

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:24-cv-21983-JB

CUBANOS PA'LANTE, ENGAGE MIAMI, INC.,  
FIU ACLU CLUB, CINDY POLO, LUIS SORTO,  
and GENESIS M. CASTILLA FALCON,

Plaintiffs,

v.

FLORIDA HOUSE OF REPRESENTATIVES  
and CORD BYRD, in his official capacity as  
Florida Secretary of State,

Defendants.

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**FLORIDA HOUSE OF REPRESENTATIVES' MOTION TO  
COMPEL DISCOVERY FROM CUBANOS PA'LANTE**

Defendant, the Florida House of Representatives (the "House"), respectfully moves to compel Plaintiff, CubanOs Pa'lante ("CubanOs"), to produce documents responsive to Request No. 13 of the House's Second Request for Production of Documents to CubanOs ("Second Request for Production"). The documents sought directly address whether CubanOs has standing to bring this suit. Specifically, the House seeks names and contact information of CubanOs' membership, which demonstrate whether CubanOs has members who reside and are registered to vote in the challenged districts. The Court, therefore, should compel CubanOs to produce documents responsive to Request No. 13.

**I. FACTUAL BACKGROUND**

On October 11, 2024, the House served its Second Request for Production, which sought the following information:

**Request for Production No. 13**

A list, directory, or other documents that identify all your members, sufficient to show all contact information, including but not limited to each member's address, email address, and phone number. The date range for this request is August 1, 2021, through the present.

See Exhibit 1 at 6, House's Second Request for Production.

On November 18, 2024, Cubanos served its Response to the Second Request for Production and objected to Request No. 13 as follows:

**RESPONSE TO REQUEST NO. 13:** Plaintiff objects to this Request because disclosure of the names and addresses of Plaintiffs' members is protected by the First Amendment associational privilege, because there is a reasonable probability that disclosure of this personal information would subject Plaintiffs' members to threats, harassment, or reprisals from either government officials or private parties; discourage new members; encourage member withdrawal; and otherwise chill Plaintiffs' members' associational rights. *Christ Covenant Church v. Town of Sw. Ranches*, No. 07-60516-CIV, 2008 WL 2686860, at \*6 (S.D. Fla. June 29, 2008); *Edmondson v. Velvet Lifestyles, LLC*, No. 15-24442-CIV, 2016 WL 7048363, at \*9 (S.D. Fla. Dec. 5, 2016). Plaintiff will provide names and contact information for board members.

See Exhibit 2, Cubanos' Response to House's Second Request for Production. On that same date, two other Plaintiffs—Engage Miami Inc. (“Engage Miami”) and FIU ACLU Club (“FIU ACLU”)—agreed to produce documents in response to identical requests for production served upon them. See Exhibit 3, Engage Miami's Response to House's Second Request for Production; Exhibit 4, FIU ACLU's Response to House's Second Request for Production.

The House conferred with Cubanos over its objection, explaining the membership lists were relevant to the House's challenge to Cubanos' standing. Despite good-faith conferrals between the parties on this issue, however, Cubanos is unwilling to withdraw its objection.

## II. LEGAL STANDARD

Pursuant to Federal Rule of Civil Procedure 26(b), “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.” “Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” *NIACCF, Inc. v. Cold Stone Creamery, Inc.*, No. 12-CV-20756, 2014 WL 4545918, at \*2 (S.D. Fla. Sept. 12, 2014) (citing Fed. R. Civ. P. 26(b)(1)). “Courts have long recognized the wide scope of discovery allowed under the Federal Rules of Civil Procedure.” *Id.* (citing *Burn v. Thiokol Chem. Corp.*, 483 F.2d 300, 304 (5th Cir. 1973)). “Motions to compel are committed to the sound discretion of the court.” *Felicia v. Celebrity Cruises, Inc.*, 286 F.R.D. 667, 670 (S.D. Fla. 2012) (citing *Commercial Union Ins. Co. v. Westrope*, 730 F.2d 729, 731 (11th Cir. 1984)).

## III. ARGUMENT

### a. The requested information is relevant to Cubanos’ lack of standing.

A membership organization that has not suffered its own injury may sue in limited circumstances “as the representative of its members.” *Warth v. Seldin*, 422 U.S. 490, 511 (1975). To prove standing to sue on behalf of its members, the organization must demonstrate that “its members would . . . have standing to sue in their own right, the interests at stake are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Ga. Republican Party v. SEC*, 888 F.3d 1198, 1203 (11th Cir. 2018) (quoting *Friends of the Earth, Inc. v. Laidlaw Env’t Servs. (TOC), Inc.*, 528

U.S. 167, 181 (2000)). As explained in detail in the House’s motion to dismiss Plaintiffs’ original complaint, ECF No. 25 at 4–6, 9–10, only a voter who resides in the challenged district has standing to bring a racial-gerrymandering claim. *See United States v. Hays*, 515 U.S. 737, 746 (1995). Thus, an entity has associational standing to assert a racial-gerrymandering claim only against “districts where its members reside and are registered to vote.” *League of United Latin Am. Citizens v. Abbott*, 604 F. Supp. 3d 463, 484 (W.D. Tex. 2022); *see also Johnson v. Mortham*, 915 F. Supp. 1529, 1536 (N.D. Fla. 1995) (“Registered voters have standing . . . in an action challenging the voting district in which the voters are registered.”).

The House seeks the names and contact information of Cubanos’ membership to determine whether Cubanos has members who live and are registered to vote in the challenged districts. By analogy, in *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 271 (2015), the district court found *sua sponte* that an association lacked standing to prosecute a racial-gerrymandering claim, since the trial record contained no evidence of the residency of the association’s members. The Supreme Court reversed, however, to “give the [association] an opportunity to provide evidence of member residence.” *Id.* The Court explained that it had “no reason to believe that the [association] would have been unable to provide a list of members . . . had it been asked” and directed the district court on remand to “reconsider the [association’s] standing by permitting the [association] to file its list of members and permitting the State to respond, as appropriate.” *Id.* The information sought is discoverable and relevant to the House’s contention that Cubanos lacks standing.

**b. Cubanos’ invocation of associational privilege is without merit.**

Cubanos invokes associational privilege to protect information relating to its membership. To establish the privilege, Cubanos must first make a *prima facie* showing that associational

privilege applies. *Edmondson v. Velvet Lifestyles, LLC*, No. 15-24442-CIV, 2016 WL 7048363, at \*9 (S.D. Fla. Dec. 5, 2016). “This *prima facie* showing requires the party claiming the privilege to demonstrate that enforcement of the discovery requests will result in (1) harassment, membership withdrawal, or discouragement of new members, or (2) other consequences which objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights.” *Id.* (citing *Perry v. Schwarzenegger*, 591 F.3d 1147, 1160 (9th Cir. 2010)). To meet this requirement, “[t]he party claiming the privilege ‘must demonstrate ‘objective and articulable’ facts that disclosure of information may chill association rights.” *Id.* (quoting *In re GlaxoSmithKline plc*, 732 N.W. 2d 257, 271 (Minn. 2007)).

Cubanos’ objection fails to meet this burden. Cubanos has “not provided any actual *evidence* to support [its] speculative theories” that there is a risk of threat, harassment, or reprisal if it provides the requested membership information. *Id.* at \*10 (emphasis in original). Notably, the similarly-situated plaintiffs in this action, Engage Miami and FIU ACLU, agreed to provide the information requested without invoking associational privilege. Cubanos has not provided any support in its conferral or otherwise to meet its *prima facie* burden to demonstrate that the production of these relevant documents will result in harassment or even have a chilling effect on membership.

Moreover, even if Cubanos had met its *prima facie* burden, the House has a compelling interest in the information, and Cubanos is the exclusive source for obtaining the information. *Id.* at \*9 (“If the party claiming the privilege makes the necessary *prima facie* showing, then the evidentiary burden will shift to the party opposing a privilege claim to demonstrate that the information sought is rationally related to a compelling interest of the party, and the least restrictive means of obtaining the information.”) (citations omitted); *see also Christ Covenant Church v.*

*Town of S.W. Ranches*, No. 07-60516-CIV, 2008 WL 2686860, at \*12 (S.D. Fla. June 29, 2008) (ordering church to identify names and contact information of all members who were relevant to test the church's contentions). In *NIACCF, Inc. v. Cold Stone Creamery, Inc.*, defendant issued interrogatories that generally sought "information regarding the identity of NIACCF's members" because the information was relevant to issues in the case, "including standing to sue." No. 12-CV-20756, 2014 WL 4545918, at \*2-3 (S.D. Fla. Sept. 12, 2014). The Court's analysis in *NIACCF* is directly on point:

After considering these factors, this Court finds that the information requested in Interrogatories 1 to 4 (membership identity information) is relevant to the claims in this case. First, **the information sought goes to the heart of this case, as it could potentially determine whether NIACCF has standing to bring this action.** Second, the information is not likely to be available from alternative sources, since NIACCF is the only source that can confirm its membership. Third, any effect on NIACCF or its members would result from Cold Stone seeking to defend against the lawsuit and not from an attempt to infringe on constitutionally protected rights of association. Fourth, the interrogatory requests are limited and disclosure of the information sought is not so broad as to sweep aside the First Amendment's associational privilege. Lastly, Cold Stone is the named Defendant in this litigation and, as in *Christ Covenant Church*, has a right to investigate the factual assertions made by Plaintiff.

*Id.* at \*4 (emphasis added).

Moreover, in *NIACCF* the defendant had previously used intimidation tactics against the four members who were named in the Complaint. *Id.* at \*2. Notwithstanding the plaintiff's non-speculative evidence of intimidation, the Court found defendant had illustrated a compelling need for the information. *Id.* at \*4-5. Here, without actual evidence of intimidation, Cubanos' objection is unavailing, leaving no reason to withhold the relevant documents. *See Edmondson*, 2016 WL 7048363, at \*9 (finding defendants' "speculative theories" fail to meet the requisite burden of proof and amount solely to "attorney argument").

#### IV. CONCLUSION

The Court should grant the House's Motion to Compel and order Cubanos to produce documents responsive to Request No. 13 of the House's Second Request for Production within thirty (30) days from the date of the Court's Order.

#### **RULE 7.1(a)(2) CERTIFICATION**

Prior to filing this motion, Counsel for the House conferred via email and video conference with Counsel for Cubanos. The parties were able to reach agreement on various issues, but the parties were unable to reach agreement on Cubanos' objection to Request No. 13 of the House's Second Request for Production.

Dated: December 23, 2024.

Respectfully submitted,

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# **Exhibit 1**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 1:24-cv-21983-JB**

CUBANOS PA'LANTE, *et al.*,

Plaintiffs,

v.

FLORIDA HOUSE OF REPRESENTATIVES  
and CORD BYRD, in his official capacity as  
Florida Secretary of State,

Defendants.

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**DEFENDANT FLORIDA HOUSE OF REPRESENTATIVES'  
SECOND REQUEST FOR PRODUCTION TO CUBANOS PA'LANTE**

Defendant, the Florida House of Representatives, requests that Plaintiff, Cubanos Pa'lante, respond to the following request for production in compliance with Federal Rule of Civil Procedure 34.

**DEFINITIONS**

For purposes of this request for production:

1. "Challenged districts" has the same meaning as in paragraph 4 of your Second Amended Complaint (ECF No. 58).

2. "Communication" means any transfer or exchange of information between two or more persons, including, but not limited to, letters, emails, text messages, WhatsApp messaging or other comparable messaging application, instant messages, voice messages, PowerPoint presentations, and social-media posts.

3. “Document” has the broadest scope permitted by the Federal Rules of Civil Procedure and includes any record of information, including writings, data, communications, correspondence, photographs, video and audio recordings, and images—whether stored physically, electronically, or otherwise—from which information can be obtained directly or after translation into a reasonably usable form, and specifically includes all electronically stored information.

4. “Non-diminishment provision” means the provision of the Florida Constitution that states: “districts shall not be drawn . . . to diminish [the] ability [of racial or language minorities] to elect representatives of their choice.” *See* Art. III, §§ 20(a), 21(a), Fla. Const.

5. “You” and “your” refer to Cubanos Pa'lante.

### **INSTRUCTIONS**

1. Do not assert boilerplate objections. *See* Fed. R. Civ. P. 34(b)(2)(B) (“For each item or category, the response must either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons.”); *Milinazzzo v. State Farm Ins. Co.*, 247 F.R.D. 691, 695 (S.D. Fla. 2007) (Torres, Mag.) (“Objections which state that a discovery request is ‘vague, overly broad, or unduly burdensome’ are, by themselves, meaningless, and are deemed without merit by this Court. A party properly objecting on these bases must explain the specific and particular ways in which a request is vague, overly broad, or unduly burdensome.”).

2. Do not object and then proceed to respond to this request “subject to” or “notwithstanding” your objections. *See* Fed. R. Civ. P. 34(b)(2)(C) (“An objection must state

whether any responsive materials are being withheld on the basis of that objection.”); *Thermoset Corp. v. Bldg. Materials Corp. of Am.*, No. 14-60268-CIV, 2014 WL 6473232, at \*3 (S.D. Fla. Nov. 18, 2014) (Seltzer, Mag.) (“Although this practice has become commonplace, courts in the Eleventh Circuit have found that whenever an answer accompanies an objection, the objection is deemed waived and the answer, if responsive, stands.” (internal marks omitted)); *Network Tallahassee, Inc. v. Embarq Corp.*, No. 4:10-cv-00038, 2010 WL 4569897, at \*1 (N.D. Fla. Sept. 20, 2010) (“According to the motion, a discovery request was met with blanket objections and a statement that discovery would be provided ‘subject to and without waiving’ the objections. This is an abusive practice that has become commonplace but should end.”).

3. Do not object that responsive documents are in the requesting parties’ possession or otherwise available to the requesting party. *See Ghahan, LLC v. Palm Steak House, LLC*, No. 12-80762-CIV, 2013 WL 12095557, at \*3 (S.D. Fla. June 20, 2013) (“A party is entitled to the production of documents even where the requesting party is in possession of the documents.”); *CNH Capital Am., LLC v. Bland Farms, LLC*, CV612-003, 2013 WL 587536, at \*3 (S.D. Ga. Feb. 14, 2013) (“No one can say for sure whether the requestor is thinking of the same documents sought from the requestee, so for the latter to say you have equal access to them is to travel on sheer speculation.”); *Gross v. Guzman*, No. 11-23028-CIV, 2013 WL 12091159, at \*5 (S.D. Fla. Jan. 25, 2013) (Seltzer, Mag.) (“Courts, however, have generally held that objections to a discovery request on the ground that it seeks information or documents equally available to the propounding parties from their own records or from records which are equally available to the propounding parties (such as from

public records) is not sufficient to resist a discovery request, absent a showing of undue burden.” (internal marks omitted)).

4. Produce documents as they are kept in the usual course of business or organize and label them to correspond to the categories in this request. *See* Fed. R. Civ. P. 34(b)(2)(E).

5. If you withhold information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, then make the claim expressly and describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable the State to assess the claim. *See* Fed. R. Civ. P. 26(b)(5)(A).

6. If, after responding to this request, you learn that in some material respect any response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the State during the discovery process or in writing, then supplement or correct your incomplete or incorrect response in a timely manner. *See* Fed. R. Civ. P. 26(e).

7. Except as otherwise indicated, the timeframe for the requests is August 1, 2021, to the present.

## **DOCUMENT REQUESTS**

### **Request for Production No. 1**

All documents (including, but not limited to, meeting agendas, member voting records, meeting minutes, video or audio recordings, and records of actions taken by your board) that reflect or record your decision to initiate this litigation.

**Request for Production No. 2**

All communications in which your members were informed of your decision to initiate this litigation.

**Request for Production No. 3**

All communications that show your members were consulted before your decision to initiate this litigation and all subsequent responses by your members.

**Request for Production No. 4**

All communications between you and one or more of your members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**Request for Production No. 5**

All communications to or from your members regarding the challenged districts or the non-diminishment provision.

**Request for Production No. 6**

All communications between two or more of your officers or board members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**Request for Production No. 7**

All communications between any of your attorneys and any ACLU organization (or any officer, director, or member of any ACLU organization), including student ACLU organizations, regarding this litigation.

**Request for Production No. 8**

All communications between any of your attorneys and any organization that was invited to but did not join this litigation (or any officer, director, or member of any such organization), regarding this litigation.

**Request for Production No. 9**

All documents you identify in response to Interrogatory No. 1 of the Florida House of Representatives' Second Set of Interrogatories to Cubanos Pa'lante.

**Request for Production No. 10**

All documents you identify in response to Interrogatory No. 2 of the Florida House of Representatives' Second Set of Interrogatories to CubanOs Pa'lante.

**Request for Production No. 11**

All documents you identify in response to Interrogatory No. 3 of the Florida House of Representatives' Second Set of Interrogatories to CubanOs Pa'lante.

**Request for Production No. 12**

All documents that reflect the activities or projects that you described in response to Interrogatory No. 4 of the Florida House of Representatives' Second Set of Interrogatories to CubanOs Pa'lante.

**Request for Production No. 13**

A list, directory, or other documents that identify all your members, sufficient to show all contact information, including but not limited to each member's address, email address, and phone number. The date range for this request is August 1, 2021, through the present.

**Request for Production No. 14**

All information you reviewed in making your decision to join the litigation.

**Request for Production No. 15**

Your application for tax exemption, as defined in 26 C.F.R. § 301.6104(d)-1(b)(3).

**Request for Production No. 16**

Your annual information returns, as defined in 26 C.F.R. § 301.6104(d)-1(b)(4).

**Request for Production No. 17**

The iMessage conference referenced in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to CubanOs Pa'lante.

**Request for Production No. 18**

All documents that identify the names of "all team members" who "expressed approval" to join the lawsuit as referenced in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to CubanOs Pa'lante.

**Request for Production No. 19**

The Cubanos Pa'lante, Inc. Corporate Bylaws make reference to the organization communicating to “their members matters regarding these causes via newsletters, social media, email, and text.” *See* CUBANOS-0000000169. To the extent not encompassed by Request No. 5, produce all communications from you to your members regarding the challenged districts.

**Request for Production No. 20**

The Cubanos Pa'lante, Inc. Corporate Bylaws make reference to the organization communicating to “their members matters regarding these causes via newsletters, social media, email, and text.” *See* CUBANOS-0000000169. To the extent not encompassed by Request No. 5, produce all communications from you to your members regarding the non-diminishment provision, including documents regarding its definition, application, or examples of correct or incorrect application of the provision.

Dated October 11, 2024.

Respectfully submitted,

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*Attorneys for Defendant, Florida House of Representatives*

**CERTIFICATE OF SERVICE**

I certify that, on October 11, 2024, a true and correct copy of the foregoing was served by email on all counsel identified on the Service List that follows.

/s/ Andy Bardos

Andy Bardos (FBN 822671)

GRAYROBINSON, P.A.

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# **Exhibit 2**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:24-cv-21983-JB

CUBANOS PA'LANTE, *et al.*,

*Plaintiffs,*

v.

FLORIDA HOUSE OF REPRESENTATIVES  
and CORD BYRD, in his official capacity as  
Florida Secretary of State,

*Defendant.*

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**PLAINTIFF CUBANOS PA'LANTE'S RESPONSES TO DEFENDANT HOUSE  
OF REPRESENTATIVES' SECOND REQUEST FOR PRODUCTION**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, and the Local Rules of the U.S. District Court for the Southern District of Florida ("Local Rules"), Plaintiff CubanOs Pa'lante ("Plaintiff"), by and through its undersigned counsel, hereby responds and objects to Defendant House of Representatives' ("Defendant" OR "House") Second Request for Production of Documents ("Requests"), dated October 11, 2024.

**PRELIMINARY STATEMENT**

1. Plaintiff's counsel is prepared to meet and confer with the House's counsel about any disputes concerning the meaning, scope, and relevance of the House's Requests or these Responses and Objections.

2. Each response below is on behalf of CubanOs Pa'lante, and no other entity or individual.

3. The following objections are made without waiving but, instead, preserving: (a) the right to raise all questions of, and to object to, the authenticity, competence, foundation, relevancy, materiality, privilege, and/or admissibility of any information or document provided or identified

in response to the Requests; (b) the right to object on any ground to the use or introduction into evidence of any information or any document in any subsequent proceeding or in the trial of this or any other action on any ground; and (c) the right to object on any ground at any time to additional discovery.

4. As of the date of this response, Plaintiff has not completed its discovery and investigation of the facts in this case, has not completed its review and production of relevant documents, and has not completed its preparation for summary judgment and, if necessary, trial. Accordingly, the responses and objections set forth below are based on information presently known and reasonably available to Plaintiff at this time after a diligent search and reasonable and good-faith inquiry. Plaintiff reserves the right to: (a) amend, alter, supplement, clarify, or otherwise modify these Responses and Objections; (b) make use of, or introduce at any hearing or trial, any documents, information, facts, evidence, and legal theories which are subsequently discovered or which are now known but whose relevance, significance, or applicability has not yet been ascertained; and (c) offer expert witness opinions or testimony on any relevant matter, which opinions or testimony may be at variance with these Responses and Objections or the documents and information referenced in these Responses and Objections or produced in response to the Requests.

5. The Responses and Objections set forth below shall not be construed as an admission that Plaintiff has any reasonably accessible, nonprivileged documents or data responsive to any Request in its custody, possession, or control. Any statement in these Responses and Objections that Plaintiff will search for or produce responsive documents or data is not a representation that nonprivileged, responsive documents or data exist; that nonprivileged, responsive documents or data are in Plaintiff's possession, custody, or control; or that

nonprivileged, responsive documents or data are reasonably accessible; but instead reflects Plaintiff's intention, subject to the objections set forth herein and the scope of any agreement reached with Plaintiffs, to conduct a reasonable search for responsive documents in files maintained by or on behalf of employees who are reasonably believed to have had meaningful involvement in the events, transactions, and occurrences alleged in Plaintiffs' First Amended Complaint (ECF No. 31) ("Complaint").

6. The Responses and Objections set forth below shall not be construed as any admission that Plaintiff adopts or agrees with any definition, premise, characterization, or legal conclusion in any Request.

7. Production of documents does not imply an agreement or concession that they are relevant to or admissible in this proceeding, and is not to be construed as waiving any objection stated herein or any objection on any ground to the use of the documents or the information within them in this, or any other, proceeding. Plaintiff reserves the rights to: (a) make any and all applicable evidentiary objections to the documents sought by Plaintiffs, including objections to the documents' authenticity, foundation, relevance, materiality, privilege, and admissibility; and (b) object to the use of these Responses and Objections in any subsequent proceeding in, or the trial of, this or any other action on any grounds.

8. Any inadvertent disclosure of privileged or protected information or documents shall not be deemed a waiver of any privilege. The House shall notify Plaintiff of any inadvertently disclosed privileged or protected information or documents pursuant to Federal Rule of Civil Procedure 26(b)(5)(B) and/or any procedures for doing so in any orders governing discovery in this litigation. The House must not use any privileged or protected information or documents

inadvertently disclosed. In addition, nothing herein is intended to be, or should be construed as, a waiver of any privilege.

9. Plaintiff objects to each of the House's Definitions, Instructions, and Requests to the extent that they seek to impose on Plaintiff any obligations not required by the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Southern District of Florida, any protocol governing the production of documents and/or information in this action, the orders of this Court, and/or any agreements of the parties with respect to document collection, search, and/or production.

### **RESPONSES AND OBJECTIONS**

Plaintiff responds and objects to the House of Representatives' Second Requests for Production, as follows:

. **REQUEST NO. 1:** All documents (including, but not limited to, meeting agendas, member voting records, meeting minutes, video or audio recordings, and records of actions taken by your board) that reflect or record your decision to initiate this litigation.

**RESPONSE TO REQUEST NO. 1:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 2:** All documents and communications in which your members were informed of your decision to initiate this litigation.

**RESPONSE TO REQUEST NO. 2:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 3:** All communications that show your members were consulted before

your decision to initiate this litigation and all subsequent responses by your members.

**RESPONSE TO REQUEST NO. 3:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 4:** All communications between you and one or more of your members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**RESPONSE TO REQUEST NO. 4:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 5:** All communications to or from your members regarding the challenged districts or the non-diminishment provision.

**RESPONSE TO REQUEST NO. 5:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 6:** All communications between two or more of your officers or board members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**RESPONSE TO REQUEST NO. 6:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 7:** All communications between any of your attorneys and any ACLU organization (or any officer, director, or member of any ACLU organization), including student ACLU organizations, regarding this litigation.

**RESPONSE TO REQUEST NO. 7:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 8:** All communications between any of your attorneys and any organization that was invited or recruited to join this litigation but did not do so (or any officer, director, or member of any such organization), regarding this litigation.

**RESPONSE TO REQUEST NO. 8:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 9:** All documents you identify in response to Interrogatory No. 1 of the Florida House of Representatives' Second Set of Interrogatories to Cubanos Pa'lante.

**RESPONSE TO REQUEST NO. 9:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 10:** All documents you identify in response to Interrogatory No. 2 of the Florida House of Representatives' Second Set of Interrogatories to Cubanos Pa'lante.

**RESPONSE TO REQUEST NO. 10:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 11:** All documents you identify in response to Interrogatory No. 3 of the Florida House of Representatives' Second Set of Interrogatories to Cubanos Pa'lante.

**RESPONSE TO REQUEST NO. 11:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 12:** All documents that reflect the activities or projects that you described

in response to Interrogatory No. 4 of the Florida House of Representatives' Second Set of Interrogatories to Cubanos Pa'lante.

**RESPONSE TO REQUEST NO. 12:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 13:** A list, directory, or other documents that identify all your members, sufficient to show all contact information including but not limited to each member's address, email address, and phone number. The date range for this request is August 1, 2021, through the present.

**RESPONSE TO REQUEST NO. 13:** Plaintiff objects to this Request because disclosure of the names and addresses of Plaintiffs' members is protected by the First Amendment associational privilege, because there is a reasonable probability that disclosure of this personal information would subject Plaintiffs' members to threats, harassment, or reprisals from either government officials or private parties; discourage new members; encourage member withdrawal; and otherwise chill Plaintiffs' members' associational rights. *Christ Covenant Church v. Town of Sw. Ranches*, No. 07-60516-CIV, 2008 WL 2686860, at \*6 (S.D. Fla. June 29, 2008); *Edmondson v. Velvet Lifestyles, LLC*, No. 15-24442-CIV, 2016 WL 7048363, at \*9 (S.D. Fla. Dec. 5, 2016). Plaintiff will provide names and contact information for board members.

**REQUEST NO. 14:** All information you reviewed in making your decision to join the litigation.

**RESPONSE TO REQUEST NO. 14:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff

will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 15:** Your application for tax exemption, as defined in 26 C.F.R. § 301.6104(d)-1(b)(3).

**RESPONSE TO REQUEST NO. 15:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 16:** Your annual information returns, as defined in 26 C.F.R. § 301.6104(d)-1(b)(4).

**RESPONSE TO REQUEST NO. 16:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 17:** The iMessage conference referenced in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to Cubanos Pa'lante.

**RESPONSE TO REQUEST NO. 17:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 18:** All documents that identify the names of "all team members" who "expressed approval" to join the lawsuit as referenced in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to Cubanos Pa'lante.

**RESPONSE TO REQUEST NO. 18:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 19:** The Cubanos Pa'lante, Inc. Corporate Bylaws make reference to the organization communicating to “their members matters regarding these causes via newsletters, social media, email, and text.” See CUBANOS-0000000169. To the extent not encompassed by Request No. 5, produce all communications from you to your members regarding the challenged districts.

**RESPONSE TO REQUEST NO. 19:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 20:** The Cubanos Pa'lante, Inc. Corporate Bylaws make reference to the organization communicating to “their members matters regarding these causes via newsletters, social media, email, and text.” See CUBANOS-0000000169. To the extent not encompassed by Request No. 5, produce all communications from you to your members regarding the non-diminishment provision, including documents regarding its definition, application, or examples of correct or incorrect application of the provision.

**RESPONSE TO REQUEST NO. 20:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

Dated: November 18, 2024

/s/ Andrew Frackman

Nicholas L.V. Warren (FBN 1019018)  
Daniel B. Tilley (FBN 102882)  
Caroline A. McNamara (FBN 1038312)  
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*\*Admitted pro hac vice  
Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I certify that, on November 18, 2024, the above Plaintiff's Responses to Defendant's Second Set of Requests for Production was served by email on counsel for the House of Representatives.

/s/ Andrew Frackman

# **Exhibit 3**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:24-cv-21983-JB

CUBANOS PA'LANTE, *et al.*,

*Plaintiffs,*

v.

FLORIDA HOUSE OF REPRESENTATIVES  
and CORD BYRD, in his official capacity as  
Florida Secretary of State,

*Defendant.*

---

**PLAINTIFF ENGAGE MIAMI'S RESPONSES TO DEFENDANT HOUSE OF  
REPRESENTATIVES' SECOND REQUEST FOR PRODUCTION**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, and the Local Rules of the U.S. District Court for the Southern District of Florida ("Local Rules"), Plaintiff CubanOs Pa'lante ("Plaintiff" or "Engage"), by and through its undersigned counsel, hereby responds and objects to Defendant House of Representatives' ("Defendant" OR "House") Second Request for Production of Documents ("Requests"), dated October 11, 2024.

**PRELIMINARY STATEMENT**

1. Plaintiff's counsel is prepared to meet and confer with the House's counsel about any disputes concerning the meaning, scope, and relevance of the House's Requests or these Responses and Objections.

2. Each response below is on behalf of Engage Miami, Inc., and no other entity or individual.

3. The following objections are made without waiving but, instead, preserving: (a) the right to raise all questions of, and to object to, the authenticity, competence, foundation, relevancy, materiality, privilege, and/or admissibility of any information or document provided or identified

in response to the Requests; (b) the right to object on any ground to the use or introduction into evidence of any information or any document in any subsequent proceeding or in the trial of this or any other action on any ground; and (c) the right to object on any ground at any time to additional discovery.

4. As of the date of this response, Plaintiff has not completed its discovery and investigation of the facts in this case, has not completed its review and production of relevant documents, and has not completed its preparation for summary judgment and, if necessary, trial. Accordingly, the responses and objections set forth below are based on information presently known and reasonably available to Plaintiff at this time after a diligent search and reasonable and good-faith inquiry. Plaintiff reserves the right to: (a) amend, alter, supplement, clarify, or otherwise modify these Responses and Objections; (b) make use of, or introduce at any hearing or trial, any documents, information, facts, evidence, and legal theories which are subsequently discovered or which are now known but whose relevance, significance, or applicability has not yet been ascertained; and (c) offer expert witness opinions or testimony on any relevant matter, which opinions or testimony may be at variance with these Responses and Objections or the documents and information referenced in these Responses and Objections or produced in response to the Requests.

5. The Responses and Objections set forth below shall not be construed as an admission that Plaintiff has any reasonably accessible, nonprivileged documents or data responsive to any Request in its custody, possession, or control. Any statement in these Responses and Objections that Plaintiff will search for or produce responsive documents or data is not a representation that nonprivileged, responsive documents or data exist; that nonprivileged, responsive documents or data are in Plaintiff's possession, custody, or control; or that

nonprivileged, responsive documents or data are reasonably accessible; but instead reflects Plaintiff's intention, subject to the objections set forth herein and the scope of any agreement reached with Plaintiffs, to conduct a reasonable search for responsive documents in files maintained by or on behalf of employees who are reasonably believed to have had meaningful involvement in the events, transactions, and occurrences alleged in Plaintiffs' First Amended Complaint (ECF No. 31) ("Complaint").

6. The Responses and Objections set forth below shall not be construed as any admission that Plaintiff adopts or agrees with any definition, premise, characterization, or legal conclusion in any Request.

7. Production of documents does not imply an agreement or concession that they are relevant to or admissible in this proceeding, and is not to be construed as waiving any objection stated herein or any objection on any ground to the use of the documents or the information within them in this, or any other, proceeding. Plaintiff reserves the rights to: (a) make any and all applicable evidentiary objections to the documents sought by Plaintiffs, including objections to the documents' authenticity, foundation, relevance, materiality, privilege, and admissibility; and (b) object to the use of these Responses and Objections in any subsequent proceeding in, or the trial of, this or any other action on any grounds.

8. Any inadvertent disclosure of privileged or protected information or documents shall not be deemed a waiver of any privilege. The House shall notify Plaintiff of any inadvertently disclosed privileged or protected information or documents pursuant to Federal Rule of Civil Procedure 26(b)(5)(B) and/or any procedures for doing so in any orders governing discovery in this litigation. The House must not use any privileged or protected information or documents

inadvertently disclosed. In addition, nothing herein is intended to be, or should be construed as, a waiver of any privilege.

9. Plaintiff objects to each of the House's Definitions, Instructions, and Requests to the extent that they seek to impose on Plaintiff any obligations not required by the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Southern District of Florida, any protocol governing the production of documents and/or information in this action, the orders of this Court, and/or any agreements of the parties with respect to document collection, search, and/or production.

### **RESPONSES AND OBJECTIONS**

Plaintiff responds and objects to the House of Representatives' Second Requests for Production, as follows:

**REQUEST NO. 1:** All documents (including, but not limited to, meeting agendas, member voting records, meeting minutes, video or audio recordings, and records of actions taken by your board) that reflect or record your decision to initiate this litigation.

**RESPONSE TO REQUEST NO. 1:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 2:** All documents and communications in which your members were informed of your decision to initiate this litigation.

**RESPONSE TO REQUEST NO. 2:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 3:** All communications that show your members were consulted before

your decision to initiate this litigation and all subsequent responses by your members.

**RESPONSE TO REQUEST NO. 3:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 4:** All communications between you and one or more of your members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**RESPONSE TO REQUEST NO. 4:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 5:** All communications to or from your members regarding the challenged districts or the non-diminishment provision.

**RESPONSE TO REQUEST NO. 5:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 6:** All communications between two or more of your officers or board members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**RESPONSE TO REQUEST NO. 6:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 7:** All communications between any of your attorneys and any ACLU organization (or any officer, director, or member of any ACLU organization), including student ACLU organizations, regarding this litigation.

**RESPONSE TO REQUEST NO. 7:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 8:** All communications between any of your attorneys and any organization that was invited or recruited to join this litigation but did not do so (or any officer, director, or member of any such organization), regarding this litigation.

**RESPONSE TO REQUEST NO. 8:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 9:** All documents you identify in response to Interrogatory No. 1 of the Florida House of Representatives' Second Set of Interrogatories to Engage Miami Inc.

**RESPONSE TO REQUEST NO. 9:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 10:** All documents you identify in response to Interrogatory No. 2 of the Florida House of Representatives' Second Set of Interrogatories to Engage Miami Inc.

**RESPONSE TO REQUEST NO. 10:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 11:** All documents you identify in response to Interrogatory No. 3 of the Florida House of Representatives' Second Set of Interrogatories to Engage Miami Inc.

**RESPONSE TO REQUEST NO. 11:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 12:** All documents that reflect the activities or projects that you described

in response to Interrogatory No. 4 of the Florida House of Representatives' Second Set of Interrogatories to Engage Miami Inc.

**RESPONSE TO REQUEST NO. 12:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 13:** A list, directory, or other documents that identify all your members, sufficient to show all contact information including but not limited to each member's address, email address, and phone number. The date range for this request is August 1, 2021, through the present.

**RESPONSE TO REQUEST NO. 13:** Plaintiff will produce documents responsive to this Request that are sufficient to show the identity and contact information of its members.

**REQUEST NO. 14:** All information you reviewed in making your decision to join the litigation, as discussed in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to Engage Miami Inc. This includes "the case" documents referenced in your response.

**RESPONSE TO REQUEST NO. 14:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 15:** Your application for tax exemption, as defined in 26 C.F.R. § 301.6104(d)-1(b)(3).

**RESPONSE TO REQUEST NO. 15:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 16:** Your annual information returns, as defined in 26 C.F.R. § 301.6104(d)-1(b)(4).

**RESPONSE TO REQUEST NO. 16:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 17:** Any document that reflects, records, or summarizes the consultation with the leadership of your board of directors, as discussed in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to Engage Miami Inc.

**RESPONSE TO REQUEST NO. 17:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 18:** Any document that identifies the names and titles of “the leadership of the Board of Directors” that were consulted about joining this litigation as discussed in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to Engage Miami Inc.

**RESPONSE TO REQUEST NO. 18:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 19:** Each version of your member intake form in effect at any time from August 1, 2021, to the present.

**RESPONSE TO REQUEST NO. 19:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 20:** Each version of your organizational platform (Young People's Priorities Platform) in effect at any time from August 1, 2021, to the present

**RESPONSE TO REQUEST NO. 20:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 21:** Any input provided by your members via survey on the updated 2024 Young People's Priorities Platform, as discussed in your answer to Interrogatory No. 6 of the Florida House of Representatives' First Set of Interrogatories to Engage Miami Inc.

**RESPONSE TO REQUEST NO. 21:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 22:** All rules and regulations adopted by your board of directors pursuant to Section 5.1 of your Amended and Restated Bylaws, dated July 17, 2024 (or any predecessor to Section 5.1).

**RESPONSE TO REQUEST NO. 22:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

Dated: November 18, 2024

Nicholas L.V. Warren (FBN 1019018)  
Daniel B. Tilley (FBN 102882)  
Caroline A. McNamara (FBN 1038312)  
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*\*Admitted pro hac vice  
Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I certify that, on November 18, 2024, the above Plaintiff's Responses to Defendant's Second Set of Requests for Production was served by email on counsel for the House of Representatives.

/s/ Andrew Frackman

# **Exhibit 4**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:24-cv-21983-JB

CUBANOS PA'LANTE, *et al.*,

*Plaintiffs,*

v.

FLORIDA HOUSE OF REPRESENTATIVES  
and CORD BYRD, in his official capacity as  
Florida Secretary of State,

*Defendants.*

---

**PLAINTIFF FIU ACLU CLUB'S RESPONSES TO DEFENDANT HOUSE OF  
REPRESENTATIVES' SECOND REQUEST FOR PRODUCTION**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, and the Local Rules of the U.S. District Court for the Southern District of Florida ("Local Rules"), Plaintiff FIU ACLU Club ("Plaintiff"), by and through its undersigned counsel, hereby responds and objects to Defendant House of Representatives' ("Defendant" OR "House") Second Request for Production of Documents ("Requests"), dated October 11, 2024.

**PRELIMINARY STATEMENT**

1. Plaintiff's counsel is prepared to meet and confer with the House's counsel about any disputes concerning the meaning, scope, and relevance of the House's Requests or these Responses and Objections.

2. Each response below is on behalf of FIU ACLU Club, and no other entity or individual.

3. The following objections are made without waiving but, instead, preserving: (a) the right to raise all questions of, and to object to, the authenticity, competence, foundation, relevancy, materiality, privilege, and/or admissibility of any information or document provided or identified

in response to the Requests; (b) the right to object on any ground to the use or introduction into evidence of any information or any document in any subsequent proceeding or in the trial of this or any other action on any ground; and (c) the right to object on any ground at any time to additional discovery.

4. As of the date of this response, Plaintiff has not completed its discovery and investigation of the facts in this case, has not completed its review and production of relevant documents, and has not completed its preparation for summary judgment and, if necessary, trial. Accordingly, the responses and objections set forth below are based on information presently known and reasonably available to Plaintiff at this time after a diligent search and reasonable and good-faith inquiry. Plaintiff reserves the right to: (a) amend, alter, supplement, clarify, or otherwise modify these Responses and Objections; (b) make use of, or introduce at any hearing or trial, any documents, information, facts, evidence, and legal theories which are subsequently discovered or which are now known but whose relevance, significance, or applicability has not yet been ascertained; and (c) offer expert witness opinions or testimony on any relevant matter, which opinions or testimony may be at variance with these Responses and Objections or the documents and information referenced in these Responses and Objections or produced in response to the Requests.

5. The Responses and Objections set forth below shall not be construed as an admission that Plaintiff has any reasonably accessible, nonprivileged documents or data responsive to any Request in its custody, possession, or control. Any statement in these Responses and Objections that Plaintiff will search for or produce responsive documents or data is not a representation that nonprivileged, responsive documents or data exist; that nonprivileged, responsive documents or data are in Plaintiff's possession, custody, or control; or that

nonprivileged, responsive documents or data are reasonably accessible; but instead reflects Plaintiff's intention, subject to the objections set forth herein and the scope of any agreement reached with Plaintiffs, to conduct a reasonable search for responsive documents in files maintained by or on behalf of employees who are reasonably believed to have had meaningful involvement in the events, transactions, and occurrences alleged in Plaintiffs' First Amended Complaint (ECF No. 31) ("Complaint").

6. The Responses and Objections set forth below shall not be construed as any admission that Plaintiff adopts or agrees with any definition, premise, characterization, or legal conclusion in any Request.

7. Production of documents does not imply an agreement or concession that they are relevant to or admissible in this proceeding, and is not to be construed as waiving any objection stated herein or any objection on any ground to the use of the documents or the information within them in this, or any other, proceeding. Plaintiff reserves the rights to: (a) make any and all applicable evidentiary objections to the documents sought by Plaintiffs, including objections to the documents' authenticity, foundation, relevance, materiality, privilege, and admissibility; and (b) object to the use of these Responses and Objections in any subsequent proceeding in, or the trial of, this or any other action on any grounds.

8. Any inadvertent disclosure of privileged or protected information or documents shall not be deemed a waiver of any privilege. The House shall notify Plaintiff of any inadvertently disclosed privileged or protected information or documents pursuant to Federal Rule of Civil Procedure 26(b)(5)(B) and/or any procedures for doing so in any orders governing discovery in this litigation. The House must not use any privileged or protected information or documents

inadvertently disclosed. In addition, nothing herein is intended to be, or should be construed as, a waiver of any privilege.

9. Plaintiff objects to each of the House's Definitions, Instructions, and Requests to the extent that they seek to impose on Plaintiff any obligations not required by the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Southern District of Florida, any protocol governing the production of documents and/or information in this action, the orders of this Court, and/or any agreements of the parties with respect to document collection, search, and/or production.

### **RESPONSES AND OBJECTIONS**

Plaintiff responds and objects to the House of Representatives' Second Requests for Production, as follows:

**REQUEST NO. 1:** All documents (including meeting agendas, meeting minutes, member voting records, video or audio recordings, and records of actions taken by your board) that reflect or record your decision to initiate this litigation.

**RESPONSE TO REQUEST NO. 1:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 2:** All documents and communications in which your members were informed of your decision to initiate this litigation.

**RESPONSE TO REQUEST NO. 2:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 3:** All communications that show your members were consulted before

your decision to initiate this litigation and all subsequent responses by your members.

**RESPONSE TO REQUEST NO. 3:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 4:** All communications between you and one or more of your members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**RESPONSE TO REQUEST NO. 4:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 5:** All communications to or from your members regarding the challenged districts or the non-diminishment provision.

**RESPONSE TO REQUEST NO. 5:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 6:** All communications between two or more of your officers or board members regarding this litigation (including, but not limited to, communications that predate your decision to initiate this litigation).

**RESPONSE TO REQUEST NO. 6:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 7:** All communications between any of your attorneys and any ACLU organization (or any officer, director, or member of any ACLU organization), including student ACLU organizations, regarding this litigation.

**RESPONSE TO REQUEST NO. 7:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 8:** All communications between any of your attorneys and any organization that was invited or recruited to join this litigation but did not do so (or any officer, director, or member of any such organization), regarding this litigation.

**RESPONSE TO REQUEST NO. 8:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 9:** All documents you identify in response to Interrogatory No. 1 of the Florida House of Representatives' Second Set of Interrogatories to FIU ACLU Club.

**RESPONSE TO REQUEST NO. 9:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 10:** All documents you identify in response to Interrogatory No. 2 of the Florida House of Representatives' Second Set of Interrogatories to FIU ACLU Club.

**RESPONSE TO REQUEST NO. 10:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 11:** All documents you identify in response to Interrogatory No. 3 of the Florida House of Representatives' Second Set of Interrogatories to FIU ACLU Club.

**RESPONSE TO REQUEST NO. 11:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 12:** All documents that reflect the activities or projects that you described

in response to Interrogatory No. 4 of the Florida House of Representatives' Second Set of Interrogatories to FIU ACLU Club.

**RESPONSE TO REQUEST NO. 12:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 13:** A list, directory, or other documents that identify all your members, sufficient to show all contact information including but not limited to each member's address, email address, and phone number. The date range for this request is August 1, 2021 through the present.

**RESPONSE TO REQUEST NO. 13:** Plaintiff will produce documents responsive to this Request that are sufficient to show the identity and contact information of its members.

**REQUEST NO. 14:** All information you reviewed in making your decision to join the litigation.

**RESPONSE TO REQUEST NO. 14:** Plaintiff objects to this Request because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not produce such information so protected. Plaintiff will conduct a reasonable search for all documents within their possession, custody, or control that are responsive to this Request and produce any documents responsive to this request that are not protected by attorney-client privilege or attorney work product protection.

**REQUEST NO. 15:** Any responses that you received to the inquiry reflected at CUBANOS-0000000155 and all subsequent communications in the same chain of

communications.

**RESPONSE TO REQUEST NO. 15:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 16:** Any recording or notes of the May 5 FaceTime call mentioned in your answer to Interrogatory No. 6 of the Florida House of Representatives' Second Set of Interrogatories to FIU ACLU Club.

**RESPONSE TO REQUEST NO. 16:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 17:** The WhatsApp communication mentioned in your answer to Interrogatory No. 6 of the Florida House of Representatives' Second Set of Interrogatories to FIU ACLU Club, including all responses from members to that communication and all subsequent communications in the same chain of communications.

**RESPONSE TO REQUEST NO. 17:** Plaintiff will produce non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 18:** All documents that support your statement that "lawmakers connected distinct, Latino communities (in Miami-Dade County and Collier County) solely because of race," as referenced in the Welcome to the ACLU Club presentation. *See* CUBANOS-0000000153.

**RESPONSE TO REQUEST NO. 18:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 19:** All documents showing that “State House districts were drawn to form long, skinny, non-compact shapes running north-south,” as referenced in the Welcome to the ACLU Club presentation. *See* CUBANOS-0000000153.

**RESPONSE TO REQUEST NO. 19:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 20:** All documents showing how and which districts “lump different parts of Miami-Dade County together, and split communities that have a lot in common,” as referenced in the Welcome to the ACLU Club presentation. *See* CUBANOS-0000000153.

**RESPONSE TO REQUEST NO. 20:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 21:** All documents showing what all “these districts” have “in common,” as referenced in the Welcome to the ACLU Club presentation. *See* CUBANOS-0000000153.

**RESPONSE TO REQUEST NO. 21:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 22:** All documents showing the “distinct communities” that were lumped together “into the same districts,” as referenced in the Welcome to the ACLU Club presentation. *See* CUBANOS-0000000153.

**RESPONSE TO REQUEST NO. 22:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 23:** All documents that identify the “Latino voters in South Florida” who are “against the current map,” as referenced in the Welcome to the ACLU Club presentation. *See* CUBANOS-0000000154.

**RESPONSE TO REQUEST NO. 23:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

**REQUEST NO. 24:** All documents showing how that the challenged districts “suppress South Florida’s diverse Latino community,” as referenced in the Welcome to the ACLU Club presentation. *See* CUBANOS-0000000152.

**RESPONSE TO REQUEST NO. 24:** Plaintiff will produce all non-privileged documents within its possession, custody, or control that are responsive to this Request.

Dated: November 18, 2024

*/s/ Andrew Frackman*

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**CERTIFICATE OF SERVICE**

I certify that, on November 18, 2024, the above Plaintiff's Responses to Defendant's Second Set of Requests for Production was served by email on counsel for the House of Representatives.

/s/ Andrew Frackman