

**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, *et al.*,

Defendants.

**PLAINTIFFS' MOTION TO COMPEL DISCOVERY
FROM FLORIDA HOUSE OF REPRESENTATIVES**

In this racial gerrymandering suit regarding congressional and State House districts in South Florida, Plaintiffs served a first set of requests for production on Defendant the Florida House of Representatives. Plaintiffs later served a second set of new and different requests. Despite acknowledging the requests are not the same, the House objects to this second set as “duplicative” of the first set. The House also objects to portions of four requests—which demand legislative documents used to develop the redistricting plans at issue—as irrelevant.

With good-faith attempts to resolve the matter having proven unsuccessful, Plaintiffs move under Federal Rule of Civil Procedure 37(a) to compel the House to produce documents responsive to Request Nos. 1–9 of Plaintiffs’ Second Request for Production, and to pay Plaintiffs’ reasonable expenses incurred in making this motion.

I. Factual Background

Plaintiffs filed this action on May 23, 2024. The operative complaint alleges that three congressional and seven State House districts (the “Challenged Districts”) are racially gerrymandered in violation of the Fourteenth Amendment’s Equal Protection Clause. ECF No. 58. The Court has not yet issued a scheduling order or set a discovery deadline.

On July 10, 2024, Plaintiffs served 11 requests for documents related to the House’s redrawing of the Challenged Districts. Ex. 1 (Plfs.’ 1st RFP). The House responded on August 9, objecting to Request Nos. 1–5 and 7–10 on the following grounds, among others:

- (1) The demand for “all documents related to” certain subjects rendered the requests overly broad, disproportionate, vague, and not reasonably particular in their description of

requested documents; and

- (2) The requests were overly broad, disproportionate, and unduly burdensome because they required the House to search all records of all House members and staff.

Ex. 2 (House's Resp. to Plfs.' 1st RFP).

Plaintiffs' and the House's counsel conferred on August 22 regarding the House's objections and discussed ways in which the requests could be narrowed to accommodate the House's concerns of undue burden, vagueness, overbreadth, and disproportionality. Plaintiffs' counsel emailed a summary of the discussion on October 8. Ex. 3 (Plfs.' Oct. 8, 2024 Letter). The House's counsel responded on October 17 that the time to raise with the Court any discovery dispute regarding the First Request for Production had expired, and that the House's objections to the First Request for Production remained unchanged. Ex. 4 (House's Oct. 17, 2024 Letter).

On November 4, Plaintiffs served their Second Request for Production, including nine new requests rewritten and narrowed along the lines of what the Parties' counsel had discussed in their conferral. Ex. 5 (Plfs.' 2nd RFP). Each request asked only for documents which are or were in the custody of 14 specific custodians, rather than all House members and staff. Ex. 5 at 5. Request Nos. 1–9 demanded, for the period January 1, 2020, to April 19, 2022, "All Documents including an analysis or discussion of" the following:

- (1) "the redistricting of congressional or Florida House districts in Miami-Dade County that were written, drafted, and/or edited by the Legislature";
- (2) "Voting Cohesion among Hispanic or Latino voters that were written, drafted, received, commissioned, and/or edited by the Legislature";
- (3) "White Bloc Voting that were written, drafted, received, commissioned, and/or edited by the Legislature";
- (4) "the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were written, drafted, received, commissioned, and/or edited by the Legislature";
- (5) "redistricting criteria or methodology that were written, drafted, and/or edited by the Legislature";
- (6) "the redistricting of congressional or Florida House districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants";

- (7) “Voting Cohesion among Hispanic or Latino voters that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants”;
- (8) “White Bloc Voting that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants”; and
- (9) “the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants”. Ex. 5 at 5–6.

Each request explicitly excluded from its ambit “any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.” Ex. 5 at 5–6.

The House responded on December 4, objecting to Request Nos. 1–9 on the ground that they are “duplicative of” Plaintiffs’ First Request for Production. Ex. 6 (House’s Resp. to Plfs.’ 2nd RFP):

The House further objects that this request, although narrower than, is duplicative of [a request] of Plaintiffs’ First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)’s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

Ex. 6 at 3–11.

The House also raised this relevance objection to a portion of Request Nos. 2, 3, 7, and 8:

The House further objects that, to the extent it seeks documents that relate to voting cohesion among Hispanic or Latino voters in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party’s claims or defenses.

Ex. 6 at 4–5, 9–10.

Finally, the House asserted legislative privilege and work product objections.¹ Ex. 6 at 3–12. The Parties’ earlier conferral seemingly bore fruit, however, because the House raised no objections on grounds of undue burden, vagueness, overbreadth, or disproportionality.

¹ Plaintiffs do not contest the House’s legislative privilege and work product objections so long as the House observes any applicable privilege log obligations. *See* L.R. 26.1(e)(2)(C).

Plaintiffs conferred with the House, explaining that nothing in the Local Rules bars Plaintiffs from serving new document requests, and explaining that documents relating to districts outside Miami-Dade County are relevant to Plaintiffs' case. Despite good-faith conferrals on these issues, however, the House is unwilling to withdraw its objections.

II. Legal Standard

“Parties 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.” Fed. R. Civ. P. 26(b)(1). “The Rules strongly favor full discovery whenever possible.” *Azzia v. Royal Caribbean Cruises Ltd.*, No. 15-24776-CV, 2018 WL 11233847, at *1 (S.D. Fla. Feb. 12, 2018) (citing *Farnsworth v. Procter & Gamble Co.*, 758 F.2d 1545, 1547 (11th Cir. 1985)). “Courts must therefore employ a liberal and broad scope of discovery in keeping with the spirit and purpose of the discovery rules.” *Id.* (citing *Rosenbaum v. Becker & Poliakoff, P.A.*, 708 F. Supp. 2d 1304, 1306 (S.D. Fla. 2010)). “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 Local Rules do not bar a party from serving a new request for production.

Rule 34(a) provides, in relevant part, “[a] party may serve on any other party a request within the scope of Rule 26(b) . . . to produce . . . any designated documents or electronically stored information” Rule 34 sets no limit on the number of requests a party may serve. (Nor indeed how many times a party may serve the same request, so long as a repeated request is not interposed for an improper purpose or unduly burdensome. *See* Rule 26(g)(1)(B).)

Nor do the Local Rules set any such limits. While Local Rule 26.1(g)(2)(A)(i) provides a deadline for seeking court intervention concerning a “dispute relating to a written response or objection to a discovery request,” that provision does exactly that: sets a deadline for raising a dispute regarding a particular response to a particular discovery request—“the written response or objection that is the subject of the dispute”.

Here, Plaintiffs served a first set of requests for production, received and discussed the House’s objections, and then served a new, second set of requests. The House even acknowledges that the second set of requests are different (“narrower than”) than the first. Ex. 6 at 3–11. But not merely “narrower than” the first set of requests, each new request is *written differently* to demand

a different set of documents. Whereas the first set of requests demanded “all documents related to” certain subjects, Ex. 1 at 5–6, the new requests ask for “all documents including an analysis or discussion of” certain subjects, Ex. 5 at 5–6. Furthermore, whereas the first set of requests demanded documents that might be in the custody of *more than five hundred* individual representatives and House staffers, *see* Ex. 2 at 3–18, the new requests are limited only to documents “which are and/or were in the custody of” seven representatives, four staffers, and three committees. Ex. 5 at 5.

In short, the existence of a prior, similar document request cannot shield a party from responding to a subsequent, different request. The House’s objection is meritless.

B. Information requested by Request Nos. 2, 3, 7, and 8 outside Miami-Dade County clears the “low bar” of relevance.

The House’s relevance objections to Request Nos. 2, 3, 7, and 8 are likewise meritless. This case presents racial gerrymandering claims under the Fourteenth Amendment’s Equal Protection Clause. Courts apply a two-step analysis when assessing racial gerrymandering claims. First, a plaintiff must allege that race was the “predominant factor” motivating district line drawing. *Cooper v. Harris*, 581 U.S. 285, 291 (2017) (citing *Miller v. Johnson*, 515 U.S. 900, 916 (1995)). Second, if race was the predominant factor motivating a district’s design, the defendant must satisfy strict scrutiny by proving that its use of race “serves a ‘compelling interest’ and is ‘narrowly tailored’ to that end.” *Id.* at 292 (quoting *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 173, 193 (2017)). “When a State invokes the [Voting Rights Act] to justify race-based districting, it must show (to meet the ‘narrow tailoring’ requirement) that it had a ‘strong basis in evidence’ for concluding that the statute required its action.” *Id.* (quoting *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015)). “Or said otherwise, the State must establish that it had ‘good reasons’ to think that it would transgress the [VRA] if it did *not* draw race-based district lines.” *Id.* at 293 (emphasis in original).

In this case, Plaintiffs allege that the Florida Legislature drew several majority-Hispanic districts in South Florida predominantly based on race. ECF No. 58 (Second Am. Compl.) ¶¶ 220, 225. Plaintiffs further allege that the use of race was not narrowly tailored to any compelling interest that might justify the predominant use of race, namely the Voting Rights Act and corollary requirements of the Florida Constitution’s Fair Districts Amendments. *Id.* ¶¶ 221, 226. This is so, Plaintiffs allege, because the Legislature lacked good reasons to think that two of the preconditions for liability under the Voting Rights Act and Fair Districts Amendments were present in the

Challenged Districts. *Id.* ¶¶ 193–199. These preconditions (the “*Gingles* preconditions”) are Hispanic voting cohesion and white bloc voting. *Id.* ¶¶ 13–17, 193–199; *see Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986).

Request Nos. 2, 3, 7, and 8 demand various legislative documents that analyze or discuss “Voting Cohesion among Hispanic or Latino voters” and “White Bloc Voting.” The House objects that “documents that relate to [these two subjects] in districts not located wholly or partially in Miami-Dade County . . . are not relevant to any party’s claims or defenses.” Ex. 6 at 4–5, 9–10. This objection holds no water. When the House debated the challenged redistricting maps during the legislative process, the bill sponsors and Redistricting Committee leadership repeatedly explained that they employed a “consistent methodology” in redistricting statewide, including when applying the minority-protection requirements.² In light of these statements, the House’s analyses of Hispanic voting cohesion and white bloc voting in districts outside Miami-Dade County are relevant to whether the House had “good reasons to think” those two *Gingles* preconditions were present for the Challenged Districts (which all include a portion of Miami-Dade County).

² *See, e.g.*, Ex. 7 (Feb. 1, 2022 House Tr.), statement of Redistricting Committee Chair Rep. Leek, 8:4–5, 8:12–14 (describing how the State House map’s “18 protected Black districts . . . and 12 protected Hispanic districts” are all “drawn in a consistent manner with respect to Florida Supreme Court precedent, and to maintain existing majority-minority districts.”); Ex. 8 (Feb. 2, 2022 House Tr.), statements of Congressional Redistricting Committee Vice Chair Rep. Tuck, 8:3–6 (debating in support of State House map, “I want to take a minute to discuss . . . the consistent methodology that has been applied to every district throughout the state in order to reach the result we are considering today. . . . This concept is indicative of the consistent methodology and reasoned approach of applying the constitutional standards throughout the map.”) and Chair Leek, 36:11–12 (“These maps and our process used a consistent methodology, just like we did a decade ago, applied across the entire map.”); Ex. 9 (Feb. 18, 2022 House Subcommittee Tr.), statement of Congressional Redistricting Subcommittee Chair Rep. Tyler Sirois, 10:19, 11:6–9 (explaining that in an early congressional map draft, the “three protected Black districts and three protected Hispanic districts” “are also drawn in a consistent manner with respect to Florida Supreme Court pre[ce]dent to maintain existing majority-minority districts”), 130:17–20 (explaining that the House “hit that mark again” in “engag[ing] in a consistent and reasoned approach”); Ex. 10 (Mar. 3, 2022 House Tr.), statements of Chair Leek, 52:8–9 (“If the question is, was the methodology used in the State House maps consistent with the methodology used in the congressional maps, the answer is yes.”) and Chair Sirois, 78:4–5 (“Our approach has been careful and consistent.”); Ex. 11 (Apr. 19, 2022 House Subcommittee Tr.), statement of Chair Leek, 9:20–24 (explaining that challenged Congressional Districts 27 and 28 were “exact copies” of the districts discussed on March 3, 2022).

If the House *did* apply a consistent methodology statewide, then any discussion of the *Gingles* preconditions outside South Florida would be relevant to how the Challenged Districts were drawn, too. If, however, discovery reveals that the House did *not* apply a consistent methodology when evaluating those two preconditions—and instead applied a unique, perhaps faulty methodology when evaluating the Challenged Districts—that would undermine the House’s defense that it had a “strong basis in evidence” for concluding that those two preconditions were present with respect to the Challenged Districts.

“Whether evidence is relevant under the federal rules is an extraordinarily low bar.” *Nunez v. Coloplast Corp.*, No. 19-cv-24000-SINGHAL/Louis, 2020 WL 2315077, at *9 (S.D. Fla. May 11, 2020); *see also Fla. State Conf. of Branches & Youth Units of NAACP v. Lee*, 568 F. Supp. 3d 1301, 1305 (S.D. Fla. 2021) (noting “circumstantial evidence could be relevant and therefore discoverable even if ultimately not admissible”). Request Nos. 2, 3, 7, and 8 clear this low hurdle.

C. The Court should assess Plaintiffs’ fees and expenses against the House.

Under Rule 37(a)(5)(A), if a motion to compel discovery is granted, “the court must, after giving an opportunity to be heard, require the party [] whose conduct necessitated the motion . . . to pay the movant’s reasonable expenses incurred in making the motion, including attorney’s fees,” unless the party’s objection was “substantially justified” or “other circumstances make an award of expenses unjust.” Rule 37 “creates a rebuttable presumption in favor of sanctions.” *Harris v. Int’l Paper Co.*, No. 2:20-cv-573-TFM-N, 2022 WL 22897114, at *1 (S.D. Ala. Sept. 14, 2022) (citation omitted). The House’s objections are not substantially justified, and there are no other circumstances that make an award of expenses unjust. The Court should therefore assess Plaintiffs’ reasonable fees and expenses against the House under Rule 37(a)(5).

IV. Conclusion

For the foregoing reasons, Plaintiffs respectfully request that the Court compel the House to produce all non-privileged documents responsive to Request Nos. 1–9 in Plaintiffs’ Second Request for Production, and assess reasonable expenses incurred in making this motion.

LOCAL RULE 7.1(a)(3) CERTIFICATE OF CONFERRAL

Plaintiffs’ counsel conferred with the counsel for the House in a good-faith effort to resolve the issues raised in this motion, during a telephone meet-and-confer on December 12, 2024, and again by email. The House opposes the relief requested by this motion.

Respectfully submitted January 2, 2025,

/s/ Nicholas L.V. Warren

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

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.

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

**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION
ON THE FLORIDA HOUSE OF REPRESENTATIVES**

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiffs serve their First Request for Production of Documents on Defendant Florida House of Representatives. Plaintiffs request that the Florida House of Representatives provide the following documents and things herein requested within 30 days by email; at the offices of the ACLU of Florida, 4343 West Flagler Street, Suite 400, Miami, FL 33134; or in such other method as may be agreed upon by counsel. Each Document Request is subject to the definitions and instructions set forth below. These Requests are continuing in nature, as provided in Federal Rule of Civil Procedure 26(e). If the Florida House of Representatives subsequently learns of additional information and/or documents responsive to these Requests, it is required to supplement any responses as soon as practicable thereafter. The Plaintiffs reserve the right to amend, supplement, and revise these Requests as necessary.

DEFINITIONS

1. "House" means the Florida House of Representatives, its members and officers, its component departments and offices, its committees and subcommittees, and all other entities formally or informally associated with the Florida House of Representatives.
2. "Senate" means the Florida Senate, its members and officers, its component departments and offices, its committees and subcommittees, and all other entities formally or informally associated with the Florida Senate.

3. “Legislature” means the Florida Legislature, including its two chambers, its members and officers, its component departments and offices, its committees and subcommittees, and all other entities formally or informally associated with the Florida Legislature and its two chambers.

4. “Associated with” means employed by, under contract with, acting as the agent of, representing, or otherwise affiliated with, an organization or person.

5. “You” or “Your” means the House, as defined above, and all persons acting or purporting to act on its behalf, including its agents and employees.

6. “Communication” is used in the broadest possible sense and means every manner or means of disclosure, transfer, or exchange of oral or written information between one or more persons, entities, devices, platforms, or systems.

7. “Complaint” means the First Amended Complaint in this case (ECF No. 31) and any subsequently filed amended complaints.

8. “Concerning,” “reflecting,” “regarding,” and “relating to” are used in the broadest possible sense and mean addressing, analyzing, constituting, containing, commenting, in connection with, dealing with, discussing, describing, embodying, evidencing, identifying, pertaining to, referring to, reporting, stating, or summarizing.

9. “Document” is used in the broadest possible sense and means anything that may be within the meaning of Federal Rule of Civil Procedure 34(a)(1)(A), and includes any written, printed, typed, photocopied, photographed, recorded, or otherwise reproduced or stored communication or representation, whether comprised of letters, words, numbers, data, pictures, sounds or symbols, code, or any combination thereof. “Document” includes without limitation: correspondence, memoranda, notes, hand-written notes, records, letters, envelopes, telegrams, messages, studies, analyses, contracts, agreements, working papers, accounts, analytical records, reports and/or summaries of investigations, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, drawings, diagrams, instructions, notes of minutes of meetings or communications, electronic mail/messages and/or “e-mail,” text messages, social media communications, voice mail messages, instant messaging, questionnaires, surveys, charts, graphs, photographs, films, tapes, disks, data cells, print-outs of information stored or maintained by electronic data processing or word processing equipment, all other data compilations from which information can be obtained (by translation, if necessary, by You through detection devices into usable form), including electromagnetically sensitive storage media such as CDs, DVDs, memory sticks, floppy disks, hard disks and magnetic tapes, and any preliminary versions, as well as drafts or revisions of any of the foregoing, whether produced or authored by the Defendants or anyone else. The term “Document(s)” includes the defined term “Electronically Stored Information,” which is defined below.

10. “Electronically Stored Information” or “ESI” includes, but is not limited to, any and all electronic data or information stored on a computing device. Information and data is considered “electronic” if it exists in a medium that can only be read through the use of computing device. This term includes but is not limited to databases; all text file and word processing Documents (including metadata); presentation Documents; spreadsheets; graphics, animations, and images (including PNG, JPG, GIF, BMP, PDF, PPT, and TIFF files); email, email strings, and

instant messages (including attachments, logs of email history and usage, header information and “deleted” files); email attachments; calendar and scheduling events, invites, and information; cache memory; Internet history files and preferences; audio; video, audiovisual recordings; voicemail stored on databases; networks; computers and computer systems; computer system activity logs; servers; archives; back-up or disaster recovery systems; hard drives; discs; CDs; diskettes; removable drives; tapes; cartridges and other storage media; printers; scanners; personal digital assistants; computer calendars; handheld wireless devices; cellular telephones; pagers; fax machines; voicemail systems; geographic information system (GIS) files (including shapefiles and KML, KMZ, GeoJSON, and Florida Redistricting PLAN files; redistricting plan block assignment files (including TXT and CSV files). This term includes but is not limited to onscreen information, system data, archival data, legacy data, residual data, and metadata that may not be readily viewable or accessible, and all file fragments and backup files.

11. “Database” means any data sets, reports, programs, and files accessible by computer that contain data that can be processed and/or sorted using standard spreadsheet or database software (including, but not limited to, Microsoft Access and Microsoft Excel).

12. “Redistricting” means the drawing or redrawing of Florida House of Representatives and congressional districts.

13. “Meeting” shall refer not only to in-person meetings, but also to telephonic and video conference meetings.

14. “Person(s)” shall refer not only to natural persons, but also without limitation to firms, partnerships, corporations, associations, unincorporated associations, organizations, businesses, trusts, government entities, and/or any other type of legal entities. All references to a person also include that person’s agents, employees (whether part-time or full-time), and representatives.

15. “Possession” means Your immediate possession, including items held by agents and employees, and any and all other principals or assigns, as well as constructive possession by virtue of Your ability to retrieve the aforesaid Document or information.

16. The term “including” means including but not limited to.

17. “And” and “or” shall be construed both disjunctively and conjunctively to bring within the scope of these Document Requests all relevant responses that might otherwise be construed outside the scope.

18. “Any” and “all” shall be construed to mean “any and all.”

19. “floridaredistricting.gov,” “myfloridahouse.gov,” and “flsenate.gov” mean those websites and any subpages and subsites of those websites (including web.floridaredistricting.esriemcs.com/redistricting and any private or closed parts of those sites), and any files available for download on those websites.

20. The “Non-Retrogression Requirement” means the provision in Art. III, §§ 20(a) and 21(a) of the Florida Constitution that “districts shall not be drawn . . . to diminish [the] ability [of racial or language minorities] to elect representatives of their choice.”

21. The “Non-Dilution Requirement” means the provision in Art. III, §§ 20(a) and 21(a) of the Florida Constitution that “districts shall not be drawn . . . with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political

process.”

22. “Section 2” means Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301.

23. “Voter Cohesion” refers to the second *Gingles* precondition and means the racial, language, or ethnic group is politically cohesive. *See Allen v. Milligan*, 599 U.S. 1, 18 (2023); *Thornburg v. Gingles*, 478 U.S. 30, 51 (1986).

24. “White Bloc Voting” refers to the third *Gingles* precondition and means that white voters vote sufficiently as a bloc to enable them usually to defeat a racial, language, or ethnic minority group’s preferred candidate. *See Allen*, 599 U.S. at 18; *Gingles*, 478 U.S. at 51.

INSTRUCTIONS

1. You are to produce entire Documents including all attachments, cover letters, memoranda, and appendices, as well as the file, folder tabs, and labels appended to or containing any Documents. Each Request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them. Copies which differ in any respect from an original (because, by way of example only, handwritten or printed notations have been added) should be produced separately. Documents are to be produced as they are kept in the ordinary course of business. Please produce all electronically stored Documents in electronic, machine-readable form, together with sufficient Documentation of variable names and descriptions and any other information necessary to interpret and perform calculations on such data.

2. In responding to these Document Requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession, custody, or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf. A Document is in Your possession, custody or control (a) if it is in Your physical custody, or (b) if it is in the custody of any other person and You: (i) own such Document in whole or in part; (ii) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such Document on any terms; or (iii) have an understanding, express or implied, that the You may use, inspect, examine or copy such Document when You seek to do so.

3. If there are no documents responsive to any particular category, so state in writing.

4. If any Documents or parts of Documents called for by these Document Requests have been lost, discarded or destroyed, identify such Documents as completely as possible on a list, including the following information: date of disposal, manner of disposal, reason for disposal, person authorizing the disposal and person disposing of the Document.

5. If You object to any part of a Request, set forth the basis for Your objection and respond to all parts of the Request to which You do not object.

6. If any privilege or immunity is claimed as a ground for not producing a Document or tangible thing, provide a written log in compliance with Local Rule 26.1(e) including, among other requirements, a description of the basis for the claim of privilege or immunity that identifies each such Document and states the ground on which each such Document is asserted to be privileged or immune from disclosure. Any attachment to an allegedly privileged or immune Document shall be produced unless You contend that the attachment is also privileged or immune

from disclosure.

7. Whenever necessary to bring within the scope of a Request a relevant response that might otherwise be construed to be outside its scope, the following constructions should be applied:

- a. Construing the singular form of any word to include the plural and the plural form to include the singular;
- b. Construing the past tense of the verb to include the present tense and the present tense to include the past tense;
- c. Construing the masculine form to include the feminine form.

8. These Document Requests request Documents in Your possession, including Documents of Your officers, employees, agents, and representatives, and unless privileged, Your attorneys.

9. These Document Requests are continuing in character so as to require You to produce additional Documents if You obtain further or different information at any time before trial. All responsive Documents in existence as of the date of production are to be produced. Any Documents created or obtained after that date are to be produced under Your continuing obligation to supplement Your production immediately upon the creation or development of additional responsive Documents.

10. If there is any question as to the meaning of any part of these Requests, or an issue as to whether production of responsive Documents would impose an undue burden on You, the undersigned counsel for Plaintiffs should be contacted promptly.

REQUESTS FOR PRODUCTION

1. All Documents related to the redistricting of congressional or Florida House districts in Miami-Dade County that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

2. All Documents related to Voting Cohesion among Hispanic or Latino voters that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

3. All Documents related to White Bloc Voting that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

4. All Documents related to the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

5. All Documents related to redistricting criteria or methodology that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

6. All Documents related to the analysis “performed by experts” and “counsel” referenced by House Redistricting Committee Chair Rep. Tom Leek on the House floor, as described in paragraph 208 of the Complaint.

7. All Documents and Communications related to the redistricting of congressional or Florida House districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

8. All Documents and Communications related to Voting Cohesion among Hispanic or Latino voters that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

9. All Documents and Communications related to White Bloc Voting that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

10. All Documents and Communications related to the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

11. All complete, partial, initial, or preliminary drafts of congressional or Florida House of Representatives redistricting plans, no matter the form, that include districts in Miami-Dade County created by the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between August 1, 2021 and April 19, 2022, **excluding** any plans made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

Dated July 10, 2024.

/s/ Andrew J. Frackman

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PROOF OF SERVICE

I, Emily Murphy, declare:

I am a resident of the District of Columbia and over the age of eighteen, and I am not a party to this action. My business address is 1625 Eye Street NW, Washington, DC 20006. On July 10, 2024, I served the document **PLAINTIFFS' FIRST REQUEST FOR PRODUCTION ON THE FLORIDA HOUSE OF REPRESENTATIVES** by causing the documents to be emailed to Andy Bardos at andy.bardos@gray-robinson.com.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10, 2024 from Washington, D.C.

/s/ Emily Murphy
Emily Murphy

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.

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

Pursuant to Federal Rule of Civil Procedure 34, Defendant, the Florida House of Representatives, responds to Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024.

GENERAL STATEMENT AND OBJECTIONS

1. The House objects to the extent that Plaintiffs' definitions and instructions purport to impose obligations different from or additional to the requirements of the Federal Rules of Civil Procedure or to limit the discretion of responding parties under the Federal Rules of Civil Procedure.

2. For example, the House objects to the extent that (i) Instruction No. 2 purports to require the House to do more than conduct a reasonable search for responsive documents in the House's possession, custody, or control; (ii) Instruction No. 9 purports to

impose obligations that exceed those of Federal Rule of Civil Procedure 26(e);

(iii) Instruction No. 6 purports to impose obligations that exceed those of Federal Rule of Civil Procedure 26(b)(5) and Local Rule 26.1(e); and (iv) Instruction No. 4 purports to impose an obligation that the Federal Rules of Civil Procedure do not.

3. The House objects that Plaintiffs' definitions of "House," "Senate," and "Legislature" are vague to the extent they reference "component departments and offices" and "entities formally or informally associated" with the House, the Senate, or the Legislature. It is also unclear whether those definitions include employees and consultants of the House, the Senate, and the Legislature.

4. The House objects to the definition of "Electronically Stored Information" or "ESI" to the extent it purports to require the House to collect and produce "onscreen information, system data, archival data, legacy data, residual data, and metadata," and "all file fragments and backup files." These data are not relevant to any party's claims or defenses, and their production would impose undue burden and expense disproportionate to the needs of this case.

5. The House's review of information and documents is continuing, as is discovery. The House reserves the right to revise, correct, supplement, clarify, and amend its responses as additional documents are identified. The House's responses and objections are based on information and documents now known to it and are made without prejudice to the House's right to assert additional objections, or to supplement its responses, if the House discovers additional responsive documents or additional grounds for objections. The House's responses and objections are made without waiving or intending to waive, and the

House expressly preserves, all applicable privileges, exemptions, and protections from discovery, including all legislative privileges and immunities of its elected members and staff.

REQUESTS FOR PRODUCTION

REQUEST NO. 1: All Documents related to the redistricting of congressional or Florida House districts in Miami-Dade County that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all documents related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))). This request is also vague because it purports to require the House to determine which documents in its possession, custody, or control have some amorphous “relationship” to the redistricting of congressional or Florida House districts in Miami-Dade County.

Further, this request is overly broad, disproportionate, and unduly burdensome because it purports to require the House to search all records of all members and staff of the House to identify potentially responsive documents. The House cannot feasibly review all

documents in its possession, custody, or control to locate all documents “related to” the broadly defined subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House’s possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome. Thus, any attempt to locate and produce all documents that “relate to” the broadly defined subject matter of this request would impose undue burden and expense.

Absent further specification by Plaintiffs of the requested documents and mutual agreement on a narrowed and reasonable scope, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 2: All Documents related to Voting Cohesion among Hispanic or Latino voters that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all documents related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State*

Nat. Ins. Co. v. Lamberti, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))). This request is also vague because it purports to require the House to determine which documents written, drafted, received, commissioned, or edited by the Legislature between January 1, 2020, and April 19, 2022, have some amorphous “relationship” to voting cohesion among Hispanic or Latino voters.

The House further objects that, to the extent it seeks documents that relate to voting cohesion among Hispanic or Latino voters in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party’s claims or defenses.

The House further objects that this request imposes undue burden and expense and is disproportionate to the needs of this case. The House cannot feasibly review all documents in its possession, custody, or control to locate all documents “related to” the subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House’s possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome.

To the extent this request seeks documents that reflect analyses performed by the House's expert consultants, the House further objects that the requested documents were prepared for the House in anticipation of litigation and therefore constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A).

Absent mutual agreement on a narrowed and reasonable scope for this request, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 3: All Documents related to White Bloc Voting that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all documents related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))). This request is also vague because it purports to require the House to determine which documents

written, drafted, received, commissioned, or edited by the Legislature between January 1, 2020 and April 19, 2022, have some amorphous “relationship” to white bloc voting.

The House further objects that, to the extent it seeks documents that relate to white bloc voting in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party’s claims or defenses.

The House further objects that this request imposes undue burden and expense and is disproportionate to the needs of this case. The House cannot feasibly review all documents in its possession, custody, or control to locate all documents “related to” the subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House’s possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome.

To the extent this request seeks documents that reflect analyses performed by the House’s expert consultants, the House further objects that the requested documents were prepared for the House in anticipation of litigation and therefore constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A).

Absent mutual agreement on a narrowed and reasonable scope for this request, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 4: All Documents related to the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all documents related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))). This request is also vague because it purports to require the House to determine which documents written, drafted, received, commissioned, or edited by the Legislature between January 1, 2020 and April 19, 2022, have some amorphous “relationship” to the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County.

The House further objects that this request imposes undue burden and expense and is disproportionate to the needs of this case. The House cannot feasibly review all

documents in its possession, custody, or control to locate all documents “related to” the subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House’s possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome.

To the extent this request seeks documents that reflect analyses performed by the House’s expert consultants, the House further objects that the requested documents were prepared for the House in anticipation of litigation and therefore constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A).

Absent mutual agreement on a narrowed and reasonable scope for this request, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 5: All Documents related to redistricting criteria or methodology that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all documents related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the

case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))). This request is also vague because it purports to require the House to determine which documents in its possession, custody, or control have some amorphous “relationship” to redistricting criteria or methodology.

Further, this request is overly broad, disproportionate, and unduly burdensome because it purports to require the House to search all records of all members and staff of the House to identify potentially responsive documents. The House cannot feasibly review all documents in its possession, custody, or control to locate all documents “related to” the broadly defined subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House’s possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome. Thus, any attempt to locate and produce all documents that “relate to” the broadly defined subject matter of this request would impose undue burden and expense.

Absent mutual agreement on a narrowed and reasonable scope for this request, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 6: All Documents related to the analysis “performed by experts” and “counsel” referenced by House Redistricting Committee Chair Rep. Tom Leek on the House floor, as described in paragraph 208 of the Complaint.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House’s counsel did not perform an ecological regression or inference analysis, as described in paragraph 208 of the Complaint.¹ To that extent, the House has no responsive documents in its possession, custody, or control.

To the extent this request seeks an “ecological regression or inference analysis” performed by the House’s expert consultants, the House objects that this request seeks documents that were prepared for the House in anticipation of litigation and therefore constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A).

The House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 7: All Documents and Communications related to the redistricting of congressional or Florida House districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between January 1, 2020 and April 19, 2022, excluding any Documents and

¹ As the transcript makes clear, Chair Leek did not say that the House’s counsel performed the analysis.

Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all documents and communications related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))). This request is also vague because it purports to require the House to determine which documents in its possession, custody, or control have some amorphous “relationship” to the redistricting of congressional or Florida House districts in Miami-Dade County.

Further, this request is overly broad, disproportionate, and unduly burdensome because it purports to require the House to search all records of all members and staff of the House to identify potentially responsive documents. The House cannot feasibly review all documents in its possession, custody, or control to locate all documents “related to” the broadly defined subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-

maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House's possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome. Thus, any attempt to locate and produce all documents that "relate to" the broadly defined subject matter of this request would impose undue burden and expense.

Absent further specification by Plaintiffs of the requested documents and mutual agreement on a narrowed and reasonable scope, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 8: All Documents and Communications related to Voting Cohesion among Hispanic or Latino voters that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, excluding any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks "all Documents and Communications related to" a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that "production requests that seek information 'relating to' subject areas are impermissibly overbroad" (quoting *Cooper*

v. Meridian Yachts, Ltd., No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.)). This request is also vague because it purports to require the House to determine which documents that were transmitted to, from, or between the Legislature, the Legislature’s staff, or the Legislature’s consultants between January 1, 2020, and April 19, 2022, have some amorphous “relationship” to the redistricting of congressional or Florida House districts in Miami-Dade County.

The House further objects that, to the extent it seeks documents that relate to voting cohesion among Hispanic or Latino voters in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party’s claims or defenses.

The House further objects that this request imposes undue burden and expense and is disproportionate to the needs of this case. The House cannot feasibly review all documents in its possession, custody, or control to locate all documents “related to” the subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House’s possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome.

To the extent this request seeks documents that reflect analyses performed by the House’s expert consultants, the House further objects that the requested documents were

prepared for the House in anticipation of litigation and therefore constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A).

Absent mutual agreement on a narrowed and reasonable scope for this request, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 9: All Documents and Communications related to White Bloc Voting that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between January 1, 2020 and April 19, 2022, excluding any Documents and Communications made publicly available on floridareistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all Documents and Communications related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))). This request is also vague because it purports to require the House to determine which documents that were transmitted to, from, or between the Legislature, the

Legislature's staff, or the Legislature's consultants between January 1, 2020, and April 19, 2022, have some amorphous "relationship" to white bloc voting.

The House further objects that, to the extent it seeks documents that relate to white bloc voting in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party's claims or defenses.

The House further objects that this request imposes undue burden and expense and is disproportionate to the needs of this case. The House cannot feasibly review all documents in its possession, custody, or control to locate all documents "related to" the subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House's possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome.

To the extent this request seeks documents that reflect analyses performed by the House's expert consultants, the House further objects that the requested documents were prepared for the House in anticipation of litigation and therefore constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A).

Absent mutual agreement on a narrowed and reasonable scope for this request, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 10: All Documents and Communications related to the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between January 1, 2020 and April 19, 2022, excluding any Documents and Communications made publicly available on floridareistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the following grounds.

The House objects that, because this request seeks “all Documents and Communications related to” a broadly defined subject matter, it is overly broad and disproportionate to the needs of the case, and fails to describe the requested documents with reasonable particularity. *See State Nat. Ins. Co. v. Lamberti*, No. 08-60760-CIV, 2009 WL 702239, at *3 (S.D. Fla. Mar. 17, 2009) (Seltzer, Mag.) (explaining that “production requests that seek information ‘relating to’ subject areas are impermissibly overbroad” (quoting *Cooper v. Meridian Yachts, Ltd.*, No. 06-61630-CIV, 2008 WL 2229552 (S.D. Fla. May 28, 2008) (Rosenbaum, Mag.))).

This request is also vague because it purports to require the House to determine which documents that were transmitted to, from, or between the Legislature, the Legislature’s staff, or the Legislature’s consultants between January 1, 2020, and April 19, 2022, have some amorphous “relationship” to the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County.

The House further objects that this request imposes undue burden and expense and is disproportionate to the needs of this case. The House cannot feasibly review all documents in its possession, custody, or control to locate all documents “related to” the subject matter of this request. Apart from its 120 elect members, the House employs more than 400 people. It also maintains more than 600 computers with a total of approximately 80 terabytes of electronically stored information saved locally, on House-maintained shared drives, or in House-maintained email accounts. Given the volume of documents in the House’s possession, custody, or control, the sweeping search that this request demands is prohibitively labor-intensive and burdensome.

To the extent this request seeks documents that reflect analyses performed by the House’s expert consultants, the House further objects that the requested documents were prepared for the House in anticipation of litigation and therefore constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A).

Absent mutual agreement on a narrowed and reasonable scope for this request, the House further objects to this request on the basis of the legislative privilege.

REQUEST NO. 11: All complete, partial, initial, or preliminary drafts of congressional or Florida House of Representatives redistricting plans, no matter the form, that include districts in Miami-Dade County created by the Legislature, the Legislature’s staff, and/or the Legislature’s consultants between August 1, 2021 and April 19, 2022, excluding any plans made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

Dated August 9, 2024.

Respectfully submitted,

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Attorneys for Defendant, Florida House of Representatives

CERTIFICATE OF SERVICE

I certify that, on August 9, 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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October 8, 2024

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Andy,

I write to memorialize the agreements made between Plaintiffs and Defendant Florida House of Representatives during our August 22, 2024 Meet and Confer regarding the House's response to the Plaintiffs' first set of RFPs.

First, per our discussion, below is Plaintiffs' proposed custodian list with committee staff, committee chairs and vice chairs, and the Speaker's office. Second, Plaintiffs agree to narrow the scope of RFPs 1, 2, 3, 4, 7, 8, 9, and 10, by limiting the term "related to" to "including an analysis or discussion of." The House committed to withdrawing their legislative-privilege assertion, should we resolve these objections, so long as a waiver for RFPs 2, 3, 4, 8, 9, and 10 is not seen as a blanket waiver. Plaintiffs do not agree to a partial waiver of legislative privilege on certain documents, without more information about remaining documents, or portions of documents, over which legislative privilege is asserted. To that end, Plaintiffs defer to the Magistrate Judge's standing order with respect to objections based on privilege. Additionally, the House requested that Plaintiffs limit the scope of RFPs 2, 3, 8, and 9 to Miami-Dade districts, and Plaintiffs declined that request, explaining that whether the House consistently or inconsistently applied redistricting criteria in different areas of the state would be relevant to Plaintiffs' claims.

Please confirm this is your understanding of the commitments made during the M&C.

Custodians for RFPs:

1. Tom Leek, Redistricting Committee Chair
2. Randy Fine, Redistricting Committee Vice Chair
3. Tyler Sirois, Congressional Redistricting Subcommittee Chair
4. Kaylee Tuck, Congressional Redistricting Subcommittee Vice Chair
5. Cord Byrd, Legislative Redistricting Subcommittee Chair
6. Will Robinson, Legislative Redistricting Subcommittee Vice Chair
7. Leda Kelly, Committee Staff
8. Jason Poreda, Committee Staff
9. Kyle Langan, Committee Staff
10. Mat Bahl, Chief of Staff
11. Chris Sprowls, Speaker

Sincerely,

/s/ Patrick Jones

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October 17, 2024

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VIA EMAIL

**Re: *Cubanos Pa'lante, et al., v. Florida House of Representatives, et al.*,
Case No.: 1:24-cv-21983**

Dear Patrick:

We are in receipt of your letter dated October 8, 2024 regarding our conferral over our discovery responses. Your letter is incorrect to the extent it references an "agreement." During our conferral on August 22, 2024, we discussed several issues—all that remained outstanding. In fact, as part of the conferral, you agreed to narrow your requests and share your proposed revised discovery for our review and consideration.

Since our conferral on August 22nd, however, you did not address any of our discovery responses or any of the outstanding issues discussed in our conferral. You delayed from August 22nd until October 8th to address our discovery responses, and as such, you have waived any right to challenge our discovery responses and objections.

Under the Southern District of Florida Local Rules, any discovery disputes must be raised with the Court within *twenty-eight days* from when discovery responses and objections are served. *See* S.D. Fla. L.R. 26.1(g)(2)(A)(i) (requiring a party to submit to the Court a "discovery dispute relating to a written response or objection to a discovery request . . . within twenty-eight (28) days of service of the written response or objection"). We served our discovery responses and objections on August 9, 2024, and therefore your deadline to seek relief from the Court was September 6th. Chief Magistrate Judge Torres' Standing Order Setting Discovery Procedures also requires discovery disputes to be presented to the Court by this deadline, and advises that the deadline will be "strictly" enforced. *See* <https://www.flsd.uscourts.gov/content/chief-magistrate-judge-edwin-g-torres>. Notably, at no point did you seek an extension from the Court or confer with the House to secure even the limited, seven-day extension that the rules allow by written stipulation of the parties. *See* S.D. Fla. L.R. 26.1(g)(2)(C). Instead, there was no action, dialogue, or effort by you to confer for forty-seven days after our August 22nd conferral.

Because you abandoned any efforts to confer, and never sought more time from us or from the Court, any challenges to our discovery responses and objections are waived. Our discovery responses and objections served on August 9, 2024, therefore, remain unchanged.

Sincerely,

/s/ Carmen Manrara Cartaya

**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, *et al.*,

Defendants.

**PLAINTIFFS' SECOND REQUEST FOR PRODUCTION
TO THE FLORIDA HOUSE OF REPRESENTATIVES**

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiffs serve their Second Request for Production of Documents on Defendant Florida House of Representatives. Plaintiffs request that the Florida House of Representatives provide the following documents and things herein requested within 30 days by email; at the offices of the ACLU of Florida, 4343 West Flagler Street, Suite 400, Miami, FL 33134; or in such other method as may be agreed upon by counsel. Each Document Request is subject to the definitions and instructions set forth below. These Requests are continuing in nature, as provided in Federal Rule of Civil Procedure 26(e). If the Florida House of Representatives subsequently learns of additional information and/or documents responsive to these Requests, it is required to supplement any responses as soon as practicable thereafter. The Plaintiffs reserve the right to amend, supplement, and revise these Requests as necessary.

DEFINITIONS

1. "House" means the Florida House of Representatives, its members and officers, its component departments and offices, its committees and subcommittees, and all other entities formally or informally associated with the Florida House of Representatives.

2. "Senate" means the Florida Senate, its members and officers, its component departments and offices, its committees and subcommittees, and all other entities formally or informally associated with the Florida Senate.

3. "Legislature" means the Florida Legislature, including its two chambers, its members and officers, its component departments and offices, its committees and subcommittees, and all other entities formally or informally associated with the Florida Legislature and its two chambers.

4. "Associated with" means employed by, under contract with, acting as the agent of, representing, or otherwise affiliated with, an organization or person.

5. “You” or “Your” means the House, as defined above, and all persons acting or purporting to act on its behalf, including its agents and employees.

6. “Communication” is used in the broadest possible sense and means every manner or means of disclosure, transfer, or exchange of oral or written information between one or more persons, entities, devices, platforms, or systems.

7. “Complaint” means the First Amended Complaint in this case (ECF No. 31) and any subsequently filed amended complaints.

8. “Concerning,” “reflecting,” “regarding,” and “relating to” are used in the broadest possible sense and mean addressing, analyzing, constituting, containing, commenting, in connection with, dealing with, discussing, describing, embodying, evidencing, identifying, pertaining to, referring to, reporting, stating, or summarizing.

9. “Document” is used in the broadest possible sense and means anything that may be within the meaning of Federal Rule of Civil Procedure 34(a)(1)(A), and includes any written, printed, typed, photocopied, photographed, recorded, or otherwise reproduced or stored communication or representation, whether comprised of letters, words, numbers, data, pictures, sounds or symbols, code, or any combination thereof. “Document” includes without limitation: correspondence, memoranda, notes, hand-written notes, records, letters, envelopes, telegrams, messages, studies, analyses, contracts, agreements, working papers, accounts, analytical records, reports and/or summaries of investigations, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, drawings, diagrams, instructions, notes of minutes of meetings or communications, electronic mail/messages and/or “e-mail,” text messages, social media communications, voice mail messages, instant messaging, questionnaires, surveys, charts, graphs, photographs, films, tapes, disks, data cells, print-outs of information stored or maintained by electronic data processing or word processing equipment, all other data compilations from which information can be obtained (by translation, if necessary, by You through detection devices into usable form), including electromagnetically sensitive storage media such as CDs, DVDs, memory sticks, floppy disks, hard disks and magnetic tapes, and any preliminary versions, as well as drafts or revisions of any of the foregoing, whether produced or authored by the Defendants or anyone else. The term “Document(s)” includes the defined term “Electronically Stored Information,” which is defined below.

10. “Electronically Stored Information” or “ESI” includes, but is not limited to, any and all electronic data or information stored on a computing device. Information and data is considered “electronic” if it exists in a medium that can only be read through the use of computing device. This term includes but is not limited to databases; all text file and word processing Documents (including metadata); presentation Documents; spreadsheets; graphics, animations, and images (including PNG, JPG, GIF, BMP, PDF, PPT, and TIFF files); email, email strings, and instant messages (including attachments, logs of email history and usage, header information and “deleted” files); email attachments; calendar and scheduling events, invites, and information; cache memory; Internet history files and preferences; audio; video, audiovisual recordings; voicemail stored on databases; networks; computers and computer systems; computer system activity logs; servers; archives; back-up or disaster recovery systems; hard drives; discs; CDs; diskettes; removable drives; tapes; cartridges and other storage media; printers; scanners; personal digital assistants; computer calendars; handheld wireless devices; cellular telephones; pagers; fax

machines; voicemail systems; geographic information system (GIS) files (including shapefiles and KML, KMZ, GeoJSON, and Florida Redistricting PLAN files; redistricting plan block assignment files (including TXT and CSV files). This term includes but is not limited to onscreen information, system data, archival data, legacy data, residual data, and metadata that may not be readily viewable or accessible, and all file fragments and backup files.

11. “Database” means any data sets, reports, programs, and files accessible by computer that contain data that can be processed and/or sorted using standard spreadsheet or database software (including, but not limited to, Microsoft Access and Microsoft Excel).

12. “Redistricting” means the drawing or redrawing of Florida House of Representatives and congressional districts.

13. “Meeting” shall refer not only to in-person meetings, but also to telephonic and video conference meetings.

14. “Person(s)” shall refer not only to natural persons, but also without limitation to firms, partnerships, corporations, associations, unincorporated associations, organizations, businesses, trusts, government entities, and/or any other type of legal entities. All references to a person also include that person’s agents, employees (whether part-time or full-time), and representatives.

15. “Possession” means Your immediate possession, including items held by agents and employees, and any and all other principals or assigns, as well as constructive possession by virtue of Your ability to retrieve the aforesaid Document or information.

16. The term “including” means including but not limited to.

17. “And” and “or” shall be construed both disjunctively and conjunctively to bring within the scope of these Document Requests all relevant responses that might otherwise be construed outside the scope.

18. “Any” and “all” shall be construed to mean “any and all.”

19. “floridaredistricting.gov,” “myfloridahouse.gov,” and “flsenate.gov” mean those websites and any subpages and subsites of those websites (including web.floridaredistricting.esriemcs.com/redistricting and any private or closed parts of those sites), and any files available for download on those websites.

20. The “Non-Retrogression Requirement” means the provision in Art. III, §§ 20(a) and 21(a) of the Florida Constitution that “districts shall not be drawn . . . to diminish [the] ability [of racial or language minorities] to elect representatives of their choice.”

21. The “Non-Dilution Requirement” means the provision in Art. III, §§ 20(a) and 21(a) of the Florida Constitution that “districts shall not be drawn . . . with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process.”

22. “Section 2” means Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301.

23. “Voter Cohesion” refers to the second *Gingles* precondition and means the racial, language, or ethnic group is politically cohesive. *See Allen v. Milligan*, 599 U.S. 1, 18 (2023); *Thornburg v. Gingles*, 478 U.S. 30, 51 (1986).

24. “White Bloc Voting” refers to the third *Gingles* precondition and means that white voters vote sufficiently as a bloc to enable them usually to defeat a racial, language, or ethnic minority group’s preferred candidate. *See Allen*, 599 U.S. at 18; *Gingles*, 478 U.S. at 51.

INSTRUCTIONS

1. You are to produce entire Documents including all attachments, cover letters, memoranda, and appendices, as well as the file, folder tabs, and labels appended to or containing any Documents. Each Request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them. Copies which differ in any respect from an original (because, by way of example only, handwritten or printed notations have been added) should be produced separately. Documents are to be produced as they are kept in the ordinary course of business. Please produce all electronically stored Documents in electronic, machine-readable form, together with sufficient Documentation of variable names and descriptions and any other information necessary to interpret and perform calculations on such data.

2. In responding to these Document Requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession, custody, or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf. A Document is in Your possession, custody or control (a) if it is in Your physical custody, or (b) if it is in the custody of any other person and You: (i) own such Document in whole or in part; (ii) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such Document on any terms; or (iii) have an understanding, express or implied, that the You may use, inspect, examine or copy such Document when You seek to do so.

3. If there are no documents responsive to any particular category, so state in writing.

4. If any Documents or parts of Documents called for by these Document Requests have been lost, discarded or destroyed, identify such Documents as completely as possible on a list, including the following information: date of disposal, manner of disposal, reason for disposal, person authorizing the disposal and person disposing of the Document.

5. If You object to any part of a Request, set forth the basis for Your objection and respond to all parts of the Request to which You do not object.

6. If any privilege or immunity is claimed as a ground for not producing a Document or tangible thing, provide a written log in compliance with Local Rule 26.1(e) including, among other requirements, a description of the basis for the claim of privilege or immunity that identifies each such Document and states the ground on which each such Document is asserted to be privileged or immune from disclosure. Any attachment to an allegedly privileged or immune Document shall be produced unless You contend that the attachment is also privileged or immune from disclosure.

7. Whenever necessary to bring within the scope of a Request a relevant response that might otherwise be construed to be outside its scope, the following constructions should be applied:

- a. Construing the singular form of any word to include the plural and the plural form to include the singular;

- b. Construing the past tense of the verb to include the present tense and the present tense to include the past tense;
 - c. Construing the masculine form to include the feminine form.
8. These Document Requests request Documents in Your possession (including Documents of Your officers, employees, agents, and representatives, and unless privileged, Your attorneys) which are and/or were in the custody of the following custodians:
- a. Tom Leek;
 - b. Randy Fine;
 - c. Tyler Sirois;
 - d. Kaylee Tuck;
 - e. Cord Byrd;
 - f. Will Robinson;
 - g. Leda Kelly;
 - h. Jason Poreda;
 - i. Kyle Langan;
 - j. Mat Bahl;
 - k. Chris Sprowls;
 - l. Redistricting Committee;
 - m. State Legislative Redistricting Subcommittee;
 - n. Congressional Redistricting Subcommittee.

9. These Document Requests are continuing in character so as to require You to produce additional Documents if You obtain further or different information at any time before trial. All responsive Documents in existence as of the date of production are to be produced. Any Documents created or obtained after that date are to be produced under Your continuing obligation to supplement Your production immediately upon the creation or development of additional responsive Documents.

10. If there is any question as to the meaning of any part of these Requests, or an issue as to whether production of responsive Documents would impose an undue burden on You, the undersigned counsel for Plaintiffs should be contacted promptly.

REQUESTS FOR PRODUCTION

1. All Documents including an analysis or discussion of the redistricting of congressional or Florida House districts in Miami-Dade County that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

2. All Documents including an analysis or discussion of Voting Cohesion among Hispanic or Latino voters that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly

available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

3. All Documents including an analysis or discussion of White Bloc Voting that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

4. All Documents including an analysis or discussion of the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

5. All Documents including an analysis or discussion of redistricting criteria or methodology that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, **excluding** any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

6. All Documents and Communications including an analysis or discussion of the redistricting of congressional or Florida House districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

7. All Documents and Communications including an analysis or discussion of Voting Cohesion among Hispanic or Latino voters that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

8. All Documents and Communications including an analysis or discussion of White Bloc Voting that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

9. All Documents and Communications including an analysis or discussion of the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, **excluding** any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

10. All deposition transcripts and exhibits for depositions taken in *Black Voters Matter Capacity Building Institute v. Byrd*, No. 2022 CA 666 (Fla. 2d Jud. Cir.) and *Common Cause Fla. v. Byrd*, No. 4:22-cv-109 (N.D. Fla.)

Dated November 4, 2024.

/s/ Nicholas L.V. Warren

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**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.

**THE FLORIDA HOUSE OF REPRESENTATIVES'
RESPONSE TO PLAINTIFFS' SECOND REQUEST FOR PRODUCTION**

Pursuant to Federal Rule of Civil Procedure 34, the Florida House of Representatives responds to Plaintiffs' Second Request for Production on the Florida House of Representatives, dated November 4, 2024.

GENERAL STATEMENT AND OBJECTIONS

1. The House objects to the extent that Plaintiffs' definitions and instructions purport to impose obligations different from or additional to the requirements of the Federal Rules of Civil Procedure or to limit the discretion of responding parties under the Federal Rules of Civil Procedure.

2. For example, the House objects to the extent that (i) Instruction No. 2 purports to require the House to do more than conduct a reasonable search for responsive documents in the House's possession, custody, or control; (ii) Instruction No. 4 purports to require

identification of documents that have been lost, discarded, or destroyed; (iii) Instruction No. 6 purports to impose obligations that exceed those of Federal Rule of Civil Procedure 26(b)(5) and Local Rule 26.1(e); and (iv) Instruction No. 9 purports to impose obligations that exceed those of Federal Rule of Civil Procedure 26(e).

3. The House objects that Plaintiffs' definitions of "House," "Senate," and "Legislature" are vague to the extent they reference "component departments and offices" and "entities formally or informally associated" with the House, the Senate, or the Legislature. It is also unclear whether those definitions include employees and consultants of the House, the Senate, and the Legislature.

4. The House objects to the definition of "Electronically Stored Information" or "ESI" to the extent it purports to require the House to collect and produce "onscreen information, system data, archival data, legacy data, residual data, and metadata," and "all file fragments and backup files." These data are not relevant to any party's claims or defenses, and their production would impose undue burden and expense disproportionate to the needs of this case.

5. The House's review of information and documents is continuing, as is discovery. The House reserves the right to revise, correct, supplement, clarify, and amend its responses as additional documents are identified. The House's responses and objections are based on information and documents now known to it and are made without prejudice to the House's right to assert additional objections, or to supplement its responses, if the House discovers additional responsive documents or additional grounds for objections. The House's responses and objections are made without waiving or intending to waive, and the

House expressly preserves, all applicable privileges, exemptions, and protections from discovery, including all legislative privileges and immunities of its elected members and staff.

REQUESTS FOR PRODUCTION

REQUEST NO. 1: All Documents including an analysis or discussion of the redistricting of congressional or Florida House districts in Miami-Dade County that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 1 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the

Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 2: All Documents including an analysis or discussion of Voting Cohesion among Hispanic or Latino voters that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 2 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

The House further objects that, to the extent it seeks documents that relate to voting cohesion among Hispanic or Latino voters in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party's claims or defenses.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further

objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 3: All Documents including an analysis or discussion of White Bloc Voting that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 3 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

The House further objects that, to the extent it seeks documents that relate to white bloc voting in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party's claims or defenses.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 4: All Documents including an analysis or discussion of the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were written, drafted, received, commissioned, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 4 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 5: All Documents including an analysis or discussion of redistricting criteria or methodology that were written, drafted, and/or edited by the Legislature between January 1, 2020 and April 19, 2022, excluding any Documents made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 5 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

REQUEST NO. 6: All Documents and Communications including an analysis or discussion of the redistricting of congressional or Florida House districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, excluding any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 7 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 7: All Documents and Communications including an analysis or discussion of Voting Cohesion among Hispanic or Latino voters that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, excluding any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 8 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

The House further objects that, to the extent it seeks documents that relate to voting cohesion among Hispanic or Latino voters in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party's claims or defenses.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a

privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 8: All Documents and Communications including an analysis or discussion of White Bloc Voting that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, excluding any Documents and Communications made publicly available on floridareistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 9 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

The House further objects that, to the extent it seeks documents that relate to white bloc voting in districts not located wholly or partially in Miami-Dade County, this request seeks documents that are not relevant to any party's claims or defenses.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further

objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 9: All Documents and Communications including an analysis or discussion of the application of the Non-Retrogression Requirement, Non-Dilution Requirement, or Section 2 to Hispanic-majority districts in Miami-Dade County that were transmitted to, from, and/or between the Legislature, the Legislature's staff, and/or the Legislature's consultants between January 1, 2020 and April 19, 2022, excluding any Documents and Communications made publicly available on floridaredistricting.gov, myfloridahouse.gov, or flsenate.gov.

RESPONSE: The House objects to this request and withholds responsive documents on the basis of the legislative privilege.

The House further objects that this request, although narrower than, is duplicative of Request No. 10 of Plaintiffs' First Request for Production on the Florida House of Representatives, dated July 10, 2024. Under Local Rule 26.1(g)(2)(A), Plaintiffs long ago waived their right to challenge the objections the House served on August 9, 2024. Plaintiffs cannot circumvent Local Rule 26.1(g)(2)(A)'s deadline to submit discovery disputes to the Court by re-serving the same request two months after the deadline passed.

To the extent this request seeks documents prepared in anticipation of litigation by or for the House's expert consultants, John Alford and Randy Stevenson, the House further objects that the requested documents constitute work product protected from disclosure by Federal Rule of Civil Procedure 26(b)(3)(A). The House identified these documents on a privilege log the House produced on August 23, 2024, and Plaintiffs did not present to the Court any discovery dispute related to the privilege log within the time allotted by Local Rule 26.1(g)(2)(A)(i).

REQUEST NO. 10: All deposition transcripts and exhibits for depositions taken in *Black Voters Matter Capacity Building Institute v. Byrd*, No. 2022 CA 666 (Fla. 2d Jud. Cir.) and *Common Cause Fla. v. Byrd*, No. 4:22-cv-109 (N.D. Fla.).

RESPONSE: The House will conduct a reasonable search and produce all responsive and non-privileged documents identified by that search.

Dated December 4, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on December 4, 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 _____

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**Florida House Session
February 1, 2022**

Transcript of excerpt of video recording available at:
<https://thefloridachannel.org/videos/2-1-22-house-session/>

Florida House Session - Feb. 1, 2022

1 The Speaker: Read the first amendment.

2 Clerk: Representative Leek offered the following amendment with title amendment,
3 barcode 503145, between lines 67 and 68 insert an amendment.

4 The Speaker: Chairman Leek, you're recognized to explain the amendment and then
5 recognize the individual members that you'd like to begin with to start the conversation about the
6 map. You're recognized.

7 Tom Leek: Thank you Mr. Speaker. Members, the Florida Legislature has a
8 constitutional responsibility once every ten years following the decennial census to redistrict our
9 state. A decade ago, the Florida House maps were deemed valid and constitutional by the Florida
10 Supreme Court, and I'd like to read a quote from the 2012 ruling. A review of the House plan
11 and the record reveals that the House engaged in a consistent and reasoned approach, balancing
12 the Tier Two standards by endeavoring to make districts compact in as nearly equal in
13 population as possible and utilizing political and geographical boundaries where feasible by
14 endeavoring to keep counties and cities together where possible. In addition, the House
15 approached the minority voting protection provision by properly undertaking a functional
16 analysis of voting strength of minority districts.

17 The Redistricting Committee and its subcommittees have undertaken several months of
18 education in order to understand the redistricting process and uphold the high bar that was set for
19 this chamber last decade. Last week the full redistricting committee passed CS HJR 7501 that
20 proposed State House districts that will be used in election cycles starting in 2022. This map has
21 been drafted with the advice of legal counsel based on data from the 2020 census and elections
22 data from the Florida Department of State to be in alignment with the Florida Constitution, state
23 and federal law, as well as court precedent. This map can also be found on

Florida House Session - Feb. 1, 2022

1 FloridaRedistricting.gov under the plan name H000H8013.

2 Members, I want to make sure each of you has a map packet in front of you. This
3 contains a printout of the proposed map itself, functional analysis data, the statewide statistics.
4 Additionally, the bill text for the SJR and amendment is over 430 pages. We provided a copy for
5 the entire chamber and it can be found here in front of the chamber. For today, our goal is to
6 answer all member questions. For those who have detailed technical questions, we have one of
7 our redistricting analysts set up in the bubble with our map drawing application to assist in
8 answering those specific questions.

9 Before we dive into each region of the state, let's look at the map as a whole. When
10 compared to the benchmark State House map, the new proposed State House districts have
11 several points of improvement throughout our Tier Two standards. When looking at a statewide
12 average of each district's compactness scores, we have been able to improve all three
13 mathematical measurements of compactness. The Reock score improved from .43 to .45. The
14 Convex Hull score improved from .80 to .82. The Polsby-Popper score improved from .43 to .45.
15 Where feasible, we also worked to improve visual compactness of districts or the eyeball test,
16 such as no longer having a district that stretches from Miami-Dade County to Collier County, or
17 a district that splits four counties in the Tampa Bay region. When looking at the number of
18 counties split, we've kept similar to the benchmark map with 30 counties split last decade and
19 only 31 counties split this decade. The ideal population for this decade's State House district is
20 179,485 people. Our overall deviation range is from 4.75%, which is well within the acceptable
21 legal level of population deviation. Although this deviation increases slightly from last decade's
22 range of 3.97%, we are proudly able to vastly improve the number of cities split in our proposed
23 map. In the benchmark map, there were 101 cities split, which is almost 25% of Florida's

Florida House Session - Feb. 1, 2022

1 incorporated cities. And in the proposed map before you today, we've been able to decrease that
2 to 53 cities split, a near 50% improvement.

3 Our proposed State House districts are also drawn in compliance with Tier One of the
4 Florida Constitution. The proposed map is inclusive of 18 protected Black districts, seven of
5 which are majority-minority districts, and 12 protected Hispanic districts, all of which are
6 majority-minority districts. This is the same number of protected districts as are found in the
7 benchmark map. In each district, the minority group's voting-age population are similar when
8 compared to benchmark districts, with slight increases or decreases as permitted by the Florida
9 Supreme Court precedent, which states, slight changes in a minority group's voting-age
10 population are acceptable so long as a functional analysis is conducted to ensure the voting
11 strength of the minority group in both general and primary election is at the comparable level
12 that existed in the benchmark district. These districts are also drawn in a consistent manner with
13 respect to the Florida Supreme Court precedent, and to maintain existing majority-minority
14 districts. All 30 of these protected minority districts have had an individual functional analysis
15 conducted on them to ensure the new district configurations do not deny or abridge the equal
16 opportunity of racial or language minorities to participate in the political process or to diminish
17 their ability to elect representatives of their choice. As we move throughout the map, these
18 districts will be highlighted as well.

19 All of our districts consist of contiguous territory and as I'm sure you're aware, the
20 committee has also implemented safeguards in order to ensure that we do not draw districts with
21 the intent to favor or disfavor a political party or an incumbent. Now that we've looked at the
22 statewide overview, let's begin to review each region of the State. Mr. Speaker I ask that you
23 recognize Chairman Cord Byrd.

**Florida House Session
February 2, 2022**

Transcript of excerpt of video recording available at:
<https://thefloridachannel.org/videos/2-2-22-house-session/>

Florida House Session - Feb. 2, 2022

1 Michael Grant: Thank you, Mr. Speaker. I yield time to Representative Tuck.

2 The Speaker: Representative Tuck, you're recognized.

3 Kaylee Tuck: Thank you, Mr. Speaker. Members, I want to take a minute to discuss the
4 population deviations we see before us on this map, and the consistent methodology that has
5 been applied to every district throughout the state in order to reach the result we are considering
6 today. When maps were created last decade, the House balanced the population deviations with
7 other Tier Two standards of compactness and following existing political and geographical
8 boundaries in order to create the prior maps we used as the benchmark plan. Balancing these Tier
9 Two standards was the rationale for establishing the overall population deviation for the
10 benchmark plan. It is important to recognize that the Florida Supreme Court specifically
11 endorsed this methodology. Similar to the Supreme Court's endorsement of this methodology,
12 courts throughout the country have held that legislative redistricting plans have an overall
13 population deviation of 10%, which is considered acceptable and legally compliant. Members,
14 we should all be proud that our maps go above and beyond, despite an acceptable overall
15 population deviation of 10%, the map before us today has an overall population deviation of only
16 4.75%, with District 6 being at the low end at -2.38% and District 4 on the high at +2.37%. Even
17 with going above and beyond the population range for this map, we're still able to balance the
18 additional Tier Two standards. For example, District 6, we were able to keep Bay County whole
19 and in District 4, we were able to keep the city of Crestview whole. This concept is indicative of
20 the consistent methodology and reasoned approach of applying the constitutional standards
21 throughout the map. When it comes to the population deviation and the methodology used in this
22 map, we can rest assured that our methodology has been blessed by the Florida Supreme Court
23 and consistently applied across the state. As a result, we have before us a constitutionally

Florida House Session - Feb. 2, 2022

1 The Speaker: Representative Clemons from Representative Grant's desk, you are
2 recognized.

3 Charles Clemons: Thank you Mr. Speaker. That is contagious and we will yield back the
4 balance of our time as well.

5 The Speaker: Members, that concludes debate. Representative Leek, you are recognized
6 to close.

7 Tom Leek: Thank you Mr. Speaker. Members, I don't frequently give closings on bills
8 that I have, but as has been stated here, this is the most important thing that we do. It's important
9 that we engage, it's important that we discharge our constitutional responsibility to engage in the
10 redistricting process. I've had the opportunity to reflect on some of the discussion yesterday and
11 there were a couple of things that I wanted to point out. These maps and our process used a
12 consistent methodology, just like we did a decade ago, applied across the entire map. We
13 observed and protected Tier One above all else. We balanced the co-equal criteria of Tier Two,
14 whether it was keeping counties whole or cities whole, improving mathematical and visual
15 compactness. Using roadways, waterways, railways, all to find equal population.

16 It's been asked several times, who drew the map? Let me introduce you, I have been
17 asked that question from the beginning of this process, it seems like I've answered it a hundred
18 times. Ms. Kelly, Mr. Poreda, and Mr. Langan drew the map, and so did you. Through our
19 normal legislative committee process, so did you. I think the real question you wanted to ask but
20 you didn't ask was, were there any outside or political operatives who engaged in the drawing of
21 these maps? And the answer is an emphatic no.

22 I want you to think for a minute about our redistricting process, because this is not your
23 father's redistricting process. This is not the same process we had ten years ago, twenty years

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TRANSCRIPTION OF VIDEO RECORDING
 HOUSE CONGRESSIONAL REDISTRICTING SUBCOMMITTEE
 FEBRUARY 18, 2022

DIGITAL EVIDENCE GROUP
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2/18/2022

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1 over to Vice-Chair Tuck.

2 VICE-CHAIR TUCK: Thank you, Mr. Chair.

3 Members, up for consideration today is PCB
4 CRS22-01, establishing the congressional districts
5 of the state. As a reminder we are holding
6 questions until the end of the PCB presentation to
7 ensure we have time to get through an explanation of
8 the entire state and no one region is rushed.

9 Chair Sirois, you're recognised to present
10 the PCB.

11 CHAIRMAN SIROIS: Thank you, Vice-Chair
12 Tuck.

13 The Florida Legislature is directed to
14 redistrict every ten years, following the decennial
15 census, to account for growing and shifting
16 population across Florida. A decade ago, the
17 Florida Houses process and methodology for drawing
18 maps was lauded by the Florida Supreme Court, and
19 I'd like to read a quote from the 2012 ruling.

20 "A review of the House plan, and the record
21 reveals that the House engage in a consistent and
22 reasoned approach, balancing the two tier standards
23 by endeavouring to make districts compact and as
24 nearly equal in population as possible in utilising
25 political and geographical boundaries where feasible

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1 by endeavouring to keep counties and cities together
2 where possible. In addition, the House approached
3 the minority voting protection provisions by
4 properly undertaking a functional analysis of voting
5 strength in minority districts."

6 As I mentioned earlier, this Committee has
7 undertaken several months of education in order to
8 understand the redistricting process and uphold the
9 high bar that was set for this chamber last decade.
10 Last week we released Proposed Committee Bill CRS22-
11 01, which proposes congressional districts that will
12 be used in election cycles starting in 2022. As I
13 mentioned earlier this map, H000C8011, has been
14 drafted exclusively by Committee staff with the
15 advice of legal counsel based on data from the 2020
16 census, and to be in alignment with the Florida
17 constitution, state, and federal law, as well as
18 court president.

19 Members, I want to make sure that each of
20 you has a packet in front of you. This contains a
21 printout of the proposed map itself, the state-wide
22 snapshot of statistics, the functional analysis data
23 used for protected minority districts, a list of
24 county shares of population, a list of city splits,
25 and finally the boundary analysis report. These

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1 items will be referenced throughout the presentation
2 today, so please feel free to refer to your packet
3 as needed. This packet is also available under our
4 Subcommittee's webpage on myfloridahouse.gov.

5 Now, let's dive in, Members. Excuse me.
6 Let's first take a look at the map as a whole. When
7 compared to the benchmark congressional map, the new
8 proposed Congressional Districts have several points
9 of improvement throughout our Tier 2 standards.

10 When looking at a state-wide average of
11 each district's compactness score, we have been able
12 to recreate compact districts similar to our
13 benchmark metrics, even after the addition of a new
14 congressional district. The proposed map state-wide
15 average compactness scores are a Reock score of
16 0.43, a Convex Hull score of 0.79, and a Polsby-
17 Popper score of 0.37. Where feasible, we also work
18 to improve visual compactness of districts, or the
19 eyeball test, such as being able to keep Polk County
20 wholly within a single congressional district.

21 When looking at the number of county
22 splits, we've kept similar to the benchmark map with
23 18 counties split last decade and only 20 counties
24 split this decade. The ideal population for this
25 decade's congressional districts after adding a

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1 district to go from 27 districts to 28 is 769,211
2 people. The overall deviation range is the same as
3 it was last decade with 27 districts being the exact
4 ideal population and one district having a single
5 person less than the ideal population. We are also
6 proudly able to improve the number of city splits in
7 our proposed map. In the benchmark map, there were
8 39 cities split, and in the proposed new
9 configurations, we've been able to decrease that to
10 just 27 cities split.

11 This proposed congressional map also allows
12 a district to be placed wholly within each of
13 Florida's top five largest counties: Miami-Dade,
14 Broward, Palm Beach, Hillsborough, and Orange
15 respectively. The proposed congressional districts
16 are also drawn in compliance with Tier 1 of the
17 Florida constitution. The proposed map is inclusive
18 of three protected black districts and three
19 protected Hispanic districts. This is the same
20 number of protected districts as are found in the
21 benchmark map. In each district, the minority
22 group's voting age population are similar when
23 compared to the benchmark districts, with slight
24 increases or decreases as permitted by the Florida
25 Supreme Court president, which states, "slight

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1 changes in a minority group's voting age population
2 are acceptable so long as a functional analysis is
3 conducted to ensure the voting strength of the
4 minority group in both general and primary elections
5 is at a comparable level that existed in the
6 benchmark district." These districts are also drawn
7 in a consistent manner with respect to Florida
8 Supreme Court president to maintain existing
9 majority-minority districts.

10 All six of these protected minority
11 districts have had an individual functional analysis
12 conducted on them to ensure the new district
13 figuration does not deny or abridge the equal
14 opportunity of racial or language minorities to
15 participate in the political process or to diminish
16 their ability to elect representatives of their
17 choice. And as we move throughout the map, I will
18 highlight these districts as well.

19 All of our districts consist of contiguous
20 territory. And as I'm sure you are aware, the
21 Committee has also implemented safe guards in order
22 to ensure that we do not draw districts with the
23 intent to favour or disfavour a political party or
24 in incumbent.

25 Members, as we move through the

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1 great job. And I appreciate that.

2 I've appreciated learning in this process.

3 I didn't realize there was as much to learn when I

4 originally got assigned to this Subcommittee. I

5 also appreciate the focus on cities being kept

6 whole. That has been important to me, and there has

7 been improvement in that area. I do still think

8 there is more room for improvement in this map, as

9 we've heard from my colleagues, and I do look

10 forward to the process continuing with the inclusion

11 of all these concerns that we've heard today from

12 members of the Subcommittee to make the map the best

13 map that can be. So thank you.

14 Additional members in debate?

15 Seeing none, Chair Sirois, you're

16 recognized to close on the PCB.

17 CHAIRMAN SIROIS: Thank you very much,

18 Madam Chair.

19 Members, I want to thank you for your

20 questions and your time and attention this morning

21 and over the previous weeks. Some of you have said

22 redistricting might be the most complicated of all

23 of our constitutional duties both as a body and,

24 certainly, as individual members, and I want to say

25 I share that as well. It's a historic task. It's

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1 one that happens every 10 years, and I'm personally
2 honored to have had the opportunity to work with all
3 of you through it.

4 The process, as you know, requires us to
5 set personal interests aside. We had a lot to
6 learn. The external pressures are significant.
7 When it comes to our communities and neighborhoods,
8 emotions run high. But this process requires us to
9 follow the law, follow the law, specifically our
10 Tier 1 and Tier 2 constitutional standards. And I
11 want to mention, you know, I enjoy so much working
12 with Representative Hunschofsky because I've learned
13 that she has a way about her where she can just cut
14 to the heart of the matter, and I think she did that
15 today with her question.

16 And I just wanted to -- I felt compelled
17 after hearing your question, Representative, to go
18 back to where we started our Committee meetings,
19 with a review of our constitutional standards, Tier
20 1 and Tier 2. "No apportionment plan or individual
21 districts shall be drawn with the interest of favor
22 or disfavor a political party or incumbent.
23 Districts shall not be drawn with the intent or
24 result of denying or abridging the equal opportunity
25 of racial or language minorities to participate in

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1 the political process or diminish their ability to
2 elect a representative of their choice. Districts
3 shall consist of contiguous territory." And then we
4 move on to Tier 2. "Districts shall be as nearly
5 equal in population as practical. Districts shall
6 be compact. District shall where feasible utilizing
7 existing political and geographical boundaries

8 We have to follow the law. Representative
9 Joseph, I appreciate your questions about receiving
10 that input, and I would remind Committee members
11 that we continue to be the vehicle for that input.
12 Those information, if there's something that you
13 hear, if there's something that you think adds to
14 the process, I encourage you to bring it forward.
15 But you have to be prepared, as we have said
16 consistently from the beginning of this process, to
17 disclose who brought it to you and be prepared to
18 back it up.

19 Individuals out there who wish to provide
20 input and feedback on this process have the ability
21 to do so, floridaredistricting.gov, where nearly 100
22 individuals have utilized the website to create and
23 to submit maps of their own. In January, we noticed
24 a two-hour meeting to accept public input in
25 addition to public input at each of our meetings,

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1 where we have received testimony. As elected
2 members of this House of Representatives, it is our
3 constitutional duty and responsibility to present
4 the views of our constituents in the conduct of
5 their business.

6 Members, you're going to have an
7 opportunity as you have had today throughout our
8 Committee meetings, at Chair Leeks Committee, on the
9 floor, when we reconciled with the Senate throughout
10 this process. You will have an opportunity to
11 provide that input, and I encourage you to get with
12 me and Chair Leek if there is something on your
13 mind. But we have to follow law. And once again, I
14 want to read to you the first line from the 2012
15 Supreme Court ruling that I started today's
16 presentation with. And this is what the Court said
17 then, "A review of the House plan and the record
18 reveals that the House engage in a consistent and
19 reasoned approach." Members, we hit that mark
20 again. We hit that mark again, and I'm proud of
21 this Committee's work product.

22 Now, as I said, our PCB is going to work
23 through the normal process, just like any other
24 bill, and this PCB is going to move on to the Full
25 Redistricting Committee, where the conversation that

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March 3, 2022**

Transcript of excerpt of video recording available at:
<https://thefloridachannel.org/videos/3-3-22-house-session-part-1/>

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1 you're recognized.

2 Tom Leek: Yeah, what the Speaker said.

3 The Speaker: Representative Hinson, you're recognized.

4 Yvonne Hayes Hinson: So, Representative Leek, did it follow the same path as the joint
5 resolution of apportionment?

6 The Speaker: Representative Leek, you're recognized.

7 Tom Leek: I'm sorry. Thank you, Mr. Speaker. It took us a second to try to piece together
8 that question. If the question is, was the methodology used in the State House maps consistent
9 with the methodology used in the congressional maps, the answer is yes.

10 The Speaker: Representative Hinson, you're recognized.

11 Yvonne Hayes Hinson: Thank you very much, thank you very much. Does that mean
12 staff made all policy decisions? And if not, who else made policy decisions?

13 The Speaker: Representative Hinson, again, those maps were drawn in committee, voted
14 on by the members of that committee, discussed by the members of that committee, and are now
15 here before us. You're recognized.

16 Yvonne Hayes Hinson: Thank you Mr. Chair. So I did hear in the question and answering
17 of a lot of people in here, which was educating me that the Governor drew one of these maps,
18 and you guys wanted him to have that opportunity. I'm trying to figure out which one it was?

19 The Speaker: Representative Hinson, Representative Daley asked a similar question. That
20 question was answered by Representative Leek. Would you care to rephrase or ask another
21 question. You're recognized.

22 Yvonne Hayes Hinson: I'll try to rephrase to get the answer I'm trying to get. Was the
23 primary map drawn with consideration of the Governor? Or was the secondary map drawn with

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1 this option, and give it to the court? We should know. We should know and we should be proud
2 and we should stand with what we pass out of this house. My only comfort is that after we do
3 this, there's still an opportunity to meet with the Senate, and try to hash out a map that we can all
4 agree on, that stands up to constitutional muster, that protects protected seats that we currently
5 have. There is still an opportunity for us and I hang onto the thread of that hope that we get there.
6 But this is embarrassing.

7 The Speaker: Further debate, members? Is there further debate? Seeing no further debate
8 on the amendment, Representative Leek, you're recognized to close on your amendment.

9 Tom Leek: Thank you Mr. Speaker. Please recognize Chair Sirois on the close.

10 The Speaker: Representative Sirois, you're recognized to close on the amendment.

11 Tyler Sirois: Thank you very much, Mr. Speaker. And thank you Chair Leek. First, a
12 quick point of clarification. I want to point out, I've heard some rumblings around the chamber,
13 and I think it's important to revisit that the primary map is identical to the map that passed out of
14 the full Redistricting Committee, other than a minor technical change, related to Congressional
15 Districts 4 and 5, where we equalized the population between boundary lines. Where, for
16 example, we used waterways instead of roadways. So. I wanted to quickly point that out. I also
17 want to thank members that participated in the process over the last several months. Chair Leek
18 and I have had the opportunity to meet with many of you to hear your insight and your feedback.
19 Chair Leek, it's been a particular honor working with you throughout this process. And to learn
20 from your mastery of the subject matter. I also appreciate the opportunity to learn more from the
21 members about communities and neighborhoods. I believe it was time well spent. It should be
22 said that redistricting is change, and change is hard. To one member, a district on this map may
23 be a far-off, never-before-visited corner of the state. To you, though, that district is part of a

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1 community, with neighborhoods, small businesses, schools, and parks. And I say that to kind of
2 revisit why we're here today and undertaking this effort. Understandably, when you start talking
3 about changing these districts, it invokes intense discussion. As you now fully appreciate, this
4 process is complex. Since the start of this process, we've been focused on following the law. Our
5 approach has been careful and consistent. But I want to take a moment to speak to the issue that
6 is foremost in many of your minds, the Governor's submission. The Constitution of our state
7 provides that congressional maps produced by this Legislature will be presented to the Governor.
8 Like any other bill, he has the authority to approve or veto this legislation. Given his
9 constitutional role, we should carefully consider his input as a factor in our well-informed
10 decision making. Members, we don't legislate in a vacuum. Whether it's public testimony in
11 committee, the hundred maps submitted through our website, the feedback of our members, or
12 the proposal of the chief executive, all of this should be carefully considered for the value that it
13 adds to our process. The Governor has provided his own perspective, but so have many of you.
14 So have many of you. Members placed their priority on keeping cities whole. This bill reduces
15 the number of city splits from 39 to 37, and today's amendment decreases that to 17. When
16 members proposed alternative boundary lines to Congressional District 10, we obliged. And
17 when the law, in its current configuration, required us to maintain protected districts, we did. The
18 map before you today is a culmination of our process that started with extensive member
19 education, significant public input, and robust member feedback. It is our best attempt to balance
20 all of these interests. And you see that balance in the way that this bill is structured. This two-
21 map approach offers a primary map that provides an alternative configuration in the Panhandle
22 that addresses the Governor's concerns.

23 The Speaker: Representative Sirois, if you could –

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TRANSCRIPTION OF VIDEO RECORDING
 HOUSE CONGRESSIONAL REDISTRICTING SUBCOMMITTEE
 APRIL 19, 2022

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1 of the state. And as we've done for every other map
2 presentation, I will ask you to hold questions until
3 all districts have been explained to ensure we get
4 through a description of the entire state, and no
5 one region is rushed.

6 Representative Leek, you are now recognized
7 to present House Bill 1-C.

8 REPRESENTATIVE LEEK: Thank you,
9 Chair Sirois.

10 Before I dive into the map itself, I want
11 to echo Chair Sirois' comments from earlier. We as
12 legislators should feel a strong sense of
13 responsibility for passing redistricting maps out of
14 this body. A narrative has started to proliferate
15 that the Legislature has somehow ceded its map
16 drawing responsibility to the Governor. I find that
17 to be a false narrative and incorrect on its face.

18 We have not ceded any responsibility. In
19 fact, we have not -- we have done a responsibility
20 once by passing maps during the regular session, and
21 we will complete it again during this special
22 session. The Governor has also fulfilled his
23 responsibility and chose to veto our maps for
24 reasons I believe his team will elaborate on today.

25 Both branches of government have a role in

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1 this process just like with any other bill. The
2 only abdication of responsibility would be if we
3 threw our hands up and sent an impasse to the
4 courts, allowing them or third parties, all of whom
5 are unelected, to draw our maps.

6 Instead, we have chosen to stay at the
7 table, continue the conversation, and hear out the
8 Governor and work together because that is not only
9 -- not only our responsibility but what Floridians
10 expect of us as their legislators.

11 Our goal for special session is to produce
12 a work product that is legislatively passed and
13 executively signed. It's through that lens that I
14 hope we will all move forward with today's meeting.

15 Now, on to the presentation. Today, we
16 will be presenting map P-000C0109. This is the map
17 reflected in the data packet in front of you, as
18 well as being posted on
19 www.FloridaRedistricting.gov.

20 As Chair Sirosis mentioned, 10 of the
21 districts in this map are exact copies of districts
22 that the Legislature passed during the regular
23 session. Those are Congressional Districts 1, 2,
24 20, 21, 22, 23, 24, 25, 27, and 28. You can see
25 those here on our screen.