

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

Common Cause Florida, et al.,

Plaintiffs,

Michael Arteaga, et al.,

Plaintiff-Intervenors,

Case No. 4:22-cv-109-AW/MAF

v.

Laurel M. Lee, in her official capacity
as Florida Secretary of State,

Defendant.

DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES

Defendant Secretary of State Laurel Lee answers the Plaintiffs’ Complaint for Declaratory and Injunctive Relief. ECF No. [1]. Any allegation that is not specifically admitted herein is denied. As to the numbered paragraphs of the complaint, the Secretary answers as follows:

1. Admitted that Florida’s current congressional districts are malapportioned.

2. The referenced case speaks for itself. Admitted that the new census data “makes clear that Florida’s congressional districts do not account for the current

population numbers in Florida,” which makes the districts malapportioned. Admitted that Florida has been allocated a 28th congressional seat.

3. Admitted to the extent that the Florida Legislature is tasked to draw a new congressional district map; that the Florida Legislature began its redistricting process around January 2022; and that the Governor and Legislature have proposed congressional district maps. Denied that the Governor “abruptly intervened, overstepping his Executive powers to propose his own, constitutionally noncompliant map, which veered the Legislature off its course and cast the congressional redistricting process into uncertainty.” Denied that the Governor “has repeatedly and inappropriately inserted himself into the congressional redistricting process, and with each intervention, the Legislature’s proposed maps have deviated further and further from the required constitutional standards.” Denied that the Governor would veto “any map that protects the voting rights of minorities and avoids partisan gerrymandering.” Denied that there is a “significant likelihood” that the political branches of the Florida government will reach an impasse over redistricting. All remaining allegations are denied.

4. Admitted to the extent that Florida’s current congressional districts are malapportioned and that the current districts cannot be used in any upcoming elections. The referenced constitutional provision, cases, and statute speak for

themselves. Without knowledge or information to admit or deny the remaining allegations in this paragraph; therefore denied.

5. Denied that the political branches of the Florida government will likely fail to enact a new congressional district map. Denied that this Court should immediately intervene and enact a new congressional district plan. Even in the event of an impasse between the political branches of the Florida government, the state court in *Arteaga v. Lee*, 2022-CA-000398 (Fla. 2d Cir. Ct. 2022), is best positioned to draw a remedial map that complies with the *Federal* and *State* Constitutions. See *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984). The referenced statute speaks for itself. All other allegations in this paragraph are denied.

PARTIES

6. Without sufficient knowledge or information to admit or deny the allegations; therefore denied.

7. Without sufficient knowledge or information to admit or deny the allegations; therefore denied.

8. Without sufficient knowledge or information to admit or deny the allegations; therefore denied.

9. Admitted that Florida has been allocated a 28th congressional seat and that Florida's current congressional districts are malapportioned. Without sufficient

knowledge or information to admit or deny the remaining allegations; therefore denied.

10. Admitted that Laurel Lee is the Secretary of State; that she is the chief election officer of the State; and that she is responsible for the administration and implementation of Florida's congressional map in its elections; otherwise the statute speaks for itself.

11. Admitted to the extent that Wilton Simpson is the President of the Florida Senate. All other allegations in this paragraph are denied. Senator Simpson has been dismissed from the case. ECF No. [59].

12. Admitted to the extent that Chris Sprowls is the Speaker of the Florida House of Representatives. All other allegations in this paragraph are denied. Speaker Sprowls has been dismissed from the case. ECF No. [59].

13. Admitted to the extent that Ray Wesley Rodrigues is the Chair of the Florida Senate Reapportionment Committee. All other allegations in this paragraph are denied. Senator Rodrigues has been dismissed from the case. ECF No. [59].

14. Admitted to the extent that Jennifer Bradley is the Chair of the Florida Senate Select Subcommittee on Congressional Reapportionment. All other allegations in this paragraph are denied. Senator Bradley has been dismissed from the case. ECF No. [59].

15. Admitted to the extent that Thomas Leek is the Chair of the Florida House of Representatives Redistricting Committee. All other allegations in this paragraph are denied. Representative Leek has been dismissed from the case. ECF No. [59].

16. Admitted to the extent that Tyler Sirois is the Chair of the Florida House of Representatives Congressional Redistricting Subcommittee. All other allegations in this paragraph are denied. Representative Sirois has been dismissed from the case. ECF No. [59].

17. Admitted to the extent that Ron DeSantis is the Governor of Florida. All other allegations in this paragraph are denied. The Governor has been dismissed from the case. ECF No. [59].

JURISDICTION AND VENUE

18. Admitted.

19. Admitted.

20. Admitted. The referenced statute and case speak for themselves.

FACTUAL ALLEGATIONS

I.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted. The referenced cases speak for themselves.

25. Admitted. The referenced case speaks for itself.

26. Admitted.

II.

27. Admitted. The referenced constitutional provision speaks for itself.

28. Admitted.

29. Admitted.

30. Admitted.

31. Admitted.

III.

32. Admitted that in Florida, congressional district plans are enacted via legislation, which must pass both chambers of the Legislature and be approved and signed by the Governor (unless the Legislature re-enacts vetoed legislation by a two-thirds vote in both chambers) or not be vetoed after presentation to the Governor.

33. Admitted to the extent that state and federal law apply in redistricting matters. Article III, section 20(a) of the State Constitution speaks for itself. All other allegations in this paragraph are denied.

34. Admitted to the extent that the Florida Legislature passed state legislative maps, which drew no objections from third parties when the maps were

reviewed by the Florida Supreme Court. All other allegations in this paragraph are denied.

35. Admitted to the extent that legislative redistricting plans do not require the Governor's approval. Admitted that in Florida, congressional district plans are enacted via legislation as described in paragraph 32. The Secretary notes a special session of the Florida Legislature will convene from April 19, 2022 to April 22, 2022 to address redistricting. Denied that "Governor DeSantis has demonstrated that he is not willing to abide by the law, or sign a congressional plan that does, making an impasse high likely." All other allegations in this paragraph are denied.

36. Admitted to the extent that the Florida Senate passed a congressional redistricting map in January 2022. All other allegations in this paragraph are denied.

37. Admitted to the extent that the Governor proposed his own map. Denied that his plan "ignored the law." Denied that the Governor "insert[ed] himself into the map-drawing process in [an] inappropriate and unprecedented way," which "diminish[es] the prospect that the Legislature would timely pass a legally- and constitutionally-compliant congressional map." All other allegations in this paragraph are denied.

38. Admitted to the extent that the Governor asked the Florida Supreme Court for an advisory opinion; that some Plaintiffs in this case filed briefs in the matter; and that the court denied his request. Denied that the Governor "interfere[d]

with and subvert[ed] the Legislature’s congressional redistricting process.” The referenced case speaks for itself. All other allegations in this paragraph are denied.

39. Admitted to the extent that the Governor proposed another map to the Florida Legislature. All other allegations in this paragraph are denied.

40. Admitted.

41. Admitted.

42. Admitted to the extent that the Governor has communicated his disapproval of certain congressional district maps. All other allegations in this paragraph are denied.

43. Admitted.

44. Admitted.

45. Denied.

46. As of this filing, the Governor has vetoed the legislation. A special session of the Florida Legislature has been called to draw a new congressional district map. The special session will take place from April 19, 2022 to April 22, 2022. The remaining allegations in this paragraph are denied.

47. Denied.

IV.

48. Admitted.

49. Admitted.

50. Admitted.

51. Admitted to the extent that Florida's current congressional districts are malapportioned. All other allegations in this paragraph are denied.

52. Admitted to the extent that Florida's current congressional districts are malapportioned. Without sufficient knowledge or information to admit or deny the remaining allegations; therefore denied.

V.

53. Admitted.

54. Admitted.

55. The referenced statute speaks for itself.

56. Admitted to the extent that Florida's current congressional districts are malapportioned. Denied that there is a "high likelihood" that the political branches of the Florida government will not produce and enact a new congressional district map following the special session of the Florida Legislature. The referenced statute speaks for itself. All other allegations in this paragraph are denied.

VI.

57. Admitted to the extent that new congressional districts need to be drawn. All other allegations in this paragraph are denied.

58. Admitted to the extent that new congressional districts need to be drawn and that the candidate qualification deadline is June 17, 2022. All other allegations in this paragraph are denied.

59. Admitted to the extent that new congressional districts need to be drawn. All other allegations in this paragraph are denied.

60. Without sufficient knowledge or information to admit or deny the factual allegations; therefore denied.

61. Denied that there is a “near-certain impasse” of the political branches of the Florida government. Without sufficient knowledge or information to admit or deny the factual allegations; therefore denied.

CLAIMS FOR RELIEF

Count I: Violation of Article I, Section 2 of the U.S. Constitution

62. The Secretary realleges and reincorporates by reference all prior paragraphs of this answer.

63. The referenced constitutional provision and cases speak for themselves.

64. The referenced constitutional provision and case speak for themselves.

65. Admitted.

66. Admitted.

67. Without sufficient knowledge or information to admit or deny the factual allegations; therefore denied.

Count II: Violation of 2 U.S.C. § 2c

68. The Secretary realleges and reincorporates by reference paragraphs 1 through 61 of their answer.

69. The referenced federal statute speaks for itself.

70. Admitted.

71. Without sufficient knowledge or information to admit or deny the factual allegations; therefore denied.

PRAYER FOR RELIEF

Having completely and fully answered the Plaintiffs' Complaint, the Secretary denies that the Plaintiffs are entitled to relief because the Florida Legislature and Governor are not yet at an impasse.

AFFIRMATIVE DEFENSES

1. First Defense: The complaint is not ripe for adjudication because the political branches of the Florida government are not yet at an impasse. The Florida Legislature will begin its special session on April 19, 2022 and end on April 22, 2022.

2. Second Defense: Federal courts are barred from enforcing state law provisions against state officials, thereby precluding this Court from adopting and implementing a remedial map that requires compliance with article III, section 20 of

the Florida Constitution. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2022, I electronically filed the foregoing with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the parties who have appeared.

/s/ Mohammad O. Jazil
Mohammad O. Jazil.