reasonably calculated to lead to the discovery of admissible evidence. *See Fla. R. Civ. P. 1.280(b)(1).*

INTERROGATORY NO. 3: Identify any experts you have retained for this litigation, and describe the subjects they will address.

ANSWER: To the extent Interrogatory No. 3 seeks the identities of experts whom the Senate has not determined to call at trial, it seeks information outside the scope of discovery permitted by Florida Rule of Civil Procedure 1.280(b)(4). The Senate has not identified the experts that may participate in this litigation or the subjects they might address.

INTERROGATORY NO. 4: Identify each document or other exhibit that you may offer at the trial of this case.

ANSWER: The Senate has not identified the documents or other exhibits it may offer at trial. It is likely to offer some or all of the following: proposed redistricting plans and comments submitted by members of the public; transcripts of public hearings and legislative meetings; the State of Florida's Submission to the United States Department of Justice under Section 5 of the Voting Rights Act; filings submitted to the Florida Supreme Court in Case No. 12-1 or Case No. SC12-460; paid political advertising of the Amendment Six political committee sponsor; congressional maps, legal reviews, and preclearance letters from prior redistricting cycles; congressional and legislative maps from other prior or ongoing litigation; census and demographic data from the U.S. Census Bureau; elections history and voter registration data from the Florida Department of State and Florida's 67 Supervisors of Elections; data reports for redistricting plans.

INTERROGATORY NO. 5: Identify each person whom you intend to call as a witness at the trial of this case.

ANSWER: The Senate has not identified the witnesses it will call at trial.

INTERROGATORY NO. 6: Identify by name, job title, and work or home address every person who participated in investigating, collecting, or preparing information or documents in response to these interrogatories and requests for production of documents.

ANSWER: The following individuals participated in the preparation of these responses, with the assistance of counsel of record. Inquiries of the following individuals should be directed to undersigned counsel.

- John Guthrie, Staff Director, Committee on Reapportionment
- Ben Shankle, Legislative Analyst, Committee on Reapportionment
- Tom Cibula, Staff Director, Committee on Judiciary



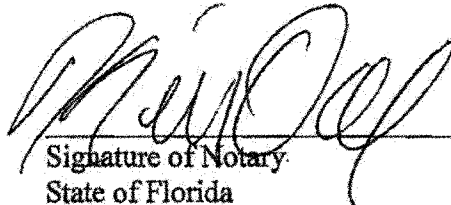
John Guthrie
Staff Director
Senate Committee on Reapportionment

STATE OF FLORIDA

COUNTY OF LEON


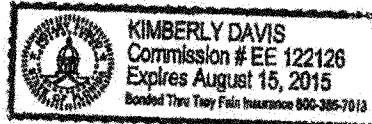
Before me, the undersigned authority, personally appeared John Guthrie, who swears or affirms that he has read the above and foregoing answers to interrogatories and the same are true and correct to the best of his knowledge and belief. He is personally known to me.

Sworn to or affirmed before me this 27th day July 2012.



Signature of Notary
State of Florida

Commission Expires:



Leah Marino (FBN 309140)
Deputy General Counsel, The Florida Senate
(as to objections)

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

RENE ROMO, an individual; BENJAMIN
WEAVER, an individual; *et al.*,

Plaintiffs,

v.

Case No. 2012-CA-000412

KEN DETZNER, in his official capacity
as Florida Secretary of States, PAMELA
JO BONDI, in her official capacity as
Attorney General,

Defendants.

THE LEAGUE OF WOMEN VOTERS OF
FLORIDA; THE NATIONAL COUNCIL
OF LA RAZA; *et al.*,

Plaintiffs,

v.

Case No. 2012-CA-000490

KEN DETZNER, in his official capacity as
Florida Secretary of State; THE FLORIDA
SENATE; *et al.*,

Defendants.

**FLORIDA SENATE'S RESPONSES AND OBJECTIONS TO LOWV
PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

The Florida Senate (the "Senate") serves this response to the First Request for Production of Documents and Interrogatories served by Plaintiffs, the League of Women Voters of Florida, *et al.*, on June 22, 2012. The Senate will respond consistent with the Florida Rules of Civil Procedure and other applicable law, and the Senate objects to the Discovery Requests' Instructions to the extent they purport to impose additional duties. The Senate's responses to the

Discovery Requests are made without in any way waiving or intending to waive, and the Senate expressly preserves:

- (A) All objections it may have as to the competence, relevance, materiality, and admissibility as evidence for any purpose of the information to be produced, or the subject matters thereof;
- (B) The right to object on any ground to the use of the information in any aspect of this or any other action;
- (C) All applicable privileges, exemptions, and protections from discovery;
- (D) All legislative privileges and immunities of its 120 independently elected constitutional officers and staff; and
- (E) The right at any time to supplement these responses.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Any and all documents relating to communications between Professional Staff and Legislators or between Professional Staff and any Personal Staff related to Florida's Congressional Redistricting Process, plans submitted to the Legislature during Florida's Congressional Redistricting Process, drafts of the Legislature's Congressional Plan, draft Congressional Plans, or the Legislature's Congressional Plan.

RESPONSE: Objection. This request is overbroad and unduly burdensome. Without limitation, the request is overbroad and unduly burdensome in that (i) it seeks information regarding each individual member and all Personal Staff of the Senate, and (ii) it seeks information regarding House members and staff. The Senate further objects to the extent this seeks communications from its independently elected constitutional officers that are not in the possession, custody, or control of the Senate. The Senate further objects to the extent this seeks communications protected by attorney-client, work-product, or legislative privilege, or matters beyond the scope of expert discovery as delineated in Florida Rule of Civil Procedure

1.280(b)(4). Subject to these objections, the Senate will produce at a mutually convenient time and location certain non-privileged materials in the possession, custody, or control of its Florida Senate Committee on Reapportionment, including congressional maps presented to the reapportionment committees, meeting packets and related information, transcripts of hearings, staff analyses, and information provided to the United States Department of Justice.

Furthermore, the Senate will conduct a reasonable search for electronic records on Senate-maintained computers for the members of the Florida Senate Committee on Reapportionment, its Personal Staff, and the Professional Staff of the Florida Senate Committee on Reapportionment, using a reasonable number of search terms related to Plaintiffs' request, and will produce non-privileged records at a mutually convenient time and location, subject to redaction of confidential information.

REQUEST FOR PRODUCTION NO. 2: Any and all documents relating to any communication or meeting between any Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff and any Federal Political Candidate, incumbent member of the Florida delegation to the U.S. Congress (including their staffs, agents and consultants), Political Consultant to a Federal Political Candidate, Lobbyist, or Trade Association concerning the FairDistricts Amendments, drafts of the Legislature's Congressional Plan, draft Congressional Plans, the Legislature's Congressional Plan, or Florida's Congressional Redistricting Process.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above.

REQUEST FOR PRODUCTION NO. 3: Any and all documents relating to any communication or meeting between any Legislator on either the Senate Committee on

Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff and the Governor or Attorney General of Florida, including any employees, staff, or agents (including vendors and consultants) of the Governor's or Attorney General's Office, concerning the FairDistricts Amendments, drafts of the Legislature's Congressional Plan, draft Congressional Plans, the Legislature's Congressional Plan, or Florida's Congressional Redistricting Process.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above.

REQUEST FOR PRODUCTION NO. 4: Any and all documents related to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff that evaluate, discuss, analyze, or assess whether plans submitted to the Legislature, the Legislature's Congressional Plan, draft Congressional Plans, or drafts of the Legislature's Congressional Plan comply with the FairDistricts Amendments.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above.

REQUEST FOR PRODUCTION NO. 5: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff concerning the effect or consequences of drafts of the Legislature's Congressional Plan, draft Congressional Plans, or the Legislature's Congressional Plan on any election, political party, political candidate, or racial or language minority.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above.

REQUEST FOR PRODUCTION NO. 6: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff relating to the views of any Federal Political Candidate, Political Consultant to a Federal Political Candidate, Lobbyist, or Trade Association concerning plans submitted to the Legislature, the Legislature's Congressional Plan, draft Congressional Plans, or drafts of the Legislature's Congressional Plan.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above.

REQUEST FOR PRODUCTION NO. 7: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, personal Staff of any such Legislator, or Professional Staff regarding any 2012 Congressional redistricting plan for Florida that is not currently posted on any publicly available website. This includes plans prepared by outside consultants, organizations, or employees or consultants of outside organizations.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above. Furthermore, the Senate objects that Plaintiffs are not entitled to documents relating to non-testifying experts absent exceptional circumstances not present here, *see* Fla. R. Civ. P. 1.280(b)(4), and that certain draft maps and associated documents are exempt from public disclosure and protected from discovery by legislative privilege, *see* § 11.0431(2)(e), Fla. Stat.

REQUEST FOR PRODUCTION NO. 8: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff relating to the views of any federal, state, or local political party concerning plans submitted to the Legislature, drafts of the Legislature's Congressional Plan or the Legislature's Congressional Plan.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above.

REQUEST FOR PRODUCTION NO. 9: Any and all maps, data, software, or code you used during Florida's Redistricting Process other than the maps, data, software, and code available from the websites: <http://mydistrictbuilder.wordpress.com/opendata> or <http://mydistictbuilder.codeplex.com>. For the avoidance of doubt, for this request maps, data, software, or code are "used" if they were used directly or if they were used indirectly such as by being accessible through a computer program, database, or other mechanism that was accessed, viewed or used by you during Florida's Redistricting Process.

RESPONSE: Objection. This request is overbroad and unduly burdensome. Responsive maps and data are published on the Senate Redistricting website (<http://www.flsenate.gov/Redistricting>). Draft maps and associated documents are exempt from public disclosure and protected from discovery by legislative privilege. See § 11.0431(2)(e), Fla. Stat. Public access to the Senate's District Builder software and user manual has been in place since May 6, 2011. The request for software or code beyond what already is publicly available is not reasonably calculated to lead to the discovery of admissible evidence. Such code and software relates to, among other things, direct access authorizations, security measures,

administrative tasks, technical development, or draft reports, none of which is relevant here.

Subject to these objections, the Senate will produce at a mutually convenient time and place non-privileged maps and reports, along with underlying data.

REQUEST FOR PRODUCTION NO. 10: All documents which you intend to submit at any trial or hearing in this action, or in support of or in opposition to any motion for summary judgment or other dispositive motion in this Action.

RESPONSE: The Senate has not identified the documents or other exhibits it may submit. It is likely to offer some or all of the following: proposed redistricting plans and comments submitted by members of the public; transcripts of public hearings and legislative meetings; the State of Florida's Submission to the United States Department of Justice under Section 5 of the Voting Rights Act; filings submitted to the Florida Supreme Court in Case No. 12-1 or Case No. SC12-460; paid political advertising of the Amendment Six political committee sponsor; congressional maps, legal reviews, and preclearance letters from prior redistricting cycles; congressional and legislative maps from other prior or ongoing litigation; census and demographic data from the U.S. Census Bureau; elections history and voter registration data from the Florida Department of State and Florida's 67 Supervisors of Elections; data reports for redistricting plans.

REQUEST FOR PRODUCTION NO. 11: All documents provided by you to any expert in connection with this Action.

RESPONSE: Objection. Plaintiffs are not entitled to documents relating to non-testifying experts absent exceptional circumstances not present here. As to experts who will testify, the Senate objects to the extent this seeks documents protected by attorney-client, work-product, or legislative privilege.

REQUEST FOR PRODUCTION NO. 12: All meeting agendas, meeting packets, announcements, minutes, recordings, and notes prepared by any member, employee, agent, consultant or representative of either the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them.

RESPONSE: Objection. The Senate incorporates the objections and response to Request for Production No. 1, above. Subject to these objections, the Senate will produce at a mutually convenient time and location meeting packets and related information, transcripts of hearings, staff analyses, meeting notices, and meeting agendas.

REQUEST FOR PRODUCTION NO. 13: All documents reflecting or relating to all work performed by any expert retained by the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them, in connection with redistricting in 2011 and 2012, including expert reports, draft reports, notes prepared by the expert, and maps prepared by the expert.

RESPONSE: Objection. To the extent this request relates to the House, it is overbroad and unduly burdensome, and seeks information beyond the possession, custody, or control of the Senate. Plaintiffs are not entitled to documents relating to non-testifying experts absent exceptional circumstances not present here. As to experts who will testify, Plaintiffs are not entitled to drafts, notes, or related materials.

REQUEST FOR PRODUCTION NO. 14: All documents you produce in response to the Romo Plaintiffs' First Interrogatories and Requests for Production of Documents to Defendants.

RESPONSE: The Senate will produce documents responsive to this request at a mutually convenient time and location.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by electronic mail on July 27, 2012, to the persons listed on the attached Service List.



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EXHIBIT 2

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

RENE ROMO, an individual; BENJAMIN
WEAVER, an individual; *et. al.*,

Plaintiffs,

vs.

CASE NO. 2012-CA-00412

KEN DETZNER, in his official capacity
as Florida Secretary of States, PAMELA
JO BONDI, in her official capacity as
Attorney General,

Defendants.

THE LEAGUE OF WOMEN VOTERS OF FLORIDA;
THE NATIONAL COUNCIL OF LA RAZA;
et al.,

Plaintiffs,

vs.

CASE NO. 2012-CA-00490

KEN DETZNER, in his official capacity
as Florida Secretary of State; THE FLORIDA SENATE;
et al.,

Defendants.

**NOTICE OF SERVING
THE FLORIDA HOUSE OF REPRESENTATIVES'
RESPONSES AND OBJECTIONS TO LOWV PLAINTIFFS'
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES**

The Florida House of Representatives gives notice of its serving its Responses and
Objections to the LOWV Plaintiffs' First Request for Production of Documents and
Interrogatories, served June 22, 2012.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by electronic mail on this 27th
day of July, 2012, to those on the attached Service List.

Miguel De Grandy (FBN 332331)
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IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

RENE ROMO, an individual; BENJAMIN
WEAVER, an individual; *et. al.*,

Plaintiffs,

v.

Case No. 2012-CA-000412

KEN DETZNER, in his official capacity
as Florida Secretary of States, PAMELA
JO BONDI, in her official capacity as
Attorney General,

Defendants.

THE LEAGUE OF WOMEN VOTERS OF
FLORIDA; THE NATIONAL COUNCIL
OF LA RAZA; *et al.*,

Plaintiffs,

v.

Case No. 2012-CA-000490

KEN DETZNER, in his official capacity as
Florida Secretary of State; THE FLORIDA
SENATE; *et al.*,

Defendants.

**FLORIDA HOUSE OF REPRESENTATIVES'
RESPONSES AND OBJECTIONS TO LOWV PLAINTIFFS' FIRST
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

The Florida House of Representatives (the "House") serves this response to the First Request for Production of Documents and Interrogatories served by Plaintiffs, the League of Women Voters of Florida, *et al.*, on June 22, 2012. The House will respond consistent with the Florida Rules of Civil Procedure and other applicable law, and the House objects to the Discovery Requests' Instructions to the extent they purport to impose additional duties. The

House's responses to the Discovery Requests are made without in any way waiving or intending to waive, and the House expressly preserves:

- (A) all objections it may have as to the competence, relevance, materiality, and admissibility as evidence for any purpose of the information to be produced, or the subject matters thereof;
- (B) the right to object on any ground to the use of the information in any aspect of this or any other action;
- (C) all applicable privileges, exemptions, and protections from discovery;
- (D) all legislative privileges and immunities of its 120 independently elected constitutional officers and staff; and
- (E) the right at any time to supplement these responses.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Any and all documents relating to communications between Professional Staff and Legislators or between Professional Staff and any Personal Staff related to Florida's Congressional Redistricting Process, plans submitted to the Legislature during Florida's Congressional Redistricting Process, drafts of the Legislature's Congressional Plan, draft Congressional Plans, or the Legislature's Congressional Plan.

RESPONSE: Objection. This request is overbroad and unduly burdensome. Without limitation, the request is overbroad and unduly burdensome in that (i) it seeks information regarding each individual member and all Personal Staff of the House, and (ii) it seeks information regarding Senate members and staff. The House further objects to the extent this seeks communications from its independently elected constitutional officers that are not in the possession, custody, or control of the House. The House further objects to the extent this seeks communications protected by attorney-client, work-product, or legislative privilege, or matters beyond the scope of expert discovery as delineated in Florida Rule of Civil Procedure 1.280(b)(4). Subject to these objections, the House will produce at a mutually convenient time and location certain non-privileged materials in

the possession, custody, or control of its House Redistricting Committee and its Congressional Redistricting Subcommittee, including congressional maps presented to the redistricting committees, meeting packets and related information, transcripts of hearings, staff analyses, and additional information provided to the United States Department of Justice. Furthermore, the House will conduct a reasonable search for electronic records on House-maintained computers for the members of the House Redistricting Committee and its Congressional Redistricting Subcommittee, their Personal Staff, and the Professional Staff of the House Redistricting Committee and its Congressional Redistricting Subcommittee, using a reasonable number of search terms related to Plaintiffs' request, and will produce non-privileged records at a mutually convenient time and location, subject to redaction of confidential information.

REQUEST FOR PRODUCTION NO. 2: Any and all documents relating to any communication or meeting between any Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff and any Federal Political Candidate, incumbent member of the Florida delegation to the U.S. Congress (including their staffs, agents and consultants), Political Consultant to a Federal Political Candidate, Lobbyist, or Trade Association concerning the FairDistricts Amendments, drafts of the Legislature's Congressional Plan, draft Congressional Plans, the Legislature's Congressional Plan, or Florida's Congressional Redistricting Process.

RESPONSE: Objection. The House incorporates the objections and response to RFP No. 1, above.

REQUEST FOR PRODUCTION NO. 3: Any and all documents relating to any communication or meeting between any Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff and the Governor or Attorney General of Florida, including any employees, staff, or agents (including vendors and consultants) of the Governor's or Attorney General's Office, concerning the FairDistricts Amendments, drafts of the Legislature's Congressional Plan, draft Congressional Plans, the Legislature's Congressional Plan, or Florida's Congressional Redistricting Process.

RESPONSE: Objection. The House incorporates the objections and response to RFP

No. 1, above.

REQUEST FOR PRODUCTION NO. 4: Any and all documents related to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff that evaluate, discuss, analyze, or assess whether plans submitted to the Legislature, the Legislature's Congressional Plan, draft Congressional Plans, or drafts of the Legislature's Congressional Plan comply with the FairDistricts Amendments.

RESPONSE: Objection. The House incorporates the objections and response to RFP

No. 1, above.

REQUEST FOR PRODUCTION NO. 5: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff concerning the effect or consequences of drafts of the Legislature's Congressional Plan, draft Congressional Plans, or the Legislature's Congressional Plan on any election, political party, political candidate, or racial or language minority.

RESPONSE: Objection. The House incorporates the objections and response to RFP

No. 1, above.

REQUEST FOR PRODUCTION NO. 6: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff relating to the views of any Federal Political Candidate, Political Consultant to a Federal Political Candidate, Lobbyist, or Trade Association concerning plans submitted to the Legislature, the Legislature's Congressional Plan, draft Congressional Plans, or drafts of the Legislature's Congressional Plan.

RESPONSE: Objection. The House incorporates the objections and response to RFP

No. 1, above.

REQUEST FOR PRODUCTION NO. 7: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, personal Staff of any such Legislator, or Professional Staff regarding any 2012 Congressional redistricting plan for Florida that is not currently posted on any publicly

available website. This includes plans prepared by outside consultants, organizations, or employees or consultants of outside organizations.

RESPONSE: Objection. The House incorporates the objections and response to RFP No. 1, above. Furthermore, the House objects that Plaintiffs are not entitled to documents relating to non-testifying experts absent exceptional circumstances not present here, *see* Fla. R. Civ. P. 1.280(b)(4), and that certain draft maps and associated documents are exempt from public disclosure and protected from discovery by legislative privilege, *see* § 11.0431(2)(e), Fla. Stat.

REQUEST FOR PRODUCTION NO. 8: Any and all documents relating to communications involving a Legislator on either the Senate Committee on Reapportionment or the House Redistricting Committee, Personal Staff of any such Legislator, or Professional Staff relating to the views of any federal, state, or local political party concerning plans submitted to the Legislature, drafts of the Legislature's Congressional Plan or the Legislature's Congressional Plan.

RESPONSE: Objection. The House incorporates the objections and response to RFP No. 1, above.

REQUEST FOR PRODUCTION NO. 9: Any and all maps, data, software, or code you used during Florida's Redistricting Process other than the maps, data, software, and code available from the websites: <http://mydistrictbuilder.wordpress.com/opendata> or <http://mydisttictbuilder.codeplex.com>. For the avoidance of doubt, for this request maps, data, software, or code are "used" if they were used directly or if they were used indirectly such as by being accessible through a computer program, database, or other mechanism that was accessed, viewed or used by you during Florida's Redistricting Process.

RESPONSE: Objection. This request is overbroad and unduly burdensome. Furthermore, certain draft maps and associated documents are exempt from public disclosure and protected from discovery by legislative privilege. *See* § 11.0431(2)(e), Fla. Stat. Regarding software and code, the MyDistrictBuilder code is and has been public and open. The request for software or code beyond this is not reasonably

calculated to lead to the discovery of admissible evidence. This additional code and software relates to, among other things, administrative tasks, technical development, back-office function, or reporting, none of which is relevant here. Subject to these objections, the House will produce at a mutually convenient time and place non-privileged maps and reports, along with underlying data provided to the United States Department of Justice.

REQUEST FOR PRODUCTION NO. 10: All documents which you intend to submit at any trial or hearing in this action, or in support of or in opposition to any motion for summary judgment or other dispositive motion in this Action.

RESPONSE: The House has not yet determined all documents or exhibits that it may offer at the trial of the case. It is likely to offer some or all of the following, and will produce the following at a mutually convenient time and place: All maps offered by the committee beginning in December, 2011; all publicly submitted maps; transcripts of public hearings and legislative meetings; public written submissions; the DOJ preclearance application and attachments; maps submitted by Plaintiffs in the legislative reapportionment matter; paid political advertising of the Amendment Six political committee sponsor; congressional maps from earlier redistricting cycles; congressional and legislative maps from other ongoing and prior litigation; data reports for redistricting maps; census and demographic data from the U.S. Census Bureau; elections history and voter registration data from the Florida Department of State and Florida's 67 Supervisors of Elections; and DOJ correspondence, including preclearance denial letters..

REQUEST FOR PRODUCTION NO. 11: All documents provided by you to any expert in connection with this Action.

RESPONSE: Objection. Plaintiffs are not entitled to documents relating to non-testifying experts absent exceptional circumstances not present here. As to experts who will testify, the House objects to the extent this seeks documents protected by attorney-client, work-product, or legislative privilege.

REQUEST FOR PRODUCTION NO. 12: All meeting agendas, meeting packets, announcements, minutes, recordings, and notes prepared by any member, employee, agent, consultant or representative of either the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them.

RESPONSE: Objection. The House incorporates the objections and response to RFP No. 1, above. Subject to these objections, the House will produce at a mutually convenient time and location meeting packets and related information, transcripts of hearings, staff analyses, meeting notices, and meeting agendas.

REQUEST FOR PRODUCTION NO. 13: All documents reflecting or relating to all work performed by any expert retained by the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them, in connection with redistricting in 2011 and 2012, including expert reports, draft reports, notes prepared by the expert, and maps prepared by the expert.

RESPONSE: Objection. To the extent this request relates to the Senate, this request is overbroad and unduly burdensome, and seeks information beyond the possession, custody, or control of the House. Plaintiffs are not entitled to documents relating to non-testifying experts absent exceptional circumstances not present here. As to experts who will testify, Plaintiffs are not entitled to drafts, notes, or related materials. Subject to these objections, the House refers Plaintiffs to the expert affidavits filed in opposition to Plaintiffs' summary judgment motions. The disclosed experts have not created any additional final reports.

REQUEST FOR PRODUCTION NO. 14: All documents you produce in response to the Romo Plaintiffs' First Interrogatories and Requests for Production of Documents to Defendants.

RESPONSE: The House will produce documents responsive to this request at a mutually convenient time and location.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: Identify by name, job title, and work address every person who had any responsibility, formal or informal, for assisting, advising, or consulting with the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them, with respect to the Redistricting Process in 2011 or 2012 and, for each such individual, please briefly describe the nature of those responsibilities. This request includes without limitation Legislators on the aforementioned Committees and any staff members, consultants, experts, map drawers, and other individuals who assisted or advised the aforementioned Committees with respect to: (a) technical assistance; (b) map drawing (including map drawing software); (c) proposed or draft maps; (d) goals, issues, or objectives to be achieved (or avoided); or (e) any other issue relating to the Redistricting Process.

ANSWER: Objection. This request is overbroad and unduly burdensome. Without limitation, the request is overbroad and unduly burdensome in that (i) it seeks information regarding the "Redistricting Process" generally, which included redistricting of state legislative districts that are not at issue in this case, (ii) it seeks information regarding each individual member of the Florida Legislature, each of whom had some responsibility regarding the Redistricting Process, as they would with any legislative action, (iii) it seeks information regarding the Redistricting Process that is available publicly on its websites and through less intrusive or burdensome means, (iv) it seeks information regarding members of the public whose ideas were considered, and (v) it seeks information regarding Senate members and staff. Additionally, the House objects to the extent the request seeks disclosure of non-testifying experts who may have provided consultation regarding redistricting, as such requests are beyond the scope of

discovery permitted by Florida Rule of Civil Procedure 1.280(b)(4). With respect to attorneys, the House objects to the request as being not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the House responds with the following information:

The House formed a Redistricting Committee and a Congressional Redistricting Subcommittee. The Redistricting Committee was comprised of the following Representatives: Will Weatherford (Chair); Stephen Precourt (Vice Chair); Janet Adkins; Mack Bernard; Charles Chestnut IV; Chris Dorworth; Eric Eisnaugle; Erik Fresen; James Frishe; Doug Holder; Mike Horner; Dorothy Hukill; Evan Jenne; Mia Jones; Martin Kiar; John Legg; Peter Nehr; Hazelle Rogers; Darryl Rouson; Robert Schenk; and Ritch Workman. The Congressional Redistricting Subcommittee was comprised of the following representatives: Doug Holder (Co-Chair); John Legg (Co-Chair); Mike Horner (Vice Chair); Joseph Abruzzo; Ben Albritton; Jason Brodeur; Rachel Burgin; Charles Chestnut; Reggie Fullwood; Tom Goodson; Kathleen Passidomo; Scott Plakon; Betty Reed; Dwayne Taylor; and Carlos Trujillo.

These committee members were tasked with evaluating and proposing redistricting plans for consideration by the entire chamber. They assembled to hear public testimony at numerous public hearings throughout the state before proposing any plans, and they evaluated and considered voluminous written input, including proposed maps submitted by the public.

The Redistricting Committee and Congressional Redistricting Subcommittee were assisted by their professional staff. J. Alex Kelly was the staff director responsible for managing the staff, coordinating the public hearings, presenting proposals to the

committee, interacting with the public, creating proposals, interacting with Senate staff, and related tasks. Also on the professional staff were the following:

- a) Larry Aultman, who briefly served as a software developer;
- b) Bradley Boyce, who served as a software developer;
- c) Katie Crofoot, who served as a legislative research assistant for the committee, including duties related to administration, public outreach and logistics;
- d) Benjamin Fairbrother, who served as a legislative analyst for the committee, including duties related to administration, public outreach and logistics;
- e) Derek Morgan, who served as a software developer;
- f) Jason Poreda, who serves as a legislative analyst for the committee, including duties related to creating, presenting and analyzing proposals;
- g) Jeffrey Silver, who serves as an information systems engineer with the committee, including duties related to development and information technology, and creating, presenting and analyzing proposals;
- h) Jeffrey Takacs, who serves as a policy chief for the committee, including duties related to creating, presenting and analyzing proposals; and
- i) Bob West, who served as a policy chief for the committee, including duties related to development and information technology.

INTERROGATORY NO. 2: Identify by name, address and, if applicable, job title, all lawyers who provided legal advice to the Senate Committee on Reapportionment or the House Redistricting Committee, or any subcommittee of either of them, relating to redistricting in 2011 or 2012, including without limitation outside counsel..

ANSWER: Objection. Not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 3: Identify any experts you have retained for this litigation, and describe the subjects they will address.

ANSWER: To the extent this request seeks disclosure of non-testifying expert witnesses, the House objects, as such requests are beyond the scope of discovery permitted by Florida Rule of Civil Procedure 1.280(b)(4). Subject to that objection, the House responds by stating that it has retained Kevin Hill, Dario Moreno, and Thomas Brunell, who submitted affidavits in this action in opposition to Plaintiffs' motions for summary judgment. Thomas Brunell will not testify at trial. The House has not determined whether Professors Hill and Moreno will testify at trial or what subjects their testimony (if any) might address.

INTERROGATORY NO. 4: Identify each document or other exhibit that you may offer at the trial of this case.

ANSWER: The House has not yet determined all documents or exhibits that it may offer at the trial of the case. It is likely to offer some or all of the following: All maps offered by the committee beginning in December, 2011; all publicly submitted maps; transcripts of public hearings and legislative meetings; public written submissions; the DOJ preclearance application and attachments; maps submitted by Plaintiffs in the legislative reapportionment matter; paid political advertising of the Amendment Six political committee sponsor; congressional maps from earlier redistricting cycles; congressional and legislative maps from other ongoing and prior litigation; data reports for redistricting maps; census and demographic data from the U.S. Census Bureau; elections history and voter registration data from the Florida Department of State and Florida's 67 Supervisors of Elections; and DOJ correspondence, including preclearance denial letters.

INTERROGATORY NO. 5: Identify each person whom you intend to call as a witness at the trial of this case.

ANSWER: The House has not yet determined the witnesses it will call at trial.

INTERROGATORY NO. 6: Identify by name, job title, and work or home address every person who participated in investigating, collecting, or preparing information or documents in response to these interrogatories and requests for production of documents.

ANSWER: J. Alex Kelly, Jeff Silver, and Jeff Takacs, with the assistance of counsel of record. Each of these individuals is available through the undersigned counsel.


Verification of Interrogatories

Under penalties of perjury, I declare that I have read the foregoing responses to interrogatories and that the facts stated in them are true to the best of my knowledge and belief.



J. Alex Kelly

7/27/12



Allen Winsor (FBN 016295)
GRAYROBINSON, P.A.
(as to objections)