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IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

September 12, 2014

THE LEAGUE OF WOMEN VOTERS OF FLORIDA, *et al.*,

Appellants,

vs.

KEN DETZNER, *et al.*,

Appellees.
_____/

Case No. 1D14-3953
L.T. Case Nos. 2012 CA 000412
2012 CA 000490

THE LEGISLATIVE PARTIES' RESPONSE TO APPELLANTS' SUGGESTION FOR CERTIFICATION

Appellees, the Florida House of Representatives; Will Weatherford, in his official capacity as Speaker of the Florida House of Representatives; the Florida Senate; and Don Gaetz, in his official capacity as President of the Florida Senate (collectively, the "Legislative Parties"), respectfully offer their response to Appellants' Suggestion for Certification.

Under Florida Rule of Appellate Procedure 9.125(a), this Court may certify a trial court order of great public importance that "require[s] immediate resolution by the supreme court." *See also* Art. V, § 3(b)(5), Fla. Const. (conferring jurisdiction on Supreme Court to review orders "certified to require immediate resolution by the supreme court.") This Court must "determine whether (1) the

order or judgment is appealable; (2) the issues raised 'are of great public importance' . . . ; and (3) circumstances exist which require that the supreme court immediately resolve the issues, rather than permitting the normal appellate process to run its course." *Harris v. Coal. to Reduce Class Size*, 824 So. 2d 245, 246-47 (Fla. 1st DCA 2002).

The Florida Supreme Court has warned that DCAs should not use the rule to pass the buck on difficult issues:

> [W]e admonish the district courts . . . to discharge their responsibility to initially address the questions presented in a given case. Article V, section 3(b)(5) is not to be used as a device for avoiding difficult issues by passing them through to this Court. The constitution confines this provision to those matters that 'require immediate resolution by the supreme court.'

Carawan v. State, 515 So. 2d 161, 162 (Fla. 1987), *superseded by statute on other grounds as stated in State v. Smith*, 547 So. 2d 613 (Fla. 1989).

Here, Plaintiffs claim that certification is appropriate because "the subject of this litigation is of the utmost importance" (motion at 3). But in the absence of a showing of a need for "immediate relief," the mere fact that an appeal raises important issues—including constitutional concerns—does not warrant pass-through certification. *See Sancho v. Smith*, 830 So. 2d 856, 861 (Fla. 1st DCA 2002) (noting that the Supreme Court declined pass-through jurisdiction to decide the validity of a ballot summary for a proposed constitutional amendment about the death penalty); *Florida Ass'n of Realtors, Inc. v. Smith*, 825 So. 2d 532, 536 (Fla.

1st DCA 2002) (noting that the Supreme Court declined pass-through jurisdiction to decide the validity of a ballot summary for a proposed constitutional amendment concerning the sales tax); *see also In Interest of J.A.*, 561 So. 2d 356, 357 n.1 (Fla. 3d DCA 1990) (finding that issues relating to termination of parental rights, "while important, did not warrant 'bypass' certification under Rule 9.125, Florida Rules of Appellate Procedure").

Indeed, all district courts "consider countless questions of great public importance. A select few of those questions we certify to the supreme court *after* we have issued a reasoned decision. We pass through these questions only when they have a level of statewide urgency." *Shaw v. Shaw*, __ So. 3d __, 39 Fla. L. Weekly D1813a (Fla. 2d DCA Aug. 27, 2014) (Altenbernd, J., dissenting), *cited with approval*, *Shaw v. Shaw*, 39 Fla. L. Weekly S561a (Fla. Sept. 5, 2014) ("We decline at this time to accept jurisdiction of the appeal under article V, section 3(b)(5), for the reasons set forth in Judge Altenbernd's dissent.").

Plaintiffs fail to show that the required "urgency" exists. Plaintiffs do not seek to disturb the 2014 elections. The relief sought would affect only the 2016 ballot (motion at 2). The primary election is almost *two years* into the future, and candidate qualifying for the 2016 elections will not begin for more than 18 months. This case is therefore unlike any of the election-related cases that DCAs have certified for immediate resolution. In those cases, decisions were required within

days, weeks, or perhaps a few months—not a year and a half.[1] Plaintiffs cite no case construing the immediacy requirement as broadly as Plaintiffs advocate. Nor do Plaintiffs discuss the implications of a much-relaxed immediacy requirement. In any event, this appeal allows time for the "normal appellate process to run its course." *Harris*, 824 So. 2d at 246-47.

Plaintiffs argue that this Court has held that "the redistricting issues involved in this case are of such great public importance and urgency as to require pass-through certification" (motion at 4). But nothing in *Non-Parties v. League of Women Voters of Florida*, 39 Fla. L. Weekly D1300 (Fla. 1st DCA June 19, 2014) stands for the proposition that any appeal related to redistricting is so urgent that it requires pass-through certification. Indeed, in this same case this Court has

[1] *See Fla. Educ. Ass'n v. Fla. Dep't of State*, 48 So. 3d 694 (Fla. 2010) (certified September 16, 2010; decided October 7, 2010); *Fla. Dep't of State v. Fla. State Conference of NAACP Branches*, 43 So. 3d 662 (Fla. 2010) (certified July 14, 2014; decided August 31, 2014); *Roberts v. Doyle*, 43 So. 3d 654, 656 (Fla. 2010) (certified July 30, 2010; decided August 31, 2010); *Fla. Dep't of State v. Mangat*, 43 So. 3d 642 (Fla. 2010) (certified August 3, 2014; decided August 31, 2014); *Fla. Dep't of State v. Slough*, 992 So. 2d 142 (Fla. 2008) (certified August 19, 2008; decided September 15, 2008); *Am. Fed. of Labor & Congress of Indus. Orgs. v. Hood*, 885 So. 2d 373 (Fla. 2004) (certified October 1, 2004; decided October 18, 2004); *Reform Party of Fla. v. Black*, 885 So. 2d 303 (Fla. 2004) (certified September 13, 2004; decided September 17, 2004); *Smith v. Coal. to Reduce Class Size*, 827 So. 2d 959 (Fla. 2002) (certified July 26, 2002; decided September 13, 2002); *Armstrong v. Harris*, 773 So. 2d 7 (Fla. 2000) (certified March 31, 2000; decided September 7, 2000); *Smith v. Am. Airlines, Inc.*, 606 So. 2d 618 (Fla. 1992) (certified September 4, 1992; decided October 13, 1992); *State by Butterworth v. Republican Party of Fla.*, 604 So. 2d 477 (Fla. 1992) (certified April 14, 1992; decided August 27, 1992); *Askew v. Firestone*, 421 So. 2d 151, 152 (Fla. 1982) (certified October 7, 1982; decided October 21, 1982).

previously exercised its jurisdiction to review an order concerning the Legislative Parties' assertion of legislative privilege—without passing it through to the Supreme Court. *Florida House of Representatives v. Romo*, 113 So. 3d 117 (Fla 1st DCA 2013). Although the Supreme Court subsequently quashed this Court's opinion, it benefited from the Court's initial review, as it repeatedly relied on the dissenting opinion of Judge Benton in its analysis. *See League of Women Voters of Florida v. Florida House of Representatives*, 132 So. 3d 135, 138, 142, 153-54 (Fla. 2013).

This Court's *en banc* opinion in *Non-Parties* furnishes no precedent for pass-through certification in this much-different case. In that case, this Court held that the three-judge panel should have certified an appeal challenging the use at an ongoing trial of allegedly privileged documents. The panel rendered its decision on May 22, 2014—on the fourth day of a twelve-day trial—and barred any use of the disputed documents. Because it involved the use of documents at an ongoing trial, *Non-Parties* presented a question that required immediate resolution. Here, however, no such exigencies exist.

Moreover, in *Non-Parties* Plaintiffs successfully argued that certification was appropriate (i) to the extent that there were "serious concerns that the Non-Parties' rights are being impermissibly compromised," and (ii) because of "[t]he obvious impact of this case on Florida's congressional seats in the 2014 national

midterm elections", which was five months away (Ex. A at 5). Those two concerns are not present here, as the decisions under appeal do not present an immediate danger to any individual's associational rights, and Plaintiffs concede their appeal is "too late to impact the 2014 congressional elections" (motion at 4).

Plaintiffs also argue that unless this Court grants pass-through certification, this proceeding may not be resolved in time for the 2016 election (motion at 5). But the 2016 election is 26 months away, which is more than enough time for this Court to consider Plaintiffs' appeal, and for any potential subsequent proceedings.[2] Plaintiffs' arguments fail to show any "urgency" requiring the immediate resolution of their appeal by the Supreme Court.

First, Plaintiffs argue that the issues in this case are "extremely complex" and "implicate statistical analyses this Court has never before undertaken" (motion at 4). But the Supreme Court has held that pass-through certification "is not to be used as a device for avoiding difficult issues." *See Carawan*, 515 So. 2d at 162.

Second, Plaintiffs refer to the length of the trial court proceeding, noting that although they filed their Complaint in 2012, trial did not take place until 2014 (motion at 5 n.2). Plaintiffs fail to mention, however, that the Legislative Parties

[2] The Legislature has shown that it can quickly adopt remedial districts. When the Supreme Court invalidated eight state legislative districts on March 9, 2012, the Legislature enacted a remedial plan (which the Court later upheld) on March 27, 2012. And when the court below found two congressional districts invalid on July 10, 2014, the Legislature passed a remedial plan on August 11, which the Governor signed into law two days later.

were prepared to go to trial in June 2013, but Plaintiffs repeatedly sought continuances which postponed trial until May 2014 (Exs. B, C, D). Unless Plaintiffs plan to continue their pattern of delay in any subsequent proceedings, this case should be resolved well in time for the 2016 elections.

Third, Plaintiffs rely on the proposed election schedules the Secretary of State and Florida State Association of Supervisors of Elections submitted when the trial court was considering the possibility of a special election (motion at 5 n.2). But, as explained in those filings, a special election presents "numerous technical and procedural hurdles," and thus the submitted schedules have no relevance to a general election (Ex. E at 3).

Even if five months of lead time were necessary, 21 months is more than a sufficient amount of time to allow this Court to render an opinion, and to accommodate any subsequent proceedings. In the absence of any showing of urgency, this Court should hear Plaintiffs' appeal in the first instance.

For the reasons stated above, the Court should deny the Plaintiffs' Suggestion for Certification.

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EXHIBIT A

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IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NON-PARTIES, PAT BAINTER et al.,

Appellants,

v.

THE LEAGUE OF WOMEN VOTERS OF FLORIDA et al.,

Appellees.

Case No.: 1D14-2163
L.T. No.: 2012-CA-00412, 2012-CA-00490, 2012-CA-2842

PLAINTIFFS' EMERGENCY MOTION TO LIFT OR MODIFY STAY AND ALTERNATIVE SUGGESTION TO CERTIFY UNDER RULE 9.125

Appellees The League of Women Voters of Florida, Common Cause, Brenda Ann Holt, J. Steele Olmstead, Robert Allen Schaeffer, and Roland Sanchez-Medina, Jr. (collectively, the "Coalition Plaintiffs") and Appellees Rene Romo, Benjamin Weaver, William Everett Warinner, Jessica Barrett, June Keener, Richard Quinn Boylan, and Bonita Again (collectively, the "Romo Plaintiffs," and together with the Coalition Plaintiffs, the "Plaintiffs"), move the Court to lift or at least modify the emergency stay or, alternatively to certify that the two orders under review require immediate resolution by the Florida Supreme Court because the issues are of great public importance.

1. By its corrected order of May 16, 2014 (the "Stay Order"), this Court stayed the two orders under review pending final disposition of this proceeding or further order of the Court.

> The scope of the stay is limited to the use at trial of the confidential documents referred to in the May 2 and 15, 2014 orders of the lower tribunal. All further matters pending before the lower tribunal may proceed at the discretion of the trial judge.

(Stay Order at 1.)

2. The trial regarding the 2012 congressional apportionment began on Monday, May 19, 2014. Plaintiffs' counsel have now largely completed laying the foundation at trial for the crucial relevance of the documents that are at issue in this appeal, most of which they plan to introduce through the upcoming testimony of Appellant Pat Bainter and the other partisan consultants with whom he worked. The Plaintiffs have held off on these issues as long as they reasonably can and the orderly presentation of the evidence will be severely impacted if they are not allowed to use these documents as soon as possible.

3. The emergency stay should be lifted altogether for the reasons stated in the Plaintiff's answer brief. At the very least, the stay should be modified to allow the documents to be used under seal in closed proceedings. The Plaintiffs maintain that closing the courtroom would be a substantial and unjustified intrusion into the public's right to remain fully apprised of this nationally

important trial, but if this intrusion is the cost of being able to complete the trial in an orderly fashion, that is superior to the alternative.

4. Throughout the recent trial proceedings below and largely in these proceedings, the Non-Parties have emphasized their willingness to allow the documents to be used at trial so long as the proceedings are kept closed to the public. Thus, modifying the stay to allow this to happen will prejudice nobody.

5. Moreover, the main counter-argument on the confidentiality issues raised by the Non-Parties in their reply brief is their dispute with the Plaintiffs' characterization of the evidence to be offered during the trial that, the Plaintiffs' contend, will connect the dots to demonstrate the collusion between the Non-Parties and the Legislature that is described in the answer brief, which is exactly the kind of constitutional violations the supreme court warned about in *League of Women Voters of Florida v. Florida House of Representatives (Apportionment IV)*, 132 So. 3d 135, 148-49 (Fla. 2013). Whether the Non-Parties are correct – and to be clear, they are not – that the evidence submitted prior to trial was insufficient to show that the subject documents are crucially relevant to connect these dots should now be moot.[1] The non-confidential testimony and documentary evidence accepted

[1] Because of inadequate disclosures in the Non-Parties' privilege log, the Plaintiffs had no opportunity to make a record of their arguments as to why the specific documents were central to their case. The first time the Plaintiffs learned the substance of these documents was when they were produced.

into evidence by the trial court to date now confirm the central relevance of these documents.

6. Should the Court harbor any concern – and to be clear, it should not – that the Non-Parties are correct in claiming that Judge Lewis did not carefully review the subject documents to determine their substantial relevance under a strict scrutiny standard, then the Court can protect against any conceivable prejudice by directing that the trial court conduct that analysis anew as to each document the Plaintiffs intend to use. If the trial court concludes that their central relevance to the evidence and theories that have already been developed during trial outweighs any associational privilege or claim of trade secrets, then it should be allowed to accept those documents into evidence so that the trial can be completed. If there is any further need for emergency relief, at least there will be a record of the evidence the Plaintiffs contend lays the necessary foundation.

7. It is urgent that the trial be completed as soon as possible both because the trial judge has announced his calendar is extremely tight and he is about to be transferred to the criminal division and, more importantly, because the primary remedy being sought by the Plaintiffs – redrawing of the subject congressional districts – will be significantly undermined if this litigation cannot be completed in time to allow for new districts to be drawn in time for the

November 2014 mid-term elections. There is still time to accomplish this, but precious little time remains.

8. Alternatively to the foregoing, if the Court harbors serious concerns that the Non-Parties' rights are being impermissibly compromised, the Plaintiffs respectfully suggest, pursuant to Florida Rule of Appellate Procedure 9.125(c), that the Court certify that the orders under review require immediate resolution by the supreme court because the issues pending in this Court are of great public importance. This will allow the Supreme Court to complete appellate review of this important matter in an expedited fashion to remove any doubts one way or another. The obvious impact of this case on Florida's congressional seats in the 2014 national midterm elections demonstrate that this case is of the greatest possible public importance.

WHEREFORE, the Plaintiffs respectfully request the Court to lift or at least modify the stay so that the subject documents can be used during the ongoing trial or, alternatively, certify the orders for immediate resolution by the Florida Supreme Court.

Rule 9.125(e)(3) Certificate

The undersigned attorneys express a belief, based on a reasoned and studied professional judgment, that this appeal requires immediate resolution by the supreme court and is of great public importance.

Respectfully submitted,

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Appendix Required by Fla. R. App. P. 9.125(e)(4)

Trial Court's May 2, 2014, Order Compelling Disclosure of Documents .....App. 1

Trial Court's May 15, 2014, Determining Confidentiality of Documents .....App. 4

E-Copy Received May 15, 2014 3:11 PM

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

RENE ROMO, ET AL. PLAINTIFFS, VS. KEN DETZNER AND PAM BONDI, DEFENDANTS.	CASE NO.: 2012-CA-00412
THE LEAGUE OF WOMEN VOTERS OF FLORIDA, ET AL., PLAINTIFFS, VS. KEN DETZNER, ET AL., DEFENDANTS.	CASE NO.: 2012-CA-00490

SECOND ORDER ON SPECIAL MASTER'S REPORT DATED SEPTEMBER 14, 2013 REGARDING NON-PARTIES' PAT BAINTER, MATT MITCHELL, MICHAEL SHEEHAN AND DATA TARGETING, INC.

THIS MATTER, having come before the Court on Coalition Plaintiffs' Exceptions to September 14, 2013 Report of Special Master dated November 5, 2013 and on the Court's Order on Special Master's Reports dated March 20, 2014, and the Court, having performed a review *in camera* of the privileged documents bates labeled DATAT CONF 00001-01833 submitted by Non-Parties' Pat Bainter, Matt Mitchell, Michael Sheehan and Data Targeting, Inc. (the "Data Targeting Documents"), having reviewed the parties' submissions, and otherwise being fully advised in the premises, hereby:

ORDERS AND ADJUDGES:

1. The Court has completed its review *in camera* of the Data Targeting Documents and performed the balancing test required under the second prong of the *Perry v. Schwarzenegger*, 591 F.3d 1147 (9th Cir. 2010) analysis to determine whether the associational privilege of the Data Targeting Documents should yield. The Court has also considered Non-Parties' assertion of trade secret protection. Based on the Court's review, balancing and analysis, the Court finds that the associational privilege of certain of the Data Targeting Documents should yield and shall be produced to Coalition Plaintiffs as provided below.

2. Accordingly, and as announced in open court at the hearing on April 29, 2014, Non-Parties shall produce to counsel for Coalition Plaintiffs by 5:00 p.m. on Friday, May 2, 2104, the following Data Targeting Documents bearing bates labels: DATAT CONF 00001-00007; 00009-00016; 00034; 00035-00055; 00061-00072; 00078; 00094; 00105-00124; 00139-00156; 00201-00214; 000231-00283; 00287-00321; 01111-01115; 01129-01158; 01249; 01250; 01257-01271; 01301-01319; 01321-01339; 01349-01358; 01383-01403; 01428-01452; 01453-01497; 01536-01542; 01548; 01561-01633; 01641; 01673-01676; 01697-01728; 01749-01757; 01761-01784; 01817-01820; and 01833 (collectively, the "Produced Data Targeting Documents").

3. The Produced Data Targeting Documents are designated confidential, meaning that only Counsel for the Coalition Plaintiffs and their staff, and Coalition Plaintiffs' retained expert, may have access to and review the Produced Data Targeting Documents. Counsel for Coalition Plaintiffs, their staff and expert(s),

shall not share the Produced Data Targeting Documents or the information contained therein in any way with Coalition Plaintiffs or any other person or party. The Court will provide further guidance to the parties and Non-Parties regarding how any of the privileged Produced Data Targeting Documents may be used at the trial in this case at the pre-trial conference scheduled for Friday, May 9, 2014 at 9:00 am.

DONE AND ORDERED this 2 day of May, 2014.

Terry P. Lewis
Circuit Judge

Copies to all counsel of record

A Certified Copy
Attest:
Bob Inzer
Clerk & Comptroller
Leon County, Florida
By_____
Deputy Clerk

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

RENE ROMO, ET AL. PLAINTIFFS, VS. KEN DETZNER AND PAM BONDI, DEFENDANTS.	CASE NO.: 2012-CA-00412
THE LEAGUE OF WOMEN VOTERS OF FLORIDA, ET AL., PLAINTIFFS, VS. KEN DETZNER, ET AL., DEFENDANTS.	CASE NO.: 2012-CA-00490

ORDER ON NON-PARTIES' MOTION TO DETERMINE CONFIDENTIALITY OF COURT RECORDS

THIS MATTER, having come before the Court on Non-Parties' Motion to Determine Confidentiality of Court Records, and the Court, having reviewed the filings, and otherwise being fully advised in the premises, hereby:

ORDERS AND ADJUDGES:

1. The Non-Parties' Motion to Determine Confidentiality of Court Records is GRANTED in part, and in accordance with the requirements of Rule 2.420(e)(3), the Court finds the following:

   a. This Order is being entered in a civil case challenging the constitutionality of certain redistricting maps adopted by the Florida Legislature in 2012.

b. The information stated in paragraph 1(e) of this Order is determined to be confidential pursuant to the grounds stated in Rule 2.420(c)(9)(A)(i), (ii), (iv), (v), and (vi), to the extent granted herein.

c. The names of the Non-Parties submitting the Motion are not determined to be confidential. The scope of confidentiality determined by this Order obviates the need for any pseudonym or other term to be substituted for the names of Non-Parties.

d. No docket or case activity documents shall be confidential under this Order.

e. The following information is determined to be confidential:

    i. All documents produced by Non-Parties pursuant to the Second Order on Special Master's Report Dated September 14, 2013 Regarding Non-Parties' Pat Bainter, Matt Mitchell, Michael Sheehan, and Data Targeting, Inc., including specifically all documents of Non-Parties bearing Bates labels: DATAT CONF 00001-00007; 00009-00016; 00034; 00035-00055; 00061-00072; 00078; 00094; 00105-00124; 00139-00156; 00201-00214; 000231-00283; 00287-00321; 01111-01115; 01129-01158; 01249; 01250; 01257-01271; 01301-01319; 01321-01339; 01349-01358; 01383-01403; 01428-01452; 01453-01497; 01536-01542; 01548; 01561-01633; 01641; 01673-01676; 01697-01728; 01749-01757; 01761-01784; 01817-01820; and 01833 (collectively, the "Confidential Documents");

f. Persons permitted to view the Confidential Documents in preparation for the trial of this case include:

    i. Counsel for Coalition Plaintiffs and their staff and retained expert(s);

ii. Counsel for Romo Plaintiffs and their staff and retained expert(s);

iii. Counsel for Legislative Defendants and their staff and retained expert(s), under the condition that such review shall not deem the Confidential Documents to constitute a public record under Florida law;

iv. Counsel for Intervenor – Defendant Florida NAACP and their staff and retained expert(s); and

v. Clerk of the Court to the extent necessary to take appropriate actions to give effect to the confidentiality granted in this Order.

g. The Court finds that: (i) the degree, duration, and manner of confidentiality ordered by the court are no broader than necessary to protect the interests set forth in Rule 2.420(c), Fla. R. J. Admin.; and (ii) no less restrictive measures are available to protect the interests set forth in Rule 2.420, Fla. R. J. Admin.

h. The Clerk of the Court is hereby directed to publish this Order in accordance with Rule 2.420(e)(4), Fla. R. J. Admin.

2. To preserve the confidentiality granted by this Order, the Confidential Documents shall be kept confidential as previously ordered by this Court unless and until any of the Confidential Documents is submitted to the Court as evidence in the trial of this case. The proceedings of this Court shall remain open during use of the Confidential Documents by any party at trial. At such time as any of the Confidential Documents is offered as an exhibit in witness examination or entered into evidence in the trial of this case, the exhibit itself, if admitted into evidence, shall be sealed as confidential and not subject to disclosure.

3. Non-Parties shall preserve the Confidential Documents, including any Confidential Documents in native format, until a trial is conducted, if any, and a final decision is rendered in Case No. 2012-CA-02842, or until further notice of this Court.

4. At the conclusion of the trial in this case, all Confidential Documents produced by Non-Parties pursuant to the Court's Second Order on Special Master's Report Dated September 14, 2013 Regarding Non-Parties' Pat Bainter, Matt Mitchell, Michael Sheehan and Data Targeting, Inc., entered May 2, 2014, and any and all copies thereof in the possession of any party or intervenor to this proceeding, shall be returned to counsel for the Non-Parties immediately.

5. In all other respects, the Non-Parties' Motion to Determine Confidentiality of Court Records, is DENIED.

6. The Non-Parties' request for a stay prohibiting the use of any Confidential Documents pending a decision on appeal of the Court's Order entered May 2, 2014, is DENIED.

DONE AND ORDERED this 15 day of May, 2014.

Terry P. Lewis
Circuit Judge

Copies to all counsel of record

EXHIBIT B

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-000412

KEN DETZNER, in his official capacity as Florida Secretary of State; 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.

KEN DETZNER, in his official capacity as Florida Secretary of State; THE FLORIDA SENATE, et al.,

Defendants.
_____/

PLAINTIFFS' UNOPPOSED MOTION TO MODIFY ORDER SETTING NON-JURY TRIAL

By this motion, the Romo Plaintiffs and the League of Women Voter Plaintiffs (together, "Plaintiffs") jointly move the Court for an order modifying its Order Setting Non-Jury Trial ("Scheduling Order") as follows: (1) suspending the trial date and continuing it until August 19, 2013; and (2) suspending and continuing all other pending deadlines as set forth below. Plaintiffs have conferred with Defendants' counsel and

been advised that Defendants do not oppose this motion.

Given the ongoing discovery disputes and pending appeals, the current trial date is no longer realistic. For this reason, Plaintiffs request that the Court issue an order suspending and continuing the pending deadlines and scheduled trial date. Plaintiffs understand that the Court is able to devote two weeks to trying this matter beginning on August 19, 2013. Based on that proposed trial date, Plaintiffs request that the remaining pending deadlines be modified as follows:

- Defendants' initial expert disclosures shall be due **April 8, 2013**;
- Plaintiffs' final disclosures and supplemental expert disclosures shall be due **June 26, 2013**;
- Defendants' and Intervenors' final disclosures shall be due **July 12, 2013**;
- Discovery cut-off shall be **August 5, 2012**;
- The deadline for the parties to meet and confer prior to trial shall be **August 5, 2012**;
- Pretrial statements, trial briefs and memoranda, and any pending motions and responses shall be due **August 9, 2013**; and
- The pre-trial conference shall be **August 12, 2013** (the Court's schedule permitting).

These proposed dates are the result of negotiations with Defendants. Given the on-going discovery disputes and pending appeals, Plaintiffs propose these dates with the understanding that if there are court rulings that permit Plaintiffs to engage in further contested discovery that are issued after the above disclosure and discovery deadlines, Plaintiffs will be permitted to amend their disclosures and engage in additional discovery

as necessary, upon a finding of good cause by this Court.

A proposed Order reflecting these requested modifications is submitted with this motion.

Respectfully submitted,

Dated: April 17, 2013

By: /s/ Mark Herron

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I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail this 17th day of April, 2013 to each of the following parties on the attached service list:

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EXHIBIT C

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

RENE ROMO, ET AL. PLAINTIFFS, VS. KEN DETZNER AND PAM BONDI, DEFENDANTS.	CASE NO.: 2012-CA-00412
THE LEAGUE OF WOMEN VOTERS OF FLORIDA, ET AL., PLAINTIFFS, VS. KEN DETZNER, ET AL., DEFENDANTS.	CASE NO.: 2012-CA-00490

COALITION PLAINTIFFS' MOTION TO MODIFY ORDER SETTING NON-JURY TRIAL

The Coalition Plaintiffs, pursuant to Rule 1.460, Florida Rules of Civil Procedure, request that the Court modify its Order Setting Non-Jury Trial ("Scheduling Order") as follows: (1) suspend the trial date and continue it until the December 2013 trial docket, and (2) suspend and continue all other pending deadlines as set forth below; and, as grounds therefor, state:

1. Despite the parties' pursuit of discovery with all deliberate speed, a series of discovery disputes, scheduling difficulties, and pending appeals have protracted the case-development process such that the case will not be ready for trial on August 19, 2013, as currently scheduled.

2. The Coalition Plaintiffs and the Romo Plaintiffs are pursuing Florida Supreme Court review of the First District Court's recent decision regarding legislative privilege. The

parties are in the process of briefing jurisdiction. In light of the Legislature's ongoing assertions of legislative privilege, the Coalition Plaintiffs and the Romo Plaintiffs are also seeking additional non-party discovery, but are facing significant opposition and delay in the process.

3. Non-Party Data Targeting Inc. ("Data Targeting") is currently pursing appellate review of this Court's order compelling discovery. In the interim, Data Targeting is resisting discovery by means of privilege claims, which the Court has referred to Justice Harding for *in camera* review. In that regard, Data Targeting has failed to comply with the Court's May 31, 2013 Order to produce an adequate privilege log; the Coalition Plaintiffs have filed a Second Motion for Contempt on June 3, 2013; it is unclear when those instant disputes will be resolved in light of scheduling difficulties; and further appeal and delay appears likely to follow.

4. On June 7, 2013, non-party Frank Terraferma filed a motion for protective order, and has withheld an undisclosed volume of documents regarding his part in the Legislature's 2012 redistricting process. The parties have yet to identify an available date for hearing on the motion.

5. Depending on the outcome of the appeals, the non-parties' motions for protective orders, and the Coalition Plaintiffs' and the Romo Plaintiffs' continued discovery efforts, Plaintiffs may need to redepose several non-parties who have failed to produce pertinent records. The Coalition Plaintiffs and the Romo Plaintiffs may also pursue depositions of legislators and their staff depending on the disposition of the legislative-privilege appeal.

6. In addition, Defendants' recurrent discovery has given rise to dispute. On June 11, 2013, non-party FairDistricts Now, Inc., filed a motion for protective order as to Defendants' Notice of Taking Rule 1.310(b)(6) Corporate Representative Deposition Duces Tecum. The parties have yet to identify an available date for hearing on the motion.

7. Through July 2013, no fewer than 12 depositions are currently scheduled to occur,

with associated travel to, at least, Washington DC, Boston, and Orlando. Aside from hearings that are yet to be scheduled on the aforementioned discovery disputes and appeals, a hearing has been set in this case on July 24, 2013 on Defendants' Motion for Leave to Amend Answers to the pending Complaints. The Coalition Plaintiffs and the Romo Plaintiffs also anticipate setting numerous additional non-party depositions in the instant case.

8. Likewise, in contemporaneous independent proceedings, the Romo Plaintiffs are pursuing discovery from non-party organizations that are not subject to the subpoena power of this Court. The Romo Plaintiffs are similarly facing recalcitrant opposition and consequential delay as to their discovery into conduct related to the Legislature's 2012 redistricting process.

9. Given the ongoing discovery disputes, pending appeals, and further discovery efforts resulting from the Legislature's and non-parties' assertions of privilege, the current August trial date is no longer realistic. For this reason, the Coalition Plaintiffs request that the Court issue an order suspending and continuing the pending deadlines and scheduled trial date.

10. The Coalition Plaintiffs believe that a trial date in November 2013 is not possible because both undersigned lead counsel for the Coalition Plaintiffs and lead counsel for the Senate have conflicting trials scheduled in November.

11. The Coalition Plaintiffs understand that the Court is able to devote two weeks to trying this case in December 2013. Based on that proposed trial period, the Coalition Plaintiffs request that the remaining pending deadlines be modified as follows:

- Plaintiffs' final disclosures and supplemental expert disclosures shall be due **October 7, 2013**;
- Defendants' and Intervenors' final disclosures shall be due **October 21, 2013**;
- Discovery cut-off shall be **November 18, 2013**;
- The deadline for the parties to meet and confer prior to trial shall be **November 18, 2013**;

- Pretrial statements, trial briefs and memoranda, and any pending motions and responses shall be due **November 25, 2013**; and
- The pre-trial conference shall be **December 2, 2013** (the Court's schedule permitting).

12. Undersigned counsel for the Coalition Plaintiffs has conferred in good faith with counsel for the Defendants, and understands that counsel for Defendants do not have scheduling conflicts with the requested schedule, but has been unable to resolve Defendants' opposition to the instant motion on other grounds.

13. Counsel for the Coalition Plaintiffs have also consulted with counsel for the Romo Plaintiffs and understand that the Romo Plaintiffs will be filing a separate motion explaining their position on a continuance.

14. Given the on-going discovery disputes and pending appeals, the Coalition Plaintiffs propose these dates with the understanding that if there are Court rulings that permit Plaintiffs to engage in further contested discovery that are issued after the above disclosure and discovery deadlines, Plaintiffs will be permitted to amend their disclosures and engage in additional discovery as necessary, upon a finding of good cause by this Court.

15. The Coalition Plaintiffs have authorized undersigned counsel to seek the requested continuance; and, upon the Court's request, counsel will provide the Coalition Plaintiffs' signatory consent.

16. A proposed Order reflecting these requested modifications is submitted with this motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 14, 2013 I filed the foregoing using the State of Florida ePortal Filing System. I further certify that a copy of the foregoing has been served via email on all counsel of record listed on the Service List below.

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EXHIBIT D

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

RENE ROMO, ET AL. PLAINTIFFS, VS. KEN DETZNER AND PAM BONDI, DEFENDANTS.	CASE NO.: 2012-CA-00412
THE LEAGUE OF WOMEN VOTERS OF FLORIDA, ET AL., PLAINTIFFS, VS. KEN DETZNER, ET AL., DEFENDANTS.	CASE NO.: 2012-CA-00490

COALITION PLAINTIFFS' MOTION TO CONTINUE NON-JURY TRIAL

The Coalition Plaintiffs, pursuant to Rule 1.460, Florida Rules of Civil Procedure, request that the Court modify its Order Setting Non-Jury Trial ("Scheduling Order") as follows: (1) suspend the trial date, and (2) suspend and continue all other pending deadlines as set forth below; and, as grounds therefor, state:

1. The parties await a Supreme Court ruling and anticipate the resolution of discovery disputes that will substantially affect the preparation and trial of this case. As those matters remain unresolved and insufficient time remains, a continuance of the trial has become necessary.

2. Despite the parties' pursuit of discovery with all deliberate speed, a series of discovery disputes and pending appeals have protracted the case-development process such that the case will not be ready for trial on January 6, 2014, as currently scheduled.

3. The Coalition Plaintiffs (and the Romo Plaintiffs) have fully briefed and argued their appeal to the Florida Supreme Court on the Legislative Defendants' claims of legislative privilege, but await the Court's decision. As this Court is very much aware, by pursuing this appeal to the Florida Supreme Court, the Coalition Plaintiffs seek the ability to conduct the very discovery this Court ordered should be permitted when it overruled the Legislative Defendants' blanket assertions of legislative privilege and identified the scope of document and deposition discovery designed to uncover evidence that is at the very heart of this case – whether the Legislature drew the enacted Congressional map with impermissible intent. It is imperative that the Coalition Plaintiffs be permitted to see this appeal through to its conclusion – rather than requiring them to go trial while a decision remains pending or before they can react to a decision that may permit or deny such discovery – so that the Coalition Plaintiffs (and, indeed, the citizens of Florida) will have had the full opportunity to enforce their constitutional rights to a fair and impartial reapportionment process.

4. The Coalition Plaintiffs issued a second set of document requests to the Legislative Defendants on August 8, 2013, to which the Legislative Defendants have said they will be making a production. To date, the production has yet to occur, however, although counsel for the Legislative Defendants has offered to make a rolling production as responsive documents are identified. The Coalition Plaintiffs and Legislative Defendants have been conferring on the scope of the production, which may lead to the necessity of a motion to compel if not resolved. In addition, even the offered production, when it finally occurs, is likely to require significant review and may necessitate further discovery and related motion practice. Moreover, the Coalition Plaintiffs have been reviewing the Legislative Defendants' production in response to the initial document requests, and have identified deficiencies which, if unresolved by the parties, may require Court intervention.

5. In light of the Legislative Defendants' ongoing refusal to produce certain categories of documents based on the legislative privilege, the Coalition Plaintiffs have also sought additional non-party discovery, but have faced significant opposition and delay in that process.

6. Frank Terraferma, for example, asserted belated associational privilege claims to oppose the Coalition Plaintiffs' document subpoenas. In that regard, the Special Master issued a report and recommendation on September 20, 2013, which was the subject of further briefing, and a subsequent hearing before this Court on November 13, 2013. The discovery dispute remains pending and more time is needed for ultimate resolution.

7. Data Targeting Inc. ("Data Targeting"), and other individuals, also asserted associational privilege and trade secret claims in response to the Coalition Plaintiffs' document subpoenas. In that regard, the Special Master issued a report and recommendation on October 14, 2013, which was the subject of further briefing, and will be argued before the Court at a December 10, 2013 hearing.

8. Due to deficiencies revealed in the arduous process of piecing together the productions of non-parties such as Frank Terraferma, Data Targeting, and other paid political operatives (the "Political Operatives"), the Coalition Plaintiffs anticipate the need to file motions to compel production of relevant materials that the Political Operatives selectively failed to produce. Indeed, the Coalition Plaintiffs' review of the Political Operatives' productions has revealed many gaps and deficiencies, all of which must be resolved independent of the associational privilege argument. These continuing discovery disputes with the Political Operatives likely will require motions to compel for resolution.

9. Throughout this period, the Coalition Plaintiffs have expended substantial efforts to meet pre-trial deadlines for submission of exhibit and witness lists on October 28, 2013, and

submission of supplemental expert witness materials on October 28, 2013.

10. Once the Coalition Plaintiffs receive the Legislative Defendants' (and perhaps Political Operatives') forthcoming production, the Coalition Plaintiffs likely will need to re-depose several non-parties, in any event, and will certainly need to depose certain Legislators and legislative staff, should the Supreme Court resolve the pending appeal on legislative privilege in the Coalition Plaintiffs' favor. The Coalition Plaintiffs will also need to supplement their exhibit lists, and possibly their witness lists, following review of the forthcoming productions.

11. In the interim, the parties have set for hearing the Coalition Plaintiffs' and the Romo Plaintiffs' Motions for Summary Judgment for December 11, 2013.

12. Given the delay in the Legislative Defendants' forthcoming production, and given the ongoing discovery disputes, pending appeal, and further discovery efforts resulting from the Legislative Defendants' and Political Operatives' resistance to discovery, the current January 2014 trial date is no longer realistic. For this reason, the Coalition Plaintiffs respectfully request that the Court remove this case from the Court's January trial docket and suspend the pending pre-trial deadlines.

13. In light of the uncertainty about the scope of forthcoming productions, about when the Supreme Court will rule on the legislative-privilege appeal, and about when the various discovery disputes will be resolved, the Coalition Plaintiffs submit that the best course of action is for the parties to re-notice the case for trial and set an updated trial schedule once these matters have been resolved.

14. A continuance to a time after January 2014 will not cause prejudice to the Legislature or the Secretary of State, and will aid in ultimately resolving this case on the merits of a record that is as reasonably complete as possible. As soon as the Supreme Court renders a

decision, the Coalition Plaintiffs request that the Court set a case management hearing to set out a discovery schedule, if appropriate, and to reschedule the case for trial.

15. Undersigned counsel for the Coalition Plaintiffs has conferred in good faith with counsel for the House and counsel for the Senate, but has not received information as to whether the House and Senate support or oppose this motion.

16. Counsel for the Coalition Plaintiffs have also consulted with counsel for the Romo Plaintiffs and counsel for Intervenor, NAACP and understand that neither support or oppose this motion.

17. Counsel for the Coalition Plaintiffs' have also consulted with counsel for the Secretary of State who does not oppose this motion, but would oppose rescheduling the trial if it would interfere with the 2014 election process.

18. Counsel for the Coalition Plaintiffs has been unable to reach counsel for the Attorney General to determine the Attorney General's position on this motion.

19. The Coalition Plaintiffs have authorized undersigned counsel to seek the requested continuance.

WHEREFORE, the Coalition Plaintiffs respectfully request that this Court remove the case from the Court's January 2014 trial docket and grant a continuance of the trial.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 21, 2013 I filed the foregoing using the State of Florida ePortal Filing System. I further certify that a copy of the foregoing has been served via email on all counsel of record listed on the Service List below.

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

RENE ROMO, an individual, et al.,

Plaintiffs,

vs. Case No. 2012-CA-000412

KEN DETZNER, in his official capacity as Florida Secretary of State, and PAMELA JO BONDI, in her official capacity as Attorney General,

Defendants.

_____/

THE LEAGUE OF WOMEN VOTERS OF FLORIDA, INC., ET AL.,

Plaintiffs,

vs. Case No. 2012-CA-000490

KEN DETZNER IN HIS OFFICAL CAPACITY AS Florida Secretary of State, et al.,

Defendants.

_____/

RESPONSE OF FLORIDA STATE ASSOCIATION OF SUPERVISORS OF ELECTIONS, INC. TO THE COURTS ORDER OF AUGUST 1, 2014

COMES NOW, the Florida State Association of Supervisors of Elections, Inc. (FSASE), by and through undersigned counsel, and responds to the Courts Order of August 1, 2014, and states as follows:

1. On July 10, 2014, this Court entered a Final Judgment in these cases and decided that certain districts in the congressional redistricting plan adopted by the Florida Legislature in 2012 are drawn in contravention of Article III, Section 20, of the Florida Constitution and are unconstitutional, and thus the redistricting map as drawn is unconstitutional.

2. Thereafter, the Court on August 1, 2014, entered its Order on Defendants Motion to Amend the Judgment and directed the respective parties to take certain actions. The first action was for the Florida Legislature to submit a remedial or revised map to the Court by August 15, 2014. The Legislature has adopted a new map revising the districts found to be unconstitutional, and revising other districts as necessary.

3. Florida is currently conducting the 2014 election with the Primary Election to occur on August 26, 2014. Absentee balloting has been ongoing since July 12, 2014; early voting has started for the Primary Election. The General Election is to be conducted on November 4, 2014.

4. In the Order of August 1, 2014, the Court directed the Supervisors of Elections to collaborate with the Secretary of State to present a proposed special election schedule, and comments and suggestions regarding the conduct of a special election assuming there was a revised map in place no later than August 21, 2014. In approaching this directive the FSASE has placed foremost the position that any such election must protect the voter's rights and be fair, secure, conducted properly and efficiently in conformity with all statutory requirements. The Supervisors believe it of utmost priority to ensure fair, secure, transparent and accurate elections. The position the Supervisors have outlined is one they believe necessary to resolve the issue at hand in a swift manner while also avoiding risks of compromising the election, confusing voters and violating election laws. While there are numerous technical and procedural hurdles to be met in undertaking a special election in this context, the Supervisors of Elections stand ready to meet that challenge and will work with the Court to meet its directions.

5. FSASE has collaborated with the Secretary of State and developed a proposed special election schedule and timeline. The schedule establishes the actions that must be taken pursuant to Florida and/or federal law by the Supervisors of Elections in counties where congressional district lines would be moved and counties that would be involved in a special election based on changed district lines. The schedule is attached hereto as Exhibit A.

6. Prior to any special election based on new districts being created, those affected counties must undertake redistricting. Completion of the redistricting process cannot occur until after the November 4, 2014 election is completed. The earliest these counties would be in a position to complete redistricting and mapping, then initiate the election process, begin contracting for the polling locations, establish election procedures, have equipment available to conduct the election and begin to undertake mandatory training for election workers is December 18, 2014. Based on the proposed special election schedule the Primary Election would be held seventy-seven (77) days from the start of the election process and the General Election one hundred forty-seven (147) days from the start.

7. It is not possible to conduct a special primary election between the present time and the scheduled November 4, 2014 General Election. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Military and Overseas Voter Empowerment Act and section 101.62(4), Florida Statutes, mandate vote-by-mail absentee ballot timelines to protect the enfranchisement of overseas voters and these protections would be compromised if an election was ordered before the scheduled November 4, 2014 election. Redistricting and remapping in affected counties is not possible until completion of the November election. In addition, any new lines, precincts or splits must be approved by county

governments with proper notice pursuant to sections 101.001 and 101.71, Florida Statutes, before they become effective. During this time voters records cannot be moved, which would be necessary. When lines are changed, significant reprogramming of election databases must be undertaken and the databases cannot be reprogrammed until completion of prior registration or voting activity from the currently scheduled 2014 primary and general elections. These timeframes can't be eliminated or shortened (See, sections 97.005, 99.061, 101.6952(5), Florida Statutes).

8. Furthermore, it is also not feasible or reasonable to conduct or place a special primary election on the same day as the November 4, 2014 General Election. The foregoing redistricting and mapping issues would need to be undertaken between the present time and November, which is not possible due to the aforementioned reasons of county approval and ability to reprogram elections equipment and databases. Additionally, if this suggestion were to be considered, counties would need to run two separate elections with separate equipment and separate ballots for the primary and general election. A congressional primary race cannot simply be added to the general election ballot because they are separate election types needing separate voter history credit, one would generate separate partisan/non-partisan ballots while the other is a general ballot and they might possibly be run under different (old and new) boundary lines in the elections

software (See, sections 98.0981, 101.23, Florida Statutes). The voting equipment utilized does not allow dual elections to be run at the same time on the same equipment, thus requiring substantial additional voting equipment which the counties do not possess. The voter confusion of having voters cast separate ballots on different machines would be substantial. Further, the absentee ballot process would cause voter confusion when voters have to return separate absentee ballots in separate envelopes for the Primary and General Election to ensure proper separate voting history credit. These ballots must be separate in the event there is any legal challenge to them. The Legislature has recently taken significant steps to minimize voter confusion and waiting times and this concept would only enhance those problems. Regardless, the existing time frames do not to support this possible suggestion if the State is going to comply with requirements dealing with overseas voters and minimum statutory mailing times (See, 101.62(4), Florida Statutes).

9. The submitted special election schedule has been created based on current statutory time frames or dates. The activities are often interdependent and in many instances the action cannot take place until the proceeding act has successfully been completed. If there are new districts and precincts, they would need to be advertised and subsequent candidate qualifying times established. Also, candidates would presumably be allowed an opportunity to use the petition process

to qualify and these would need to be validated and certified to the Department of State. Notice of the election dates are required to be advertised. (See, 99.095, 99.097, 100.141, Florida Statutes)

10. The election schedule/timeline lays out the actions which need to be taken by the supervisor of elections to carry out this special election. Exhibit A provides a detailed description of those actions and the days on which they are required to take place. All of these actions are statutorily required and must be complied with in accord with specified dates or times.

11. An additional concern which is very relevant to moving these elections into 2015 is that it will require a review of local and municipal elections which are scheduled in the affected counties. It would be imperative to set the actual dates and allow these elections to coincide on the same dates of these elections. FSASE would request the opportunity to provide information on those specific dates if the Court determines to order these special elections.

12. Finally, FSASE requests the Court to provide guidance on how affected counties should act if the elections in these districts do not go forward on August 26, 2014. Ballots have been returned and will need to be processed to count all other races on the ballot, and tabulation will automatically calculate these congressional races, which may be an issue. Results are publicly posted at each precinct and the court may need to order whether the results should be public or

suppressed and if so, how. Additionally, the Court needs to provide direction to the counties and State concerning how the November 4, 2014 General Election ballot should be printed concerning these seats.

Respectfully submitted this 15th day of August, 2014.

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I HEREBY CERTIFY a copy of the foregoing was sent by electronic mail on August 15th, 2014, to the individuals identified on the Service List that follows.

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EXHIBIT A

SPECIAL ELECTION SCHEDULE/TIMELINE

Day 0:	Order given for the special election
Day 0 – Day 24:	Begin hiring process for temporary workers such as poll workers, call center operators, warehouse, technical rovers, etc. (These hires must complete drug screens, background checks, and other county requirements)
Day 0:	Import the GIS lines and data into the production database
Day 2:	Take the GIS information and move it to the tabulation system to make the GIS mapping congruent with the voter database system
Day 2 – 9:	The import of the GIS lines into the production database will prompt the system to create voter cards. Voter cards must be produced and mailed
Day 4:	Define the election in the election tabulation system
Days 7 – 10:	Advertising (assuming that days 8, 9, 10 are the days that the ad would actually appear in the publication)
	-Begin poll worker training
Day 10:	Begin securing precincts contracts for polling locations
Day 15:	Candidate petitions are due to the Supervisor of Elections (1/4 of normal petitions) for all candidates who wish to qualify to be on the ballot by petition
Day 17:	Supervisors of Elections to certify candidate petitions for filed candidates to the Division of Elections (this gives 2 days of processing petitions)
Day 20 – 21:	Qualifying
Day 24 – Day 26:	Design the layout of ballots for the Primary. Review ballot proofs for the Primary election.
Day 26:	Run test ballots through tabulation system to ensure they are compatible
	- Send the ballot proof to a printer for UOCAVA overseas ballots
Day 26 – 28:	Design the layout of sample ballots for the Primary. Review the sample ballot proofs
Day 32:	Mail UOCAVA overseas vote-by-mail ballots (for special Primary)

Day 32 – 57:	Begin staging and prepping elections machines
Day 42:	Send certified notice of public logic and accuracy testing to political party chairs and candidates
Day 42:	Begin mailing of domestic vote-by-mail ballots (for special Primary)
Day 48:	Book closing (special Primary)
	-Begin preparing election equipment (booths, bags, accessibility ramps, etc.)
	-Coordinate with a moving company the load out and return of early voting and election day election day elections day machines and equipment
Day 50:	Begin design/contracting for placing sample ballot ad in newspaper of general circulation
Day 47:	Deadline to designate early voting sites
Day 47 – Day 55:	Window for public notice of the public logic and accuracy testing of equipment in a newspaper of general circulation and on the official Supervisors of Elections website
Day 57:	Public Logic and Accuracy Testing of equipment
	-Election Preparation Report due for posting on official Supervisor of Elections websites
Day 58:	Begin load out of elections equipment and machines for early voting
Day 58 – 66:	Set up early voting sites
Day 60 – 69:	Mail sample ballots
Day 67-74:	Early Voting begins (for special election Primary)
Day 69:	Begin load out of elections equipment and machines for Primary Election Day
Day 70:	Send electronic sample ballot to voters who requested electronic sample ballots or who provided email addresses
Day 74:	Begin to define the General Election in the tabulation system
Day 77:	Special Primary Election Day
Day 77 – 80:	Take down all Election Day precincts, load all elections equipment and machines, move back to warehouse location

Day 78 – 83:	Scan and inventory all elections machines and equipment
Day 78 – 89:	Search and clear every piece of equipment and machinery for possible live ballots
Day 81:	1st unofficial results (begin possible recount procedures)
Day 87:	Overseas ballots are due back to the Supervisors of Elections for the special Primary election
Day 89:	Deadline for county certification of election results (for Primary)
Day 89 – 96:	Manual audit by the canvassing board may begin
Day 90:	Begin poll worker training
Day 90 – 92:	Design the layout of ballots for the General. Review ballot proofs for the General election
Day 90 – 104:	All elections documentation (ballot report forms, provisional documentation, spoils, etc.) is all catalogued and off-sited.
Day 92:	Run test ballots through tabulation system to ensure they are compatible (for General election)
Day 92 – 94:	Design the layout of sample ballots for the General. Review the sample ballot proofs (for General)
Day 91:	Election Canvassing Commission Certification report due (for Primary)
Day 102:	UOCAVA overseas mailing of ballots (for special General)
	-Begin design/contracting for placing sample ballot ad in newspaper of general circulation
Day 102 – 127:	Begin staging and prepping elections machines
Day 112:	Send certified notice of public logic and accuracy testing to the party chairs and candidates
Day 112 – 139:	Begin domestic mailing of ballots (for special General)
Day 118:	Book closing (for special General)
	-Begin preparing election equipment (booths, bags, accessibility ramps, etc.)
Day 121:	Results by precinct report due to Division of Elections (for special Primary)

Day 117:	Deadline to designate early voting sites
Day 117 – 125:	Public notice of the public logic and accuracy testing of equipment may begin in a newspaper of general circulation and on the official Supervisors of Elections website
Day 127:	Public Logic and Accuracy Testing of equipment
Day 128:	Begin load out of elections equipment and machines for early voting
Day 128 – 136:	Set up Early Voting sites
Day 130-139:	Mail sample ballots
Day 137-144:	Early Voting (for General special)
Day 139:	Begin load out of elections equipment and machines for Election Day
Day 140:	Send electronic sample ballot to voters who requested electronic sample ballots or who provided email addresses
Day 147:	General Election Day
Day 148 – 150:	Take down all Election Day precincts, load all elections equipment and machines, move back to warehouse location
Day 148 – 153:	Scan and inventory all elections machines and equipment
Day 148 – 159:	Search and clear every piece of equipment and machinery for possible live ballots
Day 150:	1st unofficial results (begin possible recount procedures)
Day 157:	Overseas ballots due back to the Supervisors of Elections for the special General Election
Day 159:	Deadline for county certification of election results
Day 159 – 166:	Manual audit by the canvassing board may begin
Day 160 – 174:	All elections documentation (ballot report forms, provisional documentation, spoils, etc.) is all catalogued and off-sited.
Day 161:	Deadline for Canvassing Commission Certification report
Day 191:	Results by precinct report due to Division of Elections (for General election)

Note: The first day of the calendar assumes most redistricting processes have occurred prior to the "Day 0". This includes any counties that must find and contract with a GIS contractor if there are no in-house GIS specialty staff. It also includes the actual mapping of the lines in GIS, which typically takes a few weeks to complete and "SRIMP" or importing these lines into the voter database. Should these events have to take place around December 18th, it might be difficult for counties to find mapping GIS contractors who will be available around the holidays

EXHIBIT B

COMMENTS

1. The first day of the calendar assumes most redistricting processes have occurred prior to the "Day 0". This includes any counties that must find and contract with a GIS contractor if there are no in-house GIS specialty staff members. It also includes the actual mapping of the lines in GIS, which typically takes a few weeks to complete, and "SRIMP" or importing these lines into the voter database.

2. Should these events have to take place around December 18th, it might be difficult for counties to find mapping GIS contractors who will be available around the holidays.

3. Depending on the timing of a possible special election, Supervisors may encounter hiring/staffing complications including availability, recruitment, training, cost, tax withholdings, compliance with the Affordable Care Act impact, levels of staffing if processing election and qualifying or dual election, etc. These variables would be affected by time of year, if a temporary employee worked previous elections and thus through additional aggregate hours fell into a new employee classification, etc. (*F.S. 102.012; F.S. 102.014)*

4. The impact of needing to draw precinct lines that match congressional districts is important to keep in mind due to the reporting by congressional districts of the 2016 presidential election and may cause a more complicated redistricting process than anticipated for Supervisors *F.S. 98.0981.*

5. Polling locations may be available now, but not in special election, thus prompting precinct changes, voter cards, proper notice of precinct changes, etc. (see *F.S. 101.001; F.S. 101.71)*

6. If a special election is called, particularly if it must run concurrently with an existing election, local county governments will incur a great expense they may or may not presently have funds on hand to complete. Up-front costs for special elections are to be borne by counties' budgets and then reimbursed by state, see F.S. 100.102.