

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KÉTO NORD HODGES, *et al.*,

Plaintiffs,

v.

Case No. 8:24-cv-879

BEN ALBRITTON, *etc., et al.*,

Defendants.

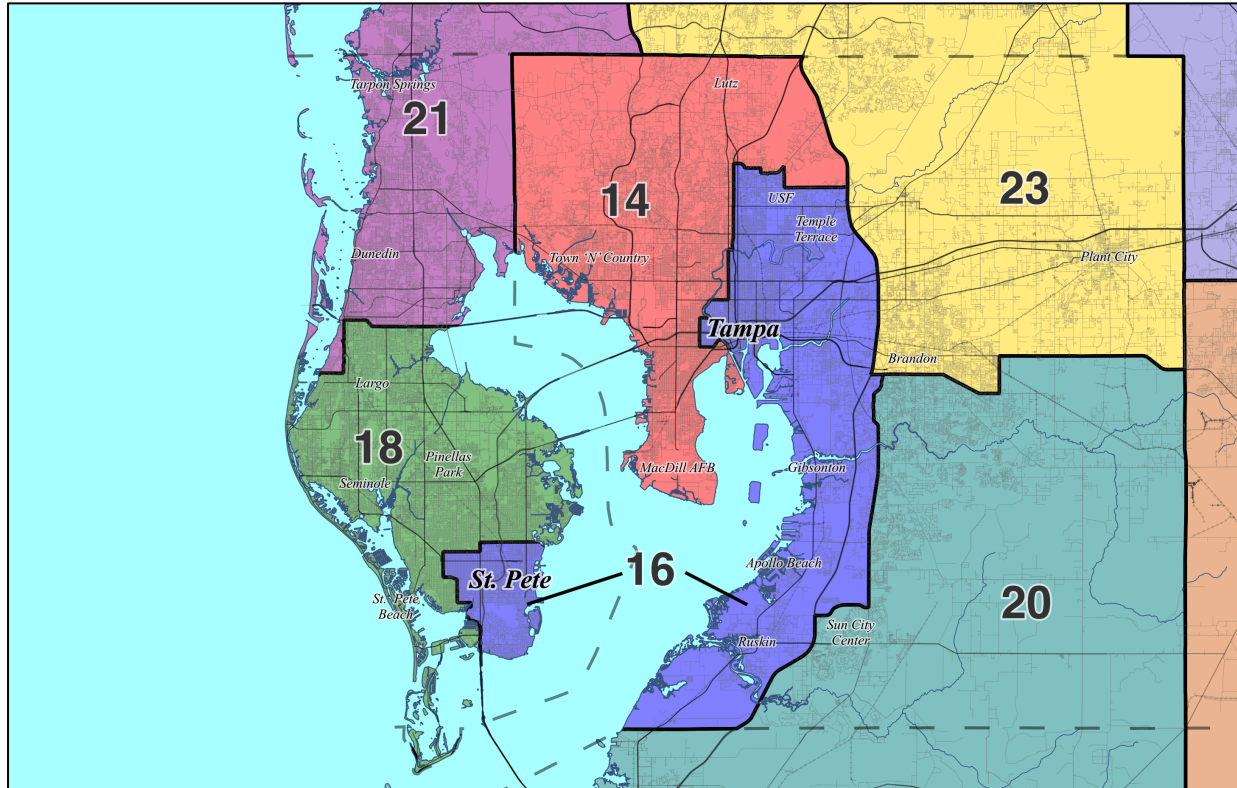
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PLAINTIFFS' RESPONSE TO MOTIONS FOR SUMMARY JUDGMENT

To obtain summary judgment dismissing Plaintiffs' claims, Defendants bear the burden of showing that there is not a single genuine dispute as to any material fact and that they are entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). Viewing the evidence in the light most favorable to Plaintiffs—as the Court must, *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 261 (1986)—neither the Senate (ECF 74) nor the Secretary of State (ECF 75) have met their burden.

INTRODUCTION AND BACKGROUND

Plaintiffs challenge Florida Senate Districts 16 and 18 in the Tampa Bay area (the “Challenged Districts,” depicted below) as racially gerrymandered in violation of the Fourteenth Amendment. Kéto Nord Hodges and Jarvis El-Amin live in Tampa within District 16. Ex. 1 (Nord RFAs) ¶¶ 1–4; Ex. 2 (El-Amin RFAs) ¶¶ 1, 3–4. Meiko Seymour lives in St. Petersburg within District 16. Ex. 3 (Seymour RFAs) ¶¶ 1–2, 5. Jacqueline Azis and Jennifer Garcia live in St. Petersburg just across the border in District 18. ECF 74-14 (Azis RFAs) ¶¶ 1, 4; ECF 74-13 (Garcia RFAs) ¶¶ 1, 6.



ECF 1 (Compl.) ¶ 3 & fig. 1; ECF 36 (Sen. Ans.) ¶ 3; ECF 35 (Sec’y Ans.) ¶ 3; *see also* ECF 74-17 (McCartan Rep.) at 5, fig. 1; ECF 74-18 (Barreto Rep.) at 12, fig. 1.

The Senate drew these districts in late 2021 and early 2022 in a process overseen by Reapportionment Committee Chair Ray Rodrigues, Legislative Reapportionment Subcommittee Chair Danny Burgess, and Staff Director Jay Ferrin. Ex. 4 (Sep. 20 Tr.) 4:2–23, 10:25–11:6. One of the legal standards framing their work was the Florida Constitution’s Fair Districts Amendment, whose “Tier One” standards prohibit the diminishment of Black voters’ ability to elect representatives of their choice in District 16.¹ Fla. Const. art. III, § 21(a); Compl. ¶¶ 47–50, 56–60; Sen. Ans. ¶¶ 47–50, 56–60.

¹ Plaintiffs use the term “Protected District” to refer to this and similar districts across multiple proposed or enacted plans. This district is numbered 16 in the Enacted Plan and 19 in the plan in place from 2016 to 2022 (the “Benchmark Plan”), as well as in the Senate’s

Every draft map Mr. Ferrin presented featured a similar configuration for the Challenged Districts, with the Protected District grouping Black population centers in Tampa and St. Petersburg, crossing the Bay to do so, and another district (designated District 24 in the draft plans, as in the Benchmark; eventually renumbered 18) taking in the remaining whiter portions of southern Pinellas County. Compl. ¶¶ 63, 71; Sen. Ans. ¶¶ 63, 71; Barreto Rep. ¶ 32–37.

During the legislative process, one of the Subcommittee’s five members, African American Sen. Randolph Bracy of Orlando, asked repeatedly whether the law required the Protected District’s cross-Bay configuration, prompting responses from Mr. Ferrin and Sen. Burgess. Ex. 5 (Nov. 17 Tr.) 31:21–32:12; ECF 75-4 (Jan. 10 Tr.) 7:10–8:4. Their responses reveal much about the role race played in the Challenged Districts’ drawing, as well as how closely (or poorly) the Senate tailored its use of race to comply with Tier One’s non-diminishment standard.

ARGUMENT

I. Plaintiffs bring a racial-gerrymandering claim, not a state-law claim.

The Senate argues that Plaintiffs bring a state-law claim disguised as a federal racial-gerrymandering claim. ECF 74 at 14–17. The Secretary disagrees. ECF 75 at 2 (“This is a racial gerrymandering case. It’s only a racial gerrymandering case.”) (citation omitted). On this point, Plaintiffs agree with the Secretary.

drafts plans until all districts were randomly renumbered on January 13, 2022. District 19 in the 2016 Benchmark Plan is referred to as the “Benchmark District.”

Plaintiffs use the generic “protected district” to refer in general to districts that Tier One or the Voting Rights Act protect from minority vote diminishment or dilution.

To make out a federal racial-gerrymandering claim, “the plaintiff must prove that ‘race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.’” *Cooper v. Harris*, 581 U.S. 285, 291 (2017) (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)). If so, the district must survive strict scrutiny. *Id.* at 292. As the Court has acknowledged, Plaintiffs allege exactly that. Order, ECF 33 at 4–5. (“It is obvious from the face of the Complaint that Plaintiffs bring a racial-gerrymandering claim.”).

To show racial predominance, “a plaintiff must prove that the State ‘subordinated’ race-neutral districting criteria such as compactness, contiguity, and core preservation to ‘racial considerations.’” *Alexander v. S.C. State Conf. of NAACP*, 602 U.S. 1, 7 (2025) (quoting *Miller*, 515 U.S. at 916). A plaintiff can establish predominance through direct evidence, including through “a relevant state actor’s express acknowledgment that race played a role in the drawing of district lines.” *Id.* at 8. Or, a plaintiff can point to indirect evidence, such as the challenged district’s lack of “conformity to traditional districting principles, such as compactness and respect for county lines.” *Cooper*, 581 U.S. at 308. Here, Plaintiffs allege both, pointing to statements from legislators and their staff showing that they “drew [the Challenged Districts] with race in mind by packing black voters into District 16 from other places, including District 18,” as well as “standard indicia of racial gerrymandering, like having districts traverse large bodies of water, splitting political communities, and forming noncompact shapes.” Order, ECF 33 at 2–3 (citing Compl. at 4–5, 10–19).

In this case, the race-neutral redistricting criteria that the Senate subordinated

to race in drawing the Challenged Districts are also embedded in Tier Two of the Florida Constitution's Fair Districts Amendments. Compl. ¶¶ 40–41. But this does not transform Plaintiffs' racial-gerrymandering claim into a claim that the Challenged Districts violate Florida law. State law is relevant to Plaintiffs' claim as a factual matter to establish the Senate's racially motivated purpose. By stating that the Challenged Districts were drawn to prevent diminishment of Black votes in accordance with Florida law, the Senate indicated that race played a significant role in its decision-making, which informs the racial predominance inquiry. But the Court need not find the districts actually violate the Florida Constitution to find that race predominated; the federal claim is independent of any state-law violation. And if the Court finds after trial that race *did* predominate and that the use of race was not narrowly tailored, it would not be "instruct[ing] state officials on how to conform their conduct to state law." *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984). Rather, the Court would merely be enforcing the Fourteenth Amendment's mandates.

Two cases following the 2010 Census are particularly instructive. In *Bethune-Hill v. Virginia State Board of Elections*, voters challenged state legislative districts as racial gerrymanders under the U.S. Constitution. 580 U.S. 178, 181 (2017). The legislature had adopted "criteria to guide the redistricting process," including "traditional redistricting factors such as compactness, contiguity of territory, and respect for communities of interest," two of which were also state constitutional mandates. *Id.* at 183; Va. Const. art. 2, § 6. Following remand by the Supreme Court, the trial court found "race predominated over traditional districting factors" like

compactness and contiguity under the Fourteenth Amendment—independent of the fact that both compactness and contiguity also happened to be required by the Virginia Constitution. *Bethune-Hill v. Va. State Bd. of Elections*, 326 F.Supp.3d 128, 137, 141 (E.D. Va. 2018) (citing Va. Const. art. 2, § 6); *see also Page v. Va. State Bd. of Elections*, No. 3:13-cv-678, 2015 WL 3604029, at *10–11 (E.D. Va. June 5, 2015) (making similar findings to strike down a congressional district and noting “contiguity and other traditional districting principles are ‘important not because they are constitutionally required,’ but rather ‘because they are objective factors’ courts may consider in assessing racial gerrymandering claims” (quoting *Shaw v. Reno (Shaw I)*, 509 U.S. 630, 647 (1993))), *appeal dismissed*, 578 U.S. 539 (2016). At no point did any court suggest that the challenges were barred by sovereign immunity.

Similarly, in *Covington v. North Carolina*, the North Carolina Constitution’s “Whole-County Provision” required redistricting planners to “group counties together in drawing districts, generally keeping such groups as small as possible and minimizing the number of traverses across county boundaries within groups.” 316 F.R.D. 117, 125 (M.D.N.C. 2016), *aff’d*, 581 U.S. 1015 (2017) (mem.). Still, when the trial court found that race predominated in the districts’ drawing, it did so not because they violated the state constitution but because subordinating the traditional districting principles embodied in the Whole-County Provision was evidence of racial intent under the *federal* racial-gerrymandering standard. *Id.* at 137–39, 176. Again, there was no question plaintiffs were raising federal claims. As in *Bethune-Hill* and *Covington*, Florida’s constitutional requirements are relevant to Plaintiffs’ claims not for their own

sake, but because they are the race-neutral redistricting criteria that the Legislature purportedly sought to respect. Thus, the Tier Two standards' subordination to race is evidence of racial predominance, regardless of whether a state court would find the Challenged Districts compliant with Tier Two as a matter of Florida law.

There is no *Pennhurst* problem at the strict-scrutiny step of Plaintiffs' claim, either. The state has a compelling interest in compliance with Florida's non-diminishment requirement, but whatever the asserted interest—be it federal law, state law, or a policy lacking the status of law—the use of race must be properly tailored. If Plaintiffs establish racial predominance, it is this Court's duty to scrutinize whether the state met that tailoring requirement. As the Senate recently argued at the Florida Supreme Court: "Florida cannot vote into its State Constitution an exemption from the Fourteenth Amendment." Legislature's Answer Br. at 53, *Black Voters Matter Capacity Bldg. Inst. v. Byrd*, No. 23-1671 (Fla. May 6, 2024). And just like a finding that race predominated in the Challenged Districts would not *per se* mean the districts violated Tier Two, a finding that the Legislature's use of race was not sufficiently tailored to a compelling interest would not require this Court to conclude the Challenged Districts violated Florida law. Indeed, Plaintiffs agree that lawmakers avoided diminishing Black voting power in Enacted District 16. The problem is that they did not sufficiently tailor their use of race in doing so.

In sum, the "gravamen of [the] complaint" is not that "the State has improperly interpreted and failed to adhere to a state statute." *S&M Brands, Inc. v. Georgia ex rel. Carr*, 925 F.3d 1198, 1205 (11th Cir. 2019) (quoting *DeKalb Cnty. Sch. Dist. v. Schrenko*,

109 F.3d 680, 688 (11th Cir. 1997)) (alteration in original). Nor do Plaintiffs here make “conclusory allegations that the same conduct that violates state law also violates the U.S. Constitution,” *id.* at 1204, and a finding for Plaintiffs need not “rely on a determination that a state official has not complied with state law,” *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-5391, 2019 WL 13221296, at *5 (N.D. Ga. Dec. 27, 2019). Rather, the Challenged Districts violate the Fourteenth Amendment because they were drawn predominantly based on race and fail strict scrutiny: the “gravamen” of a federal racial-gerrymandering claim. “Since the plaintiff alleged a violation of the federal Constitution, *Pennhurst* does not apply.” *Brown v. Ga. Dep’t of Revenue*, 881 F.2d 1018, 1023 (11th Cir. 1989).²

II. There is a genuine factual dispute as to racial predominance in the Challenged Districts.

The Senate argues that it is entitled to judgment as a matter of law as to both the Challenged Districts. ECF 74 at 17–25 (District 16), 11–14 (District 18). But direct evidence from the senators and their staff lays bare the Senate’s explicit racial

² See also *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-5391, 2021 WL 9553856, at *14 (N.D. Ga. Mar. 31, 2021) (finding no *Pennhurst* problem even though “state law is relevant to Defendants’ responsibility for the challenged practice” because “Defendants’ liability . . . will be determined pursuant to the federal . . . framework”); *League of Women Voters of Fla., Inc. v. Detzner*, 314 F.Supp.3d 1205, 1212 (N.D. Fla. 2018) (finding no *Pennhurst* problem where plaintiffs discussed how state law informed the defendant’s interests in promulgating the challenged policy); *Ingalls v. U.S. Space & Rocket Ctr.*, No. 2:14-cv-699, 2015 WL 4528687, at *6 (M.D. Ala. July 27, 2015) (rejecting *Pennhurst* argument because, “[a]lthough Plaintiffs complain vehemently about Defendants’ alleged violation of state statutes, they seek relief for those violations based upon a purported violation of their [federal] due process and equal protection rights”), *aff’d*, 679 F.App’x 935 (11th Cir. 2017); *Halpin v. David*, No. 4:06-cv-457, 2009 WL 10697969, at *3 (N.D. Fla. July 9, 2009) (finding no *Pennhurst* problem in plaintiff alleging violations of state law as predicate acts for federal RICO claim), *report and recommendation adopted in relevant part*, 2009 WL 2960936 (N.D. Fla. Sept. 10, 2009); *cf. Ford v. Strange*, 580 F.App’x 701, 710–11 & n.20 (11th Cir. 2014) (finding standing to bring claims that the revocation of business licenses in violation of state law also violated federal due process rights).

prioritization in crafting these two districts. Data analysis and alternative maps from Plaintiffs’ experts reinforce this conclusion. The record presents a quintessential dispute of material fact.

The Senate built both Districts 16 and 18 around a single racial focus.³ The Senate joined two far-flung Black population centers separated by miles of open water into a single district, split a city of 260,000 into two racially segregated halves, ignored county borders, and carved the region along racial lines. And during the legislative process, when asked repeatedly why the Challenged Districts did not respect the largest most obvious geographic feature in the region—Tampa Bay—the map’s primary drawer replied that the reason was race.

A. Ample direct evidence demonstrates race drove the drawing of the Challenged Districts.

Direct evidence “often comes in the form of a relevant state actor’s express acknowledgment that race played a role in the drawing of district lines.” *Alexander*, 602 U.S. at 8; *see also Cooper*, 581 U.S. at 299–301, 310–16 (focusing on evidence of intent

³ At the outset, the Senate’s protestation that Plaintiffs focus too narrowly on St. Petersburg is not only belied by the record, but also legally mistaken. While racial predominance is analyzed “district-by-district,” *Ala. Legis. Black Caucus v. Alabama (ALBC I)*, 575 U.S. 254, 262 (2015), the Supreme Court has explained “[t]his is not to suggest that courts evaluating racial gerrymandering claims may not consider evidence pertaining to an area that is larger or smaller than the district at issue.” *Bethune-Hill*, 580 U.S. at 192 (emphasis added). Because a district is made up of its parts, “a legislature’s race-based decisionmaking may be evident in a notable way in a particular part of a district. It follows that a court may consider evidence regarding certain portions of a district’s lines” *Id.*; *see also, e.g., GRACE, Inc. v. City of Miami (GRACE III)*, 730 F.Supp.3d 1245, 1282–83 (S.D. Fla. 2024) (finding the treatment of particular “portion[s],” “area[s],” and “part[s]” of districts probative of racial predominance), *appeal dismissed*, No. 24-11550 (11th Cir. July 17, 2024); *Jacksonville Branch of NAACP v. City of Jacksonville (Jacksonville I)*, 635 F.Supp.3d 1229, 1274 (M.D. Fla. 2022) (summarizing expert’s analysis of “portions of the district lines that are particularly bizarre”), *stay denied (Jacksonville II)*, No. 22-13544, 2022 WL 16754389 (11th Cir. Nov. 7, 2022).

of the plan’s “architects” and “mapmakers”); *Jacksonville II*, 2022 WL 16754389, at *4 (“[R]elevant, contemporaneous statements of key legislators are to be assessed when determining whether racial considerations predominated in redistricting processes.”).⁴

Here, statements of key legislators and staff undoubtedly show “race played a role in the drawing of” the Challenged Districts and that the Senate’s use of race crossed the threshold from mere “consciousness” to “predominance.” *See Alexander*, 602 U.S. at 8; *Allen v. Milligan*, 599 U.S. 1, 33 (2023). The Senate considered Benchmark District 19 a “Tier One-protected district” under the Fair Districts Amendment’s non-diminishment standard, meaning “Black voters’ ability to elect candidates of choice could not be diminished from their ability that existed in Benchmark District 19.” ECF 75-2 (Ferrin Dep.) 62:12–22. Walking through the Senate’s first draft maps, Staff Director Ferrin introduced the Protected District as “an effective minority district protected under Tier-One,” noting its BVAP. Nov. 17 Tr. 26:20–22. Sen. Rodrigues, the Reapportionment Committee’s chair, used the same language when the committee took up what would become the Enacted Plan. Ex. 9 (Jan. 13 Tr.) 25:7–13. On the Senate floor, Rodrigues explained the race-predominant method for drawing Tier One-protected districts like District 16:

⁴ The Senate baldly asserts that Plaintiffs have no direct evidence, citing Plaintiffs’ deposition testimony. ECF 74 at 8–9, 19. But Plaintiffs testified merely that they *personally* did not have any direct knowledge of the redistricting process. *E.g.*, Ex. 6 (El-Amin Dep.) 35:16–18 (“And do you *personally know* any facts that indicate that the legislature’s predominant criteria in drawing District 16 was race?”). Any limitations in the five Plaintiffs’ own *personal* knowledge of the legislative process do not foreclose them presenting proof of that process through other competent evidence. *E.g.*, Ex. 7 (Azis Dep.) 35:9–10 (“I would have to rely on any information that my attorneys have provided you for that . . .”), 35:21–23; Ex. 8 (Nord Dep.) 39:9–10 (“Well, for specific facts, I would have to defer to the knowledge of my attorneys.”), 41:4–5, 42:1–3, 47:16–17; 49:19–22.

So once we've identified the Tier One districts, we then start with a blank map, highlight the data we've received from the U.S. Census Bureau by race, and then the staff began drawing around the population distribution in order to ensure we had not diminished the opportunity for minorities to participate or elect a voter of their choice. . . . Once we highlighted the racial population, we began drawing from there.

Ex. 10 (Jan. 19 Tr.) 23:5–9, 24:3–4.⁵ Thus, “[r]ace was the criterion that, in the State’s view, could not be compromised’ in the drawing of district lines,” precisely what the Fourteenth Amendment forbids. *Alexander*, 602 U.S. at 7–8 (quoting *Shaw v. Hunt*, 517 U.S. 899, 907 (1996)).

Additional legislative statements show that by building District 16 around “racial populations,” race drove the design of District 18, too. As Rodrigues explained, that district’s “shape is affected by the neighboring Tier One District [16], which is an effective minority district protected from diminishment under Tier One.” Jan. 13 Tr. 25:6–8 (using district numbers before renumbering). District 18 could have been drawn starting with all of St. Petersburg, then extended north to include as much of Pinellas County as possible until the district reached equal population with the other districts. McCartan Rep. ¶¶ 12–13, 15–19 & figs. 2–4. But critically, Ferrin admitted in deposition that he never tried to unify St. Petersburg in District 18 and build a protected District 16 on the east side of the Bay, relying only on his speculation that it

⁵ At his deposition, Ferrin asserted that these statements referred only to districts in the Jacksonville area, where two counties are made up of one Tier One-protected district surrounded by a non-protected district. Ferrin Dep. 50:17–52:7. But Rodrigues’s explanation refers not to that particular Jacksonville “district,” but rather “the Tier One districts” and “the districts that we cannot diminish,” plural. Jan. 19 Tr. 23:4–9. Ferrin further testified that he sought to apply the Senate’s directives on protected districts “consistently across the state.” Ferrin Dep. 55:11–15, 55:25–56:10. Whether the Court should take Rodrigues’ explanation at face value or instead credit Ferrin’s contrary post-hoc interpretation is a question for trial.

could not be done. Ferrin Dep. 97:10–100:22, 103:23–114:6. His refusal to seriously investigate whether such a configuration could be drawn indicates that race was not merely one consideration among others, but was the dominant consideration. The Court must interpret this evidence in Plaintiffs’ favor, as the party opposing summary judgment, leading to the reasonable conclusion that the Senate “began drawing” once they “highlighted the racial population” and never looked back. Jan. 19 Tr. 24:3–4.

Significantly, legislators and staff *expressly acknowledged* that the Challenged Districts deviated from traditional race-neutral criteria due to racial considerations. When Bracy first asked why the Protected District crossed Tampa Bay, Ferrin replied simply: “That was to comply with the Tier One non-diminishment standards.” Nov. 17 Tr. 31:21–32:12. Later in the process, Bracy again asked why the Protected District crossed the Bay. Jan. 10 Tr. 7:10–13. Burgess’s answer pointed to the race-based non-diminishment requirement: “there were a significant number of voters who would be disenfranchised under not crossing the Bay.” *Id.* 7:14–19. Ferrin agreed: “If we look at drawing it differently, I think we’re looking at a situation where the Black voters would not be able to control the primary numerically . . . and that would potentially constitute diminishment.” *Id.* 9:1–4. At the final committee meeting, Rodrigues explained why the Protected District “includes the minority populations of St. Petersburg and Tampa.” “[t]o ensure this configuration does not result in the denial or abridgement of the equal opportunity to participate in the political process.” Jan. 13 Tr. 25:10–12.

Collectively, the statements from the legislative record evince the Senate’s race-

based purpose in drawing the Challenged Districts and its explicit sacrificing of race-neutral criteria like respecting Tampa Bay as a “major geographic boundary” and the Hillsborough-Pinellas line as a “major political boundary.” Ex. 11 (Sen. RFAs) ¶¶ 19–20, 22. This direct evidence removes this case from the ambit of *Alexander*, whose holdings apply only when (1) a plaintiff relies solely on circumstantial evidence and (2) the state raises a partisan-gerrymandering defense, 602 U.S. at 8–10, 18, neither of which are the case here. Unlike *Alexander*, the Court is not “confronted with evidence that could plausibly support multiple conclusions” as to whether the Legislature engaged in race-based policymaking, because legislators admitted they did so. *Id.* at 10; *see also id.* at 19–20 (reversing finding that legislature deliberately used race to draw a district where plaintiffs “did not offer any direct evidence to support that conclusion, and indeed, the direct evidence that is in the record is to the contrary”).

B. Ample circumstantial evidence corroborates the direct evidence.

Apart from this direct evidence, “circumstantial evidence of [the] district[s]’ shape and demographics” point to racial predominance as well. *Miller*, 515 U.S. at 916. District 16 connects the region’s two largest Black population centers, “travers[ing] large bodies of water, splitting communities, and forming noncompact shapes” to do so. Order, ECF 33 at 2. It has a self-apparent irregular shape, made up of two parts unconnected by a bridge. Compl. ¶ 98; Sen. Ans. ¶ 98. It splits St. Petersburg unnecessarily, contrary to the Senate’s directive that staff explore concepts that “keep cities whole.” ECF 74-3 (Oct. 18 Memo) at 2; *see also* Ferrin Dep. 29:12–13 (keeping cities whole “was a concept that was measured and reported and

considered”). It splits Pinellas County into more districts than necessary and prevents Hillsborough from hosting a second district entirely within it, contrary to the directive to “keep districts wholly within a county in the more densely populated areas.” Oct. 18 Memo at 2. Dr. Cory McCartan’s alternative maps, discussed further in Part IV, *infra*, demonstrate that these choices were not simply natural consequences of Florida’s demographics and geography, but rather made for racial reasons. McCartan Rep. ¶¶ 12–19, 22 & figs. 2–4.

Dr. Matthew Barreto’s analysis lends further support for racial predominance. He examined the districts’ shapes and demographics, studied the areas moved between the Benchmark and Enacted Plan, and concluded that both districts “follow a clear pattern whereby the boundary edges, as well as the cores, can be explained by the race and ethnicity of voters/residents.” Barreto Rep. ¶¶ 10, 30–43. Examining the manner in which the Challenged Districts’ borders cut through Voting Tabulation Districts (VTDs), the building blocks of redistricting, Barreto calculated the statistical probability that the VTDs inside District 16’s boundary line would have a consistently higher Black concentration than those on the outside if race were *not* driving the line-drawing decisions. *Id.* ¶ 41. He calculated this probability as 1 in 190,650 for the SD 16-18 border in Pinellas County, and 1 in 61,887 for SD 16’s border in Hillsborough. *Id.* ¶¶ 42–43.⁶ In other words: an extraordinary statistical anomaly and compelling

⁶ For comparison, the risk of dying from a lightning strike in one’s lifetime is 1 in 79,746. FLORIDA MUSEUM, Annual Risk of Death During One’s Lifetime, <https://www.floridamuseum.ufl.edu/shark-attacks/odds/compare-risk/death/>.

evidence that the Challenged Districts were drawn to divide the region along racial lines, separating more- from less-Black areas. *See Jacksonville I*, 635 F.Supp.3d at 1273–76, 1284 (expert analysis concluding “district lines are consistently drawn in a manner such that the precincts in [protected Black districts] have higher BVAP than the neighboring precincts on the other side of the line” was “strong evidence” of predominance); *GRACE, Inc. v. City of Miami (GRACE I)*, 674 F.Supp.3d 1141, 1193–94 & n.15, 1209–11 (S.D. Fla. 2023) (crediting similar analysis and finding predominance), *appeal dismissed*, No. 23-11854, 2023 WL 5624206 (11th Cir. July 13, 2023).

Plaintiffs’ direct and circumstantial evidence is sufficient to establish an issue of fact as to whether race predominated in the drawing of the Challenged Districts and overcomes a presumption of the Senate’s good faith (i.e., the presumption that the Senate engaged in policymaking without regard to race). *See, e.g., Ga. State Conf. of NAACP v. Georgia*, No. 1:21-cv-5338, 2023 WL 7093025, at *8, *10 (N.D. Ga. Oct. 26, 2023); *Walen v. Burgum*, 700 F.Supp.3d 759, 769–70 (D.N.D. 2023), *aff’d in part, appeal dismissed in part*, --- S.Ct. ---, No. 23-969, 2025 WL 76410 (Jan. 13, 2025) (mem.). The court in *Georgia State Conference* denied summary judgment regarding Congressional Districts 2 and 8 (the former a predominantly Black district drawn to comply with the VRA; the latter an adjacent majority-white district) based on the plaintiffs’ expert’s opinion that a single county “was split between these two districts based on ‘minutely race conscious decisions.’” 2023 WL 7093025, at *10. The *Walen* court similarly found “a genuine issue of material fact as to whether race was the predominate motivating

factor” in the drawing of two North Dakota legislative districts despite competing interpretations of the evidence offered by the parties.⁷ 700 F.Supp.3d at 770. Both cases cite record evidence including plaintiffs’ expert reports, *Ga. State Conf.*, 2023 WL 7093025 at *10, and legislative statements regarding efforts to comply with minority-protection laws, *Walen*, 700 F.Supp.3d at 769 (“The record contains ample evidence that VRA compliance and avoiding litigation from Native American voters was a motivating factor in the decision to draw the subdistricts.”). As in these cases, Plaintiffs have established a factual dispute on racial predominance sufficient to go to trial.

C. An actual conflict with traditional redistricting principles is not a prerequisite for a racial-gerrymandering claim.

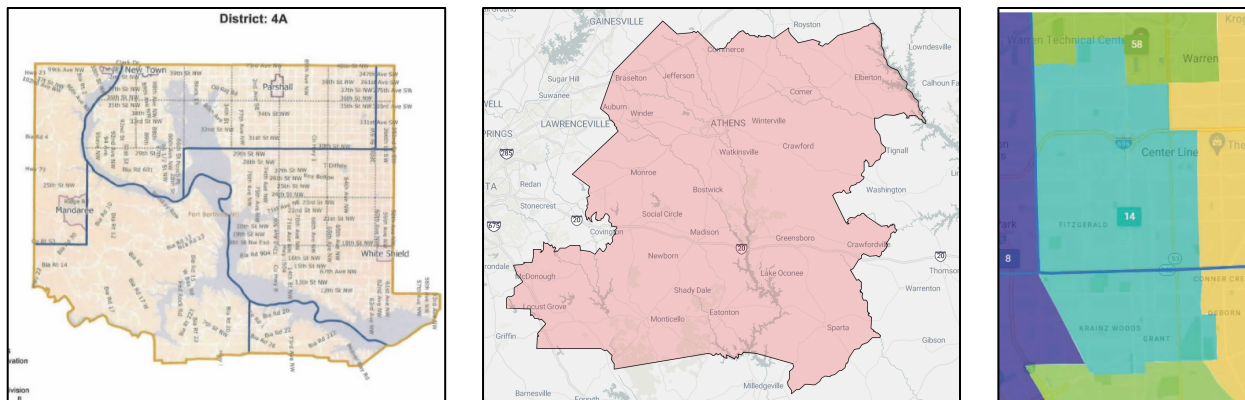
The Senate argues that the Challenged Districts are not so “highly irregular” or “bizarre” after all, pointing to scores measuring the districts’ compactness and coincidence with certain geographic features. ECF 74 at 21–22, 24. As an initial matter, the Supreme Court squarely rejected any specific “bizarreness” requirement:

Shape is relevant not because bizarreness is a necessary element of the constitutional wrong or a threshold requirement of proof, but because it may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature’s dominant and controlling rationale in drawing its district lines. The logical implication . . . is that parties may rely on evidence other than bizarreness to establish race-based districting.

Miller, 515 U.S. at 913. Even compact districts with *no* bizarre features and high “adherence to traditional redistricting criteria,” ECF 74 at 22, may be unlawfully

⁷ *Walen* granted summary judgment for the state on the grounds that, even if race predominated, the use of race survived strict scrutiny as a matter of law. 700 F.Supp.3d at 775.

gerrymandered on the basis of race. *Bethune-Hill*, 580 U.S. at 190 (“[A] conflict or inconsistency between the enacted plan and traditional redistricting criteria is not a threshold requirement or a mandatory precondition”); *Jacksonville I*, 635 F.Supp. 3d at 1244–45. The Court need only look at the below districts that courts have recently found were drawn with racially predominant intent, or that contained a genuine factual dispute as to predominance, to see that “narrow land bridges” or “low scores with respect to traditional measures of compactness,” ECF 74 at 24, are not required:



Left to right: *Walen’s* District 4A, *Ga. State Conf.’s* District 10, and *Agee’s* District 14.⁸

But in any event, the record *does* show that the Challenged Districts *are* irregular in shape and depart from race-neutral redistricting criteria in ways that indicate racial motivations (and at worst, shows a factual dispute on these points). *See supra* at 2, 11–14. Visually, District 16 contains two unconnected regions separated by water. *See supra* at 2. And while “many other districts in the plan . . . comprise[] part of two

⁸ *Walen*, 700 F.Supp.3d at 765 (finding genuine dispute of fact as to racial predominance in District 4A); *Ga. State Conf.*, 2023 WL 7093025, at *10 (finding genuine dispute of fact as to racial predominance in District 10), map available at BALLOTPEDIA, https://ballotpedia.org/Georgia%27s_10th_Congressional_District; *Agee v. Benson*, No. 1:22-cv-272, 2023 WL 8826692, at *52 (W.D. Mich. Dec. 21, 2023) (finding racial predominance in House District 14), *stay denied*, 144 S.Ct. 715 (mem.).

neighboring counties,” ECF 74 at 21, Rodrigues explained that District 16 does so *because of race*. Jan. 13 Tr. 25:10–12.

D. The Florida Supreme Court’s review does not defeat Plaintiffs’ claim.

Equally unpersuasive is the Senate’s invocation of the Florida Supreme Court’s automatic review of the Enacted Plan, which is irrelevant to the present case for two reasons. *First*, *In re SJR 100*, 334 So.3d 1282 (Fla. 2022), was a non-adversarial facial review—without the benefit of a factual record—that assessed the validity of the redistricting plans under the Florida Constitution only. *See In re Sen. Joint Resol. of Legis. Apportionment 1176*, 83 So.3d 597, 689 (Fla. 2012) (Lewis, J., concurring) (“This Court is not structurally equipped to conduct complex and multi-faceted analyses with regard to many factual challenges to the 2012 legislative reapportionment plan. . . . [W]e can only conduct a facial review of legislative plans and consider facts properly developed and presented in our record.”); *see also* Fla. Const. Art. III, § 16(c). By contrast, the present case presents an as-applied challenge under the U.S. Constitution.

Second, the Senate misreads and overstates the Florida Supreme Court’s ruling. The court held that the Enacted Plan had “generally improved average [compactness] scores” relative to the previous map, declined to “comment on how meaningful those improvements” were, and did not comment on the compactness of any particular district. *In re SJR 100*, 334 So.3d at 1287. The court did not opine on whether any particular district’s compactness would be probative of racial predominance, whether any district was drawn predominantly based on race, or whether any district violated the U.S. Constitution.

E. The Senate overstates the role of the *Arlington Heights* framework.

The Senate asserts “Plaintiffs fail the *Arlington Heights* test for circumstantial evidence of racially discriminatory intent and effect.” ECF 74 at 20. But Plaintiffs raise racial-gerrymandering claims, not vote-dilution or other types of discriminatory-intent claims like the plaintiffs in *Arlington Heights*. The *Arlington Heights* framework is only necessary in vote-dilution cases, *Hunt v. Cromartie*, 526 U.S. 541, 546 n.2 (1999); *Abbott v. Perez*, 585 U.S. 579, 603–07 (2018); racial-gerrymandering claims are “analytically distinct” and require a “different analysis.”⁹ *Alexander*, 602 U.S. at 38 (quoting *Shaw I*, 509 U.S. at 650, 652) (clarifying that a “racial-gerrymandering claim asks whether race predominated in the drawing of a district regardless of the motivations for the use of race,” but in contrast, a “plaintiff pressing a vote-dilution claim cannot prevail simply by showing that race played a predominant role in the districting process.” (quotation omitted)); cf. *Common Cause Fla. v. Byrd*, 726 F.Supp.3d 1322, 1330 (N.D. Fla. 2024) (“[T]he proper legal framework to evaluate the plaintiffs’ claims is set out in [] *Arlington Heights* Both sides disavow that this is a constitutional racial gerrymandering case under *Shaw v. Reno*[.]” (quotation omitted)).

Even if the Court “supplemented [its] finding” on racial predominance through the lens of *Arlington Heights*, *GRACE III*, 730 F.Supp.3d at 1256, there is ample record

⁹ Before *Alexander* clarified this point, some courts used the *Arlington Heights* factors as an analytical tool to evaluate circumstantial evidence or to “supplement[] [their] finding” on racial predominance. *GRACE III*, 730 F.Supp.3d at 1255–56 (“In instances where there is an absence of direct evidence that single-member districts were drawn with race as the predominant consideration, courts may determine legislative intent through an examination of the *Arlington Heights* evidentiary factors,” in addition to the traditional, redistricting-specific “types of circumstantial evidence” that “strongly suggest racial predominance.” (cleaned up)).

evidence showing a factual dispute under that framework. As discussed above, “the specific sequence of events leading up to [the Challenged Districts’] passage” and “the contemporary statements and actions of key legislators,” *Greater Birmingham Ministries v. Sec’y of State for State of Ala.*, 992 F.3d 1299, 1322 (11th Cir. 2021), include express acknowledgements of racial motivations and subordination of race-neutral criteria. The Senate faults Plaintiffs for not showing “a substantial disparate impact,” ECF 74 at 20, but “[i]n the context of redistricting, the Court judges the impact of the law by examining the challenged districts’ shapes and demographics.” *GRACE I*, 674 F. Supp. 3d at 1209 (cleaned up, quotation omitted). This factor is amply supported by the evidence discussed above, and by McCartan’s alternative plans, discussed in Part IV.

Finally, Senator Bracy’s insistent probing about whether the Enacted Plan’s configuration was legally necessary, and the legislative discussion of the impact on the region’s communities, demonstrate the Legislature’s “knowledge of that impact,” which was therefore “foreseeab[le].” *Greater Birmingham Ministries*, 992 F.3d at 1322; *see supra* 3, 12; Compl. ¶¶ 88–89; Sen. Ans. ¶¶ 88–89; Ex. 12 (Feb. 2 House Tr.) 6:13–18, 6:23–7:2 (statements of Rep. Learned). Foreseeability is also supported by McCartan’s plans, as well as the similar plans proposed just six years before the 2021–22 redistricting process, in 2015. Ex. 13 (Stip. re 2015 Plans) ¶¶ 1–3; Compl. ¶ 113 & fig. 4; McCartan Rep. ¶¶ 12–19 & figs. 2–4.

III. Both the Senate and Secretary misuse history and misunderstand its relevance to the racial predominance and narrow tailoring inquiries.

Both Defendants invoke the Protected District’s history in their motions, but

both misunderstand how that history is relevant to both the racial predominance and narrow tailoring inquiries. The Senate’s attempt to compare District 16 with its predecessor configurations fails to negate the dispute of fact in this record, for three separate reasons. *See* ECF 74 at 21–22. **First**, evidence shows the Senate revised the predecessor configurations in racially motivated ways to create District 16. Dr. Barreto testifies to how the Enacted Plan’s movement of the District 16-18 border “more closely hews to the Black VAP and excludes majority-white VTDs from district 16, even though they were formerly part of this same district.” Barreto Rep. ¶ 36. In other words, the Senate’s 2022 changes to the Challenged Districts *exacerbated the already-existing racial division in the Benchmark Plan*. Those changes support, rather than undermine, racial predominance.

Second, comparing the Enacted Plan to prior configurations only makes sense if the prior configurations themselves were not race-based. If they *were* race-based, that *supports* Plaintiffs’ case. *See McClure v. Jefferson Cnty. Comm’n*, No. 2:23-cv-443, 2025 WL 88404, at *17 (N.D. Ala. Jan. 10, 2025). In fact, the history does just that. Like many racially gerrymandered districts across the country, the Challenged Districts “have their genesis in the ‘max-black’ policy that the DOJ itself applied to § 5 [of the VRA] throughout the 1990’s and early 2000’s,” “requir[ing] States . . . to create supermajority-black voting districts or face denial of preclearance.” *ALBC I*, 575 U.S. at 296, 298 (Thomas, J., dissenting). In 1992, the DOJ denied preclearance to the Senate’s redrawn map because it lacked a majority-minority district in Hillsborough County. *In re Sen. Joint Resol. 2G*, 601 So.2d 543, 545 (Fla. 1992). Following a

legislative impasse, the Florida Supreme Court redrew the map to accede to the DOJ's demand, selecting from different submissions the option with the highest Black population in the Protected District. *Id.* at 546; *see also id.* at 548 (Overton, J., dissenting) (“The [] plan . . . effectively strips Pinellas, Hillsborough, Manatee, and Polk Counties of their black population.”). The district was redrawn in 1996 following a *Shaw* challenge and has remained largely the same ever since—“ossified” in its mid-’90s configuration borne of the “max-black” policy and its aftermath. ECF 74-16; *see ALBC I*, 575 U.S. at 296 (Thomas, J., dissenting); *Milligan*, 599 U.S. at 56 n.7 (recounting how the Supreme Court “rejected the ‘max-black’ policy as unwarranted by § 5 and inconsistent with the Constitution[,] [b]ut ‘much damage to the States’ congressional and legislative district maps had already been done” (quoting *ALBC I*, 575 U.S. at 299 (Thomas, J., dissenting))).

Third, the Senate’s comparison of the Challenged Districts to prior maps is untethered to the Legislature’s actual purpose in enacting the current map. While “core preservation,” or minimizing changes to districts from the prior plan, can be a race-neutral redistricting principle, *Alexander*, 602 U.S. at 7, it was *not* a criterion the Senate adopted.¹⁰ Oct. 18 Memo; Jan. 19 Tr. 22:18–19, 23:4–9 (Rodrigues: “In the drawing of the map, we started with a blank map”); Ferrin Dep. 40:2–6 (“Q: When drawing the maps in the 2022 redistricting process, did you seek in any way to

¹⁰ Ferrin testified that he referred to the “general configuration and prevalence and performance of benchmark districts,” including for the Protected District, because it informed a “situational awareness” relevant to his assessment of whether a district complied with the non-diminishment requirement. Ferrin Dep. 41:10–43:1.

preserve the cores of pre-existing districts? A: We did not measure or consider the district core retention, no.”). Even if it were, a state cannot “immunize from challenge a new racially discriminatory redistricting plan simply by claiming that it resembled an old racially discriminatory plan.” *Milligan*, 599 U.S. at 22; *see also Bethune-Hill v. Va. State Bd. of Elections*, 141 F.Supp.3d 505, 545 (E.D. Va. 2015) (“‘That’s the way we’ve always done it’ may be a neutral response, but it is not a meaningful answer.”), *aff’d in part, vacated in part*, 580 U.S. 178.

As for the Secretary—whose sole argument is that there is no genuine factual dispute that the state’s use of race was narrowly tailored to comply with the non-diminishment requirement—he invokes the continuation of the Protected District’s past configuration as if that shields it from scrutiny. ECF 75 at 2–3, 5–6. But the state has a duty to narrowly tailor its use of race every time it redraws a district, even when it inherits a court-ordered plan. *Clark v. Putnam Cnty.*, 293 F.3d 1261, 1267 n.16, 1271–76 & n.24 (11th Cir. 2002) (finding racial gerrymander failed strict scrutiny even where it “preserved as much as possible” court-ordered predecessor districts, and reversing district court decision that reasoned, “just as the creation of the majority-black districts in [the] 1982 remedial order was narrowly tailored to remedy past discrimination, the maintenance of those districts in 1992 was narrowly tailored to continue that remedy and comply with the requirements of the Voting Rights Act” (cleaned up)); *see Johnson v. Mortham*, 926 F.Supp. 1460, 1492 (N.D. Fla. 1996) (finding congressional district failed strict scrutiny in racial-gerrymandering challenge to redistricting plan which had

been ordered by that same district court four years prior).¹¹ This is especially so since the Protected District's configuration was not a contested issue before the court that ordered the Benchmark Plan in 2015. Ex. 14, Plfs.' Withdrawal of Certain Proposed Alternative Remedial Plans, *League of Women Voters of Fla. v. Detzner* (Benchmark Case), No. 2012-CA-2842 (Fla. 2d Jud. Cir. Ct. Dec. 30, 2015).

IV. Plaintiffs' alternative plans show the Senate could have achieved its interest through dramatically less discriminatory means.

Dr. McCartan's alternative plans present less-discriminatory alternatives that employ race in a much more tailored fashion than the Enacted Plan, while still achieving the state's interest in avoiding diminishment in District 16. Barreto Rep. ¶ 9. ("[T]he three maps offered by Plaintiffs all perform nearly identically to the benchmark SD19.").¹² The contrast between McCartan's maps and the Enacted Plan is thus circumstantial evidence that race predominated the Senate's approach, *and* reveals that the Senate's use of race was not narrowly tailored. Rather than connect the region's

¹¹ See also *Ala. Legis. Black Caucus v. Alabama* (ALBC II), 231 F.Supp.3d 1026, 1065 (M.D. Ala. 2017) (striking down district that "maintained . . . core" of previous one); *id.* at 1085 (concluding that, notwithstanding similarities between new and prior districts, "the legislature drew new lines in 2012 that must be evaluated on their own merit"); *Navajo Nation v. San Juan Cnty.*, 162 F.Supp.3d 1162, 1177 (D. Utah 2016) (striking down district where "the overriding consideration . . . was to preserve [it] without any modification"), *aff'd*, 929 F.3d 1270 (10th Cir. 2019); *cf. Singleton v. Merrill*, 582 F.Supp. 3d 924, 1016 (N.D. Ala. 2022) (explaining in Section 2 context that core-preservation defense "would turn the law upside-down, immunizing states from liability under Section Two so long as they have a longstanding, well-established map"), *aff'd sub nom. Milligan*, 599 U.S. 1.

¹² It is unclear whether the Secretary disputes this. While his expert suggests that Plaintiffs' plans don't reverse some "erosion" in Black voting strength that the Protected District experienced from 2012–2020, ECF 75 at 12, Florida law does not require a new plan to return minority voters to the position they were in ten years prior. See *In re SJR 100*, 334 So.3d at 1289. Indeed, it makes no sense to refer to Black voters' power in Benchmark District 19 in 2012, because the Benchmark Plan did not exist in 2012—it was first implemented in 2016. Ex. 15, *Benchmark Case*, slip op. at 73; ECF 74-16 at 6. Ferrin confirmed the Senate's understanding of the law was that Black voters' ability-to-elect could not be diminished from their ability that existed in Benchmark District 19. Ferrin Dep. 62:15–19.

two far-flung Black population centers separated by miles of open water into a single district, McCartan’s plans feature a Protected District that sits compactly on one side of Tampa Bay, wholly within Hillsborough County. Rather than split St. Petersburg and Pinellas County along racial lines, McCartan’s plans eliminate the unnecessary split of Pinellas County and unite all of St. Petersburg in a compact, naturally occurring district at the southern end of the peninsula—satisfying the Senate’s own race-neutral directives to, where feasible, use county boundaries, keep districts wholly within a county in more densely populated areas, and keep cities whole. Rather than carve the region along racial lines, McCartan “only consulted racial demographic data to the extent required to ensure that Black voters’ ability to elect representatives of their choice was not diminished.” McCartan Rep. ¶ 13; *see also* ECF 75-6 (McCartan Instructions) at 1. Rather than picking major roads that tracked a desired racial division of St. Petersburg, or connecting Tampa and St. Petersburg Black communities by tracking the highways that lie between them, McCartan followed and respected major boundaries irrespective of race.¹³ He did not form the districts “by racial

¹³ The Secretary applauds the Enacted Plan for how well it scores under the “boundary analysis score,” a metric the Legislature developed which measures the percentage of a district’s boundary that tracks certain categories of boundaries incorporated into the Legislature’s software: city and county lines, major roads, railways, and water bodies. McCartan Rep. ¶ 29; Ferrin Dep. 31:11–20, 32:2–11. But the manipulation of that technical score is belied by visually assessing the districts. As McCartan discusses and Barreto suggests, the Senate strung the Tampa and St. Pete Black populations together by following highways that lie between them. McCartan Rep. ¶ 31; Barreto Rep. ¶¶ 32–35, 37, 39–43. In fact, the portion of District 16 that crosses Tampa Bay and breaches the Pinellas-Hillsborough County line counterintuitively boosts the “boundary analysis score,” since *any* part of the district line that overlaps with *any* part of Tampa Bay is counted as “utilizing” a major waterway. The Senate cannot get credit for following these boundaries in service of race-based goals. *Cf. Benchmark Case*, slip op. at 7–8 (explaining deficiencies of similar boundary metric used in prior cycle and finding “the Legislature’s internally calculated ‘Pol/Geo’ index is of limited use as a reliable way of measuring

demographics” but rather made “holistic decisions” “to balance the requirements within each tier while avoiding diminishing [] black voters’ ability to elect their representatives of choice.” McCartan Rep. ¶¶ 15–17, 31; ECF 75-9 (McCartan Dep.) 52:8–12, 53:13–16; *cf. Milligan*, 599 U.S. at 31 (praising plaintiffs’ mapmaker who testified that while race “was a consideration,” “he also took several other factors into account, such as compactness, contiguity, and population equality,” and “gave all these factors ‘equal weighting’”).

These differences between McCartan’s plans and the Enacted Plan underscore why the former is less discriminatory in their impact on the region’s voters. While McCartan’s plans do “reflect a similar racial composition in District 16,” ECF 74 at 20–21, that is not surprising, since the point of the Tier One non-retrogression standard is to ensure that Black voters retain the ability to elect preferred candidates that they enjoyed in the Benchmark Plan. Nor does this fact undermine the case for racial predominance in the Senate’s drawing of *its* map, as the Senate argues. The Southern District recently found a similar argument “unavailing.” *GRACE, Inc. v. City of Miami* (*GRACE II*), 702 F.Supp.3d 1263, 1278 (S.D. Fla. 2023) (“Defendant’s assertion that the districts are not racially gerrymandered because they reflect the demographic reality of the city is inapposite.”); *see also Perez v. Texas*, slip op. at 1–2, No. 5:11-cv-360

tier-two compliance.”)

Even if the Court takes the Secretary’s view that Plaintiffs’ maps are somehow deficient, “the lack of a workable alternative is not dispositive,” and the Court “do[es] not need to see an alternative plan to conclude that a district fails strict scrutiny” in every instance. *ALBC II*, 231 F.Supp.3d at 1063 (putting “no weight on the argument of Alabama that its plans satisfy strict scrutiny because the plaintiffs have not offered any alternative plans that comply with the Committee guidelines”).

(W.D. Tex. May 28, 2019), ECF No. 1631 (ordering remedy that “eliminates the changes that led this Court to find racial gerrymandering” despite “maintain[ing] [the district’s] majority [Hispanic] status”).

Further, the overall racial composition of McCartan’s districts *do* differ from the Enacted Plan in one significant respect: Uniting all of St. Petersburg in District 18 doubles its Black population, a fact the Senate ignores. *Compare* ECF 74-19 at 3 (Enacted District 18 at 6.40% BVAP) *with* McCartan Rep. at 35, 39, 43 (12.63% BVAP in McCartan’s plans); *cf. Jacksonville Branch of NAACP v. City of Jacksonville (Jacksonville III)*, No. 3:22-cv-493, 2022 WL 17751416, at *2, *20 (M.D. Fla. Dec. 19, 2022) (summarizing earlier order finding racial gerrymandering in predominantly Black protected districts resulted in “stripping” Black voters from surrounding districts, even where the court-ordered remedy did not yield an additional Black-performing seat), *stay denied*, No. 22-14260, 2023 WL 119425 (11th Cir. Jan. 6, 2023).

V. There is a genuine factual dispute as to narrow tailoring.

Although the strict scrutiny standard gives legislatures “breathing room,” *Cooper*, 581 U.S. at 293 (quoting *Bethune-Hill*, 580 U.S. at 196), when drawing race-based district lines to comply with the VRA or a parallel state law,¹⁴ it affords only a “limited degree of leeway,” *Bush v. Vera*, 517 U.S. 952, 977 (1996). To satisfy narrow tailoring, the state must still show “that it had ‘a strong basis in evidence’ for

¹⁴ Plaintiffs agree with the Secretary (at this stage) that the tailoring analysis is the same whether the compelling interest is compliance with the Voting Rights Act or the non-diminishment mandate in Tier One of Florida’s Fair Districts Amendments. The Court can therefore read references to the VRA in the authority cited here to encompass Florida’s non-diminishment requirement, too.

concluding that the statute required its action”—*i.e.*, “‘good reasons’ to think that it would transgress the Act if it did not draw race-based district lines.” *Cooper*, 581 U.S. at 292–93 (quoting *ALBC I* at 1274). This requires “evidence or analysis supporting [the] claim that the VRA required” the race-based measures, “much more” than “uncritical” assumptions and “generalizations.” *Wis. Legislature v. Wis. Elections Comm’n*, 595 U.S. 398, 403–04 (2022) (per curiam).

The Enacted Plan suffers from similar flaws as the map the Supreme Court rejected in *Wisconsin Legislature*. As detailed in Part IV, the Senate could have achieved its compelling interest in complying with Tier One’s non-diminishment standard without subordinating traditional race-neutral redistricting criteria to the extent that it did. But did the Senate at least have “good reasons for thinking [Tier One] *demand*ed such steps”? *Wis. Legislature*, 595 U.S. at 403–04 (emphasis in original) (quoting *Cooper*, 581 U.S. at 301). Subcommittee Chair Sen. Burgess and Staff Director Ferrin asserted two reasons why crossing the Bay was necessary to comply with the law. Both explanations fail to clear the “limited degree” of leeway the Constitution affords. *ALBC II*, 231 F.Supp.3d at 1063 (quoting *Bush*, 517 U.S. at 977).

First, Ferrin explained drawing a Hillsborough-only district “could” require drawing “a fairly spidery, non-compact configuration.” Jan. 10 Tr. 7:22–23; Ferrin Dep. 116:21–25. This justification is belied by Plaintiffs’ alternative plans, which feature no “spidery, non-compact” shape, yet avoid diminishment. Contrary to Burgess’s representation to Bracy that “staff did look at [] options” that didn’t cross

the Bay, Jan. 10 Tr. 7:16, Ferrin testified at his deposition that he didn't actually draw any Hillsborough-only options, performed no actual functional analysis of a Hillsborough-only district, and based his conclusions on only his "estimation" of "the hypothetical" district he imagined *might* have to be drawn, which he thought "might need" "tentacles and appendages." Ferrin Dep. 105:11–12, :25, 107:3–6, 108:22, 109:8–9, :17–21, 111:20–112:4; cf. *Bethune-Hill*, 580 U.S. at 194–95 (finding proper tailoring where "*informed* bipartisan consensus" relied on "careful assessment of local conditions and structures," including "functional analysis" of proposed district (emphasis added)). Thus, "[r]ather than carefully evaluating evidence at the district level, the [state] improperly relied on generalizations" to reach its conclusion, exactly what *Wisconsin Legislature* forbids. 595 U.S. at 404. Such speculation is far from a "strong showing of a pre-enactment analysis with justifiable conclusions." *Abbott*, 585 U.S. at 621.

Second, Burgess and Ferrin were concerned about the "potential" that drawing a Hillsborough-only Protected District would diminish the ability of *Pinellas* Black voters, which (they reckoned) "could" violate Tier One, because Pinellas residents "may feel as though their opportunity was diminished if they were taken out of" the district. Jan. 10 Tr. 7:16–18, 8:1–4; Ferrin Dep. 105:4–5, :13–15, :25–106:4, 113:7–18. According to Ferrin, that "could provide them an opportunity to challenge this configuration under the non-diminishment standard," even if the redrawn Hillsborough-only Protected District still performed for Black voters. Ferrin Dep. 117:5–11. For one, those tentative suppositions are not enough to justify the use of

race-based districts. *See Wis. Legislature*, 595 U.S. at 403–04 (holding that it is not enough to “conclude only that the VRA *might* support race based districting;” the state must have “‘good reasons’ for thinking that the Act *demand*ed such steps”).

For another, the Senate’s supposition lacked any “basis in evidence,” much less a strong one. It came to that conclusion despite never seeking to find out whether this actually *would* constitute diminishment, Ferrin Depo. 113:25–114:6. Despite the Florida Supreme Court *rejecting* this county-by-county theory of diminishment.¹⁵ Despite the Senate itself agreeing to remove portions of counties from protected districts in the 2015 redistricting process—including removing the Protected District’s Manatee County portion. McCartan Rep. ¶¶ 40–41, 46–47, figs. 8, 11; Ex. 16, Jt. Stip. Regarding Minority Districts ¶ 1, *Benchmark Case* (Senate’s stipulation that none of the plaintiffs’ proposals violated the non-diminishment standard, besides one Broward County district and three Hispanic-majority districts in Miami-Dade); *Benchmark Case*, slip op. at 26, 30 (describing those districts). Despite the court respecting those choices in the map it ordered (the Benchmark Plan). ECF 74-16 at 6. Despite the Florida

¹⁵ After the non-diminishment requirement first came into effect, the Florida Supreme Court rejected the Senate’s defense that Tier Two deficiencies in its proposed map were necessary to comply with Tier One’s retrogression mandate, concluding the Senate “did not properly consider when tier-two requirements must yield in order to avoid conflict with Florida’s minority voting protection provision.” *Apportionment I*, 83 So.3d at 656–57. In particular, the court found two Tier-One districts protected for Black voters “violate[] constitutional mandates by sacrificing compactness and utilizing boundaries when not necessary to do so to avoid conflict with the minority voting protection provision.” *Id.* at 665, 675–76 (Northeast Florida’s SD 6 and SD 34 in Broward-Palm Beach). Both districts combined predominantly Black portions of different counties, like their benchmark predecessors. *Id.* at 665–66, 673–74. The Senate redrew both to be contained within a single county. *In re Sen. Joint Resol. of Legis. Apportionment 2-B (Apportionment II)*, 89 So.3d 872, 882, 887 (Fla. 2012); McCartan Rep. ¶¶ 42–43, 48–49, figs. 9, 12. The court declared both districts valid and rejected a challenge that one of them diminished Black voters’ ability-to-elect—despite that it shed counties from the protected benchmark. *Apportionment II*, 89 So.3d at 883, 891.

Supreme Court doing the same when it ordered a new congressional map the same year. McCartan Rep. ¶¶ 50–51 & fig. 13 (regarding a protected district in Broward-Palm Beach); *League of Women Voters of Fla. v. Detzner (Apportionment VIII)*, 179 So.3d 258, 290 (Fla. 2015) (same). And despite the Senate recognizing the diminishment standard didn’t operate on a county-by-county basis. Ferrin Dep. 114:7–22.

So, the Senate’s decision to draw the Protected Districts was based on an interpretation of the non-diminishment standard that Florida courts previously “rejected” and thus “fell short of [judicial] standards.” *Wis. Legislature*, 595 U.S. at 403–04; *cf. Miller*, 515 U.S. at 921 (rejecting redistricting plan since it “was not required by the Act under a correct reading of the statute”). The record does not even establish that the Senate thought the law “*might* support” its race-based districting measures, which would be insufficient to clear strict scrutiny in any event. *Wis. Legislature*, 595 U.S. at 403–04. Narrow tailoring requires more. *See Clark*, 293 F.3d at 1278 (finding racial gerrymander “not narrowly tailored to serve a compelling state interest because it went well beyond what is necessary to avoid retrogression”). The Secretary fails to meet his burden.¹⁶

¹⁶ Though not quite formulated as an argument, the Secretary asserts that Plaintiffs’ proffered maps “give the Democrats one extra seat in the region.” ECF 75 at 20. If he is trying to criticize Plaintiffs for “failing to produce . . . an alternative map showing that a rational legislature sincerely driven by its professed partisan goals would have drawn a different map with greater racial balance,” *Alexander*, 602 U.S. at 10, there’s a big problem: the Legislature had no partisan goals. Sen. RFAs ¶¶ 7–12; Ferrin Dep. 39:17–40:1. If the Secretary is instead accusing McCartan of drawing his plans to favor Democrats, in violation of Florida’s partisan gerrymandering ban, that accusation is contradicted by McCartan’s testimony. McCartan Dep. 32:20–33:8, 35:12–36:5; *see also* McCartan Rep. ¶¶ 12–13; McCartan Instructions.

VI. Plaintiffs have standing to challenge both Districts 16 and 18.

The Senate argues that two Supreme Court cases on *standing* defeat any potential racial-gerrymandering claim against District 18. ECF 74 at 11–14. But the Senate confuses the issues by conflating standing with the merits. *United States v. Hays*, 515 U.S. 737 (1995), and *Sinkfield v. Kelley*, 531 U.S. 28 (2000) (per curiam), stand only for the rule that a person cannot demonstrate injury-in-fact to challenge a district in which they do not live without showing personal harm from the racial classification in that district. See *Dillard v. Chilton Cnty. Comm’n*, 495 F.3d 1324, 1331 n.3 (11th Cir. 2007) (summarizing *Hays*’s “bright-line standing rule”: “if the plaintiff lives in the racially gerrymandered district, she has standing; if she does not, she must produce specific evidence of harm other than the fact that the composition of her district might have been different were it not for the gerrymandering of the other district”). As argued in Part II above, Plaintiffs have shown genuine disputes that both districts are racially gerrymandered, not merely that District 18 is impacted by gerrymandering in District 16. In any event, Plaintiffs Azis and Garcia, who live in District 18, should not be dismissed because they have shown personal injury from a racial classification and because other plaintiffs in the case have standing.

In *Hays*, the Louisiana legislature enacted a new map during the litigation, which moved the challenged majority-minority district to different region of the state. 514 U.S. at 741–42. The *Hays* plaintiffs were left with a generalized grievance no different from any other Louisiana resident who lived outside the challenged district. *Id.* at 745. *Sinkfield* likewise rejected the standing of residents of majority-white

legislative districts in Alabama to challenge the impact of neighboring majority-minority districts on their own districts, without any evidence of particular harm they suffered or predominance of race in drawing their own districts. 531 U.S. at 30. In both cases, there was no question that Plaintiffs, despite their representations, were challenging districts in which they did not live.

That is not the case here. Contrary to the Senate's assertions, Plaintiffs do allege that District 18 has been directly gerrymandered. Compl. ¶¶ 11 (“[T]he Legislature sacrificed genuine communities of interest, unnecessarily dividing St. Petersburg and Pinellas County”), 12 (“[T]he Legislature’s racial gerrymandering unjustifiably packed Black voters into District 16, stripping them from adjacent District 18 and reducing their influence there.”), 101 (“In Pinellas County, for example, the district border deviates from highways like I-275 and US-19 to accomplish racial separation. The border instead follows local streets such as 13th Avenue North and a zig-zag of lanes in the Broadwater neighborhood to separate more- from less-Black areas.”). Plaintiffs developed direct evidence to support these allegations, as argued above in Part II. And Plaintiffs’ expert Dr. Barreto showed through demographic analysis of the District 18 boundary with District 16 that it was highly likely to have been drawn based on race. Barreto Rep. ¶¶ 10, 30–43. This is not a case where one district is merely impacted by racial gerrymandering in another. *See Jacksonville I*, 635 F.Supp.3d at 1239, 1296 (enjoining as racial gerrymanders majority-white districts adjacent to predominantly Black districts drawn to protect minority representation).

Even if the Court grants summary judgment as to Plaintiffs’ District 18

challenge, it should not dismiss Plaintiffs Azis and Garcia from the case. **First**, they have shown the personal injury from a racial classification that plaintiffs in *Hays* and *Sinkfield* failed to do. Plaintiffs Azis and Garcia each live in St. Petersburg in District 18, very close to the district boundary; Plaintiff Garcia lives literally across the street from District 16. Ex. 17 (map showing district border and residences); Azis RFAs ¶¶ 1, 4; Garcia RFAs ¶¶ 1, 6. They testified extensively in deposition that they are harmed because the racial division between Districts 16 and 18 splits historic neighborhoods and places adjacent parts of St. Petersburg into racially segregated districts. Azis Dep. 17:9–18:16, 24:12–29:23, 30:23–32:20, 34:6–35:3, 36:17–37:5, 40:21–43:7; Ex. 18 (Garcia Dep.) 15:25–17:8, 22:15–23:18, 26:13–31:12, 36:12–37:16, 39:20–40:6, 49:20–50:23. Both are personally harmed in a way not generally true for all residents of District 18. *Cf. Walker v. City of Mesquite*, 169 F.3d 973, 979 (5th Cir. 1999) (“When a homeowner's neighborhood adjoins a proposed public housing project whose site was determined by a race-conscious standard, he has standing to sue because of the explicit racial classification.”).

Second, the court need not decide if Plaintiffs Azis and Garcia have standing on their own to challenge District 16 because Plaintiffs El-Amin, Nord Hodges, and Seymour live in District 16, and nobody disputes their standing. Under the one-plaintiff standing rule, that is enough. *Arlington Heights*, 429 U.S. at 264 n.9 (“Because of the presence of this plaintiff, we need not consider whether the other individual and corporate plaintiffs have standing to maintain the suit.”); *ACLU of Fla., Inc. v. Miami-Dade Cnty. Sch. Bd.*, 557 F.3d 1177, 1195–96 (11th Cir. 2009). The plaintiffs in *Hays*

and *Sinkfield* could not rely on this rule because every plaintiff in those cases lived outside the allegedly gerrymandered districts. There is no basis to dismiss Plaintiffs Azis and Garcia.

CONCLUSION

Neither Defendant has met their summary judgment burden. The Court should deny their motions.

Respectfully submitted January 23, 2025,

/s/ Caroline A. McNamara

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* *Special admission*

Counsel for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KÉTO NORD HODGES, *et al.*,

Plaintiffs,

v.

Case No. 8:24-cv-879

BEN ALBRITTON, *etc., et al.*,

Defendants.

**PLAINTIFF KÉTO NORD HODGES'S ANSWERS TO
PRESIDENT ALBRITTON'S FIRST REQUEST FOR ADMISSION TO
KÉTO NORD HODGES**

Plaintiff Kéto Nord Hodges responds to Senate President Ben Albritton's First Request for Admission to Kéto Nord Hodges, as follows:

1. Admit that your current residential address is 10907 N. Hyacinth Ave., Tampa, FL.

Admitted.

2. Admit that you moved to the address in RFA No. 1 in June 2019.

Admitted.

3. Admit that, from June 2019 until the Enacted Plan was in effect, you resided in District 19 under the Benchmark Plan.

Admitted.

4. Admit that under the Enacted Plan, you reside in District 16.

Admitted.

5. Admit that under Plan A, as identified by Plaintiffs' expert witness Cory McCartan, Ph.D, you would reside in District 16.

Admitted.

6. Admit that under Plan B, as identified by Plaintiffs' expert witness Cory McCartan, Ph.D, you would reside in District 16.

Admitted.

7. Admit that under Plan C, as identified by Plaintiffs' expert witness Cory McCartan, Ph.D, you would reside in District 16.

Admitted.

Dated November 25, 2024

/s/ Nicholas L.V. Warren

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Counsel for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KÉTO NORD HODGES, *et al.*,

Plaintiffs,

v.

Case No. 8:24-cv-879

BEN ALBRITTON, *etc., et al.*,

Defendants.

**PLAINTIFF JARVIS EL-AMIN'S ANSWERS TO
PRESIDENT ALBRITTON'S FIRST REQUEST FOR ADMISSION TO
JARVIS EL-AMIN**

Plaintiff Jarvis El-Amin responds to Senate President Ben Albritton's First Request for Admission to Jarvis El-Amin, as follows:

1. Admit that your current residential address is 4818 East 99th Ave., Tampa, FL.

Admitted.

2. Admit that you moved to the address in RFA No. 1 in January 2011.

Denied.

3. Admit that under the Benchmark Plan, you resided in District 19.

Admitted.

4. Admit that under the Enacted Plan, you reside in District 16.

Admitted.

5. Admit that under Plan A, as identified by Plaintiffs' expert witness Cory McCartan, Ph.D, you would reside in District 16.

Admitted.

6. Admit that under Plan B, as identified by Plaintiffs' expert witness Cory McCartan, Ph.D, you would reside in District 16.

Admitted.

7. Admit that under Plan C, as identified by Plaintiffs' expert witness Cory McCartan, Ph.D, you would reside in District 16.

Admitted.

Dated November 25, 2024

/s/ Nicholas L.V. Warren

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KÉTO NORD HODGES, *et al.*,

Plaintiffs,

v.

Case No. 8:24-cv-879

BEN ALBRITTON, *etc., et al.*,

Defendants.

**PLAINTIFF MEIKO SEYMOUR'S ANSWERS TO PRESIDENT
ALBRITTON'S FIRST REQUEST FOR ADMISSION TO MEIKO SEYMOUR**

Plaintiff Meiko Seymour responds to Senate President Ben Albritton's First Request for Admission to Meiko Seymour, as follows:

1. Admit that your current residential address is 824 10th Ave. South, St. Petersburg, FL.

Admitted.

2. Admit that you moved to the address in RFA No. 1 in July of 2022.

Admitted.

3. Admit that you did not live at the address in RFA No. 1 when the Benchmark Plan was in effect.

Denied.

4. Admit that under the Benchmark Plan, you did not live in District 19.

Denied.

5. Admit that under the Enacted Plan, you currently reside in District 16.

Admitted.

6. Admit that you moved to District 16 in the Enacted Plan after the Enacted Plan went into effect.

Denied.

7. Admit that under Plan A, as identified by Plaintiffs' expert witness Cory McCartan, Ph. D, you would reside in District 18.

Admitted.

8. Admit that under Plan B, as identified by Plaintiffs' expert witness Cory McCartan, Ph. D, you would reside in District 18.

Admitted.

9. Admit that under Plan C, as identified by Plaintiffs' expert witness Cory McCartan, Ph. D, you would reside in District 18.

Admitted.

Dated November 25, 2024

/s/ Nicholas L.V. Warren

Nicholas L.V. Warren (FBN 1019018)
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Counsel for Plaintiffs

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Common Cause, et al.)
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v.) 4:22-cv-109
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Cord Byrd)
)

TRANSCRIPTION OF AUDIO FILE
Senate Committee on Reapportionment
The Florida Channel
September 20, 2021

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

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1 (Beginning of Video Recording.)

2 CHAIR RODRIGUES: Senate Committee on
3 Reapportionment will now come to the order.
4 Dana, please call the roll.

5 MS. IVEY: Chair Rodrigues.

6 CHAIR RODRIGUES: Here.

7 MS. IVEY: Vice Chair Broxson.

8 MR. BROXSON: Here.

9 MS. IVEY: Senator Bean.

10 MR. BEAN: Here.

11 MS. IVEY: Senator Bracy.

12 MR. BRACY: Here.

13 MS. IVEY: Senator Bradley.

14 MS. BRADLEY: Here.

15 MS. IVEY: Senator Burgess.

16 MR. BURGESS: Here.

17 MS. IVEY: Senator Gibson.

18 MS. GIBSON: Here.

19 MS. IVEY: Senator Harrell.

20 MS. HARRELL: Here.

21 MS. IVEY: Senator Rodriguez.

22 MS. RODRIQUEZ: Here.

23 MS. IVEY: Senator Rouson.

24 MR. ROUSON: Here.

25 MS. IVEY: Senator Stargel.

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1 MS. STARGEL: Here.

2 MS. IVEY: Senator Stewart.

3 MS. STEWART: Here.

4 MS. IVEY: The quorum is present, Mr.
5 Chair.

6 CHAIR RODRIGUES: Thank you. And let
7 the record show that Senator Bracy is excused
8 from today's meeting. Before we begin, please
9 silence your cellphones and all electronic
10 devices so that those don't go off during the
11 meeting.

12 And let me begin by saying, this is the
13 first time the senate committee has met with
14 an audience since the conclusion of the 2020
15 session. And I, for one, am happy to see you
16 back. Welcome back to the Florida State
17 Senate. With that, I'll start with --

18 (Applause)

19 CHAIR RODRIGUES: Thank you, President.

20 Start with the observation that COVID-
21 19 precautions, where applicable, are being
22 taken. Anyone wishing to testify before the
23 committee must fill out an appearance card and
24 hand it to a member of the sergeant's office.
25 Should you waive your speaking time, your

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1 position will be read into the record.

2 Since this is our first meeting, I'd
3 like to start with the first agenda item and
4 introduce our committee staff. Then I'd like
5 to go to the members of our committee for them
6 to introduce themselves and say a few words,
7 if they would like.

8 So with our staff, I'll start with
9 staff director, who is sitting on my left,
10 your right, Jay Ferrin. And then on my right,
11 your left, is Jason Rojas, who is our special
12 counsel to our committee. Danna Ivey -- wave,
13 Dana -- is our committee administrative
14 assistant.

15 Yin Li (phonetic) -- wave, Yin -- and
16 Justin Ichromueler (phonetic) are our policy
17 analysts. And Megan Magnole is our committee
18 legislative research assistant. And that is
19 our staff. We are blessed that Jay and Jason
20 have some experience in redistricting, and so
21 we're going to learn from their experience,
22 and their wisdom will help guide us on this
23 process.

24 Now let's move over to our members and
25 have our members introduce themselves. I'd

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1 like to start with President Bean at the end
2 and work our way down the row, if we could do
3 so.

4 MR. BEAN: Mr. Chairman, thank you so
5 much. I was trying not to make eye contact
6 with you so you would start on the other end,
7 but we did, and so I am pleased to start by
8 introducing myself. It's Aaron Bean. I
9 represent Jacksonville. It's good to see you
10 all, and it's good to see you in audience. It
11 is an historic day, and we are excited to have
12 you back and looking forward to working with
13 you in the chair -- the Chair and the
14 committee, Mr. Chairman.

15 MR. ROUSON: Good afternoon. Thank
16 you, Mr. Chairman, for this opportunity. I'm
17 Darryl Rouson, representing District 19,
18 portions of Hillsborough and Pinellas
19 Counties. Very proud to be here, very happy
20 to be here and be a part of this committee and
21 the whole reapportionment/redistricting
22 process.

23 Some of you know I served on
24 redistricting in 2010 when we traveled the
25 state to make sure that we got input of

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1 citizens, residents, and voters. I look
2 forward to working with the staff to develop
3 constitutional maps that are fair to
4 everybody. Thank you.

5 MS. STEWART: Good afternoon. I'm
6 Senator Linda Stewart. I'm from Orlando,
7 Orange County, and I am pleased to have been
8 chosen to serve on this very notable
9 committee. I know that we all are going to
10 strive to make it a fair and open process.
11 And I know everyone here is interested in
12 making sure that happens.

13 I did, too, also serve on a
14 redistricting committee when I was in the
15 County Commission. It's a very tough job.
16 It's not something that is particularly easy.
17 But you can in the end come to a resolution
18 that everybody could be pleased with, and I'm
19 hoping that will happen with this committee.
20 So thanks -- thank you very much.

21 Thank you, Mr. Chair, and good
22 afternoon to everyone and all of my Senate
23 colleagues. It's exciting to see you back for
24 committees. And this is not my first -- how
25 should I say -- redistricting, and so I'm

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1 excited to be a part of this committee again
2 this year and certainly glad to see that Jay
3 is our leading staff. I burned the carpet ten
4 years ago going back and forth to his office.
5 So I'm looking forward to -- hopefully, I
6 won't have to do it as much.

7 Looking forward, of course, to our
8 constitutional duty, certainly, on behalf of
9 the citizens of the State of Florida in terms
10 of reapportionment and using that data which
11 has phenomenally increased our population and
12 certainly gives us the opportunity.

13 And I expect that we will do the right
14 thing on behalf of the people of State of
15 Florida and their representation. And I'm
16 ready to rock and roll. Thank you, Mr. Chair.

17 MR. BROXSON: Mr. Chair, Doug Broxson
18 in District 1. And frankly, when I heard you
19 were appointed to be chair, my heart jumped
20 because I think all the members on both sides
21 of the aisle saw your performance over the
22 last couple years, how fair and deliberate and
23 how you invest in every issue. And I think
24 you positioned yourself to deliver very
25 deliberate constitutional maps.

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1 I would have to say, being from
2 District 1 that my district was part of the
3 first redistricting in which there were two
4 counties, St. Johns and Escambia, so we've got
5 a little bit more work to do than then, but
6 I'm looking forward to your leadership, sir,
7 and serving under you is an honor.

8 CHAIR RODRIGUES: Thank you. I'm Ray
9 Rodrigues. I represent District 27 in the
10 Florida State Senate, which is Lee County in
11 southwest Florida. I'm excited for this
12 opportunity.

13 Thank you very much, Mr. Chair, and
14 happy -- happy Monday, everybody. It's good
15 to be back in the capital and see all your
16 smiling faces. Nobody better could have been
17 picked to lead this once-in-a-decade process,
18 Chairman Rodrigues, and very excited to have
19 the honor and the massive responsibility to be
20 able to endeavor on this with you. Thank you.

21 MS. RODRIGUEZ: Good afternoon, Mr.
22 Chairman, and thank you for having me on this
23 committee. My name is Ana Marie Rodriguez,
24 and I'm the state senator for District 39,
25 which includes portions of West Miami-Dade

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1 County and all of Monroe County, so it is the
2 southern-most district in the State of Florida
3 and in the United States, and it's an honor to
4 be here on this committee. Thank you.

5 MS. HARRELL: Thank you very much, Mr.
6 Chairman. I'm Senator Gayle Harrell. I
7 represent District 25, which is Martin, St.
8 Lucie, and parts of Palm Beach County. And I
9 am so delighted to be on this
10 redistricting/reapportionment committee. This
11 is my third time around redistricting. Maybe
12 Senator Bean and I share that, whether you
13 were here in 2010, I don't remember.

14 But we -- this is the third time
15 around. I am excited to be a part of this
16 amazing committee and the wonderful people on
17 it.

18 This will be a very fair, open process.
19 I have every confidence that we will come up
20 with constitutional maps that meet every
21 requirement we have under Fair Districts, and
22 I have full confidence in the committee and
23 our wonderful staff. And I look forward to
24 working with you, Mr. Chairman, and our
25 various vice chairs and subcommittee chairs to

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1 make this the best ever. Thank you.

2 MS. BRADLEY: Thank you, Mr. Chairman.

3 My name is Jennifer Bradley. I am the state

4 senator for District 5, which is -- includes

5 11 rural counties across north Florida calling

6 Clay County home. It is a tremendous honor to

7 be a part of this committee. It is, as

8 Senator Burgess said, it's a once-in-a-decade

9 process, and it's constitutionally required,

10 and it's a weighty responsibility that we take

11 on. And it's one that we take very, very

12 seriously. And I just couldn't think of a

13 better group to be thoughtful and to be led by

14 just very capable staff. And I look forward

15 to a great process with great dialogue and

16 input, so look forward to it. Thank you.

17 MS. STARGEL: Good afternoon. I'm

18 Kelli Stargel. I represent District 22, which

19 is North Polk/South Lake County. Also had the

20 honor of serving on the redistricting

21 committee back in 2010. Looking forward to

22 the process this time, looking forward to your

23 leadership, Chairman, and -- and so let's get

24 to work.

25 CHAIR RODRIGUES: Thank you, members,

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1 and since they were too humble to say so, I
2 will say this: Senator Bradley will be
3 chairing our Select Subcommittee on
4 Congressional Reapportionment, and Senator
5 Burgess will be chairing our Select
6 Subcommittee on Legislative Reapportionment.
7 And I look forward to working with both of
8 you. And I am very excited for the makeup of
9 this committee.

10 I think the President has done a
11 tremendous job of ensuring that the entire
12 state has representation. If you look, we've
13 got representation from northwest Florida,
14 northeast Florida, southeast Florida,
15 southwest Florida, I-4 Corridor, and the
16 heartland of Florida.

17 We've got urban districts represented;
18 we've got rural districts represented. I
19 really feel like if you take the cross section
20 of Florida, the President's done a good job of
21 putting together a committee that represents
22 citizens in every one of those sections.

23 So the job in front of us is going to
24 be a tremendous one, and before we begin, I'd
25 like to just take a moment and talk about the

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1 task that we are going to be embarking on. As
2 senators appointed to this committee, we have
3 the responsibility of guiding our chamber
4 through the process of fulfilling our
5 constitutional obligation to redraw
6 legislative and congressional district
7 boundaries.

8 The last time the legislature embarked
9 on this task, it was the first time since the
10 adoption of the amendments governing the
11 standards for redrawing of legislative and
12 congressional districts, which have since been
13 codified in Article III, Sections 20 and 21 of
14 the Florida Constitution.

15 Those that came before us did not have
16 the benefit of how the Florida Supreme Court
17 would interpret those standards or a true
18 understanding of the role the judiciary would
19 play. Some hard lessons were learned through
20 that previous cycle, and I believe we will
21 learn from those lessons.

22 The Florida Supreme Court's
23 interpretation of the then brand-new
24 amendments fundamentally altered the way we do
25 redistricting here in the State of Florida.

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1 The Court relied on geometric compactness,
2 consistent use of political and geographic
3 boundaries, equal population, and functional
4 analysis of minority districts to serve as
5 objective indicators of intent when reviewing
6 a plan or district. The Court summarily
7 rejected the use of subjective principles,
8 such as communities of interest, partisan
9 favoritism, partisan proportionality, and
10 incumbent protection.

11 The Court, also, expanded the role of
12 the judiciary in the redistricting process.
13 The Court limited legislative privilege to
14 allow for the deposition of sitting
15 legislators and compelled evidence and
16 testimony from nonparty political consultants
17 not directly involved in the legislative
18 decision-making process.

19 Ultimately, after considering both
20 direct and circumstantial evidence obtained
21 through discovery and depositions of
22 legislators, staff, and nonparty political
23 consultants, the State Supreme Court of
24 Florida ruled that the legislatures, senate,
25 and congressional plans had been drawn with

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1 improper intent.

2 The concurred with a trial court's
3 finding, and I'm quoting from the trial court
4 in the Apportionment 7 decision when it wrote,
5 "Political consultants or operatives did, in
6 fact, conspire to manipulate and influence the
7 redistricting process. They accomplished this
8 by writing scripts and organizing groups of
9 people to attend public hearings to advocate
10 for adoption of certain component or
11 characteristics in the maps and by submitting
12 maps, impartial maps, through the public
13 process. They made a mockery of the
14 legislature's proclaimed transparent and open
15 process of redistricting by doing all of this
16 in the shadow of that process."

17 After finding the plans to have been
18 drawn with unconstitutional and improper
19 intent, the Court flipped the burden of proof.
20 Legislative deference was lost, and the
21 presumption of constitutionality of the
22 legislature's redistricting plans was gone.

23 Fortunately, we now have the insight
24 into both the judiciary's expanded scope of
25 review and how courts have interpreted and

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1 applied the constitutional standards related
2 to redistricting.

3 I intend for this committee to conduct
4 the process in a manner that is consistent
5 with case law that developed during the last
6 decade is beyond reproach and free from any
7 hint of constitutional -- excuse me -- free
8 from any hint of unconstitutional intent. I
9 agree with the Florida Supreme Court when it
10 said, "Legislative apportionment is primarily
11 a matter for legislative consideration and
12 determination."

13 The Court has indicated that it will
14 defer to the legislature's decision to draw a
15 district in a certain way, so long as that
16 decision does not violate the constitutional
17 requirements, and it is my intention to
18 strictly adhere to the constitutional
19 requirements so that our legislative
20 discretion is preserved.

21 When we've talked about the issues of
22 communication and record retention, it is
23 important moving forward that all senators
24 should be aware that in prior redistricting
25 cycles, significant litigation has followed

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1 passage of new maps. Sitting legislators may
2 be compelled to produced records or to be
3 subject to questioning under oath about
4 conversations with colleagues, about
5 conversations with legislative staff, or with
6 outside parties who may attempt to persuade
7 the legislature to pass maps or disfavor --
8 that favor or disfavor a political party or an
9 incumbent.

10 Senators should take care to insulate
11 themselves from interests that may
12 intentionally or unintentionally attempt to
13 inappropriately influence the redistricting
14 process. Senators should continue to adhere
15 to the Records Retention Policy as directed by
16 Article I, Section 24 of the Florida
17 Constitution, Section 11.0431 of the Florida
18 Statutes, and Senate Rule 1.48.

19 Senators and staff should, also, be
20 mindful that correspondence, emails, texts,
21 and other electronic communications related to
22 the enactment of new districts, whether sent
23 or received, on official senate accounts or
24 devices or personal email accounts or devices,
25 may be a permanent or archival value, and

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1 those records should be preserved accordingly.

2 If you have questions about record
3 retention, I encourage you to contact our
4 Senator General Counsel for guidance.

5 As we move forward, we're going to look
6 at what the approach to this process will be.
7 While remaining to committed to having an
8 open, transparent, and interactive process, we
9 are taking steps to safeguard against the kind
10 of shadow process that occurred in the last
11 cycle. We will protect our process against
12 the astroturfing that occurred in the past
13 where partisan, political operatives from both
14 parties wrote scripts and recruited speakers
15 to advocate for certain plans or district
16 configurations to create a false impression of
17 a wide-spread grassroots movement.

18 Anyone testifying before our committee
19 or select subcommittees must disclose certain
20 information. In addition to stating whether
21 or not they are a registered lobbyist,
22 speakers must disclosed whether or not they
23 received compensation or anything of value --
24 travels, meals, lodgings, et cetera -- as part
25 of or exchange for their testimony. This

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1 policy is being adopted senate-wide in the
2 form of revised appearance cards.

3 To prevent secretive submissions by
4 partisan operatives, we are requiring publicly
5 submitted written comments, suggestions, and
6 maps with a signed form. This form must
7 contain the identity of the submitter.
8 Submitters must state whether or not they have
9 received any compensation or anything of value
10 from any groups or organizations that have an
11 interest in redistricting as part of or in
12 exchange for their comments, suggestions, or
13 map.

14 Submitter must list every person,
15 group, or organization they have collaborated
16 with on their comment, suggestion, or map.
17 And finally, submitters must acknowledge that
18 their communications and submissions may be
19 included, reviewed, and examined in all steps
20 of the legislative process until and even
21 after new district maps are enacted into law.

22 Additionally, our staff will not review
23 or consider publicly submitted comments,
24 suggestions, or maps for inclusion in their
25 work product unless and until a senator asks

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1 them to do so in writing. Publicly submitted
2 maps will be available on the joint website
3 the Senate is doing with the House,
4 www.floridaredistricting.gov, for members to
5 review.

6 Any member who requests staff to review
7 and consider such a submission should be
8 prepared to appear before a committee or its
9 select subcommittees and explain their
10 intentions for doing so. This is consistent
11 with all other aspects of our legislative
12 process and is akin to advocating for
13 inclusion of a policy in a proposed committee
14 bill.

15 My encouragement to each of you as
16 committee members is to make yourself
17 accessible to the public who wishes to have
18 their maps considered so that you meet with
19 them, listen to them, and give them that
20 access.

21 Are there any questions before we
22 proceed to the presentations on our agenda?
23 Senator Gibson, you're recognized.

24 MS. GIBSON: Thank you, Mr. Chair.
25 During the last redistricting cycle, there was

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1 a particular email address that we used to
2 send any emails or -- that we received related
3 to redistricting. There was this one
4 depository for forwarding those emails. Is
5 that -- will that be the case this time, or --
6 can you clarify how such emails get sent?
7 Clarify, please. Sorry.

8 CHAIR RODRIGUES: And thank you for the
9 question. That is a good question. What we
10 have had staff do is prepare a response that
11 can be given to those who contact us directly
12 on the subject of redistricting. The response
13 will direct the contactor to the
14 www.floridaredistricting.gov website and ask
15 them to place their idea onto that website.

16 That website will serve as the official
17 repository of all our redistricting data.
18 What I have done as an individual senator is
19 created a redistricting file, and each person
20 who contacts me gets that response, and then
21 their email goes into my redistricting file so
22 that it is archived and available in the
23 future.

24 MS. GIBSON: Thank you.

25 CHAIR RODRIGUES: Sure.

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1 MS. GIBSON: May I have a follow-up for
2 clarity, please?

3 CHAIR RODRIGUES: Yeah.

4 MS. GIBSON: Thank you. And I
5 didn't -- I forgot to say my district when I
6 first introduced myself. I want to make sure
7 everyone knows Duval is in the house. Senator
8 Bean has a portion of Jacksonville, and I have
9 the other.

10 On the -- I talked about burning the
11 carpet in the last cycle, but it was for
12 amendments that I wanted to make with staff,
13 and so in your -- in your explanation, that is
14 still a legal process as a part of this
15 committee for any -- any senator, actually,
16 this committee or not, correct?

17 CHAIR RODRIGUES: That is correct.

18 MS. GIBSON: All right. Thank you very
19 much.

20 CHAIR RODRIGUES: Senator Stewart,
21 you're recognize for a question.

22 MS. STEWART: For clarification, so a
23 grassroots organization comes to me and asks
24 would I submit a map on their behalf, is that
25 form something that would have to be filled

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1 out as -- and come with the map that I -- they
2 ask me to submit?

3 CHAIR RODRIGUES: The grassroots
4 organization would need to submit that map
5 through the Florida Redistricting.gov website,
6 and then they would need to ask you to be the
7 sponsor of it.

8 And so they would need to complete
9 whatever is required to submit it on the
10 website, and there's -- as you go onto the
11 website, there are cues that will guide you
12 through the process. And once they've
13 completed that, then they can meet with you
14 and lobby you to champion their map, in which
15 case you can move forward, bring that map
16 forward, and say, I wish to sponsor this as
17 either a part of the process or as an
18 amendment, whatever the case may be.

19 Senator Rouson, you look like you may
20 have a question.

21 MR. ROUSON: Yes, thank you, Mr. Chair.
22 You indicated in your introductory remarks
23 that this would be an open and interactive
24 process. Could you expound upon interactive?
25 I expect that means the public will be able to

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1 participate both through comments, testimony,
2 and submission of maps. But is there any
3 other opportunity for public participation?

4 CHAIR RODRIGUES: The examples that
5 you've given are what has been contemplated
6 and agreed upon so far between the Florida
7 Senate and the Florida House.

8 So to begin with, we've agreed -- and
9 what's different in this cycle than in the
10 previous cycle is that the Senate and the
11 House are using the same vendor; we're using
12 the same software. As a result of that, we
13 can do a joint website to receive all of the
14 public submissions.

15 We will have committee meetings, which
16 will -- as all committee meetings are -- be
17 publicly noticed and have the opportunity for
18 public comment. So the public will have that
19 opportunity. And of course, the public can
20 reach out to any of us as individual senators
21 to meet with us and ask us to champion their
22 ideas that they have submitted through the
23 website.

24 MR. ROUSON: And -- thank you, Mr.
25 Chair for that explanation. Is there any

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1 guidance on how to handle media inquiries or
2 citizen inquiries of individual senators?

3 CHAIR RODRIGUES: The only guidance
4 that I've seen put together so far is the
5 guidance that directs them to put their ideas
6 into the interactive website. If we need
7 additional guidance, I'm sure we can work with
8 staff to come up with it.

9 MR. ROUSON: And do you anticipate
10 that -- you know, last time when we did this,
11 we took this show on the road, to borrow a
12 term, and people were able to come to their
13 local arena or venue to testify. Is there any
14 thought to virtual appearances by members of
15 the public?

16 CHAIR RODRIGUES: Both of those
17 concepts are still under consideration at this
18 time.

19 Do we have any questions on this side?
20 Seeing none, we'll move on to Agenda Item 2,
21 Tab 2. We'll actually go ahead and do Tabs 2,
22 3, and 4. And I'm going to recognize our
23 staff director, Mr. Ferrin, for presentations
24 on our committee's jurisdiction, redistricting
25 terminology, timeline, and on the census and

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1 census data. Mr. Ferrin, you're recognized.

2 MR. FERRIN: Thank you, Mr. Chairman,
3 and good afternoon, members. Happy to be here
4 or back here.

5 I wanted to -- we wanted to start out
6 today with a general overview of the committee
7 process, committee jurisdiction. Get -- make
8 sure everyone's familiar with a lot of the
9 terminology we'll use throughout this process.
10 I know a lot of you have been involved in it
11 in different capacities in the past, but this
12 is probably a good opportunity for a refresher
13 and review of the basic subject matter.

14 So today's presentations are a high-
15 level orientation of what redistricting is and
16 why we do it. I anticipate that in subsequent
17 meetings we'll have opportunities to delve a
18 little further into more detail on the legal
19 environment, the way that we measure the
20 criteria that we'll be using and talking about
21 today, and the methodology that we'll use to
22 draw districts.

23 So to begin with the committee's
24 jurisdiction, the Senate Committee on
25 Reapportionment creates redistricting plans

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1 for the Florida -- for Florida's congressional
2 and state legislative districts to account for
3 population shifts revealed by data from the
4 2020 census. As you know, we do this every
5 ten years, as directed by the Florida
6 Constitution, which states that the
7 legislature, at its regular session in the
8 second year following each decennial census,
9 shall apportion the state in accordance with
10 the constitution of the state and of the
11 United States.

12 This cycle of our regular session will
13 begin on January 11th, 2022, and as the census
14 data that was released in a Legacy format on
15 August 12th and formally delivered on
16 September 16th revealed, Florida grew by about
17 2.7 million people and gained one additional
18 seat in Congress. For various reasons that
19 we'll discuss later today, this data was
20 delivered more than four months after the
21 April 1st, 2021, deadline prescribed in
22 federal law.

23 The data that was released in August
24 was the same data that was delivered last
25 week. The difference between a Legacy format

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1 data and the formal release that we got last
2 week is that the Legacy data is coded in a
3 series of tables. They're unformatted,
4 without clear field labels, and so they have
5 to be processed in order to be useful. The
6 formal data release is a much more pre-
7 formatted and user-friendly format that's
8 currently available on data.census.gov and is
9 being added to our redistricting software.

10 We can jump to the constitutional
11 authority for redistricting. The legislature
12 and its committees drive the authority to
13 redraw congressional districts from the
14 elections clause of the United States
15 Constitution. It directs state legislatures
16 to regulate the times, places, and manner of
17 conducting elections for Congress.

18 We derive our authority to redraw state
19 legislative districts from Article III,
20 Section 16 of the Florida Constitution, which
21 directs the legislature to adopt a
22 redistricting plan for state legislative
23 districts in the second year after each
24 census. In this case, that would be 2022.

25 As I previously mentioned, the regular

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1 session will begin on January 11th. In
2 redistricting years, the regular session has
3 always started in January rather than March,
4 and this is to afford the greatest amount of
5 time possible for adoption and implementation
6 of redistricting plans.

7 One of the questions that usually pops
8 up at some point during this process is, what
9 is the difference between reapportionment and
10 redistricting. They're frequently used
11 interchangeably, and for all intents and
12 purposes mean the drawing of new district
13 boundaries for the purposes of representation.
14 The term redistricting refers to the process
15 by which boundaries of electoral districts are
16 redrawn to adjust for uneven population growth
17 revealed by the latest decennial census.
18 State legislatures, county commissions, and
19 city commissions redistrict.

20 Reapportionment is the process of
21 assigning seats in a legislative body amongst
22 preexisting political subdivisions such as
23 states or counties. Following each census,
24 the 435 seats in the United States House of
25 Representatives are apportioned to each state

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1 based on state population. Each state gets at
2 least one seat, but the larger the state
3 population, the more congressional
4 representation the state will receive.

5 As I mentioned, based on the 2020
6 census, Florida received an additional seat to
7 bring the total number to 28, and that's in
8 the U.S. House. We have two United States
9 Senate representatives, as well.

10 The term reapportionment gets used in
11 Florida because it's used to assign -- because
12 Florida used to assign districts based on
13 county boundaries. Article III, Section 16 of
14 the Florida Constitution, also, refers to the
15 process of redrawing State House and State
16 Senate districts as legislative apportionment.

17 So aside from the constitutional
18 requirements to redraw boundaries every ten
19 years, why do we do this? The primary reason
20 is to comply with the equal population
21 requirements of the United States and Florida
22 Constitutions. The equal population standard
23 for the congressional districts is based on
24 Article I, Section 2 of the United States
25 Constitution, as interpreted by the U.S.

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1 Supreme Court in Wesberry v. Sanders in 1964.

2 The Court stated that representatives
3 be chosen by the people of the several states
4 means that, as nearly as is practicable, one
5 person's vote in a congressional election is
6 to be worth as much as another's. This has
7 come to be known as the one-person, one-vote
8 principle and compels us to draw congressional
9 districts that have a population variance of
10 plus or minus one person.

11 The equal population standard for state
12 legislative districts is based on the 14th
13 Amendment's equal protection clause, as
14 interpreted by the United States Supreme Court
15 in Reynolds v. Sims in 1964.

16 The Court stated that because there is
17 a significantly larger number of seats in
18 state legislative bodies to be distributed
19 within a state than congressional seats, it
20 may be feasible to use the political
21 subdivision lines while still affording
22 adequate representation to all parts of the
23 state.

24 The Court, also, stated that
25 mathematical nicety is not a constitutional

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1 requisite but nevertheless, states that the
2 overriding objective must be substantial
3 equality of the population amongst the various
4 districts. This has been interpreted and
5 applied to mean that districts should have no
6 more than a 10 percent difference in their
7 population.

8 Florida's Constitution also contains
9 provisions regarding equal population in
10 Article III, Section 20 and 21, which states
11 in Subsection B, the district shall be as
12 nearly equal in population as is practicable.

13 The equal population criteria contained
14 in the United States Constitution is contained
15 in Article I, Section 2, and in the Fourteenth
16 Amendment, but other redistricting criteria
17 exists in the Florida Constitution, the
18 Federal Voting Rights Act, and in Florida
19 statutes.

20 Protections against diminishment or
21 reduction in the ability of racial or language
22 minorities to elect representatives of their
23 choice are in the Florida Constitution and in
24 the Federal Voting Rights Act.

25 Prohibitions on drawing a plan or

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1 district with intent to favor or just favor a
2 political party or incumbent are in the
3 Florida Constitution. Requirements for
4 districts to be contiguous are in -- contained
5 in the Florida Constitution.

6 Requests for districts to be compact
7 are in the Florida Constitution, and
8 requirement for district boundaries to, where
9 feasible, utilize existing political and
10 geographic features are in the Florida
11 Constitution.

12 The requirement to use data from the
13 most recent decennial census is contained in
14 Section 11.031 of Florida Statutes and in
15 Article X, Section 8 of the Florida
16 Constitution.

17 The minority voting right -- excuse me.
18 The minority protections of the Voting Rights
19 Act are applied in the redistricting context.
20 The Voting Rights Act prohibits any state or
21 political subdivision from enacting a map that
22 results in the denial or abridgment of any
23 U.S. citizen's right to vote on account of
24 race, color, or status as a member of a racial
25 or language minority group. And it prohibits

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1 purposeful discrimination and protects against
2 retrogression or backsliding in the ability of
3 racial minorities to elect representatives of
4 their choice.

5 The Voting Rights Act contains a couple
6 of pertinent sections. Section 2 compels the
7 drawing of a majority/minority district -- or
8 excuse me -- compels the drawing of a district
9 that performs for racial and language minority
10 where what are known as the Gingles Conditions
11 are met. These conditions come from Thornburg
12 v. Gingles, a 1986 case out of North Carolina.

13 They require us to draw a performing
14 minority district where, one, a minority
15 population is geographically compact, and it's
16 sufficiently numerous to be a majority in a
17 single district; two, the minority population
18 is politically cohesive; three, the majority
19 votes sufficiently as a block to enable it to
20 usually defeat the minority-preferred
21 candidate; and four, under all of the
22 circumstances, minority population has less
23 opportunity than others to participate in the
24 political process and elect representatives of
25 its choice.

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1 The other pertinent section is Section
2 5, and Section 5 differs somewhat from Section
3 2 in that it doesn't necessarily compel the
4 creation of minority -- minority districts.
5 Rather, it prohibits purposeful discrimination
6 and protects against retrogression or
7 backsliding in the existing ability of racial
8 and language minorities to elect
9 representatives of their choice. It contains
10 a coverage formula that was applied to
11 determine if there was a history of
12 discrimination against racial or language
13 minorities in a particular jurisdiction.

14 In Florida, Hardee, Henry,
15 Hillsborough, and Monroe Counties were
16 coverage jurisdictions until the coverage
17 formula was invalidated by the United States
18 Supreme Court in 2013 in a case called Shelby
19 County v. Holder. It's worth noting that the
20 Shelby decision means that the pre-clearance
21 process established by the Voting Rights Act
22 is no longer in effect, but it does not affect
23 the validity of the diminishment standard in
24 the Florida Constitution.

25 The Florida Constitution contains

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1 several other provisions related to
2 redistricting. Article III, Section 16 is our
3 guidance to the -- the general rationale for
4 dividing House and Senate districts. It
5 requires the state to be divided in 30 or --
6 30 to 40 contiguous and consequently-numbered
7 senatorial districts and into between 80 and
8 120 contiguous and consequently-numbered house
9 districts. A district is considered to be
10 contiguous if all of its territories in actual
11 contact and are uninterrupted by the territory
12 of another district. The courts have ruled
13 that contact at a corner or a right-angle is
14 insufficient, but territory may cross bodies
15 of water.

16 Consequently-numbered districts have
17 been interpreted to mean that districts cannot
18 skip numbers. We cannot, for example, number
19 all the Senate Districts with odd numbers. It
20 does not mean that District 1 has to share a
21 boundary with District 2 and District 2 has to
22 share a boundary with District 3 and so on and
23 so forth. And one other note on this is
24 provision in the constitution is that -- that
25 it technically does allow the state

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1 legislative districts to overlap, either
2 partially or entirely. However, this has not
3 been done since the state switched to single-
4 member districts.

5 Moving on to Article III, Sections 20
6 and 21. These were added to the constitution
7 by the voters in 2010. Article III, Section
8 20, which deals with congressional, and
9 Section 21, which deals with legislative
10 provisions, prohibit line drawing that
11 intentionally favors or disfavors a political
12 party or incumbent. The sections, also,
13 afford protection to racial and language
14 minorities and provide additional standards
15 for the drawing of plans and districts.

16 Subsection A states that no
17 apportionment plan or district shall be drawn
18 with the intent to favor or disfavor a
19 political part of incumbent. Districts shall
20 not be drawn with the intent or a result of
21 denying or abridging the equal opportunity of
22 racial or language minorities to participate
23 in a pollical process or to diminish their
24 ability to elect representatives of their
25 choice. And then finally, districts shall

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1 be -- of -- consist of contiguous territory.

2 Subsection B states that unless
3 compliance with the standards of the
4 section -- subsection conflict with the
5 standards in Subsection A or with federal law,
6 districts shall be nearly equal in population
7 that is practicable. Districts shall be
8 compact, and districts shall, where feasible,
9 utilize existing political geographic
10 boundaries.

11 Subsection C clarifies that the order
12 in which the standards within Subsections A
13 and B are set forth shall not be read to
14 establish any priority of one standard over
15 the other within that subsection.

16 The criteria that we just went over has
17 been broken out into two tiers by the Florida
18 Supreme Court in Apportionment 1. Tier one
19 consists of the provisions contained in
20 Subsection A relating to diminishment and
21 intent to favor/disfavor a political party or
22 incumbent, as well as the contiguity
23 provision.

24 Tier two apply, unless these -- unless
25 they conflict with tier one or federal law,

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1 and these are dealing with the equal
2 population, district compactness, and
3 utilization of political and geographic
4 boundaries. And as I've already noted, as
5 long as they don't -- they cannot be read to
6 establish any one priority over another within
7 that tier.

8 We can take a breather or move on to
9 terminology.

10 CHAIR RODRIGUES: Do we have any -- do
11 the members have any questions? Yes, let's go
12 ahead and do questions before we move on.
13 Senator Gibson, you're recognized for a
14 question.

15 MS. GIBSON: Thank you, Mr. Chair. On
16 the districts shall be compact in tier two, I
17 know previously we used Reock scores, I think,
18 and Convex Hull scores ad nauseum, those
19 words. And so since it's not -- there's no
20 real definition in the materials that we have
21 that speaks to compactness, is there some
22 anticipation that -- or why did we use Convex
23 Hull and Reock scores?

24 And then, if you could talk about the
25 appropriateness of following that same method

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1 in this cycle. Thank you, Mr. Chair.

2 CHAIR RODRIGUES: You're recognized.

3 MR. FERRIN: Thank you, Mr. Chairman
4 and Senator Gibson. We -- you're correct. We
5 used a score called a Reock score, a Convex
6 Hull score, and then a Polsby-Popper score.
7 And those three scores are all on a -- they're
8 scored on a range of zero to one, so it's a
9 proportional measurement. They measure
10 different things.

11 Generally speaking, a Reock is going to
12 measure how much a district resembles a
13 circle. A Convex Hull is a test for,
14 basically, indentations. So a star would
15 score very poorly on a Convex Hull, but a
16 square or a rectangle would score highly. And
17 then Polsby-Popper is a perimeter ratio so
18 that -- that kind of tests for jagged edges,
19 so to speak. And so the smoother the edges of
20 a district, the higher the score would be
21 there.

22 Those are the three that I would
23 anticipate using in addition to, as the
24 Supreme Court stated, the Intraocular Test,
25 which is just a visual review for compactness.

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1 I believe that you will see those three
2 available in the software very soon.

3 CHAIR RODRIGUES: Any further
4 questions? Okay. Let's move on to the next
5 tab.

6 MR. FERRIN: Thank you, Mr. Chairman.
7 So the terminology, a lot of this I've already
8 kind of mentioned, and some of you may be
9 familiar with. We've talked about equal
10 population and the requirements in the U.S.
11 Constitution for equally-weighted votes.

12 The equal population, as I've
13 mentioned, for congressional districts is plus
14 or minus one person. It's generally higher in
15 terms of legislative districts. The courts
16 have allowed in the past in different
17 circumstances up to a 10 percent overall
18 range. The legislature here in Florida has
19 typically drawn Senate and House districts
20 with deviations of less than 1 or 2 percent.

21 The ideal population is the total state
22 population divided by the number of districts,
23 and so that's our target population as we're
24 drawing districts in terms of what we're
25 trying to get to. Ideal populations based on

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1 the 2020 census are as follows:

2 For congressional, it's 769,221. For
3 Florida Senate districts, it's going to be
4 538,455. And for the House, it'll be 4 -- or
5 excuse me -- 179,485.

6 Voting age population refers to the
7 number of --

8 MR. BEAN: Mr. Chairman, I'm sorry to
9 interrupt. Can you give those numbers one
10 more time? I was writing them down. I
11 missed -- missed them. Starting with the
12 congressional.

13 MR. FERRIN: Thank you, Mr. Chairman
14 and Senator Bean. So congressional is 7-6-9-
15 2-2-1. The Senate districts will be 5-3-8-4-
16 5-5. The House districts will be 1-7-9-4-8-5,
17 and I believe I've got a slide later on that's
18 going to have those numbers on it and compare
19 them to the old numbers.

20 And so back to the voting age
21 population, that's the number of people in a
22 district or a plan that are -- excuse me -- in
23 a district that are over 18 years of age and
24 represents the potential electorate in a
25 district.

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1 And then population deviation is the
2 difference between the ideal population and
3 the population of a district or plan. It's
4 calculated for individual districts and the
5 redistricting plan as a whole. We often
6 express this as a percentage, and that's
7 calculated by dividing the deviation of a
8 district by the ideal population.

9 At the district level, population
10 deviation is measured as the amount of a
11 district's total population minus its ideal
12 population, and that can be positive or
13 negative. At the plan level, population
14 deviation is the numeric range between the
15 smallest total population and the largest
16 total population of a district.

17 This slide contains some redistricting
18 terms related to map drawing and the criteria
19 found in the Florida Constitution. A
20 benchmark plan is the last legally-enforceable
21 redistricting plan enforcer effect. A
22 proposed redistricting plan is compared to a
23 benchmark plan to analyze its compliance with
24 protections for racial and language minorities
25 under federal and state law. In Florida, the

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1 benchmark plans will be named and referred to
2 as follows:

3 For the congressional plan, you'll see
4 that as FLCD 2016 for 2016 in its date of
5 adoption. FLHD 2012 would be the House
6 benchmark, and FLSD 2016 would be the Senate
7 benchmark. And those are your current
8 districts today.

9 Retrogression occurs when a
10 redistricting plan reduces the opportunity of
11 a racial or language minority to participate
12 in the political process or elect
13 representatives of their choice when compared
14 to the benchmark plan. Retrogression can
15 apply to a whole redistricting plan or to an
16 individual district.

17 Diminishment is similar in that it
18 occurs when a redistricting plan eliminates a
19 majority minority district or potentially
20 weakens a historically-performing minority
21 district where doing so would actually reduce
22 the ability of racial or language minority
23 groups to elect candidates of their choice, as
24 compared to the benchmark plan.

25 Geographic boundaries. For geographic

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1 boundaries, we use easily ascertainable and
2 commonly understood features, such as rivers,
3 railways, and primary and secondary roads.
4 Primary and secondary roads are actually
5 defined by the United States Census Bureau in
6 their -- their data -- geographical dataset.
7 They include interstates, U.S. highways, and
8 state highways. County roads are not included
9 in that as -- as some of the roads in those
10 categories can range from a six-lane highway
11 to a dirt road.

12 And then finally, political boundaries
13 in the redistricting context has been defined
14 by the courts as county or incorporated
15 municipality boundaries, so your cities, town,
16 villages, et cetera. We have 412 of those
17 here in Florida for this cycle.

18 This slide here has an image for the
19 geographical hierarchy that's used by the
20 census. So the smallest feature that we'll
21 use is the census block. Blocks are formed by
22 streets, roads, bodies of water, and other
23 physical features and legal boundaries that
24 are shown on U.S. Census Bureau maps.

25 Census block groups are clusters of

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1 census blocks within a census tract. Tracts
2 are small, relatively-permanent statical
3 subdivisions of a county and are delineated by
4 the local participants as part of the U.S.
5 Census Bureau's Participants Statistical Areas
6 Program.

7 Counties are the primary legal
8 subdivisions of the state and are used for
9 reporting census -- decennial census data. So
10 each of those nests within each other.

11 Here we have some definitions and terms
12 related to the different kinds of districts
13 that can be drawn for racial or language
14 minority opportunities. The -- these are kind
15 of listed in the order of significance. So a
16 majority minority district is a district in
17 which racial or language minority groups
18 comprise a majority, which is 50 percent plus
19 1 or more of the voting age population of the
20 district.

21 An effective minority district is a
22 district that contains sufficient voting age
23 population to provide the minority community
24 with an opportunity to elect a candidate of
25 choice but falls short of a majority.

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1 A crossover district is a district in
2 which a racial or language minority group is
3 not a numerical majority but is potentially
4 large enough to elect its preferred candidate
5 by persuading enough majority voters to cross
6 over to support the minorities' preferred
7 candidate.

8 A coalition district is a district in
9 which more than one racial or language
10 minority group working together can form a
11 majority to elect their candidates of choice.

12 And then lastly is an influence
13 district, which is a district in which the
14 racial or language minority community,
15 although not sufficiently large enough to
16 elect a candidate of its choice, is able to
17 influence the outcome of an election and elect
18 a candidate who will be responsive to the
19 interests and concerns of the minority
20 community.

21 That would conclude that portion of the
22 presentation, sir, Mr. Chairman.

23 CHAIR RODRIGUES: Do we have any
24 questions on this tab?

25 Seeing none, let's move on to Tab 4,

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1 Census -- Census Data Explanation.

2 MALE VOICE: (Inaudible).

3 CHAIR RODRIGUES: Oh, I'm sorry. I
4 missed the timeline. Let's go back and
5 complete the timeline.

6 MR. FERRIN: Thank you, Mr. Chairman.

7 So the beginning of this -- this
8 process starts with April 1st, 2020, which is
9 the census day. And the census responses,
10 although they're collected over a period of
11 time, are used -- are tied to April 1st. So
12 if you're filling out a response later on in
13 the summer, the question that the Census
14 Bureau is asking you as a respondent is where
15 were you residing on April 1st, 2020.

16 April 26th was the day that the Census
17 Bureau released the state-wide population
18 totals for apportioning the seats in the
19 United States House of Representatives. That
20 was originally scheduled under the kind of
21 normal cycle to have been December 31st, 2020.

22 On August 12th, 2021, the Census Bureau
23 published tabular population demographic and
24 housing data for all 50 states. That was the
25 delivery and availability of the Legacy format

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1 census data. That should have been available
2 on April 1st, 2021.

3 Last week, on September 16th, we
4 received the formal delivery of the formatted,
5 P.L. 94-171 redistricting data, which is the
6 same data that was delivered as -- in the
7 Legacy format. That was delivered to the
8 states last week. That date should have,
9 also, been April 1st.

10 Typically, in a cycle, that data is
11 released together. It was broken up this
12 cycle. Due to the delays, the Census Bureau
13 opted to get the Legacy format data out there
14 as soon as possible and then continue working
15 to deliver the formatted data by the end of
16 September.

17 And then lastly there, you see in --
18 later this month or within the month, we plan
19 on launching the joint website and the free
20 publicly-available map-drawing application.

21 Here we have a list of the interim
22 committee weeks and the prospective dates for
23 interim committee meetings. So our next week
24 that we would be available to meet would be
25 October 11th, followed by October 18th to

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1 22nd, November 1st through 5th, November 15th
2 through 19th, and November 29th through
3 December 3rd. Because we're kind of going
4 full-blast here and operating at full speed, I
5 would expect at this time, unless told
6 differently, that we would plan on meeting
7 each of those weeks.

8 This slide has some of the important
9 session and post-session dates on it. So we
10 will -- as I mentioned, we'll convene on
11 January 11th, 2022, for regular session. The
12 60th day of that session would be March 11th,
13 2022.

14 June 13th to 17th is qualifying for
15 state and federal offices. The mailing of the
16 overseas ballots, which is the first sort of
17 ballot delivery and -- and everything would
18 have to be finalized, not only in advance of
19 qualifying, but the date for supervisors to
20 mail the first ballots overseas is July 9th,
21 2022.

22 August 23rd is the primary election.
23 The supervisors will, also, have to send out
24 ballots on September 24th for the general
25 election, and then we have the general

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1 election date of November 8th, 2022.

2 Part of the timeline process is
3 governed by Article III, Section 16 of the
4 Florida Constitution, which includes the
5 provisions for the automatic facial review of
6 the state legislative redistricting plans.
7 Article III, Section 16 states that within 15
8 days after the passage of the joint resolution
9 of apportionment, the attorney general shall
10 petition the Supreme Court of the state for a
11 declaratory judgment determining the validity
12 of the apportionment.

13 The Supreme Court shall permit
14 adversary interests to present their views and
15 within 30 days from the filing of the petition
16 shall enter its judgment. A judgment of the
17 Supreme Court of the state determining that
18 the apportionment to be -- is -- to -- excuse
19 me -- determining the apportionment to be
20 valid, shall be binding upon all the citizens
21 of the state.

22 Should the Supreme Court determine that
23 the apportionment made by the legislature is
24 invalid, the governor by proclamation shall
25 reconvene the legislature within five days

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1 thereafter in extraordinary apportionment
2 session, during which the legislature shall
3 adopt a joint resolution of apportionment
4 conforming to the judgment of the Florida
5 Supreme Court.

6 Within 15 days after the adjournment of
7 an extraordinary apportionment session, the
8 attorney general is again required to file a
9 petition to the Supreme Court setting forth
10 the apportionment resolution adopted by the
11 legislature.

12 If none was adopted during the
13 extraordinary apportionment session, the
14 attorney general is required to report that
15 fact to the court. Otherwise, consideration
16 of the validity of the joint resolution shall
17 be -- had -- as provided in -- for in cases of
18 such joint resolution being adopted at a
19 regular or special apportionment session.

20 And then lastly, if the legislature
21 fails to adopt a resolution of apportionment
22 or if the Supreme Court finds the
23 apportionment to be invalid again, the court
24 has 60 days after receiving the petition from
25 the attorney general to file with the

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1 secretary of state an order making the
2 apportionment.

3 The next slide that we have here is a
4 bit of a flow chart that shows the path for
5 the state legislative redistricting plans that
6 we just walked through. The color coding here
7 indicates which paths were followed for which
8 decade. This will be available on the website
9 when we launch it, and so I won't walk through
10 the particulars of the past history. I think
11 we may have an opportunity to do that at
12 subsequent meetings, as well.

13 CHAIR RODRIGUES: Do we have any
14 questions on the timeline?

15 Seeing none, now we can move forward to
16 the Census/Census Data Explanation.

17 MR. FERRIN: Thank you, Mr. Chairman.

18 Established by the U.S. Constitution,
19 the census has been conducted every ten years
20 since 1790 to determine the number of people
21 living in the United States. Article I,
22 Section 2 of the U.S. Constitution requires
23 this to be an actual enumeration of all people
24 in the United States. Actual enumeration
25 means a physical count, and the Constitution

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1 has been determined to not allow for the use
2 of sampling in lieu of an actual count.

3 For redistricting, Florida is one of 21
4 states that explicitly requires the use of
5 census data for redistricting. As I mentioned
6 in Article X, Section 8, states that -- each
7 decennial census of the state taken by the
8 United States shall be an official census of
9 the state. The fourth statute -- the
10 statutory provision in Florida, also,
11 designates the most recently federally
12 conducted federal census as the official
13 census for redistricting.

14 I've already touched a little bit on
15 the hierarchy that's used by the census, but
16 it's worth noting that the geography comes
17 from a different source than the actual
18 demographic and population data. The
19 geographic data that we use for redistricting
20 comes in the form of TIGER/Line shape files
21 that are released by the Census Bureau.

22 And these are extracts of selected
23 geographic information from the United States
24 Census Bureau's database. It includes polygon
25 boundaries with geographic areas and features,

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1 linear features, including roads and
2 hydrography, and point features, such as
3 landmarks.

4 The state does not contain any
5 sensitive or -- information or data on
6 population on demographics. That's linked to
7 later from censuses and other surveys through
8 a standard geographic identifier that we refer
9 to as the geo ID. And one other note is that
10 Census Bureau is constantly updating this. We
11 use the 2020 version that was released earlier
12 this year.

13 We can talk a little bit about the race
14 and ethnicity categories in the census data,
15 so since 1980, the Census Bureau has asked
16 each person counted to identify their race and
17 whether or not they are of Hispanic or Latino
18 origin. An individual's response to the race
19 and ethnicity questions are based on self-
20 identification. The United States Office of
21 Management and Budget established these
22 standards in 1997, and they are as follows:

23 For racial categories, it's American
24 Indian or Native Alaskan. And these are
25 person having origins in any of the original

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1 peoples of North and South America, including
2 Centra America, and who maintains -- excuse
3 me -- maintains tribal affiliation or
4 community attachment.

5 Asian means a person having origins in
6 any of the original peoples of the Far East,
7 Southeast Asia or the Indian Subcontinent,
8 including for example Cambodia, China, India,
9 Japan, Korea, Malaysia, Pakistan, and the
10 Philippine Islands.

11 Black or African American means a
12 person having origins in any of the Black
13 racial groups of Africa.

14 Native or Hawaiian or Pacific Islander
15 is a person having origins of any of the
16 original people of Hawaii, Guam, Samoa, or
17 other Pacific Islands.

18 And then White is a person having
19 origins in any of the original peoples of
20 Europe, the Middle East, or North Africa.

21 The ethnicity question on the Census
22 Bureau or census forms asks whether or not a
23 respondent is of Hispanic or Latino origin or
24 if they are not Hispanic or Latino. Hispanic
25 or Latino has traditionally meant a person of

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1 Cuban, Mexican, Puerto Rican, South America --
2 South or Central American, or other Spanish
3 culture origin, regardless of race.

4 So it's important to note that the
5 categories of race include the national origin
6 and sociocultural groups. People can chose to
7 report more than one race to indicate their
8 racial mixture, and in fact, race alone can
9 result in up to 63 different combinations.
10 And people who identify their origin as
11 Hispanic, Latino, and Spanish may be of any
12 race.

13 Talk briefly about group quarters. So
14 in 2020, the census continued -- Census Bureau
15 continued to count prisoners, college
16 students, and people in other resident
17 situations, such as nursing homes, at the
18 group location where they lived and slept most
19 of the time. This is the way it's been done
20 in the past, and by far, the majority of
21 states use population and residence data
22 reported in the census as is.

23 A handful of states have changed their
24 procedures for allocating incarcerated --
25 incarcerated persons for redistricting

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1 purposes. And these states, whenever it's
2 possible, they reallocate prisoners from the
3 prison location to their residence prior to
4 incarceration. To date, eight states, which
5 includes California, Colorado, Delaware,
6 Maryland, Nevada, New Jersey, New York,
7 Virginia, and Washington, have passed laws
8 about how incarcerated persons are counted and
9 allocated during the redistricting process.

10 Personal -- protecting privacy within
11 census data. So since 2000, the Bureau has
12 used a practice called data swapping between
13 census blocks as its main disclosure avoidance
14 technique. And for an example of data
15 swapping, we can consider a census block with
16 just 20 people in it, including one Filipino
17 American without any disclosure of
18 (inaudible), it might be possible to figure
19 out the identity of that individual.

20 With the data swapping applied, that
21 person's data might be swapped with that of an
22 Anglo-American from a nearby census block
23 where other Filipino Americans reside. The
24 details for that person would be aggregated
25 with the others, and therefore, it would be

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1 not be identifiable. Yet the total population
2 would remain accurate.

3 Since recent developments and the
4 advent of big data and technical advancement
5 make it theoretically possible to take the
6 many data products that the Census Bureau
7 produces and cross-reference them with each
8 other or with outside data sources to the
9 point that (inaudible) could be compromised,
10 the Census Bureau chose to review their
11 disclosure avoidance techniques and reconsider
12 other methods. In 2018, they selected
13 differential privacy for use during the 2020
14 census.

15 With differential privacy, the total
16 population in each state is as enumerated.
17 But all other levels of geography -- so tract,
18 counties, census block group -- have some
19 variance from the raw data. And the Census
20 Bureau refers to this as noise. And noise
21 would not be injected into the state
22 population, but the smaller units it can be
23 expected.

24 And it's important to note here that
25 when reaggregated, that level of noise is --

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1 is -- goes away and results in a usable and
2 accurate count.

3 I mentioned the TIGER geometry that we
4 use in the geographical data. It's worth
5 noting that during the 2020 legislative
6 session, Florida -- the legislature passed two
7 bills that made changes to its political
8 subdivisions. Senate Bill 616 adjusted the
9 boundary lines of Indian River County and St.
10 Lucie County. That bill was signed into law
11 by Governor DeSantis on June 9th, 2020. And
12 Committee Substitute for House Bill 1215
13 abolished the City of Weeki Wachee, which was
14 one square mile and a population of nine.
15 That, also, took effect -- was signed and took
16 effect on June 9th, 2020.

17 Because we used the January 1, 2020,
18 data from the Census Bureau rather than the
19 census day -- or in addition to the fact that
20 these became law after census day, these
21 changes are not reflected in our geographical
22 population and demographic data, so we'll
23 still have the City of Weeki Wachee in our
24 dataset.

25 I've mentioned this a little bit before

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1 already related to the census delays, and this
2 slide is taken from a presentation that the
3 Census Bureau delivered to us back in, I
4 believe it was, May. But these are some of
5 the factors that the Bureau has cited for the
6 delay and the reasons the data was delivered
7 late.

8 This includes COVID-19, four tropical
9 systems that made landfall, wildfires on the
10 West Coast, civil unrest, and legal
11 challenges. And most of those occurred during
12 the door-to-door follow-up -- nonresponse
13 follow-up count portion of the census, which
14 did disrupt the collection and then,
15 subsequently, the processing of the data.

16 And we can go -- we can break there or
17 go right into same additional data points.

18 CHAIR RODRIGUES: Do we have questions
19 on what's been presented? Senator Gibson,
20 you're recognized for a question.

21 MS. GIBSON: Thank you, Mr. Chair.
22 Going back to the race and ethnicity in the
23 census data, I thought there were questions of
24 race that were not represented in the handout.
25 For example, I think there were individual --

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1 do you know if these are all the categories
2 that were questions on the census, by any
3 chance? And if not, if we can make sure that
4 we have that for the next time because I
5 thought there were -- there was some biracial
6 or other questions, even an "other" that was
7 reported when it came to race and ethnicity.

8 And I'm asking that in light of -- as
9 we begin to look at districts and minority
10 districts and how those -- how those
11 categories of race play into any potential
12 diminishment or -- if you understand what I'm
13 saying.

14 CHAIR RODRIGUES: You're recognized.

15 MR. FERRIN: Thank you, Mr. Chairman
16 and Senator Gibson. That's, actually, an
17 excellent point. I did neglect to mention
18 that there is a field for other race. It's
19 available on the -- where respondents can
20 write in whatever they want, and the Census
21 Bureau will tabulate them that way.

22 But it's important to remember that for
23 redistricting purposes, we can -- we can
24 cross-tabulate. So -- so if a person can mark
25 multiple races -- and in fact, they can select

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1 all of them. And when they do that, we, in
2 the redistricting dataset that we compile and
3 use in our software, we will count every
4 person that has indicated that race as part of
5 that group.

6 So for example, with African -- Black
7 or African American population, we count
8 anyone who responded that they were any
9 combination of race that included Black or
10 African American, and we also include whether
11 or not they were Hispanic. And so all that's
12 accounted for, and when we do the functional
13 analysis and we review that, we're looking at
14 the categories of anyone who would have
15 responded that they were that race in any
16 combination. Hopefully, that answers your
17 question.

18 MS. GIBSON: So a -- sorry, Mr. --

19 CHAIR RODRIGUES: Go ahead. You're
20 recognized.

21 MS. GIBSON: A combination leans
22 towards a particular race, so if -- if someone
23 put that they were African American and White
24 or African American and Hispanic, what's the
25 dominant race that we're counting them as --

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1 CHAIR RODRIGUES: You're recognized.

2 MS. GIBSON: -- because, obviously,
3 they're not counting themselves that way.

4 MR. FERRIN: Thank you, Mr. Chairman.
5 So we follow the OMB guidance, which I didn't
6 go into in great detail, but provides that for
7 the purposes of analyzing against,
8 essentially, discriminatory behavior and
9 Department of Justice review for things like
10 redistricting plans, we are supposed to count
11 all available population.

12 So -- so essentially, if you marked
13 that you were a -- a Black or African American
14 and White, you would be counted in the Black
15 population because you would, theoretically,
16 have standing to bring a discriminatory claim
17 in that circumstance.

18 CHAIR RODRIGUES: Senator Rouson,
19 you're recognized for a question.

20 MR. ROUSON: Thank you very much, Mr.
21 Chairman. And I think you mentioned it, but I
22 just want to be clear, and I want the public
23 to be clear. On group quarters, Florida
24 continues to count prisoners and college
25 students at the location where they were on

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1 April 1st of 2020, as opposed to their home or
2 before they were incarcerated?

3 CHAIR RODRIGUES: You're recognized.

4 MR. FERRIN: Thank you, Mr. Chairman
5 and Senator Rouson. The Census Bureau counts
6 them there. We do not edit the census data
7 and reassign them to another geographic
8 location.

9 CHAIR RODRIGUES: Any further
10 questions? Senator Bradley, you're
11 recognized.

12 MS. BRADLEY: Thank you, Mr. Chairman.
13 In the previous slide, you outlined what the
14 census delays. And I just wondered if you
15 could give a sense of the overall
16 participation rate, even with those delays, of
17 the 2020 census, maybe compared to prior years
18 or whether it was a -- what the participation
19 rate was in 2020.

20 CHAIR RODRIGUES: You're recognized.

21 MR. FERRIN: Thank you, Mr. Chairman
22 and Senator Bradley. This -- Florida had a
23 99.9 percent enumeration rate, so -- so the
24 Census Bureau calculates the total number of
25 households that they have on record, and 99.9

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1 percent of those households responded to the
2 census in 2020. I don't know the 2010 number
3 off the top of my head.

4 MS. BRADLEY: (Inaudible).

5 MR. FERRIN: But I know the 2021 was
6 99.9.

7 CHAIR RODRIGUES: Any further
8 questions?

9 Seeing none, let's move on to Census
10 Data.

11 MR. FERRIN: Thank you, Mr. Chairman.
12 And so to speak a little bit about some of the
13 trends that we've seen in the census data, one
14 of the underlying themes is the shift in -- or
15 continued trend towards population
16 congregation in metropolitan areas.

17 So the population of the U.S. metro
18 areas grew by 9 percent from 2010 to 2020,
19 resulting in 86. -- 80 -- excuse me -- 86
20 percent of the population living in the United
21 States metro areas, as compared to 85 in 2010.

22 Around 52 percent of the counties in
23 the United States saw their 2020 census
24 populations decrease from the 2010 census.
25 The largest county remains Los Angeles County.

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1 The largest city remains New York. But across
2 the United States, 312 of the 384 metro areas
3 gained population. Only a few lost. But one
4 of the fastest growing ones in the United
5 States was, actually, The Villages. It grew
6 39 percent from about 93,000 people to 130,000
7 or so.

8 Here we have some of the Florida-
9 specific facts. So we did surpass New York,
10 become the third-largest state officially. As
11 we just discussed, 99.9 percent of the housing
12 units were counted in the 2020 census. Our
13 total growth was 2,736,877 people from 2010 to
14 2020, and that's almost 15 percent. As I
15 mentioned earlier, The Villages was the
16 fastest-growing metro area in the country and
17 also in the State of Florida.

18 Talking about the self-response rate,
19 which was for the first time this year
20 available online -- so in the past, self-
21 response meant that you received your Census
22 Bureau questionnaire in the mail, you filled
23 it out and responded. It didn't require a
24 door-to-door visit or a nonresponse follow-up.
25 We did improve that a little bit this -- this

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1 cycle and went from 63 percent to 63.8.

2 Additionally, Jacksonville remains the
3 largest incorporated place in Florida, and
4 it's got 9 million -- or excuse me -- 949,611
5 people. And Jacksonville, as many of you
6 know, is also -- coincide with the county
7 boundaries of Duval.

8 Osceola County had the largest county
9 growth rate at 45 percent and growing by about
10 120,000 people. Not surprisingly, then,
11 Florida State Senate District 15 had a similar
12 growth rate, 51 percent, growing 241,000
13 people, which is nearly half of what a senate
14 district used to be.

15 And in the same general area, Florida
16 House District 44 grew 51 percent, and that's
17 by about 80,000, and I believe an ideal
18 district last cycle was somewhere in the
19 neighborhood of 150,000. Congressional
20 District 9, similarly, grew by about a third.
21 So 259,000 people from 2010 to 2020.

22 One of the other things that's been
23 noted in the -- the census data across the
24 country has been that we've had some shifts in
25 how people identify themselves racially.

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1 So that being said, the White
2 population still remains the largest race or
3 ethnicity group in the United States, over 204
4 million people identifying as White alone.
5 Another 35 million bring the total to 235.4
6 million reported being either White alone or
7 in combination with another group. But
8 specifically, the White alone population
9 decreased, and what that means is that we're
10 seeing a trend in which more people are
11 identifying as being White in combination with
12 some other race.

13 Likewise, the multiracial or two or
14 more race population changed. The multiracial
15 population was measured at 9 million people
16 across the country in 2010, and that's now at
17 33.8 million people, which is a 276 percent
18 increase. In Florida, I believe, it exceeded
19 that.

20 The in-combination multiracial
21 populations for all race groups accounted for
22 most of the overall changes within each racial
23 categories, so it wasn't necessarily people
24 identifying as a single race African American
25 or single race Asian; it was people combining

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1 them across different races.

2 And then the next largest races --
3 racial populations were Asian alone or in
4 combination. They're up to 24 million
5 nationwide, and they exceed the American
6 Indian and Alaskan Native alone or in
7 combination group, followed by the Native
8 Hawaiian and other Pacific Islander Group.

9 Not surprisingly, as I'm sure many
10 people expected, the Hispanic or Latino
11 population, which includes people of any race,
12 was 61 -- 62.1 million in 2020. This is a
13 growth of 23 percent. The population that has
14 identify itself of not being Hispanic or
15 Latino origin grew 4.3 percent since 2010.

16 A lot of this data is currently visible
17 and available via the Census website. They've
18 provided some demographic map viewers, as well
19 as access to the tabular data and now the
20 interactive tables that you can select which
21 types of information you would like to see in
22 which geographical level. That, also,
23 includes current state legislative and
24 congressional districts. That's all available
25 on data.census.gov. And that would conclude

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1 this portion. We can pause or keep going, Mr.
2 Chairman.

3 CHAIR RODRIGUES: Do we have any
4 questions on this portion?

5 Seeing no questions, let's continue on.

6 MR. FERRIN: Thank you, Mr. Chairman.
7 So the last thing we have for you today is
8 some maps to look at. So these -- these
9 display the over/under populations for the
10 different districts we have here in Florida,
11 so these are the current congressional
12 district boundaries.

13 Here you can see where we have listed
14 the 2010 population versus the state, as well
15 as the difference, the ideal population of the
16 old congressional districts, which was
17 696,000, and the new one, 769,000. So almost
18 a 73,000-person change there, as well as the
19 number of districts that we have.

20 One of the things to kind of note about
21 this map is that because we are gaining a
22 congressional district, the color coding there
23 is going to look a little different. It's --
24 it's -- these districts are going to trend --
25 show to be slightly more over-populated than

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1 they should, if we would to divide and color
2 them by 28 districts -- or excuse me -- 27
3 instead of 28.

4 Here we have the same map and same data
5 points for the State Senate districts, so you
6 can see here that a lot of the districts in
7 North Florida or currently underpopulated, as
8 are the districts in South Florida, as well as
9 some in the Tampa Bay area. Most of the
10 growth in the state, as is displayed by this,
11 occurred along the I-4 Corridor and up along
12 the First Coast in St. Johns and Flagler
13 Counties. Other districts that are
14 overpopulated include in Lee County, District
15 27, but the -- the one that's far and away the
16 most is District 15.

17 Lastly, we have the same kind of slide
18 for the Florida House and their current
19 districts, so looking at this at a more
20 granular level, smaller districts, is going to
21 display some of the population trends in a
22 little more detail. So you can see here,
23 really, the underpopulation and the
24 significance of it in the Big Bend area. You
25 can see the dark blue colors show the

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1 overpopulation, particularly in Central
2 Florida and along the I-4 Corridor, and then
3 you can see the bright red and shading and
4 colors down there in South Florida, as well.

5 All of these will be visible on our
6 website, when it launches in an interactive
7 manner that will allow users to click around
8 and get some more data on the specific
9 districts, including the population numbers
10 from 2010, 2020, and the percent differences,
11 as well. And that would include the
12 presentations, Mr. Chairman.

13 CHAIR RODRIGUES: Do we have any
14 questions on the map showing the under and
15 over populations of our various chambers?
16 Okay. Senator Rouson, you are recognized.

17 MR. ROUSON: Thank you very much. This
18 may go back to an earlier slide, but the
19 boundaries were adjusted in St. -- in St.
20 Lucie and Martin Counties. Did that
21 significantly add or shed population because
22 of the boundary adjustment?

23 CHAIR RODRIGUES: You're recognized.

24 MR. FERRIN: Thank you, Mr. Chairman.
25 Let me -- the answer is no. The boundary

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1 shift between Indian River County and St.
2 Lucie County was one parcel that was six-
3 tenths of an acre that went from St. Lucie to
4 Indian River, and then Indian River -- excuse
5 me, five and a half acres of land were
6 transferred from Indian River to St. Lucie
7 County.

8 The land -- it's my understanding and
9 recollection was -- those five and a half
10 acres were vacant. There was one house that
11 had a piece of property. Their parcel was
12 divided by the counties, and so they took the
13 one parcel that had a house on it, moved it
14 all to one county, and the other one took some
15 vacant land in exchange, and it was -- should
16 have had little to no -- I mean, the residents
17 of that one house, but other than that, no
18 changes in population would have -- would have
19 occurred.

20 MR. ROUSON: Thank you.

21 CHAIR RODRIGUES: Any other questions?

22 Seeing none, that includes Tab 4.

23 We'll now move on to Tab 5, which is public
24 comment. We'll start with Jonathan Webber
25 with Florida Conservation Voters. Jonathan,

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1 you're recognized.

2 MR. WEBBER: Thank you, Chair. Good
3 morning -- afternoon. My name is Jonathan
4 Webber. I'm the deputy director of Florida
5 Conservation Voters. It's wonderful to be
6 back in the same room with all of you and
7 seeing your faces. We have a lot of important
8 work to do ahead of us, although I will say I
9 will miss the basketball buzzer, which did
10 happen in the civic center in the beginning
11 there. I'll miss that.

12 Fair political districts are the most
13 important aspect of our democratic republic.
14 The integrity -- integrity of our entire
15 system is in those little lines on the map,
16 which are now completely in your hands.

17 Eleven years ago, 63 percent of Florida
18 voters approved the two amendments related to
19 the redistricting process. Thank you so much
20 for reviewing them. These amendments are now
21 part of the state constitution, and like you,
22 I will be referring to these words in the
23 constitution regularly as we engage over the
24 coming weeks and months.

25 But the words in the constitution are

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1 only part of the story, and I strongly and
2 respectfully encourage you -- encourage the
3 following:

4 So please ensure that all map drafts
5 become visible in real time and that all
6 actual work of map-making is livestreamed with
7 audio and video. Preserve all communications
8 about redistricting and make them available as
9 public records.

10 Make all mapping data available in the
11 public -- to the public in a common, usable
12 format.

13 Solicit extensive input from the
14 public.

15 Seek out and work to understand
16 opposing perspectives and points of view.

17 Provide ample notice of all proceedings
18 and public comment opportunities.

19 Find ways to get the people of Florida
20 involved in a meaningful way, even if they do
21 not have the means to travel to Tallahassee,
22 which includes virtual verbal input
23 opportunities. Input and committee meetings
24 is not just enough, especially when Floridians
25 who want to comment on multiple maps sometimes

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1 cannot make it to multiple meetings.

2 And ensure language accessibility for
3 our rich and diverse population. Translation
4 services is a must.

5 And I know that each and every one of
6 you is taking this process seriously, and I
7 want you to know that so are the people of
8 Florida. I'll close by saying the
9 redistricting process demands your best. It
10 demands our best. Future generations are
11 watching, and current generations are counting
12 on you. Thank you all so much. Best of luck.

13 CHAIR RODRIGUES: Thank you for your
14 comments. Next we have Rich Templin with the
15 Florida AFL-CIO. Mr. Templin, you're
16 recognized.

17 MR. TEMPLIN: Thank you, Mr. Chairman.
18 What an awesome new space you guys have to
19 work in. This is my first time being in it,
20 so pretty cool.

21 I represent the Florida AFL-CIO. The
22 Florida AFL-CIO, we represent 1.3 million
23 union members, their families, and retirees in
24 every area of the state. We have ten central
25 labor councils in every single geographic

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1 region of Florida, and we have members in all
2 67 counties. And like Leader Gibson, I was
3 here ten years ago, participated in the
4 process, and I can tell you that our members
5 get very engaged in this. It's something that
6 they care a lot about. I actually think that
7 they enjoy it as much as it was interactive in
8 the past and I know will be again in the
9 future.

10 So I'm really just here to avail my
11 organization to you because in so much as
12 getting the word out about how the public can
13 participate and how the public can watch the
14 process and to get to the goals that you all
15 have set for transparency and clarity, we're
16 going to be doing that.

17 And we're going to be taking all of the
18 rules and procedures that you establish and
19 working within those to engage as much of our
20 members as possible, and so we really look
21 forward to watching this process move forward.

22 It was very encouraging what we heard
23 today, Mr. Chairman. Thank you. And we're --
24 we're here, and our members want to be a part
25 of the process. We're a very bipartisan

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1 group, and so we just want to be here to help.

2 Thank you very much.

3 CHAIR RODRIGUES: Thank you. Next we
4 have Cecile Scoon with the Florida League of
5 Women Voters. She is the new president. Is
6 she in the room? Thank you. You're
7 recognized.

8 MS. SCOON: Thank you so much for this
9 opportunity. My name is Cecile Scoon, and as
10 stated, I'm the new president of the League of
11 Women Voters of Florida, and I'm coming here
12 as a citizen, I'm coming here as the
13 president, as a member of the league, and as
14 a -- or the league is a member of the Fair
15 Districts Coalition that was, also -- many of
16 these organizations were involved in the
17 redistricting in 2010 and everything that
18 transpired.

19 It's been really very good feeling to
20 hear the recounting of the actual history and
21 the problems that, you know, our state ran
22 into and the waste of time and energy and
23 upset in the, you know, creation of distrust
24 with the people when people in the past
25 represented to promise to follow the law and

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1 then they didn't. They kind of, you know,
2 went around the back door and did all those
3 things.

4 So one of the things that we came up
5 with to try to win back the trust of the
6 people is to ask for representatives and
7 senators to sign a pledge.

8 And the pledge is found on the Fair
9 Districts website, which is
10 fairdistrictscoalition.org, and essentially,
11 it's a -- it's a paragraph, and it's basically
12 just reiterating everything -- many of the
13 things that you already said to being
14 transparent, following the law, you know,
15 adhering to the rules of fairness and
16 everybody getting their equal say, no harm to
17 minority, language, or racial groups, no
18 political gerrymandering, and things of that
19 nature.

20 So it's basically just saying, would
21 you pledge to follow the law that the citizens
22 voted on over 63 percent in the Citizens'
23 Initiative that led to the Fair District
24 Amendments.

25 So I would ask you all, since we're all

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1 here and we're starting anew, to consider
2 signing that pledge and look it over, and if
3 there are any questions, please let us know.
4 So we're very excited about this opportunity.
5 We're looking forward to the continued
6 interaction and for public input.

7 We would ask that the public input be
8 interactionable, in other words the public
9 would have a question or statement and then
10 you would hear it in real time and then
11 respond. I know there are many avenues
12 available with digital and email and all the
13 other things, but it really lights a fire in
14 the citizens' heart to feel excited that they
15 spoke to their representative, they were heard
16 by the elected officials, and that there was a
17 response of some kind to their -- to a
18 question. So we really, really ask you for
19 that.

20 And the other thing I'd like to say is,
21 on the issue of -- I think Senator Rouson had
22 the question about how was the different
23 committees to interact with the media, and I'm
24 not sure I heard a specific answer to that
25 because we just want to know how we're going

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1 to hear from you. Are you going to be
2 accessible to the media, also? Or you know,
3 how is that going to work out? Thank you.

4 CHAIR RODRIGUES: I just have one
5 question before you go.

6 MS. SCOON: Yes.

7 CHAIR RODRIGUES: The language in the
8 Fair Districts pledge -- is the language in
9 the Fair Districts pledge the exact language
10 that is in the Fair Districts Amendment that
11 was adopted into the constitution?

12 MS. SCOON: I don't think it's exact.
13 I've got it right here. It's like a paragraph
14 and a half. Would you like me to read it?

15 CHAIR RODRIGUES: No, ma'am.

16 MS. SCOON: Okay.

17 CHAIR RODRIGUES: I'm just going to
18 share with you my particular position --

19 MS. SCOON: Sure.

20 CHAIR RODRIGUES: -- which is, if the
21 language is not exact, I can't pledge to it.
22 When I took my oath of office, I pledged to
23 uphold the Constitution of the State of
24 Florida, which includes the language that was
25 adopted by the voters in that Fair Districts

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1 Amendment. So if you're asking me to pledge
2 to do something that is outside of that
3 amendment, you're putting me in a position
4 where I would be violating my oath of office,
5 and I just can't do that.

6 MS. SCOON: Yes, I -- I --

7 CHAIR RODRIGUES: But I appreciate your
8 participation.

9 MS. SCOON: yes.

10 CHAIR RODRIGUES: And I appreciate your
11 enthusiasm.

12 MS. SCOON: Thank you. I understand
13 your analysis. I don't think it's outside.
14 It's not -- it doesn't mirror the exact words,
15 but I think -- it's certainly well within the
16 intent, but I -- I respect what you're saying.
17 Thank you, sir.

18 CHAIR RODRIGUES: Thank you.
19 Appreciate it. Do we have any other public
20 comment?

21 Seeing none, do we have any comments
22 from the members before we conclude? Is there
23 any other business to appear before the
24 committee?

25 Seeing none, Senator Stargel moves that

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1 we adjourn. Without objection, we'll show
2 that motion's been adopted. We are adjourned.

3 (End of Video Recording.)

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CERTIFICATE

I, Wendy Sawyer, do hereby certify that I was
authorized to and transcribed the foregoing recorded
proceedings, and that the transcript is a true record, to
the best of my ability.

DATED this 15th day of March, 2023.

A handwritten signature in cursive script, appearing to read "Wendy Sawyer", is written over a horizontal line.

WENDY SAWYER, CDLT

**Florida Senate Select Subcommittee on
Legislative Reapportionment
November 17, 2021**

Transcript of video recording available at:
<https://thefloridachannel.org/videos/11-17-21-senate-select-subcommittee-on-legislative-reapportionment/>

11-17-21 Florida Senate Select Subcommittee on Legislative Reapportionment

1 Chair Burgess: Good morning everybody, happy Wednesday. The select committee on
2 Legislative Reapportionment will now come to order. Danna, please call the roll.

3 Danna: Chair Burgess.

4 Chair: Here.

5 Danna: Senator Bracy.

6 Bracy: Here.

7 Danna: Senator Gibson. Senator Rodriguez.

8 Rodriguez: Here.

9 Danna: Senator Stargel.

10 Stargel: Here.

11 Danna: Mr. Chair, there's a quorum.

12 Chair: A quorum is present. Please silence all your electronic devices. Anyone wishing to
13 testify before the subcommittee must fill out an appearance card and hand it to a member of the
14 Sargent's Office. Should you select to waive your speaking time, your position will be read into
15 the record. Thank everybody who is here today for attending on this Wednesday morning.
16 Appreciate you. Senators, we have a number of items on our agenda today but before we continue,
17 I'd like to take a moment to talk about the process we are about to embark on.

18 Under Senate Rules, select subcommittees do not consider legislation. We study or
19 investigate a specific issue falling within the jurisdiction of the standing committee. In this case,
20 that issue is the redrawing of Florida's Senate Districts. So we will use the time allotted to
21 workshop the staff, produce maps and provide feedback and guidance to staff where appropriate.
22 Our feedback and guidance should conform to the directives issued unanimously by the full
23 committee. You will find a copy of the directives in your meeting materials. Our feedback and

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1 guidance to staff should also be consistent with cautions expressed in the memorandum we
2 received last week from President Wilton Simpson, President Designate Passidomo and Leader
3 Book. Our responsibility as a select subcommittee is to assist the full committee in proposing a
4 constitutional senate map free of any improper intent. I know that every member of this
5 subcommittee shares that goal. I would caution members in their questions, feedback or guidance
6 to staff today to express themselves carefully so that nothing said in this meeting is mis-perceived
7 as motivated by any impermissible purpose.

8 In the future, we will submit a recommendation which will include a senate map or set of
9 senate maps to the full committee. We will defer on the creation of house maps to the House as
10 often has been a customary practice between the two chambers. We will convene at a later time to
11 reconcile our respective processes. When Chair Rodriguez reconvenes the full committee to
12 consider our recommendations, members may offer amendments. Accordingly, the maps that we'll
13 be workshopping today are not final. Any alterations that are proposed, whether as guidance and
14 feedback to the staff or as an amendment offered in the future, should adhere to the constitutional
15 principles and apply them consistently throughout the state.

16 I have been advised by counsel that all plans brought forward by staff today comply with
17 the complex layering of federal and state standards and contain various tradeoffs within the co-
18 equal Tier-Two standards presented in each plan. It is within the balancing of these tradeoffs that
19 we must exercise our legislative discretion and produce a constitutionally compliant map. Staff
20 has also informed me that while no senators have requested that staff either publicly submitted
21 comments or plans for consideration while developing the maps we are workshopping today,
22 members of the public have been continuing to submit plans and comments to
23 floridaredistricting.gov. Are there any questions before we proceed to the public comment and

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1 presentations on our agenda today? No questions? Then we'll go ahead and proceed senators. At
2 this point, Mr. Ferrin, seated to my left, we are recognized for a walk-through of the staff prepared
3 plans.

4 Ferrin: Thank you Mr. Chairman. We've produced a series of maps since receiving the
5 directives from the full committee on October 18. The district in these maps have been numbers
6 to be roughly analogous to the districts in the benchmarks but may be renumbered. We relied on
7 the plan language of the constitution, federal law and existing judicial precedent to ensure the plans
8 comply with the complex layering of federal and state standards. Districts were drawn to balance
9 the co-equal Tier-Two standards in the Florida constitution unless doing so would conflict with
10 the standards in Tier-One. In order to comply with the Tier-One standards and the directives that
11 were issued by the committee, districts were drawn without reviewing any political data other than
12 where it was required to perform a functional analysis and evaluate whether or not a district denied
13 or abridged a racial or language minority group's ability to participate in the political process or
14 diminish their ability to elect representatives of their choice. Districts were drawn without the use
15 of any resident's information of any sitting member of the Florida Legislature or Congress. And
16 districts were drawn without regard to the preservation existing district boundaries.

17 To comply with the Tier-Two standards, districts were drawn to be as nearly equal in
18 population as practical with district population deviations of less than 1% of the ideal population
19 of 538,455 people. Districts were drawn to be visually compact in relation to their shape and
20 geography. Mathematical scores were used where appropriate. Districts were drawn to use county
21 boundaries where feasible. In less populated areas, whole counties were grouped together to make
22 a district or set of districts. In more populated areas where it was feasible to do so, districts were
23 kept wholly within a county. Districts were also drawn to geographic features that are easily

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1 recognizable and readily ascertainable as district boundaries where feasible. The boundary analysis
2 for each plan illustrates the rate at which railways, Interstates, federal and state highways and large
3 bodies were used as district boundaries for each district. The plans were also drawn to keep cities
4 whole where doing so is feasible while recognizing the impermanent and irregular shapes of
5 municipal boundaries. If or when a city was split, static geographic features were sought out for
6 usage as district boundaries. Accordingly, these plans contain tradeoffs within the co-equal Tier-
7 Two criteria and are presented for consideration and exercise of legislative discretion.

8 All these plans we're reviewing today have been published and are available on
9 floridaredistricting.gov. They can be viewed interactively or downloaded from the submitted plans
10 page for independent analysis. Each one of these links, if anyone's following along on a computer
11 for the plan names, will pull up the interactive map so that members or the public can zoom around
12 the map and turn on the different reference layers or base maps, a few things with satellite images,
13 roadmaps, things like that. We've also published plan packets as part of the meeting materials and
14 these are the maps that the members have in front of them, the 11x17 formatted maps. These are
15 also available with the meeting materials on the select subcommittee's page of the
16 floridasenate.gov website.

17 These plan packets are provided for the benchmark senate plan and referred to as
18 FLSD2016 and for each of the senate plans we'll be workshopping today. They contain everything
19 used to analyze the redistricting plan. The data comes from the redistricting applications and is
20 reformatted for easier consumption. They contain statewide maps with insets of South Florida,
21 Jacksonville, Tampa Bay and Orlando, including census and boundaries statistics, pages of split
22 cities and counties and a functional analysis of districts protected from non-diminishment
23 standards in Tier-One Article 3 of the Florida constitution. In the meeting materials there's also a

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1 copy of the over/under map that is there to provide a visual reference as to how and why region's
2 population growth rate relative to the ideal district population influences how the districts have to
3 be redrawn.

4 On the census and boundaries statistics page, we show the district population deviation
5 from the ideal expressed in terms of people and as a whole percent as a percentage. We show the
6 voting age population for Black voting age, that's what BVAP is. That includes respondents who
7 identified as being Black either singly or in combination with some other race and/or ethnicity,
8 including Hispanic. We also show HVAP, which is Hispanic voting age population and that is
9 respondents who identified as Hispanic and of any race or combination of races, include Black.
10 District areas also reported in square miles, perimeter of a district in miles and report the
11 compactness scores for Convex Hull, Polsby-Popper and Reock calculations.

12 This page also include counts of whole and partial counties and cities within each district
13 and counts of cities and counties that have all of their population only in one district. Each district's
14 boundary coincidence is also reported with certain types of features identified by the US Census
15 Bureau in their geometry layers. These include those recognized by the Florida Supreme Court as
16 political and geographic boundaries, and that includes city boundaries, county boundaries, primary
17 and secondary roads, which are Interstates, US highways and state highways, railroads and then
18 water features with continuous area of greater than 10 acres. This report also includes a statistic
19 for the portion of each district's boundary that does not coincide with these features.

20 The next set of pages is a full report of the split counties and cities. This lists any county
21 with two or more districts. Presents total population in each portion of the district and the area. It's
22 also expressed in terms of count and a percentage. It's there for cities as well. Now may be a good
23 time to note that while it's not included within this meeting material's packet, we looked at the

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1 benchmark senate district plan when it was drawn in 2016 and in that circumstance it only split
2 seven cities by population and by area. Since then, without moving any district lines, the
3 benchmark now splits five times as many for a total of 55 cities due to the impermanent ever
4 changing nature of municipal annexations.

5 The last few pages in the packet contain the functional analysis. There's a couple of
6 summary pages. These list only the districts for which it is necessary to evaluate whether or not a
7 district denies or abridges either racial or language minority group's ability to participate in the
8 political process or if the district diminishes their ability to elect representatives of their choice.
9 Again, report the BVAP and HVAP scores and include 2020 general election voter registration
10 information for registrants by party, by race or ethnicity, by race or ethnicity and party and by
11 party and race or ethnicity.

12 This next page of the summary of the functional analysis displays the average voter turnout
13 in 2012, 2014, 2016, 2018 and 2020 primary elections. It displays the percentage of turnout by
14 party and race or ethnicity. We display the average of voter turnout in 2012, 2014, 2016, 2018 and
15 2020 general elections. Report those statistics by turnout by party, turnout by party and race or
16 ethnicity and turnout by race of ethnicity and party. Finally, we have the general election
17 performance and statewide elections for 2012 through 2020. This reports the average performance,
18 which is the vote share, for the Democratic, Republican candidate, the count of wins in statewide
19 contests for Democrat and Republic candidates and then the margins. We have the maximum
20 margin of victory in a statewide contest for either the Democrat or Republican candidate. We
21 report that minimum margin of victory and then the average margin of victory.

22 Finally, we have the returns included in the functional analysis. There's a page for primary
23 and a page for general elections. This shows the percentage of votes received by each candidate in

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1 contests for which there was a statewide primary. It includes 2012, 2014, 2016 and 2018. There
2 was no 2020 statewide primary. Then the general page shows the votes received by each candidate
3 of the percentage of votes by each candidate in contest where there was a statewide general
4 election, which is all statewide elections between 2012 and 2020. We can jump into the plans or
5 pause of there's any questions.

6 Chair: Senators, if everybody's agreeable, I'd prefer to just jump into the plans, and I think
7 they'll be some questions that maybe just arrive through those plans. If everybody's okay with
8 that, Mr. Ferrin, if you don't mind proceeding to our first plan.

9 Ferrin: Absolutely. Thank you Mr. Chairman. The first plan is plan S000S8010. Pursuant
10 to the directives given to staff, this plan was drawn to be consistent with the plain language of the
11 Florida constitution, federal law and existing judicial precedent. This plan balances the co-equal
12 criteria outlined in the Tier-Two standards of Article 3, Section 21 of the Florida constitution,
13 except where doing so conflicts with the Tier-One standards. Functional analysis of the minority
14 districts in the plan confirm that it does not diminish the ability for racial and language minorities
15 to elect candidates of their choice.

16 When we were drawing the visually compact districts in the plan, county boundaries were
17 used where it was feasible to do so. When a county was split, static geographic features such as
18 major roads, railroads and water bodies were used in a manner that sought to keep cities whole
19 where it was feasible. In cases where a city was split, static geographic features were used. Where
20 none were available or in cases where it was possible to illustrate the tradeoff between using
21 political or geographic features, a municipal boundary may have been used. This plan has an
22 overall deviation of 10,457 people, which is 1.94%.

23 The average compactness scores of the plan are .82 Convex Hull; .46 Polsby-Popper; .46

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1 Reock, and the average use of non-political of geographic boundaries is 6%, which means that of
2 the district boundaries, 94% of the district boundaries fall on features identified by the US Census
3 Bureau's geographic layers as city boundaries, county boundaries, Interstates, US highways or
4 state roads, continuous water bodies larger than 10 acres or railroads. This plan has 51 whole
5 counties, 16 districts wholly contained within a county, 350 cities with all of their boundaries
6 contained within a single district and 360 cities with all of their population contained within a
7 single district. Like the benchmark plan, this plan has five effective minority districts for African
8 Americans. That's Senate District 6, 11, 19, 33 and 35. As for majority Hispanic districts in South
9 Florida. Those are 36, 37, 39 and 40. An opportunity district in Central Florida that has become a
10 majority minority Hispanic district. That's district 15.

11 Starting the Panhandle, where districts 1 and 2 split Okaloosa County, where the boundary
12 primarily follows state road 85, Interstate 10 and the Yellow River. While this configuration splits
13 the cities of Crestview and Laurel Hill, the boundary follows only static geographic features all
14 the way though the county. District 3, which you can see most of in this slide, consists of all of
15 Gadsden, Liberty, Gulf, Leon, Wakulla, Franklin, Jefferson, Madison, Taylor, Hamilton,
16 Suwannee, Lafayette and Dixie Counties in their entirety. The next slide shows Northeast Florida
17 and North Florida. We can see the remaining portion of District 3 here and Districts 4, 5, 6, 7 and
18 8. Nassau and Duval Counties combine to form two whole senate districts, with District 6 being
19 kept wholly within Duval. The boundary between these two districts primarily follows the
20 Nassau/Duval County line, state road 115, which is Lem Turner Road; Interstate 295; US highway
21 90, which is Beach Blvd.; state road 109, which is University Blvd.; and the St. Johns River. The
22 district boundary departs from these geographic features where necessary to balance population
23 and to maintain the ability to elect in District 6. District 6 is an effective minority district protected

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1 from diminishment under Tier-One of Article 3, Section 21 of the Florida constitution. While the
2 BVAP is slightly reduced from the benchmark, a functional analysis confirms that the district does
3 not deny or abridge the opportunity for African Americans to participate in the political process
4 and does not diminish their ability to elect candidates of their choice.

5 District 5 consists of all of Columbia, Baker, Union, Gilchrist, Bradford and Clay Counties
6 and a part of the Alachua County. In Alachua County, the boundary follows static geographic
7 features including state road 26, which is Newberry Road; Interstate 75; state road 24, which is
8 Archer Road; US highway 441; state road 20, which is University Avenue; and state road 222,
9 which is Northeast 39th Blvd. The remaining portion of Alachua County is in District 8, along with
10 all Levy and Marion Counties. This allows both Districts 5 and 8 to use static readily ascertainable
11 and commonly understood political or geographic boundaries for 100% of their boundaries. It's
12 worth noting that one of the cities that is split in this configuration, which is Fanning Springs, and
13 that's actually divided by the county line between Gilchrist and Levy Counties.

14 District 7 consists of all of St. Johns, Putnum and Flagler Counties and part of Northern
15 Volusia. In Volusia, the boundary primarily follows state road 40, which is West Granada Blvd.;
16 state road 5A; South Nova Road; and state road 430, which is Mason Avenue. District 7 also
17 follows political and geographic boundaries for the entirety of its border. It does, however, result
18 in splits to Daytona Beach, Holly Hill and Ormond Beach. The majority of each of these city's
19 population falls within either District 7, which is Ormond Beach has 84.9% of its population in
20 District 7 and Holly Hill has 99.8% of its population in District 7. Or the majority of the population
21 would fall in the neighboring District 14. And for Daytona Beach, that is 90.3%.

22 The next slide is the I-4 region of the state. District 9 consists of all of Seminole County
23 and part of Orange County where the boundary primary follows state 434, which is Forest City

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1 Road; Interstate 4; state road 436, which is Cimmaron Blvd. District 10 consists of all of Citrus,
2 Sumter, Hernando Counties and part of Pasco County. In northwest Pasco County, the boundary
3 follows state road 589, which is the Suncoast Parkway and state road 52. Except for where the
4 boundary follows the extension of state road 52 past highway 19 through a marsh to the Gulf of
5 Mexico, the boundary is entirely on county boundaries or major roadways. District 11 is wholly
6 contained within northwest Orange County.

7 It's an effective minority district protected from diminishment under Tier-One. The BVAP
8 of the district increases slightly from the benchmark, but a functional analysis confirms that the
9 district does not deny or abridge the opportunity for African Americans to participate in the
10 political process and does not diminish their ability to elect candidates of their choice. Within
11 Orange County, the boundary primarily follows state road 50, which is Colonial Drive; state road
12 408, which is the East/West Expressway; South Apopka Vineland Road; state road 482, which is
13 West Lake Sand Lake Road; Interstate 4 and the Seaboard Coast Line railroad. Boundary departs
14 from these geographic features where necessary to maintain the ability to elect in this Tier-One
15 protected district.

16 District 12 consists of all Lake County and part of southeastern Orange County. In Orange
17 County the boundary primarily follows state road 50, which is Colonial Drive; state road 408,
18 which is the East/West Expressway; South Apopka Vineland Road and Interstate 4. Boundary does
19 depart of these geographic features where necessary to maintain the ability to elect in the
20 neighboring Tier-One protected district. District 13 is wholly contained within Eastern Orange
21 County where the boundary primarily follows Interstate 4, the Seaboard Coast Line railroad; state
22 road 436, which is Cimmaron Blvd.; and state road 528, which is the Beach Line Expressway. The
23 boundary does depart of these geographic features where necessary to maintain the ability to elect

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1 in a neighboring Tier-One protected district. District 14 shares a boundary with District 7 in
2 Northern Volusia and contains the rest of the county, along with part of Northern Brevard County.
3 There it shares a boundary with District 17.

4 District 17 is wholly contained within Brevard County. The boundary between Districts 14
5 and 17 follows state road 50, which is Cheney Highway, state road 405, which is Columbia Blvd.;
6 and the Nassau railway that passes through the Kennedy Space Center. Following these major
7 roadways does result in Titusville being split, but it keeps 98.7% of the city's population in District
8 14. Utilizing these readily ascertainable and commonly understood features, the non-political and
9 geographic boundary utilization rates for both District 14 and 17 is only 2%. This is caused by a
10 minor departure from geographic features within Kennedy Space Center.

11 District 15 is a Hispanic opportunity district protected from diminishment under Tier-One
12 of Article 3 of the Florida constitution. Due to an increase in Hispanic population of the area, this
13 district becomes a majority minority district. A functional analysis of the district confirms that the
14 district does not deny or abridge the opportunity for Hispanics to participate in the political process
15 and does not diminish their ability to elect candidates of their choice. District 15 consists of all of
16 Osceola County and the remaining part of Orange County. District 16 contains part of Western
17 Pasco and Northern Pinellas. In Pasco County, the boundary follows state road 589, which is
18 Suncoast Parkway and state road 52.

19 In Pinellas County, the boundary primarily follows state road 60, which is Gulf to Bay
20 Blvd and US highway 19. District 18 is wholly contained within northwest Hillsborough County.
21 The boundary primary follows Interstate 5; Interstate 275; US highway 41; North Armenia
22 Avenue; East Fletcher Avenue; and departs from geographic boundary features where necessary
23 to maintain the ability to elect in a neighboring Tier-One protected district. District 19 is an

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1 effective minority district protected from diminishment under Tier-One. The functional analysis
2 confirms that the district does not deny or abridge the opportunity for African Americans to
3 participate in the political process and does not diminish their ability to elect candidates of their
4 choice. While the BVAP increases slightly from the benchmark, the functional analysis confirms
5 that the district does not deny or abridge the opportunity for African Americans.

6 District 19 contains part of Pinellas and Hillsborough Counties. In Pinellas County, the
7 boundary primary follows 22nd Avenue North; 58th Street and Interstate 275. In Hillsborough
8 County, District 19 shares its western and northern boundary with District 18. The eastern
9 boundary primarily follows Interstate 75; US highway 301; Palm Riverside Road; and the
10 Seaboard Coast Line railroad. The boundary departs from these geographic features where
11 necessary to maintain the ability to elect in this Tier-One protected district. District 20 contains
12 part of Hillsborough and the remainder of Pasco Counties. In Hillsborough County, the boundary
13 follows Interstate 75 where the district shares a boundary with Districts 18 and 19. Where District
14 20 shares a boundary with District 21, it involves Lumsden Road and the CSX Railway. District
15 22 is wholly contained within Northern Polk County . The boundary primarily follows state road
16 570, which is the Polk Parkway; state road 540, which is Winter Lake Road; and the Amtrak
17 Railway near Winter Haven; and then state road 60. Following these static easily ascertainable and
18 commonly understood geographic features through Polk County does result in splitting some
19 cities. But 89.3% of the population of Lakeland is included in District 22. 100% of the population
20 of Eagle Lake is included in District 22 and 99% of the population of Winter Haven is also included
21 in District 22.

22 District 24 is contained within the remainder of Pinellas County between Districts 16 and
23 19. District 21 consists of part of Hillsborough and Manatee Counties. In Hillsborough County,

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1 the district shares boundaries with Districts 19 and 20. In Manatee County, where the district shares
2 a boundary with District 23, the boundary primarily follows state road 70 and the Manatee-
3 Sarasota County line. The utilization of county line does result in splitting the city of Longboat
4 Key, which is on a barrier island divided by these two counties. District 23 contains the remaining
5 portion of Manatee County and all of Sarasota County.

6 District 25 contains all of the Indian River; Highlands, Glades and Okeechobee Counties
7 and part of St. Lucie County. In St. Lucie, the boundary between Districts 25 and 29 primarily
8 follows the Florida East Coast Railway; state road 716, which is Southeast Port St. Lucie Blvd.,
9 and the Martin County boundary. District 26 consists of all of Hardee, DeSoto, Charlotte and part
10 of Polk and part of Lee. In Polk County, the district shares a boundary with District 22. In Lee
11 County the boundary primarily follows US highway 41, which is the Tamiami Trail; state road 78,
12 which is Bayshore Blvd.; Interstate 75; Lee Blvd.; and the Able Canal.

13 District 27 is wholly contained within Lee County. The boundary follows US highway 41,
14 which is the Tamiami Trail; state road 78; and Interstate 75 to achieve 100% utilization of easily
15 ascertainable and commonly understood geographic boundaries. District 28 contains all of Hendry
16 and Collier Counties and the remainder of Lee County. District 29 contains all of Martin County
17 and part of St. Lucie and Palm Beach County. In St. Lucie, District 29 shares a boundary with
18 District 25 and in Palm Beach country, the boundary primarily follows North Lake Blvd.; state
19 road 786, which is PGA Blvd.; Seminole Pratt Whitney Road; and US highway 441.

20 Moving onto South Florida, District 30 is wholly contained within northeastern Palm
21 Beach County. Boundary primarily follows North Lake Blvd.; state road 786, which is PGA Blvd.;
22 Seminole Pratt Whitney Road; US highway 441; and portions of the city boundary of Greenacres.
23 District 31 is wholly contained within southeastern Palm Beach County. The boundary primarily

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1 follows US highway 441; state road 808, which is Glades Road; portions of the city boundary of
2 Greenacres; and the city boundary of Atlantis, which is kept whole within the district. District 32
3 is wholly contained within Western Broward County. The boundary primarily follows the city
4 boundaries of Parkland, Coral Springs and Tamarac; state road 838, which is West Sunrise Blvd.;
5 state road 817, which is University Blvd.; and Southwest 72nd Avenue.

6 The boundary of District 32 departs from geographic features where necessary to maintain
7 the ability to elect in a neighboring Tier-One protected district. District 33 is protected from
8 diminishment under Tier-One of the Florida constitution. In this plan, it is drawn as a majority
9 minority district. The functional analysis confirms that the district does not deny or abridge the
10 opportunity for African Americans to participate in the political process and does not diminish
11 their ability to elect candidates of their choice. The district is wholly contained within Broward
12 where the boundary primarily follows the city boundary of Tamarac, keeping it wholly within the
13 district. State road 838, which is West Sunrise Blvd.; West Copans Road and the Florida East
14 Coast Railway; state road 842, which is West Broward Blvd.

15 And the boundary does depart from these geographic features where necessary to maintain
16 the ability to elect in this Tier-One protected district. District 34 contains part of Palm Beach and
17 Broward Counties. In Palm Beach County the boundary primarily follows state road 808, which
18 is Glades Road. In Broward County, the boundary primarily follows the city boundaries of
19 Parkland and Coral Springs, which keeps them whole within the district. Portions of the city
20 boundary of Fort Lauderdale, West Copans Road and the Florida East Coast Railway. Boundary
21 apart from these geographic features where necessary to maintain the ability to elect in the
22 neighboring Tier-One protected district.

23 District 35 is an effective minority district protected from the diminishment under Tier-

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1 One. The functional analysis confirms that the district does not deny or abridge the opportunity for
2 African Americans to participate in the political process and does not diminish their ability to elect
3 candidates of their choice. While the BVAP slightly increases from the benchmark, a functional
4 analysis confirms that the district does not deny or abridge the opportunity for African Americans
5 to participate in the political process and does not diminish the ability to elect candidates of their
6 choice. District 35 is wholly contained within northeastern Miami-Dade County.

7 The boundary primarily follows Interstate 95, state road 860, which is Northeast Miami
8 Gardens Drive; and the city boundaries of Aventura and Sunny Isles. Also follows state road 847,
9 which is Northwest 47th Avenue; state road 9, which is Northwest 27th Avenue; US highway 27,
10 which is Northwest 36th Street and the Julia Tuttle Causeway. Departing from political or
11 geographic boundaries for only 1% of the district's boundary. District 36 is a minority majority
12 district protected from diminishment under Tier-One. Functional analysis confirms that the district
13 does not deny or abridge the opportunity for Hispanics to participate in the political process and
14 does not diminish their ability to elect candidates of their choice.

15 District 36 is contained wholly within Miami-Dade County. Boundary primarily follows
16 the Broward County boundary; state road 997, which is Krome Avenue; state road 847, which is
17 Northwest 47th Avenue; state road 9, which is Northwest 27th Avenue; state road 948, which is
18 Northwest 36th Street; State Road 836, which is the Dolphin Expressway; US highway 41, which
19 is Southwest 8th Street; and the city boundary of Sweetwater. It keeps Sweetwater whole within
20 the district and departs from geographic features where necessary to maintain the ability to elect
21 in this Tier-One protected district. District 37 is a minority majority district protected from
22 diminishment under Tier-One.

23 Functional analysis confirms that the district does not deny or abridge the opportunity for

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1 Hispanics to participate in the political process and does not diminish their ability to elect
2 candidates of their choice. District 37 is wholly contained within Miami-Dade County. The
3 boundary primarily follows state road 948, which is Northwest 36th Street; state road 836, which
4 is the Dolphin Expressway; the city boundary of Sweetwater, state road 976, which is Southwest
5 40th Street; US highway 27, which is Northeast 36th Street; Interstate 195 in the Julia Tuttle
6 Causeway; US highway 1; and state road 913, which is the Rickenbacker Causeway. Departs from
7 geographic boundaries were necessary to maintain the ability to elect in this Tier-One protected
8 district.

9 District 38 contains part of Broward and Miami-Dade County. In Broward County, the
10 district primarily follows the East Coast Railway; portions of the city boundary of Fort Lauderdale;
11 state road 842, which is West Broward Blvd.; state road 817, which is University Drive; and North
12 72nd Avenue. In Miami-Dade County the boundary primarily follows Interstate 95; state road 860,
13 which is Miami Gardens Drive; and the city boundaries of Aventura and Sunny Isles Beach, which
14 are kept whole within the district. This departs from geographical features where necessary to
15 maintain the ability to elect in neighboring Tier-One protected district. District 39 is a majority
16 minority district protected from diminishment under Tier-One.

17 The functional analysis confirms that the district does not deny or abridge the opportunity
18 for Hispanics to participate in the political process and does not diminish their ability to elect
19 candidates of their choice. District 39 contains all of Monroe County and part of Miami-Dade
20 County. Miami-Dade boundary primarily follows state road 997, which is Krome Avenue; US
21 highway 41, which is Southwest 8th Street; Florida Turnpike; and the Seaboard Coast Line railroad.
22 It also follows the city boundary of Homestead, which is kept whole within the district. Boundary
23 departs from these geographic features where it's necessary to maintain the ability to elect in their

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1 Tier-One protected district.

2 District 40 is a minority majority district protected from diminishment under Tier-One of
3 Article 3, Section 21 of the Florida constitution. Functional analysis confirms that the district does
4 not deny or abridge the opportunity for Hispanics to participate in the political process and does
5 not diminish their ability to elect candidates of their choice. District 40 is wholly contained within
6 southeast Miami-Dade County. Within the country, the boundary primarily follows state road 976,
7 which is Southwest 40th Street; US highway 1; the Florida Turnpike; state road 913, which is the
8 Rickenbacker Causeway; the Seaboard Coast Line railroad; and the city boundary of Homestead.
9 District boundaries depart from geographic features where it's necessary to maintain the ability to
10 elect in this Tier-One protected district. Mr. Chairman, that's the first plan we have to go through
11 today.

12 Chair: Thank you very much Mr. Ferrin. Appreciate all your hard work on this and your
13 team. At this point, since we have several plans to go through, Senators, I would ask if there's any
14 questions related to this plan, and then we can have those questions, any discussion and then
15 obviously move onto the remaining three that we have to go over. So, are there any questions on
16 the plan that is before us? Senator Gibson, you're recognized.

17 Gibson: Thank you Mr. Chair. The deviation column at the top of the page where it's a
18 total of 10,549 and the deviation I guess is 1.96%. That's for the entire map?

19 Chair: Mr. Ferrin, you're recognized.

20 Ferrin: Thank you Mr. Chairman. Yes, Senator Gibson, that's for- For each district we
21 report the deviation for that district and then that top line, that 10,000 number, is the overall range.
22 So that's the difference between the most populated district and the least populated district. So the
23 directives from the committee were to draw each district for the deviation of under 1%, which

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1 means overall that deviation would fall within 2%.

2 Chair: Senator Gibson, do you have a follow up? You both are recognized for discussion.
3 That way it's easier to just kind of continue the dialog.

4 Gibson: Thank you Mr. Chair.

5 Ferrin: In drawing each district, that plus or minus 1% of the total population, that results
6 in an overall range of 2%.

7 Gibson: For the entire map?

8 Ferrin: For the entire map, yes.

9 Gibson: Are there any districts that are I guess not within the plus or minus 1%? Must be,
10 maybe, since it's 1.96?

11 Ferrin: No Senator Gibson. Each district is going to fall under 1%, under plus or minus
12 1%.

13 Gibson: Okay. Can you repeat the boundary streets for District 6?

14 Ferrin: Yes, so District 6 is going to follow the Nassau Duval County line and then state
15 road 115, which is Lem Turner Road. It goes to Interstate 295, follows that around to US highway
16 90, which is Beach Blvd. Then from there it takes state road 109, University Blvd. towards the St.
17 Johns River where it follows it down to the Clay Duval County line and back around towards the
18 west.

19 Gibson: So I think you mentioned Duval, 6 is all in Duval but 4 comes into Duval as well
20 as it does today, right?

21 Ferrin: That's correct Senator. So the two counties of Nassau and Duval make up enough
22 population to draw two whole senate districts, as long as you balance that population amongst the
23 two.

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1 Gibson: All right, thank you.

2 Chair: Thank you Senator Gibson. Are there any further questions? Senator Bracy
3 recognized for questions. You're both recognized for dialog.

4 Bracy: Thank you. I don't think I'll need the dialog, but I do want to ask seems like just
5 generally most of the changes from our current map, they exist down in South Florida where I see
6 the majority of the changes. What's the thinking behind that and can you give an explanation as to
7 why that is?

8 Ferrin: Yes. Senator Bracy, so if you look at the over/under map, which is the front one in
9 the packet, that map displays the current districts with the 2020 population overlaid on it and the
10 deviation of each of the district population. If you look at South Florida, it's going to be a lot of
11 the reddish and yellow color, which means that they are underpopulated. When the districts are
12 underpopulated, they have to grow to gain additional population. What happens is because
13 districts- If you start in South Florida and you were to look at the benchmark plan, so on page 1 of
14 that analysis to the bottom page of the Census and Boundary statistics, that's where we display the
15 deviations for the benchmark plan. If you look at starting in District 29, nearly all of those districts,
16 I think all but one are underpopulated. If you start in South Florida with District 39 or 40, you have
17 to grow 45,000 people and then 38 has to grow 50,000; 37 has to grow 30,000 or so; 36, etc., etc.
18 That forces all those districts to kind of grow up the state because they certainly grow to the east,
19 can't grow to the south, unlikely to grow to the west and so that leaves north. That's why all those
20 districts kind of end pushing north.

21 Bracy: That makes sense. All right, thank you.

22 Chair: Thank you Senator Bracy. Any discussion on these maps before we move onto the
23 next? No? Seeing none, Mr. Ferrin you are recognized to discuss our next plan.

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1 Ferrin: Thank you Mr. Chairman. So the next plan is 8012. Pursuit to the directives given
2 to staff, this plan was drawn to be consistent with the plan language of the Florida constitution,
3 federal law and existing judicial precedent. It balances the co-equal criteria outlined in Tier-Two
4 standards of Article 3, Section 21 of the Florida constitution, except for doing so conflicts with the
5 Tier-One standards. The functional analysis of the minority districts in the plan confirms that it
6 does not diminish the ability for racial language minorities to elect candidates of their choice.
7 When drawing visually compact districts, county boundaries were used where it was feasible to
8 do so. When a county was split, static geographic features such as major roads, railroads and water
9 bodies were used in a manner that sought to keep city boundaries whole where feasible. Where a
10 city was split, static geographic features where used. Where none were available or in cases where
11 it was possible to illustrate the tradeoff between using political or geographic features, a municipal
12 boundary may have been used.

13 The plan has an overall deviation of 10,549, which is 1.96%. Compactness scores of .81,
14 average compactness scores of .81 Convex Hull, .44 Polsby-Popper, .46 Reock and average use of
15 non-political or geographic boundaries of 6%, which means that 94% of the district boundaries
16 fall on features identified by the US Census Bureau's geographic layers as city boundaries, county
17 boundaries, Interstates, US highways or state roads, continuous water bodies larger than 10 acres
18 or railroads. The plan has 51 whole counties. 16 districts wholly contained within a county. 359
19 cities with all their boundaries contained within a single district and 367 cities with all of their
20 population contained within a single district.

21 Like the benchmark plan, this plan has five effective minority districts of African
22 Americans. Those are again 6, 11, 19, 33 and 35. Four minority majority Hispanic districts in
23 South Florida. That's 36, 37, 39 and 40. An opportunity district in Central Florida that has become

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1 majority minority Hispanic district in senate district 15. We'll start again in the Panhandle where
2 we look at Okaloosa County. It's been drawn a little bit differently between Districts 1 and 2. In
3 Okaloosa County, the boundary primarily follows the Yellow River; the Shoal River; US highway
4 90; Interstate 10; and a portion of the city boundary of Crestview, which keeps the city whole
5 within District 2. This configuration doesn't split any cities in Okaloosa County. However, the
6 boundary between Districts 1 and 2 does deviate from political and geographic features at a higher
7 rate and the compactness decreases slightly. This configuration also has a higher population range
8 between Districts 1 and 2.

9 In the North Central Florida region, Districts 5 and 8 are drawn differently. This
10 configuration adds Gilchrist County to District 8. It maintains the same political and geographic
11 boundary usage rate at the configurations does in 8010. Districts 5 and 8 are visually and
12 mathematically compact in both configurations with one set of configurations scoring slightly
13 higher on Convex Hull and the other scoring slightly higher on Reock. In terms of population
14 equalization, this plan has a lower range, and this plan also keeps more of Gainesville's population
15 in District 5. That's at 96.3%. The Osceola County, this boundary primarily follows US highway
16 441; Interstate 75; state road 331, which is Williston Road; and state road 26, which is University
17 Avenue. This plan also contains different configurations in Pinellas, Polk and Orange Counties. In
18 Pinellas, the boundary between District 16 and 17 utilizes political and geographic features at a
19 higher rate than if these two districts were configured in plan 8010. However, this does result in a
20 higher of overall population difference between the two districts.

21 In Polk County, the boundary between Districts 22 and 26 also illustrates tradeoffs within
22 Tier-Two. The configuration here in 8012 is visually and mathematically more compact but results
23 in a lower rate of utilization of political and geographic boundaries. Additionally, the overall

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1 population deviation range between these two districts is higher in this configuration. In Orange
2 County, the boundaries of Districts 9, 11, 12 and 13 were adjusted to increase the usage of political
3 and geographic boundaries. In doing so, the tradeoff is at the overall deviation range among the
4 districts increases and the BVAP in District 11 also increases slightly from that in 8010. A
5 functional analysis confirms that the district does not deny or abridge the opportunity for African
6 Americans to participate in the political process and does not diminish their ability to elect
7 candidates of their choice. In Orange County, the boundary between Districts 9, 11 and 13
8 primarily follows state road 434, which is Forest City Road; Interstate 4; state road 436, which is
9 Cimmaron Blvd.; and the city boundary of Eatonville, keeping the city wholly within District 11.
10 District boundaries due to part from geographic features where necessary to maintain the ability
11 to elect in a neighboring Tier-One protected district.

12 Plan 8012 differs from plan 8010 in the way that District 33 and the surrounding districts
13 are drawn. This configuration Districts 32, 33, 34 and 38 demonstrates a tradeoff between
14 compactness and boundary usage. Overall the mathematical compactness scores decrease slightly
15 but the usage rate of political and geographic boundaries increases. Additionally, this arrangement
16 keeps five more cities whole as compared to plan 8010. District 32 is wholly contained within
17 Western Broward County. Within the county, the boundary primarily follows the city boundaries
18 of Parkland, Coral Springs and Tamarac. Keeps them whole with the neighboring district. Other
19 boundaries include state road 842, which is West Broward Blvd.; state road 817, which is
20 University Drive. The boundary does depart from geographic features where necessary to maintain
21 the ability to elect in the neighboring Tier-One protected district.

22 District 33 is protected under Tier-One. In this plan it's drawn as a majority minority
23 district. A functional analysis confirms that the district does not deny or abridge the opportunity

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1 for African Americans to participate in the political process and does not diminish their ability to
2 elect candidates of their choice. The district is wholly contained within Broward County. The
3 boundary primarily follows the city boundaries of Tamarac and Margate. Keeps them whole within
4 the district. It also follows state road 834, which is Sample Road; state road 811, which is North
5 Dixie Highway; Interstate 95; state road 842, which is Broward Blvd.; and the city boundary of
6 Wilton Manors. Boundaries do depart from geographic features where necessary to maintain the
7 ability to elect in this Tier-One protected district.

8 District 34 consists of part of Palm Beach County and Palm Beach and Broward County.
9 In Palm Beach County, the boundary primarily follows state road 808, which is Glades Road. In
10 Broward County, the boundary primarily follows the city boundaries of Parkland and Coral
11 Springs, keeping them wholly within the district. It also follows state road 834, which is Sample
12 Road; state road 811, which is North Dixie Highway; and Interstate 95. Boundary departs from
13 geographic features where necessary to maintain the ability to elect in a neighboring Tier-One
14 protected district. Finally, District 38 contains part of Broward and Miami-Dade Counties. In
15 Broward, the boundary primarily follows the city boundary of Wilton Manors, keeping it whole
16 within the district; state road 842, which is West Broward Blvd.; state road 736, which is Davy
17 Blvd.; and state road 817, which is University Drive. Boundary departs from geographical features
18 where necessary to maintain the ability to elect in the neighboring Tier-One protected district. The
19 boundary in Miami-Dade County is unchanged from the previous plan. Mr. Chairman that is plan
20 8012.

21 Chair: Thank you very much Mr. Ferrin. Any questions, discussions, thoughts Senators on
22 plan 8012 as it differentiates to 8010 or other thoughts? Seeing none, Mr. Ferrin, you probably
23 need to take a drink of water, but you are recognized to go on to plan 8014, which will be next.

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1 Ferrin: Thank you very much Mr. Chairman. Pursuant to the directives given to staff, plan
2 8014 was drawn to be consistent with the plain language of the Florida constitution, federal law
3 and existing judicial precedent. It balances the co-equal criteria outlined in the Tier-Two standards
4 of Article 3, Section 21 of the Florida constitution, except where doing so conflicts with the Tier-
5 One standards. A functional analysis of the minority districts in the plan confirms that it does not
6 diminish the ability for racial or language minorities to elect candidates of their choice. When
7 drawing visually compact districts, county boundaries were used where it's feasible to do so.

8 When a county was split, static geographic features such as major roads, railroads and
9 water bodies were used in a manner that sought to keep cities whole where it was feasible. In cases
10 where a city was split, the static geographic features were used. When none were available or in
11 cases where it was possible to illustrate the tradeoff between using political and geographic
12 features, a municipal boundary may have been used. This plan has an overall deviation of 10,457,
13 which is 1.94%. It has average compactness scores of .82 Convex Hull; .46 Polsby-Popper; and
14 .46 Reock. The average use of non-political geographic boundaries is 6%, which means that 94%
15 of the district boundaries in features identified by the US Census Bureau's geographic layers as
16 city boundaries, county boundaries, Interstates, US highways or state roads, continuous water
17 bodies larger than 10 acres, or railroads.

18 The plan has 51 whole counties, 16 districts wholly contained within a county, 357 cities
19 with all their boundaries contained within a single district and 366 cities with all their population
20 contained within a district. Like the benchmark plan, this plan has five effective minority districts
21 for African Americans, as they're still numbered the same, 6, 11, 19, 33 and 35. Four minority
22 majority Hispanic districts in South Florida. Those are 36, 37, 39 and 40. An opportunity district
23 in Central Florida that has become a majority minority Hispanic district in senate district 15. Again,

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1 in the Panhandle, this plan is plan 8014. It's similar to 8010 in that it has the same configuration
2 of districts 1, 2 and 3. In North Florida, plan 8014 is similar to 8010 in that it has the same
3 configuration of Districts 5 and 8. Districts 4 and 6 are drawn differently. In this configuration the
4 mathematic compactness measurements are increased when compared to Districts 4 and 6 in plans
5 8010 and 8012.

6 Additionally, the utilization rate of its political and geographic boundaries increases to the
7 point that the non-political geographic boundary score is 0%. The boundary shared by Districts 4
8 and 6 follows state road 23, which is the First Coast Expressway; Interstate 10; Interstate 295; state
9 road 113, which is the Southside Connector Blvd.; and state road 115, which is Southside Blvd.;
10 and then state road 152, which is Baymeadows Drive; and finally the St. Johns River. District 4 is
11 contained within the remainder of Duval County.

12 District 6 is a minority district protected under Tier-One. This configuration, District 6 has
13 a slight decrease in BVAP when compared to the districts in 8010 and 8012. A functional analysis
14 confirms that the district that's configured here does not deny or abridge the opportunity for
15 African Americans to participate in the political process and does not diminish their ability to elect
16 candidates of their choice. Plan 8014 is similar to 8010 in that it contains the same configuration
17 of Districts 16 and 24 and of Districts 9, 11, 12 and 13. It's similar to plan 8012 that it contains the
18 same configurations of Districts 22 and 26 in Polk County. It's different in these plans in
19 Hillsborough County where District 19 and District 20 were drawn differently.

20 The different configurations of 19 and 20, District 19 remains an effective minority district
21 protected under Tier-One and in this configuration the district BVAP decreases just slightly from
22 plans 8010 and 8012. The functional analysis confirms that the district is configured here does not
23 deny or abridge the opportunity for African Americans to participate in the political process and

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1 does not diminish their ability to elect candidates of their choice. This configuration of Districts
2 19 and 21 increases the visual and mathematical compactness of the districts and also increases
3 the rate at which political and geographic boundaries are utilized when compared to the other
4 plans.

5 In Hillsborough County, the boundary between these districts primarily follows Interstate
6 275; US highway 441; North Armenia Avenue; East Fletcher Avenue; Interstate 75; and US
7 highway 301. Departing from geographic features where necessary to maintain the ability to elect
8 in this Tier-One protected district. Plan 8014 differs from 8010 and 8012 in the way District 33
9 and the surrounding Districts 32, 34 and 38 are drawn. In this configuration, Districts 32, 33, 34
10 and 38 are comparable to the configurations in 8010 and 8012 in terms of visual and mathematical
11 compactness. However, this arrangement increases the utilization of political and geographic
12 boundaries and keeps the same number of cities whole as in plan 8010. The tradeoff presented in
13 this plan is that BVAP of District 33, which is an effective minority district, as opposed to a
14 majority minority district in the other configurations. The functional analysis confirms that the
15 districts as drawn here does not deny or abridge the opportunity for African Americans to
16 participate in the political process and it does not diminish their ability to elect candidates of their
17 choice.

18 District 32 is wholly contained within West Broward County. The boundary primarily
19 follows the city boundaries of Parkland, Coral Springs, Tamarac; Plantation and the Florida
20 Turnpike. Also uses the county boundary of Miami-Dade. And departs from these geographic
21 features where necessary to maintain the ability to elect in a neighboring Tier-One protected
22 district. This configuration of District 33, the boundary primarily follows the city boundaries of
23 Tamarac; North Lauderdale; Oakland Park and Plantation, keeping these cities wholly within the

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1 district. Follows US highway 1; state road 736, which is Davie Blvd.; and the city boundary of
2 Wilton Manors. Boundary departs from these features where necessary to maintain the ability to
3 elect in this Tier-One protected district. In Broward County, District 34's boundary primarily
4 follows the city boundaries of Parkland, Coral Springs and Margate. Keeps them whole within the
5 district. State road 811, which is Dixie Highway and portions of the city boundary of Pompano
6 Beach are also used as political and geographic features. The boundary departs of these features
7 where necessary to maintain the ability to elect in the neighboring Tier-One protected district.

8 In District 38 in Broward County, the boundary primarily follows state road 811, which is
9 Dixie Highway; the city boundary of Oakland Park; US highway 1; state road 736, which is Davie
10 Blvd.; the Florida Turnpike; and the city boundary of Wilton Manors, which keeps it whole within
11 the district. The boundary departs from geographic features where necessary to maintain the ability
12 to elect in a neighboring Tier-One protected district. That is plan 8014 Mr. Chairman.

13 Chair: Thank you very much Mr. Ferrin. Are there any questions related to plan 8014
14 Senators? Seeing none, get that water and move on to 8016 Mr. Ferrin.

15 Ferrin: Thank you Mr. Chairman. Plan 8016 was drawn pursuant to the directives given to
16 staff. It's consistent with the plan language of the Florida constitution, federal law and existing
17 judicial precedent. It balances the co-equal criteria outlined in the Tier-Two standards of Article
18 3, Section 21 of the Florida constitution, except where doing so conflicts with the Tier-One
19 standards. Functional analysis of the minority districts in the plan confirms that it does not diminish
20 the ability for racial and language minorities to elect candidates of their choice. When drawing
21 these visually compact districts, county boundaries were used where it was feasible to do so. When
22 a county was split, static geographic features such as major roads, railroads and water bodies were
23 used in a manner that sought to keep cities whole where feasible. In cases where a city was split,

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1 the static geographic features where used. When none were available or in cases where it was
2 possible to illustrate the tradeoff between using political and geographic features, a municipal
3 boundary may have been used.

4 This plan has an overall deviation of 10,549 people, which is 1.96%. Average compactness
5 scores of .81 Convex Hull; .45 Polsby-Popper; .46 Reock. The average use of non-political or
6 geographic boundaries is 6%, which means that 94% of the district boundaries fall on features
7 identified by the US Census Bureau's geographic layers as city boundaries, county boundaries,
8 Interstates, US highways or state roads, continuous water bodies larger than 10 acres or railroads.
9 This plan has 51 whole counties, 16 districts wholly contained within a county, 355 cities with all
10 of their boundaries contained within a single district, 364 cities with all of their population
11 contained within a single district.

12 Like the benchmark plan, this plan has five effective minority districts for African
13 Americans. That's District 6, 11, 19, 33 and 35. Four minority majority Hispanic districts in South
14 Florida, which are 36, 37, 39 and 40. An opportunity district in Central Florida that has become a
15 majority minority Hispanic district in Senate district 15. In the Panhandle, plan 8016 is similar to
16 8010 and 8014 in that the Districts 1 and 2 are configured the same. In North Florida, plan 8016 is
17 similar to plan 8014 in that Districts 4 and 6 are drawn the same. It's similar to plan 8012 in that
18 Districts 5 and 8 are drawn the same way. Plan 8016 is similar to 8010 in Polk County where it's
19 drawn the same. It's similar to 8012 in Orange County and Pinellas County where it's drawn the
20 same way. It's similar to 8014 in that Hillsborough is drawn the same way with Districts 19 and
21 21. Moving to South Florida, this plan is similar to plan 8012 in that we've drawn the Broward
22 County Districts 32, 33, 34 and 38 in the same way. Mr. Chairman, those are the maps.

23 Chair: Mr. Ferrin, thank you so very much. Before we move onto public testimony, is there

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1 any questions or comments on this iteration of the last draft map or all the maps collectively
2 Senators? Seeing none, we're going to go ahead and move into public comment. I believe we have
3 one individual assigned to speak. Is Nicholas Warren here? Hey Mr. Warren. Thank you for
4 coming today. You're recognized for your remarks.

5 Warren: Thank you Senator Burgess and thank you senators. Good morning. I have just
6 one brief comment to make and I wanted to draw y'all's attention to one submitted plan that I
7 submitted last week, and it was published on the website yesterday. Which is plan P000S0042. It
8 just tries to solve one problem that I identified or one issue with Tier-Two compliance, which is
9 in Tampa Bay, and seeks to avoid having a district that crosses Tampa Bay and thereby alters six
10 districts from the staff-drawn maps. It doesn't alter any other districts and those six are all within
11 the population limits that the committee has set for itself. Those six could be plugged into any of
12 the other drafts that staff has developed so far.

13 In so doing, avoiding crossing Tampa Bay, respecting that boundary, which is not only
14 obviously a major geographic boundary but also aligns with county lines and with something that
15 the Supreme Court obviously last cycle emphasized in the Congressional map that was a boundary
16 that could be respected in the Congressional map, it makes SD19, Senate District 19 compact and
17 wholly in Hillsborough, whereas currently it's a non-compact district that crosses the county line,
18 maintains other districts as compact, and utilizes political and geographic boundaries throughout,
19 very similarly as the staff drawn maps do. Other advantages that Senator Burgess might be
20 interested in, it keeps two-thirds of Pasco County in a single senate district, whereas now it's
21 divided a little bit more between three different ones. And also, Pasco County makes up 70% of a
22 single senate district in my plan. Also keeps the cities of Gulfport and St. Pete whole, which are
23 split in the staff maps, and eliminates a county split in Pinellas, obviously. It doesn't introduce any

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1 new county or city splits. Those are the kind of Tier-Two advantages of this approach.

2 Obviously, I'm assuming the crossing the Bay in Senate District 19 was done in order to
3 ensure no diminishment of Black ability-to-elect in that district. So obviously, a Tier-One
4 requirement. But whereas maybe last decade it wasn't possible to draw a district wholly in
5 Hillsborough that maintained that ability and didn't diminish, I think the statistics bear out that it
6 is now possible, and the key statistics in that functional analysis are actually all comparable or
7 higher than the statistics in the benchmark district, including the Black and Hispanic share of
8 registered voters, the Black and Hispanic share of Democratic primary electorate in 2020 and in
9 2018, the Hispanic share of registered Democrats, and the Black share of registered Democrats,
10 which only differs from the benchmark by two-tenths of one percentage point.

11 Those are the advantages of this approach. I hope the subcommittee gives it some
12 consideration as y'all keep doing this work. Also note, I know this is a lot of information. All of
13 this in the submission PDF that's attached to that plan on the website for y'all to refer to. My
14 contact information is there as well. If you have any question, feel free to reach out to me. Happy
15 to explain my motivations, my goals, the advantages and tradeoffs in this proposal. Thank you for
16 your time.

17 Chair: Thank you very much Mr. Warren. Appreciate your participation and for coming to
18 speak to us today. Thank you.

19 Bracy: Chairman, I have a question.

20 Chair: Of Mr. Warren?

21 Bracy: Not for him but for the staff. He brought up a good point about crossing the Bay. I
22 wanted to ask the staff what was the motivation for doing that when it didn't seem necessary? We
23 could comply with all the requirements.

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1 Chair: Recognize Mr. Ferrin.

2 Ferrin: Thank you. Senator Bracy that was to comply with the Tier-One non-diminishment
3 standards.

4 Chair: Senator for a follow up?

5 Bracy: Okay. But I guess could it still be done without violating the diminishment
6 requirement?

7 Chair: Mr. Ferrin.

8 Ferrin: I'm not sure. I haven't reviewed the statistics for that.

9 Bracy: Okay.

10 Bracy: Is that something we can look into?

11 Mr. Ferrin: I think if that's something you'd like to, we can discuss that.

12 Bracy: Okay. Yes. Thank you.

13 Chair: Thank you. Any other questions? Seeing none, is there any other member of the
14 public that would wish to speak? Maybe we didn't get a card. Seeing none, is there any discussion
15 of this committee before we seek adjournment? Senator Gibson.

16 Gibson: I'm still processing Mr. Chairman. In terms of, as I look at the maps and I think
17 as we went in the left 8010 and 12, in terms of minority populations and particularly African
18 American populations, and I understand the functional analysis where it said that the BVAP is at
19 a percentage where it doesn't diminish overall and there's still the opportunity to elect the
20 candidate of their choice. But it seems to me as the percentage of the BVAP goes down as we went
21 farther – to the maps – after 2012. Wait a minute. Hold on. After 8012, as went more the next map
22 and the next map, the percentage of the African American population continued to go down. So
23 when you talk about the ability to elect a candidate of their choice, is there a window percentage

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1 that creates that ability? Because when you look at the numbers, if you understand what I'm saying.
2 Do you understand what I'm saying? – decreasing and we're still saying that community could
3 elect the candidate of their choice. So the question becomes how much diminishment percentage
4 impacts that ability? If that makes sense.

5 Chair: It does Senator Gibson and I'm going to defer to Mr. Ferrin there to go ahead and
6 answer your question.

7 Ferrin: So Senator Gibson, there's a number of factors that go into a functional analysis.
8 It's not just based on the voting age population alone. The voting age population is considered
9 within that analysis but we're also looking at whether or not the minority population is registered
10 consistently and cohesively. So whether or not there's in that particular district to be looking at is
11 there high percentage of registrants that are Black and Democrat? Does the district perform for
12 Democrats and does the Black population in the district Black voters turn out at a high enough rate
13 to control the primary within the Democrat to control the Democrat primary?

14 There's a number of circumstances that go into that. In review it of all those in their totality
15 would suggest that even at whether the district is 42 or 41%, that ability-to-elect is maintained.
16 What we look for in those circumstances are where there are changes, significant changes to that.
17 If dropping the voting age population, continuing to drop that resulted in sort of a loss of primary
18 control in terms of turnout, that would draw into question its performance, if dropping the voting
19 age population changed the overall performance of the district so that it was less likely to elect one
20 party or another, that would kind of be something that we would consider potentially where we're
21 diminishing that opportunity that exists today.

22 Chair: Senator Gibson for a follow up?

23 Gibson: No, thank you Mr. Chair. I'll study more.

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1 Chair: There's a lot to digest and so I appreciate the feedback. Our next meeting will be in
2 two weeks and so I think staff will take the feedback that we've given today and certainly provide
3 some more feedback as we move forward. Senators, without seeing any further questions or
4 comments, we've come extraordinarily far in what has been an extremely condensed amount of
5 time. I believe we're on the right track for success. We have two weeks, as I just stated, until our
6 next meeting. I would propose that we have staff consider the feedback and guidance we have
7 given them here today and ask them to consider it through the lens of the overall directive, as well
8 as applicable federal and state legal standards. I would also propose that staff spend time looking
9 for improvements and consistency in the application of the various tradeoffs that we presented
10 today in the maps and that have been a part of our discussion. Seeing no further business before
11 this committee, Senator Stargel moves that we adjourn. Hearing no objection, this meeting is
12 officially adjourned.



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JARVIS EL-AMIN
HODGES V. PASSIDOMO

November 21, 2024

1

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

KÉTO NORD HODGES, et al.,

Plaintiffs,

vs.

Case No: 8:24-CV-879

KATHLEEN PASSIDOMO, et al.,

Defendants.

_____/

DEPOSITION OF JARVIS EL-AMIN

DATE: November 21, 2024

TIME: 2:01 p.m. to 3:51 p.m.

LOCATION: Videoconference-Zoom

SETTING FIRM: Shutts & Bowen - Tallahassee

REPORTER: Jill Saravis-Regan, Court
Reporter and Notary Public for
The State of Florida at Large

FILE: J12008347

JARVIS EL-AMIN
HODGES V. PASSIDOMO

November 21, 2024

2

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JARVIS EL-AMIN
HODGES V. PASSIDOMO

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EXAMINATION INDEX

JARVIS EL-AMIN

DIRECT BY MS. HARLE 4

EXHIBIT INDEX

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4

1 THEREUPON,

2 JARVIS EL-AMIN,
3 a witness, having been first duly sworn, upon his oath,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MS. HARLE:

7 Q. Good afternoon, Mr. El-Amin. My name is Denise
8 Harle. I'm one of the attorneys for the Florida Senate in
9 this case.

10 Could you please state and spell your name for the
11 record?

12 MR. SHAW: I think -- before we start, are we --
13 (Thereupon, a discussion was held off the record.)

14 BY MS. HARLE:

15 Q. Will you please state and spell your name for the
16 record?

17 A. Jarvis Karin El-Amin, Jarvis is J-a-r-v-i-s;
18 Karin is K-a-r-i-n; El-Amin is E-l, hyphen, capital "A,"
19 m-i-n.

20 Q. Thank you. Did you attend yesterday's deposition
21 of Ms. Garcia in this case?

22 A. No.

23 Q. All right. Have you -- do you understand that
24 you're being deposed under oath today? Meaning, your
25 testimony is subject to penalty of perjury.

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5

1 A. Yes, ma'am.

2 Q. Do you -- let's see. Have you ever been deposed?

3 A. Yes.

4 Q. Okay. Tell me about all of the other times
5 you've been deposed, please.

6 A. I can't recall.

7 Q. Okay. Do you recall any times that you've been
8 deposed previously?

9 A. No.

10 Q. Okay. Have you -- have you been a witness and
11 sat for a deposition before?

12 A. Repeat your question. I can't understand what
13 you're saying.

14 Q. Sorry. Have you been deposed before today?

15 A. Yes.

16 Q. Okay, when were you deposed?

17 A. I don't remember. A long time ago.

18 Q. Were you previously deposed one time or more than
19 one time?

20 A. One time.

21 Q. Was it a criminal matter or a civil matter?

22 A. I don't recall.

23 Q. Were you a party to the dispute?

24 A. I can't remember, ma'am.

25 Q. What was the nature of your deposition testimony;

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6

1 what was the subject matter?

2 A. I don't remember.

3 Q. Is there anything at all that you remember about
4 your previous deposition; where it happened, who was
5 involved, which court it was related to?

6 A. All I remember is it was a long time ago in
7 Miami, I'm sorry.

8 Q. Okay. You -- was it 30 years ago, can you give
9 me a ballpark estimate?

10 A. I can't recall how many years, ma'am.

11 Q. Do you think it was more than ten years ago?

12 A. I cannot say.

13 Q. Were you a defendant in the case?

14 A. I don't remember, ma'am.

15 Q. Have you ever testified in court?

16 A. Could you clarify what you mean by that?

17 Q. Have you ever given testimony in a court of law?

18 A. Yes.

19 Q. Okay. Have you done that more than one time?

20 A. I don't recall, ma'am.

21 Q. Is there only one time you recall previously
22 giving testimony in court?

23 A. One time I remember.

24 Q. Okay. Can you tell me about that time, please?

25 A. I don't remember what it was. I was young, I

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7

1 don't remember.

2 Q. Was it the same matter that you gave the
3 deposition in?

4 A. No, I don't remember, ma'am.

5 Q. Mr. El-Amin, when you testified in court
6 previously, was that in a civil case?

7 A. I don't remember. I think it was civil, I'm not
8 remembering for certain.

9 Q. Were you a party in that lawsuit?

10 A. I don't remember, ma'am.

11 Q. What were the civil claims, or what was the
12 subject matter of the dispute that you testified in court
13 about?

14 A. I don't recall, ma'am.

15 Q. Was that here in Florida?

16 A. Yes.

17 Q. What city was that in?

18 A. Miami.

19 Q. Can you estimate what year or what decade your
20 court testimony occurred in?

21 A. It could have been the late 70s.

22 Q. Do you remember anyone else who was involved in
23 that case that you can identify?

24 A. No, I don't.

25 Q. How did you get involved in the case where you

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8

1 testified in court?

2 A. I don't remember, ma'am.

3 Q. And the previous deposition testimony you gave,
4 was that also here in Florida?

5 A. Could you clarify what you said?

6 Q. Earlier, you told me that you had been deposed
7 before. I'm asking, did that occur here in Florida, your
8 deposition?

9 A. Yes.

10 Q. Okay. What city was that in?

11 A. It could have been Miami. I'm not certain.

12 Q. And are you able to give me an estimated decade
13 when that occurred?

14 A. No, ma'am.

15 Q. We'll just to go over a few ground rules for
16 today. So far you seem to be doing well on all of these,
17 but I just need to make sure that you give a verbal
18 response to all of my questions; that you're careful not
19 to interrupt me or talk over me. If you have any trouble
20 understanding my question, please just ask me to rephrase
21 or try it again. I'm happy to do that.

22 If you do answer my question, that answer will be
23 under oath, and we will all assume that you understood my
24 question and the answer you gave is binding and accurate.

25 If at any point, seeing a document would help you

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1 refresh your recollection or your understanding, please
2 just let me know and I'll be happy to try to assist you on
3 that.

4 If at any point you need a break, I'm also happy to
5 accommodate that as well, just let me know. We'll find a
6 good stopping point.

7 Your attorney may object to some of the questions I
8 today, but unless your attorney instructs you not to
9 answer, you do still need do go ahead and answer the
10 question.

11 Does all of that make sense?

12 A. Yes, ma'am.

13 Q. Thank you. Could you please state your address,
14 your current residence?

15 A. 4818 East 99th Avenue, Tampa, Florida 33617.

16 Q. And when did you move there?

17 A. I moved there initially in 1989. For two years,
18 I moved away, and came back in 2003 to current.

19 Q. In that exact same address?

20 A. Excuse me, not 2003, 2005.

21 Q. Okay, so just to clarify, you've lived at your
22 current address, 4818 East 99th Street in Tampa -- excuse
23 me, East 99th Avenue in Tampa since 2005?

24 A. I initially moved there in 1989 and stayed away
25 from there from 2003 to 2005. I moved back there in 2005.

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10

1 I've been there since 2005.

2 Q. And is that a house?

3 A. Yes, ma'am, yes.

4 Q. Do you own the house?

5 A. Yes.

6 Q. Is there any chance that you're aware that you
7 might be moving in the next year or two?

8 A. No chance.

9 Q. What's your educational background since high
10 school?

11 A. I have high school diploma and some college.

12 Q. Where did you attend college?

13 A. I attended Miami-Dade Junior College and
14 Hillsborough County Community College.

15 Q. Sir, after college, what did you do after leaving
16 college?

17 A. Well, opened up the restaurant business.

18 Q. Was that -- was that in the Miami area?

19 A. In Miami.

20 Q. And how long did you work in the Miami -- excuse
21 me, the restaurant business in Miami?

22 A. About five years, six years.

23 Q. What did you do after that?

24 A. I went into salesmanship. I worked for a company
25 doing sales.

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11

1 Q. And what kind of sales?

2 A. Insurance.

3 Q. How long did you do insurance sales?

4 A. I don't recall, a couple of years.

5 Q. And what did you do after that for a line of
6 work?

7 A. Entrepreneurship, working at flea markets.

8 Q. Did you say flea markets?

9 A. Yes, ma'am.

10 Q. Is that what you still do, nowadays?

11 A. No.

12 Q. Okay. You don't do entrepreneurship now -- or do
13 you do entrepreneurship now?

14 A. Yes.

15 Q. Okay. Well, maybe we'll start there and then we
16 can work backwards if we need to. What -- tell me about
17 your current employer, please.

18 A. I have my own company, Enhancement Enterprises.
19 I do sales training and consulting.

20 Q. What's the name of your business?

21 A. Enhancement Enterprises.

22 Q. How long have you owned that business?

23 A. Fifteen years.

24 Q. Do you have a physical office location?

25 A. No.

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1 Q. Have you ever worked for a political
2 organization?

3 A. Yes.

4 Q. Which political organization have you worked for?

5 A. I worked for specific engagement -- I don't know
6 if it's political -- Florida Rising

7 Q. I'm sorry, what was it called?

8 A. Florida Rising.

9 Q. Florida Rising, okay. And what does Florida
10 Rising do?

11 A. Specific engagement.

12 Q. Can you tell me more specifically some of the
13 particular activities of Florida Rising?

14 A. Yes, it's canvassing about particular issues in
15 the community, all people, about different issues in the
16 community and educate people through the voting process.

17 Q. And when did you work there?

18 A. Recently, from July to -- this year, July to
19 September of 2024; July, 2024, to September.

20 Q. So you worked with Florida Rising for three or
21 four months earlier this year. Is that right?

22 A. Forty-five days.

23 Q. Okay, and how did you get involved with Florida
24 Rising?

25 A. Just knew of the work that they do in the

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1 community.

2 Q. Where -- geographically, where did you do your
3 work for Florida Rising?

4 A. In the Tampa Bay area.

5 Q. Anything more particular or is it the whole
6 entire Greater Tampa Bay area?

7 A. Inside of Tampa.

8 Q. Was it certain areas inside of Tampa?

9 A. No.

10 Q. Was there any particular reason why you focused
11 on doing the Florida Rising work inside Tampa?

12 A. I don't understand that question.

13 Q. Well, you told me that Florida Rising does
14 specific engagements and that you've worked with them on
15 specific engagements inside of Tampa. So out of the
16 Greater Tampa Bay area -- just curious -- was there any
17 reason why your focus was inside the City of Tampa?

18 A. No.

19 Q. What particular issues did you work on with
20 Florida Rising?

21 A. Affordable housing.

22 Q. I'm sorry, say that one more time.

23 A. Housing.

24 Q. Housing. Affordable housing. Anything else?

25 A. And high electric bills.

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1 Q. Anything else?

2 A. That's it.

3 Q. Other than Florida Rising, have you ever worked
4 for a political organization or a civic engagement
5 organization?

6 A. No.

7 Q. Have you ever worked for a legal organization?

8 A. No.

9 Q. Are you currently involved in any civil rights
10 organization?

11 A. Could you clarify what you mean by "civil rights
12 organization"?

13 Q. Are you currently involved in any voting rights
14 organizations?

15 A. Could you clarify what you mean by "voting rights
16 organization"?

17 Q. Are you currently involved with any organization
18 that works on issues related to voters and voting?

19 A. Yes.

20 Q. Okay, and what organization is that?

21 A. NAACP.

22 Q. And are you an officer with NAACP?

23 A. No.

24 Q. Are you a member of NAACP?

25 A. Yes.

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1 Q. How long have you been a member of NAACP?

2 A. I can't recall the exact date.

3 Q. Can you estimate?

4 A. Maybe five years.

5 Q. And what does the NAACP have to do with respect
6 to voting?

7 A. Civic engagement.

8 Q. What do you mean by "civic engagement"?

9 A. Encouraging people to participate in the
10 political process.

11 Q. And what do you do as a member of NAACP in terms
12 of that organization?

13 A. (inaudible).

14 Q. What do you do in terms of activities within the
15 NAACP organization? You personally.

16 A. I sit on the executive committee.

17 Q. Do you sit on the executive committee?

18 A. Yes.

19 Q. But you're not an officer?

20 A. No.

21 Q. Okay. Do you have a title on the executive
22 committee?

23 A. Executive Committee Member At Large.

24 Q. Does the NAACP do advocacy relating to black
25 voters specifically?

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1 A. No.

2 Q. Are you a member of any other organization or are
3 you involved with any other community organization that
4 focuses on issues relating to black residents of the Tampa
5 area?

6 A. No.

7 Q. Are you a member of City of Tampa Racial
8 Reconciliation Committee?

9 A. Yes.

10 Q. Okay, and what does that organization do?

11 A. Well --

12 MR. SHAW: Object to form.

13 Go ahead and answer.

14 THE WITNESS: Well, it hasn't been formed yet.

15 It's just been made by the city counsel. It hasn't
16 been formed. We haven't even had its first meeting.

17 BY MS. HARLE:

18 Q. Are you involved in any other community
19 organization that focuses on particular groups or
20 subgroups of people?

21 A. What do you mean by that?

22 Q. Well, one of the issues of the case is, you know,
23 you talking and complaining about communities of interest.
24 So are there any other organizations you're involved with
25 actively that focus on certain communities of interest,

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1 whether that be voters, black residents, religion,
2 anything at all?

3 MR. SHAW: Object to form.

4 You can answer it.

5 THE WITNESS: I'm involved with my faith
6 community. The same way --

7 BY MS. HARLE:

8 Q. Very good. What -- okay.

9 A. The same way in terms of civic engagement.
10 And --

11 Q. Okay. And are -- is there a -- I'm sorry, I
12 interrupted you.

13 A. Yes. I'm involved in my faith community and
14 civic engagement educating them to the voting process.

15 Q. And is that an organized involvement with a
16 particular group, or is that something more organic?

17 A. Organic.

18 Q. In other words, is there a specific group with a
19 group name that you are involved with in your faith
20 community?

21 A. No.

22 Q. Are you familiar with a Nasr Community
23 Development Corporation?

24 A. Yes.

25 Q. Okay. And what is that?

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1 A. That is a community development organization,
2 it's called "Nasr." "An-Nasr" means help. It does youth
3 development, youth entrepreneurship, and training youth in
4 lower income communities teaching them about
5 entrepreneurship. I'm one of the founding members of
6 that.

7 Q. That's great. Are you familiar with the
8 Jacksonville Masjid of Al-Islam?

9 A. Could you repeat the question?

10 Q. Well, I might be saying it wrong, but are you
11 familiar with the Jacksonville Masjid, M-a-s-j-i-d, of
12 Al-Islam?

13 A. I'm familiar with it because it is a part of a
14 African-American Muslim Association that I'm familiar
15 with, and it's called Jacksonville Masjid. "Masjid" means
16 "place of worship."

17 Q. Are you actually involved in that organization or
18 just aware of it?

19 A. Just aware of it.

20 Q. How about the Masjid and Nasr, are you familiar
21 with that organization?

22 A. Yes.

23 Q. Are you involved with that organization?

24 A. Yes.

25 Q. Are you the vice chairman of that organization?

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1 A. Yes.

2 Q. Okay, and what does that organization do?

3 A. It is a community that do outreach in the
4 community; food pantry, social concerns, youth
5 development, and mentoring young, new Muslims into the
6 Islamic faith.

7 Q. So does that organization have any participation
8 on the civic engagement front?

9 A. No.

10 Q. Is there any other voting-related activities that
11 you're involved with that I haven't asked about yet?

12 A. No.

13 Q. Okay. Did you at one time participate in a tax
14 payer-funded voter education program in Hillsborough's
15 black community?

16 A. Repeat the question.

17 Q. Did you at one time participate in a tax
18 payer-funded voter education program in Hillsborough's
19 black community?

20 A. No, I didn't.

21 Q. Do you know someone named Buddy Johnson?

22 A. Yes, I do.

23 Q. Okay. Did you participate in a voter education
24 program, Buddy Johnson? Does that refresh you memory?

25 A. It was a campaign event. He was running for

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1 re-election. In his campaign, I did some consulting work
2 for him, for his campaign; not for the supervisor election
3 office.

4 Q. So it was a -- was it a one-time campaign event,
5 or you're you saying you worked for his campaign?

6 A. I did consulting work for his campaign.

7 Q. Over what period of time?

8 A. I can't recall the dates. It's been a quite a
9 while ago.

10 Q. And who paid you for that?

11 A. Each campaign paid my company, my consulting
12 company.

13 Q. Is that a consulting company that you still
14 currently operate?

15 A. No.

16 Q. Other than working with Buddy Johnson, have you
17 done any other campaign consulting?

18 A. Yes, I have.

19 Q. Okay. And please tell me the candidates or
20 issues or groups that you've done campaign consulting.

21 A. It's been quite a few, so I'll name as many as I
22 can remember.

23 Q. Thanks.

24 A. I worked with Bob Buckhorn when he ran for Mayor.
25 I worked for Kevin Beckner. I worked with Sandra Murman.

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1 I worked with Betty Reed. Just to name a few.

2 Q. Have you ever been an outreach coordinator for a
3 campaign?

4 A. Yes.

5 Q. Okay, and when was that?

6 A. I worked with David Strauss campaign, 2019. I
7 was the Urban and Muslim outreach coordinator.

8 Q. And what did you do in your capacity as an
9 outreach coordinator for that campaign?

10 A. I reached to the black voters and Muslim voters
11 and discussed his campaign with those people.

12 Q. And was your outreach focused on a particular
13 geographic area?

14 A. Yes.

15 Q. Which geographic area was your outreach focused
16 on?

17 A. The Urban core and the Muslim community.

18 Q. Was all of that within the city of Tampa?

19 A. Yes.

20 Q. And where -- if you can just sort of give me a
21 rough idea -- is the urban core of Tampa, toward the north
22 or the east or the south, somewhere else?

23 A. Central east.

24 Q. Is there any other time that we haven't discussed
25 that you worked on voting issues or campaign issues or

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1 partisan issues?

2 A. No.

3 Q. Have you ever volunteered as a phone maker in an
4 election?

5 A. Yes.

6 Q. Okay, and when was that?

7 A. A long time ago, when Barack Obama ran for
8 president.

9 Q. Any other time?

10 A. No.

11 Q. And have you ever canvassed for an election?

12 A. Yes.

13 Q. And when was that?

14 A. When Barack Obama ran for president.

15 Q. Any other time?

16 A. When I was hired for campaigns. Any of those
17 campaigns I mentioned to you, I did some canvassing with
18 those campaigns.

19 Q. Besides this lawsuit, have you ever been involved
20 in a civil lawsuit as a party?

21 A. No.

22 Q. Have you ever been convicted of a crime?

23 A. Say it again, ma'am.

24 Q. Have you ever been convicted of a crime?

25 A. I had a case that was in a Federal court that was

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1 a pre-arrangement I made. I'm not certain. My lawyers
2 know that it wasn't -- was told through litigation I
3 wasn't convicted. I'm not certain of that.

4 Q. And do you recall what year that was in?

5 A. 2000; twenty-four years ago. It's been quite a
6 while ago.

7 Q. And what were the charges?

8 A. It was credit card -- no, it was social security
9 identity and mail fraud.

10 Q. And I think you said you plead no contest, or you
11 said you were convicted?

12 A. It was a plea agreement; I made a plea with the
13 U.S. Attorney's Office.

14 Q. Have you ever plead no contest to a crime?

15 A. I can't recall.

16 Q. Are there any other times that you recall when
17 you were convicted of a crime?

18 A. No.

19 Q. Do you recall pleading no contest to a first
20 degree domestic violence battery in the year 2000?

21 A. No. I had problems with my daughter and that
22 case was dissolved in anger management. I don't recall
23 pleading guilty to the charge.

24 Q. And, so, you don't recall whether you were
25 convicted of that?

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1 A. No.

2 Q. And the earlier -- the other incident you
3 described with the identity and the mail fraud, and the
4 plea agreement, what did you say was the ultimate penalty
5 or punishment of that case?

6 A. Yes. It was three years, 36-month regular
7 probation at six months.

8 Q. Are there any other times that you have been
9 convicted of a crime or plead no contest to a crime?

10 A. I can't recall.

11 Q. Okay. Do you recall a time in 2005 where there
12 was a felony information filed against you for a criminal
13 incident?

14 A. Some of the things that you mentioned have been
15 over 20 years ago, so I may not recall them clearly. So
16 if you can, refresh my recollection.

17 Q. The reason -- you know, the reason I'm exploring
18 this is, just, in the Federal Courts when someone has been
19 convicted of a crime or pled no contest to a crime that is
20 subject to a year or more in prison, that's something that
21 actually can become relevant in the case; so I'm just
22 trying to figure out what happened in some of your
23 background here.

24 So have you ever lost your voting rights at any point?

25 A. I'm not sure that I'd lost my voting rights.

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1 Because what happened was, action was taken, but -- and I
2 was on probation. And when they resolved the probation,
3 they gave me any passport back. So I don't recall losing
4 my voting right.

5 Q. Do you recall ever having to take steps to
6 restore your voting rights?

7 A. No.

8 Q. Do you recall ever having to pay any criminal
9 fees or costs or restitution related to the felony?

10 A. Yes.

11 Q. Okay, and as far as you know, do you have any
12 outstanding costs that you need to pay related to the
13 felony at this point?

14 A. No outstanding costs. They -- all was paid.
15 They wouldn't have let me off probation with it. That's
16 the only thing.

17 Q. Have you ever been a party to any bankruptcy
18 proceedings?

19 A. Yes.

20 Q. How many times?

21 A. Three times.

22 Q. Did those end up involving any court testimony?

23 A. I don't recall.

24 Q. Do you recall what years those bankruptcies were?

25 A. No.

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1 Q. All right. Tell me, just in your own words, if
2 you will, why you're bringing this lawsuit challenging the
3 map?

4 A. Well, I was put in touch with one of the
5 attorneys and discussed representation, fair
6 representation, for the community in which I live in. And
7 fairness and equity is all I can say.

8 Q. Okay. Well, let me be clear. I don't want you
9 to ever tell me anything you said to your attorney or
10 anything your attorneys have said to you, but I would like
11 it if you would be able to unpack a little bit more why
12 you think that fairness and equity support your current
13 legal challenge to the map.

14 A. I just think representation matters and -- I'll
15 leave it there.

16 Q. And what is it about the map that you're
17 challenging that you think harms fair representation?

18 A. Well, I'm not an expert on maps, but I can tell
19 you for certain that the only reason I can see that you
20 would take one group of people and lock them across the
21 bay to another group of people, would be to put people
22 that look alike in all in one area. I don't think that
23 it's fair.

24 Q. And when you say "people that look alike," what
25 kinds of people are you talking about?

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1 A. Black people.

2 Q. Okay. And, so -- and do you think it's unfair to
3 have black voters in the same district as other black
4 voters?

5 MR. SHAW: Object to form.

6 Go ahead and answer.

7 THE WITNESS: I didn't say that. If you -- you
8 can ask me the question another way, but that ain't
9 what I said. But you can ask me a question.

10 BY MS. HARLE:

11 Q. Yeah, so what's unfair about having groups of
12 black voters in the same district?

13 A. Nothing.

14 MR. SHAW: Object to form.

15 Go ahead and answer.

16 THE WITNESS: Nothing.

17 BY MS. HARLE:

18 Q. Okay. Well, then what's unfair about the map
19 you're challenging?

20 A. Like I said, I'm not an expert on maps, but I
21 know that people on this side of the bay and the
22 Hillsborough side of the bay have different issues and
23 concerns than people that live in South St. Petersburg,
24 even though they're going to be the same color. They got
25 different issues, different concerns, and they process

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1 issues differently.

2 Q. And what are some of the issues that the voters
3 on the one side of the bay would see differently than
4 voters on the other side of the bay?

5 A. I'll just say this, I'm not an expert on what
6 other people see, but I do know the issues are different.
7 Very -- they're different.

8 Q. Okay. Yeah. Tell me what those very different
9 issues are.

10 A. I'm not an expert on what the issues are, but
11 I'll give you one example. Housing is different on this
12 side of the bay than it is in South St. Petersburg.

13 Q. And in your perspective, what are the housing
14 issues that are of concern on the Tampa side?

15 A. I think that the housing issues concerned on the
16 Tampa side is affordability and gentrification.

17 Q. Do you know if there's any housing issues of
18 concern on the St. Pete side of the bay?

19 A. No.

20 Q. Are there any other issues you can think of that
21 are very different from Tampa and St. Pete?

22 A. The way crime is addressed.

23 Q. Tell me more about that.

24 A. Well, policing one area, small area, can be
25 different from policing a larger area that's more diverse.

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1 Q. What's -- what police in a small area are you
2 referring to?

3 A. Well, we're talking about South St. Petersburg.

4 Q. Okay. And so what's the different in policing
5 between South St. Petersburg and policing in Tampa, if
6 there is any difference.

7 A. One is policing an almost all-black community,
8 and one is policing a more diverse area with people of
9 different diverse backgrounds.

10 Q. And which area is almost all black?

11 A. South St. Petersburg.

12 Q. I'm making sure that I don't miss anything. So
13 are there any other issues that jump out to you that are
14 very different than the two areas of the district that
15 you're challenging?

16 A. No, those are the main two.

17 Q. Other than your attorneys, who have you spoken
18 with about this lawsuit?

19 A. My wife.

20 Q. Anybody else?

21 A. I briefly spoke to Mr. Keto Nord.

22 Q. Another plaintiff in this case?

23 A. Right.

24 Q. And I don't want you to tell me what you guys
25 talked about, but was that -- do you remember roughly when

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1 you spoke to him?

2 A. After the case was filed in court.

3 Q. Shortly after it was filed, or more recently?

4 A. Shortly after it was filed.

5 Q. Okay. Do you know any of the other plaintiffs in
6 this lawsuit in a personal capacity?

7 A. No.

8 Q. And other than Mr. Nord Hodges, have you spoken
9 with any of the other plaintiffs?

10 A. No.

11 Q. During the redistricting process that resulted in
12 the maps at issue in this case, did you communicate with
13 any members of staff of the Florida legislature?

14 A. No, I did not.

15 Q. When the redistricting process was going on that
16 resulted in the map you're challenging, were you aware
17 that redistricting was happening?

18 A. I saw pictures recently. Pictures just on the
19 news, and just a sound-bite on the news talking about it,
20 that's it.

21 Q. Do you remember what year that was?

22 A. Sometime this year.

23 Q. After the redistricting was done and the new map
24 you're challenging was selected, did you communicate at
25 that point with any members or staff of the Florida

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1 legislature?

2 A. No, I did not.

3 Q. At any point during or after the redistricting
4 process, have you communicated with any members of the
5 media regarding the redistricting process or the map?

6 A. Would you repeat the question again?

7 Q. Well, maybe I can just say it this way. Have you
8 communicated with any members of the media regarding the
9 redistricting process or the resulting map?

10 MR. SHAW: Object to form.

11 You can go ahead and answer.

12 THE WITNESS: I spoke to -- not directly to the
13 media -- some people on my attorneys, just for the
14 press release together, and ask for a statement from
15 me.

16 BY MS. HARLE:

17 Q. Okay. If I understood you, your attorneys put
18 together press releases on this case. Is that what you
19 said?

20 A. There was somebody on my attorney's staff that
21 said they was putting together a press --

22 MR. SHAW: Don't say what you discussed in the
23 attorney's office.

24 BY MS. HARLE:

25 Q. So have you -- but have you ever spoken directly

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1 with a member of the media regarding the redistricting
2 process of map --

3 A. No.

4 Q. Okay.

5 A. No, I have not spoken directly to the media.

6 MR. SHAW: Hey, Denise, we're almost at an hour
7 and I need to use the restroom. Is now a good time
8 for a -- like, a five-minute break?

9 MS. HARLE: This is just fine, yes.

10 (Thereupon, a short break was taken.)

11 BY MS. HARLE:

12 Q. All right. Mr. El-Amin, have you made any
13 statements to any of the community organizations that
14 you're involved with regarding this lawsuit?

15 A. No.

16 Q. Have you made any social media posts about this
17 lawsuit?

18 A. No.

19 Q. What social media apps or accounts do you have?

20 A. I have Facebook and Instagram.

21 Q. Do you have X, or Twitter?

22 A. No.

23 Q. Do you have LinkedIn?

24 A. Yes, but I don't use it.

25 Q. Do you have a TikTok?

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1 A. No.

2 Q. Are you currently a registered voter?

3 A. Yes.

4 Q. Have you voted in every state's senate election
5 since you have been 18?

6 A. Yes.

7 Q. When was the most recent time that you voted in a
8 state senate election?

9 A. I think two years ago.

10 Q. Did you vote in the election -- the election we
11 just had in November for any -- in any capacity for any of
12 the elections involved?

13 A. Yes. Yes.

14 Q. You did. Do you know any reason why you wouldn't
15 show up on the Secretary of State's voter registration
16 rolls?

17 A. No.

18 Q. Is your polling place still at Temple Terrace
19 United Methodist Church?

20 A. Yes.

21 Q. Have you seen any of the alternative maps
22 involved in this lawsuit? In other words, if we didn't
23 have the challenge map, some different maps that you in
24 your complaint say would be preferable. Have you seen
25 those maps?

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1 MR. SHAW: Object to form.

2 Go ahead.

3 THE WITNESS: Yes, I've seen some maps.

4 BY MS. HARLE:

5 Q. Let's pull up the complaint. So if we have some
6 exhibits today, my colleague Leila is going to share her
7 screen. Hopefully you'll be able to see it. Just let us
8 know if you need us to zoom in or zoom out, or if we need
9 to try to get it to you in some other format, we'll do
10 that as well.

11 So looking at the complaint --

12 MS. HARLE: And, Jill, this will be I guess
13 Exhibit 1, LLE-1.

14 (The document referred to was marked for identification as
15 Exhibit No. LLE-1.)

16 BY MS. HARLE:

17 Q. Let's look, just for example, at -- well, I'll
18 start with this question. Did you read the complaint
19 before it was filed?

20 A. Briefly, not fully.

21 Q. I'm sorry, what did you say?

22 A. I read it briefly.

23 Q. And did you approve of everything in the
24 complaint before it was filed?

25 A. Yes.

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1 Q. Let's look at paragraph 6 and 7. Do you need
2 time to read that -- the gist of these?

3 And my question will be, in these allegations, you
4 alleged, for example, in paragraph 6, quote, the
5 legislature elevated race above all other considerations.
6 And then in paragraph 7, it says, quote, the legislators
7 and their staff reportedly drew these districts in a race-
8 predominate manner to avoid the diminishment of black
9 voters' ability to elect representatives of their choice.

10 So my question is, what facts do you know is related
11 to the legislature's racial motive in drawing the maps?

12 A. I'm not an expert on maps. All I know is that to
13 put -- go across a body of water and put one group in
14 South St. Pete, in with the Hillsborough side, don't seem
15 as fair to me.

16 Q. And do you personally know any facts that
17 indicate that the legislature's predominant criteria in
18 drawing District 16 was race?

19 MR. SHAW: Objection to form.

20 Go ahead and answer.

21 THE WITNESS: No, like I said, I just don't see
22 putting one body of South St. Pete and up and into
23 Tampa as being fair.

24 BY MS. HARLE:

25 Q. Do you personally know any facts indicating that

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1 a legislature's central consideration in the overall
2 map-making process was race?

3 MR. SHAW: Object to form.

4 Go ahead.

5 THE WITNESS: No.

6 BY MS. HARLE:

7 Q. Is there a certain percentage of black voting age
8 population that you think should be in District 16?

9 A. No.

10 Q. Do you know how the crime percentage of black
11 voting age population in District 16 compares to the
12 percentage and of black voters' population under the prior
13 map?

14 A. No.

15 Q. Are you familiar with the history of the district
16 boundaries of Hillsborough and Pinellas Counties?

17 MR. SHAW: Object to form.

18 THE WITNESS: Somewhat.

19 BY MS. HARLE:

20 Q. Okay. And what do you know about the history of
21 those district lines in Hillsborough sand Pinellas County?

22 A. I know it --

23 MR. SHAW: Object to form.

24 Go ahead.

25 THE WITNESS: I know it's drawn similar to the

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1 way it's not. It was wrong then and it is wrong now.

2 BY MS. HARLE:

3 Q. So are you aware that the communities currently
4 combined in District 16 have been combined in a -- in the
5 same district since the early 1990s?

6 A. Yes, ma'am, I'm aware of that. It was wrong
7 then, and it's wrong now. Unfair then, and it's unfair
8 now.

9 Q. Before filing this lawsuit, have you ever done
10 any advocacy or spoken out against the district boundaries
11 combining those parts of Hillsborough and Pinellas?

12 A. No.

13 Q. Have you ever spoken about the issue with the
14 NAACP?

15 A. No.

16 Q. Looking at paragraph 11 of your complaint, that
17 paragraph says that, quote, The legislature sacrificed the
18 genuine communities of interest.

19 So my question is which communities of interest are
20 you referring to there?

21 A. It would be faith community, black community,
22 civic community that vote.

23 Q. Did you say the faith community?

24 A. Faith communities, black community, and civic
25 communities that vote.

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1 Q. What do you mean by the civic community that
2 votes?

3 A. People that live in that community can vote.

4 Q. And where do you define the community? Are there
5 certain boundaries?

6 MR. SHAW: Object to form.

7 Go ahead.

8 THE WITNESS: Community of Hillsborough.

9 BY MS. HARLE:

10 Q. Oh, okay. So in your view, is Hillsborough
11 County a genuine community of interest?

12 MR. SHAW: Object to form.

13 Go ahead.

14 THE WITNESS: The community interest is that --
15 is the areas in Hillsborough that the map been drawn
16 for. There's a community interest.

17 BY MS. HARLE:

18 Q. And what are the shared -- if there are any, what
19 are the shared characteristics of these members of these
20 communities of interest? I just want to get more details
21 of, you know, who exactly you're talking about?

22 A. I don't understand your question. Could you
23 repeat the question and clarify what you're saying?

24 Q. Yeah. What do you understand "communities of
25 interest" to mean?

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1 A. Anybody that shared the same interest of
2 representation.

3 Q. And how many communities of interest do you
4 allege are sacrificed under the map you're challenging?

5 MR. SHAW: Object to form.

6 Go ahead.

7 THE WITNESS: Community interest would be the
8 communities that has already been assigned to the maps
9 that -- that the legislature had put together.

10 BY MS. HARLE:

11 Q. And where your complaint says the legislature
12 sacrificed genuine communities of interest, I'm just
13 asking, can you describe for me which communities of
14 interest are sacrificed under the map?

15 A. The greatest one is the black community.

16 Q. The black community where?

17 A. In Hillsborough County.

18 Q. Any other communities of interest that are
19 sacrificed, in your view, under the map?

20 A. Yes.

21 Q. Okay, please tell me.

22 A. South St. Petersburg.

23 Q. Is certain people in South St. Petersburg, or all
24 people in South St. Petersburg?

25 A. Like I said, I'm not an expert on the map, but

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1 the only other reason I can see predominant people that
2 live in South St. Petersburg, black men, lumped into
3 Hillsborough County. It's simply sacrifices interests of
4 both black communities.

5 Q. Okay. So in your view, is South St. Petersburg
6 itself a community of interest?

7 A. Yes, ma'am.

8 Q. Are there any other communities of interest that
9 you believe are sacrificed in the map you're challenging?

10 A. No.

11 Q. Do you believe that communities of interest could
12 be based on a political party?

13 A. I'm not sure.

14 Q. Do you think that communities of interest might
15 be based on religion?

16 A. I don't know.

17 Q. Do you think that communities of interest might
18 be based on socioeconomic status?

19 A. I'm not sure.

20 Q. Do you think that communities of interest might
21 be based on sex?

22 A. I'm not sure.

23 Q. And how did you identify the communities of
24 interest that you allege are sacrificed in the plan?

25 MR. SHAW: Object to form.

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1 Go ahead.

2 THE WITNESS: Black voters.

3 BY MS. HARLE:

4 Q. Well, my question was, how did you identify the
5 communities of interest that you allege are sacrificed?

6 MR. SHAW: Object to form.

7 THE WITNESS: I think that -- like I said, I'm
8 not an expert. It's obvious that a predominant black
9 community, South St. Petersburg, was locked into a
10 body of water across the bay into Tampa.

11 BY MS. HARLE:

12 Q. And when did you first form that belief?

13 A. As I said earlier, it's been wrong since it's
14 been designed like that, and it's wrong now.

15 Q. When did you first come to believe that
16 communities of interest are sacrificed under the current
17 district lines?

18 A. I can't give you an exact date.

19 Q. Can you give me a month and year?

20 A. I cannot.

21 Q. Can you give me a year?

22 A. All I can say is, long time ago.

23 Q. And how did you -- how did you come to realize
24 and form the opinion that communities of interest are
25 sacrificed under the district lines?

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1 A. It's very simple for me. One representative
2 trying to represent two sets of citizen's interests being
3 separated by a body of water, instead of one
4 representative for each of the areas. It seems very
5 simple to me.

6 Q. And is it your view that a district should only
7 have one community of interest per district?

8 A. I wouldn't say that. When you're talking about
9 this particular one you're asking me about. I don't have
10 expertise on those districts. I have expertise on this
11 district, the best answer to that question that you're
12 asking.

13 Q. Is it your understanding that a district might
14 have multiple communities of interest?

15 A. It's possible. Everything is possible. But in
16 my opinion, it's wrong then and it's wrong now.

17 Q. And what is it that's sacrificed when South
18 St. Pete black voters are voting for the same
19 representative as voters in Tampa?

20 A. Representation, separately. True representation
21 of their interests and concerns.

22 Q. And what, to you, would allow the voters of South
23 St. Pete to have true representation, in your words?

24 A. A representative that understands the issues and
25 concerns; and, geographically, is there to answer their

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1 concerns.

2 Q. And you don't live in South St. Pete, do you?

3 Sir, do you live in South St. Pete?

4 A. No, I don't.

5 Q. Let's look at -- oh, we're there already.

6 Paragraph 12 says that -- let's see. It's referring to
7 black voters in District 16.

8 It says, the legislature, quote, stripping them from
9 adjacent District 18 and reducing their influence there.

10 So my question would be, do you know of any facts
11 supporting the allegation that the map reduces the
12 influence of black voters?

13 A. No.

14 Q. Here in Paragraph 13, it says that, starting with
15 the third line, quote, Floridians, including individual
16 legislators, called out and questioned the legislature's
17 unconstitutional actions.

18 Do you know that what these Floridians called out and
19 questioned?

20 A. Yes. Representative Driscoll spoke about the
21 maps. I saw that on TV. And that's to the extent that I
22 know about the call out.

23 Q. Okay. And what did the representative Driscoll
24 call out?

25 A. I don't know specifically, but something along

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1 the lines of areas.

2 Q. And what was the legislature's response to that
3 concern?

4 A. I don't know what their response was.

5 Q. Any other incidents you're aware of where
6 Floridians called out and questioned the legislature in
7 redistricting?

8 A. No, ma'am; no.

9 Q. And when did you -- you told me, when did you
10 learn about Representative Driscoll's comments?

11 A. As I said before, it was a soundbite on TV
12 somewhere, sometime, this year in 2024. I can't give you
13 exact date.

14 Q. Okay. I just want to make sure I understood your
15 earlier testimony. Did you say you weren't aware of the
16 redistricting process while it was actually going on, is
17 that right?

18 A. No, I wasn't.

19 Q. Okay. Let's move down to Paragraph 20, please.
20 This says, quote, The inactive plan harms plaintiffs
21 because, among other reasons, it splits up their
22 communities among racial lines and groups their
23 communities with dissimilar ones, unnecessarily, simple
24 because of their race.

25 So my first question is, when this says it splits up

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1 the community -- it's -- your plaintiff -- which community
2 are you referring to there, specifically?

3 MR. SHAW: Object to form.

4 Go ahead.

5 THE WITNESS: Could you show me a picture of the
6 enacted map, so I can see it?

7 BY MS. HARLE:

8 Q. Yes.

9 MS. HARLE: Leila, I think that's figure 3. Are
10 you able to scroll to figure 3? I think it's page 23.

11 THE WITNESS: Is that the enacted map?

12 BY MS. HARLE:

13 Q. That's the enacted map, sir.

14 A. Okay.

15 Q. So the question was, in your allegation, that the
16 plan splits up your community, which community are you
17 referring to specifically?

18 A. Specifically, according to this enacted map, is
19 clearly a mix of southern part of St. Pete, South
20 St. Pete, with Hillsborough split up by a body of water
21 that you can see on the map.

22 Q. Okay, so is your community split up in the map
23 you're challenging?

24 MR. SHAW: Object to form.

25 Go ahead.

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1 THE WITNESS: What do you mean when you say "your
2 community," could you explain that?

3 BY MS. HARLE:

4 Q. Well, your allegation is that you -- is it okay
5 if we scroll back to your allegations so we can see the
6 words that you used?

7 Paragraph 20, your allegation is that the plan splits
8 up your community.

9 So I am asking you, is your community split up under
10 the plan you're challenging?

11 MR. SHAW: Object to form.

12 Go ahead and answer.

13 THE WITNESS: Well, what I'm reading, ma'am, it
14 said "their communities," split up "their communities"
15 along racial lines; and it says, "your community."

16 So could you repeat the question? I'm reading it
17 myself.

18 BY MS. HARLE:

19 Q. So you are a plaintiff, right, sir?

20 A. Ma'am?

21 Q. Are you a plaintiff?

22 A. Yes.

23 Q. Okay, great. So this says, the enacted plan
24 harms plaintiffs because, among other reasons, it splits
25 up "their" -- "their" being the plaintiff, that would be

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1 you -- communities.

2 So I'm asking you, is your community split up under
3 the enacted plan?

4 MS. HARLE: Object to form.

5 Go ahead.

6 THE WITNESS: Yes.

7 BY MS. HARLE:

8 Q. Okay, and what is your community?

9 A. The community of voters that live in Hillsborough
10 County and community voters that live in South St. Pete.

11 Q. Okay, so is your definition -- and you can say no
12 if I'm getting it wrong. But are you defining your
13 community as the voters of Hillsborough and the voters of
14 South St. Pete?

15 A. No. I'm saying that their community is the
16 communities of your enacted map. That is the communities.
17 The enacted plan is the communities I'm talking about,
18 according to the map you showed me a minute ago.

19 Q. Okay, so this allegation says that the plan
20 splits up the plaintiff's communities.

21 Do you understand that?

22 MR. SHAW: Object to form.

23 THE WITNESS: Yes, ma'am, I do.

24 BY MS. HARLE:

25 Q. Do you agree with that?

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1 A. I do agree with it.

2 Q. Okay. So can you tell me yes or no. Is your
3 community split up under the enacted plan?

4 A. Yes, it does.

5 Q. Okay. Can you tell me, how do you view or define
6 your community, sir?

7 A. A community of voters that has similar interests.

8 Q. Okay, great. And what are some of those
9 interests that you and your community share as voters?

10 A. I don't have a list of interests, but I did
11 create some testimony that said we have housing issues,
12 issues of the client's address, gentrification. Those are
13 the ones I mentioned before, and those are the ones I'm
14 mentioning now.

15 Q. Okay, and what is it about the lines that splits
16 up your community of interest?

17 A. Those issues I just mentioned now are addressed
18 differently, based on the geographic location that they're
19 taking place in.

20 Q. And are you split from others in your community
21 into different districts?

22 MR. SHAW: Object to form.

23 THE WITNESS: I don't understand that question.

24 Can you explain and clarify what you're asking?

25 BY MS. HARLE:

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1 Q. Yeah. You've testified, and you allege, that the
2 plan splits up your community. So I'm asking you, what is
3 it about the district lines that splits your community?

4 MR. SHAW: Object to form.

5 THE WITNESS: I'll just say it like this, again.
6 People on different sides of the bay being separated
7 by water have different interests, and they have to be
8 addressed differently by the representative for the
9 district, and representation matters.

10 And the only reason I can see that South St. Pete
11 is locked into the district is because of race.
12 That's the only thing that I can see.

13 MR. SHAW: Denise, I think all of your questions
14 are assuming a certain reading of Paragraph 20 that I
15 don't think is right, and that's why we're having such
16 a who's-on-first disconnect between your questions and
17 his answer.

18 BY MS. HARLE:

19 Q. Mr. El-Amin, is there anyone in your community
20 who's in a different voting district than you in this map?

21 A. I'm not an expert on voting districts, to be
22 honest. I can't answer that question. I don't know for
23 certain, ma'am.

24 Q. Okay, and do you -- what are the dissimilar
25 communities that you allege you're grouped with?

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1 A. Well, let me just answer it this way. There are
2 different issues in South St. Pete than there are, for
3 example, in Temple Terrace in east Tampa. There are
4 different issues that are addressed different by the
5 representative. That's what I mean in this complaint.

6 Q. So is it your -- is it your view that black
7 voters are a community of interest?

8 MR. SHAW: Object to form.

9 THE WITNESS: Yes, ma'am, I would say so.

10 BY MS. HARLE:

11 Q. Is it your view that black voters may have
12 certain issues that they see differently than other black
13 voters?

14 A. Yes.

15 Q. And then just before we move on from that
16 paragraph, it says that, you know, the plaintiffs are
17 split up, the communities are split up, and grouped with
18 dissimilar ones simply because of their race. I just want
19 to make sure, are there any facts you're relying on there
20 when you say the communities were split up and grouped
21 differently because of their race?

22 A. I personally don't have no advice, but it's
23 simply looking at -- in maps, and looking at who lives in
24 south St. Pete and who lives in, for example, in east
25 Tampa and Tampa Terrace. It's different as a race.

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1 Q. Do you know what types of criteria the
2 legislature is allowed to use when drawing district lines?

3 A. I'm not an expert on maps; I honestly don't.

4 Q. Do you know any criteria that the legislature is
5 allowed to use when drawing district lines?

6 A. No.

7 Q. Do you know any criteria that the legislature is
8 required to use when drawing district lines?

9 A. No.

10 Q. Let's look at Paragraph 95 of your complaint.

11 Okay. So this allegation says, quote, these
12 race-based decision resulted in a map that splits up
13 neighborhoods and ignores traditional redistricting
14 criteria.

15 What traditional redistricting criteria do you allege
16 is ignored in the current map?

17 A. Genuine fairness is all I can say.

18 Q. Did you say "fairness?"

19 A. Genuine fairness --

20 Q. Genuine fairness.

21 A. -- is all I can stay.

22 Q. And what's your understanding of how the
23 legislature usually uses fairness as a criteria?

24 A. I'm not sure -- an expert on -- or how they come
25 up with that. All I can say is, it's the way this one is

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1 drawn. It's not giving genuine fairness to me. It's not
2 giving that to me.

3 Q. Are there any other traditional redistricting
4 criteria that you're aware of that you believe that
5 legislature ignored?

6 A. No.

7 Q. And let's look at Paragraph 131.

8 All right. This one says, quote, The legislature
9 lacked good reasons to believe that the enacted plan was
10 necessary to achieve Tier 1 compliance.

11 Do you know what Tier 1 compliance means in your
12 complaint?

13 A. No, I don't.

14 Q. Okay. Did you do anything to confirm the
15 allegations in the complaint before it was filed?

16 MR. SHAW: Before you answer that, do not discuss
17 any conversations that you had with your attorneys or
18 their staff. You can answer if you did anything other
19 than communicate with your attorneys and your staff.

20 THE WITNESS: I'm not at liberty to discuss what
21 I talked about with my attorneys.

22 BY MS. HARLE:

23 Q. And did you do any independent research to verify
24 any of the allegations in the complaint?

25 MR. SHAW: That's a work product inquiry and I'm

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1 instructing him not answer.

2 MS. HARLE: I can't -- I didn't hear that.

3 BY MS. HARLE:

4 Q. Sir, did you do any independent research to
5 confirm any of the allegations in the complaint?

6 MR. SHAW: Objection because it's a work product
7 question. And I'm going to instruct him not to
8 answer.

9 BY MS. HARLE:

10 Q. Sir, did you draft the complaint?

11 MR. SHAW: Denise, you know he didn't draft the
12 complaint.

13 Did you draft the complaint, Mr. El-Amin?

14 MS. HARLE: Then how is it work product?

15 MR. SHAW: Because you're not allowed to ask a
16 litigant about the research that they did about the
17 case. You're not -- just like you're not allowed to
18 ask him about the conversations that he had with his
19 attorney.

20 BY MS. HARLE:

21 Q. All right. Let's look at pages 13 and 14 of your
22 complaints. This is a map called "Plan 42."

23 Have you seen that map before, do you recall?

24 A. Yes.

25 Q. And can you just tell me in your own words what

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1 I -- if you contend this map is better than the enacted
2 map?

3 A. Repeat your question.

4 Q. Yes. Can you tell me, do you contend that this
5 map is better than the map that you're challenging?

6 A. Yes.

7 Q. Okay, and if you could just tell me in your own
8 words, what is it about this map that you think is better
9 than the map that you're challenging?

10 A. Number one, it's all in Hillsborough County, it
11 don't separate no water.

12 Q. Anything else?

13 A. No.

14 Q. And then if we can look at figure 6, I think it's
15 on page 23 or 26 of the complaint. Thank you.

16 Okay, do you recall seeing this map before, sir?

17 A. Yes, I do.

18 Q. Okay, and do you contend that this map is better
19 than the map you're challenging?

20 A. Yes.

21 Q. Okay. And what is it about this map that you
22 think is better than the map you're challenging?

23 A. It's all in Hillsborough County, and it stands a
24 little further south than Hillsborough County.

25 Q. Have you seen any of the maps that your expert

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1 witnesses have proposed in this case?

2 A. I'm not sure.

3 Q. Alright, let's look at your initial disclosures.

4 MS. HARLE: This will be, I guess, Exhibit 2.

5 (The document referred to was marked for identification as
6 Exhibit No. 2.)

7 BY MS. HARLE:

8 Q. Does this document look familiar to you?

9 MS. HARLE: Leila, do you want to scroll down
10 just a little bit so we can see the whole thing.

11 BY MS. HARLE:

12 Q. Do you remember seeing this document before?

13 A. Yes.

14 Q. Okay. On the first page at part A-1, it says
15 there, you'll see your name, Jarvis El-Amin, says you
16 have, quote, have information tending to show that the
17 challenge districts caused harm to themselves and other
18 residents.

19 So the first question is, what is the harm that the
20 challenged district lines caused to you personally?

21 A. Can you explain what you mean by "challenged
22 district?"

23 Q. Yes, sir. I think that is -- well, maybe it's
24 your attorney's words, but in the document that you all
25 submitted there, you say "challenged districts." I --

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1 that should be referring, I assume, to District 16 and 18
2 in the complaint that you're challenging.

3 So the question was, what harm do the challenged
4 districts do to you personally?

5 A. What it does to me personally is, it takes away
6 my chance to have equitable, fair, and good representation
7 in the Florida House of Representatives Senate.

8 Q. Is it your contention that your vote is diluted
9 because of the district lines?

10 A. Repeat that question again, ma'am.

11 Q. Yeah. Is it your contention that your vote is
12 diluted by the district lines?

13 A. I would just answer it the way I just answered
14 it. It just robs me and other people like me in that the
15 community has a chance to have fair and equitable and good
16 representation, addressing concerns of the community.

17 Q. And when you say people like you, who are you
18 referring to?

19 A. Other voters.

20 Q. All other voters?

21 A. Other voters.

22 Q. Which other voters?

23 A. Other voters in the same geographical area that I
24 live in.

25 Q. And you were on the Hillsborough side, sort of

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1 the south, is that right?

2 A. Repeat what you said.

3 Q. You're in Hillsborough in the south part of
4 Tampa?

5 A. Yes.

6 Q. And going back to that sentence, what is the harm
7 that you believe the districts caused to other residents?
8 Is it anything different than when what you just told me?

9 A. There's nothing different than what I just told
10 you; it's the same. It's the same.

11 Q. And then looking down at document -- at Section
12 1D, that's where you shared -- and the other plaintiff
13 shared -- some individuals you believe may have
14 information regarding consideration of race in their
15 districting process.

16 So my question is, on that list --

17 MS. HARLE: And, Leila, can you scroll a little
18 bit?

19 BY MS. HARLE:

20 Q. Do you know of any members of the media
21 specifically who would have information about whether the
22 district lines were drawn primarily based on race?

23 A. No.

24 Q. Any of those names on the list -- can you
25 identify any of the people on the list of people who you

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1 believe have information that would suggest the lines are
2 drawn primarily based race?

3 MR. SHAW: Object to form.

4 Go ahead.

5 THE WITNESS: No.

6 MS. HARLE: Well, that's the end of my questions.

7 Did you want to take a -- I don't know if you're-

8 Did you want to ask --

9 MR. SHAW: I don't have any follow-up questions.

10 We will be ordering a copy. Witness will read.

11 MS. HARLE: We'll order a copy, thank you.

12 MR. SHAW: Okay. Then we'll take one, too.

13 (Thereupon, the deposition concluded.)
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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF COLLIER)

I, the undersigned authority, certify that Jarvis
El-Amin personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 10th day
of December, 2024.

Jill Saravis-Regan

Jill Saravis-Regan
Notary Public-State of Florida
My Commission No.: HH 452361
Expires: 10-09-2027

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REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA)
COUNTY OF COLLIER)

I, Jill T. Saravis-Regan, Certified Shorthand Reporter, and Notary Public, certify that I was authorized to and did stenographically report the deposition of Jarvis El-Amin; that a review of the transcript was requested and that transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties; nor am I a relative or employee of any of the parties' attorney or counsel connected with the action; nor am I financially interested in the action.

DATED this 10th day of December, 2024



Jill T. Saravis-Regan, CSR

JACQUELINE AZIS VOLUME I
KÉTO NORD HODGES vs KATHLEEN PASSIDOMO

November 22, 2024

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

KÉTO NORD HODGES, et al.,

Plaintiffs,

v.

Case No: 8:24-cv-879

KATHLEEN PASSIDOMO, et al.,

Defendants.

_____ /

DEPOSITION OF JACQUELINE AZIS
VOLUME 1 of 1, PAGES 1 through 48

NOVEMBER 22ND, 2024
9:56 A.M. to 11:04 A.M.
ALL PARTIES APPEARING BY ZOOM CONFERENCE

Stenographically Reported By:
SHERITA BOYLE
COURT REPORTER

JACQUELINE AZIS VOLUME I
KÉTO NORD HODGES vs KATHLEEN PASSIDOMO

November 22, 2024

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A P P E A R A N C E S

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Deposition taken by Zoom Conference before
Sherita Boyle, Court Reporter and Notary Public in
and for the State of Florida at Large in the above
cause.

- - - - -

COURT REPORTER: Please raise your right hand.
(Witness complies.)

Do you swear or affirm that the testimony you
are about to give will be the truth, the whole
truth, and nothing but the truth under penalty of
perjury?

THE WITNESS: Yes, I do.

COURT REPORTER: Thank you. We are ready.

THEREUPON,

JACQUELINE AZIS,
having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. HARLE:

Q Good morning, Ms. Azis. Did I say that right?

A Yes, good morning.

Q I am Denise Harle. I am going to be the
attorney for this case for the Florida Senate. Can you
please state and spell your name for the record?

A Yes. Jacqueline Azis, J-A-C-Q-U-E-L-I-N-E,
A-Z-I-S.

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1 Q Thank you. And did you observe Ms. Garcia and
2 Mr. Elmean's deposition in this case earlier this week?

3 A I did.

4 Q Okay. Are you an attorney yourself?

5 A Yes.

6 Q Okay. Well, I will plan to skip over the
7 explanation of what depositions are then, if you're okay
8 with that?

9 A I'm okay with that, yes.

10 Q Great. Is there any reason for not being able
11 to give your best and most truthful testimony today?

12 A No.

13 Q What is your current residential address?

14 A 206 29th Avenue North, St. Petersburg, Florida
15 33704.

16 Q When did you move there?

17 A May of 2019.

18 Q Is that a house?

19 A It's a house, yes.

20 Q And do you own it?

21 A Yes.

22 Q Is there any chance you're aware that you might
23 be moving in the next year or two?

24 A No.

25 Q Can you just tell me your educational

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1 background since high school?

2 A Yes. I went to the University of Florida to
3 receive my Bachelor of Science in journalism, and then I
4 attended the University of North Carolina in Chapel Hill
5 for law school.

6 Q And who is your current employer?

7 A Wenzel, Fenton, and Cabassa.

8 Q What's your position there?

9 A I am an attorney.

10 Q And when did you join that firm?

11 A July of 2024.

12 Q What kind of law do you practice?

13 A It's employment law.

14 Q Is it on the defense side, plaintiff's side, a
15 little bit of both?

16 A Both, yeah. It's mostly a plaintiff's law firm
17 with occasional in defense cases.

18 Q And who was your previous employer before you
19 joined that firm?

20 A The ACLU Foundation of Florida.

21 Q Is that same organization that's the -- your
22 attorneys in this lawsuit?

23 A Yes. I mean, some of them, yes.

24 Q What was your position at ACLU Foundation of
25 Florida?

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1 A I was a staff attorney.

2 Q And when did you first start working at ACLU
3 Foundation of Florida?

4 A February 2017.

5 Q So when this complaint was filed were you --
6 you were working at the ACLU of Florida; is that right?

7 A Can you remind me the filing date?

8 Q It was April 10th, 2024?

9 A Correct. I was still employed there, yes, as a
10 staff attorney.

11 Q Did you work on election cases at the ACLU?

12 A No.

13 Q What kind of cases did you work on at ACLU?

14 A Mostly criminal justice reform, homelessness
15 rights, and first amendment.

16 Q Anything related to voting rights?

17 A Not that I recall.

18 Q How many lawyers do -- does the ACLU of Florida
19 have?

20 MR. SHAW: Object to form.

21 Q You can estimate?

22 A I would have to look at the website. I do not
23 know. I mean, I can ball park, but I'm not sure.

24 Q Do you think it's between 50 and 100?

25 A No.

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1 Q You think less than that?

2 A It's less.

3 Q So did you personally know your current
4 attorney at the ACLU of Florida while you were working
5 there?

6 A I'm trying to remember who is on the papers,
7 but if you can remind me then.

8 Q Yes. It looks like Nicholas Warren. Did you
9 know him when you worked there?

10 A Yes.

11 Q Okay. How about Daniel Tilly?

12 A Yes.

13 Q Caroline McNamera?

14 A Yes.

15 Q Where did you work before the ACLU of Florida?

16 A I worked as an assistant public defender in the
17 5th judicial circuit.

18 Q Where is the 5th Circuit?

19 A It was based in Marion County, which is the
20 Ocala area. There were four other counties within the
21 5th Judicial Circuit, though.

22 Q Was that your first job after law school?

23 A No, it was not.

24 Q What did you do before that?

25 A I spent some time working on a campaign in

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1 Illinois immediately before that.

2 Q And who's --

3 A And before that, I was doing employment law.

4 Q Which campaign did you work on in Illinois?

5 A It was called Illinois Unite For Marriage.

6 Q Was that a paid position?

7 A I don't remember.

8 Q Other than Illinois Unite For Marriage, have
9 you ever worked for any other political organization?

10 A If you could just maybe elaborate on what you
11 mean by "political organization."

12 Q Yeah. Have you ever worked -- have you ever
13 worked for an organization other than what we talked
14 about, any other organization that focused on what you
15 consider civil rights?

16 A No.

17 Q How about --

18 A Well -- sorry. I just -- as, like, an intern,
19 yes.

20 Q Okay. Where was that?

21 A ACLU of North Carolina in the ACLU Capital
22 Punishment Project, if you consider those to be political
23 organizations.

24 Q Okay. Have you ever volunteered with any
25 organizations that worked on voting issues, voting

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1 related concerns?

2 A Yes.

3 Q When was that?

4 A Currently, I am the board president for The
5 League Of Women Voters in the St. Petersburg area.

6 Q And when did you take office as board
7 president?

8 A I believe it was May 2023.

9 Q And before you became president, were you
10 involved as a member of The League Of Women Voters in
11 St. Pete?

12 A Yes.

13 Q Are there any other organizations you've been
14 involved with that worked on issues of voting, voting
15 rights?

16 A Not that I recall at the moment.

17 Q And what does St. Pete League Of Women Voters
18 advocate for?

19 A We have a couple of priorities. Right now our
20 priorities are voting, reproductive rights, social
21 justice, education, and national popular vote.

22 Q By national popular vote, you mean getting rid
23 of the electoral college?

24 A I'll be honest, I'm not a great person to
25 explain it, because that's not an issue I worked a lot

1 on, but I think that's generally what that team is
2 working on.

3 Q Okay. Well, let's go back to the first you
4 when said voting. When you said League Of Women Voters
5 advocating for voting, is there anything more specific
6 about the voting that you all do?

7 A Yes. Making sure that we have an informed
8 electorate. We create a voters guide so people will go
9 with candidates or issues will be on their ballot and we
10 publish candidate's answers to our questions so people
11 can make an informed decision. We also table at events
12 and give people information about how to register to
13 vote. We also host candidate forums or informational
14 forums about issues that people are voting on and things
15 like that.

16 Q In your role as president, do you provide any
17 of the contents for the information that goes out to
18 voters?

19 MR. SHAW: Object to form.

20 Q Either written in the pamphlet or oral?

21 A Sorry. There's just a lot of content that we
22 put out.

23 Q Okay. Do you draft any of the content that
24 goes into the voter guides that you described?

25 A Voters guides? No.

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1 Q Okay. Do you review or edit those -- the
2 voters guides before they go to publication?

3 A No, I do not.

4 Q Do you personally speak at the meetings or
5 events that are open to the public on behalf of League Of
6 Women Voters?

7 A Yes, sometimes.

8 Q Do you -- does League Of Women Voters ever talk
9 about redistricting?

10 A Yes.

11 Q And when in your recollection has the League Of
12 Women Voters spoken out about redistricting?

13 A I cannot remember the exact dates or times, but
14 I know it's something that we've talked about and I think
15 I gave a short comment on redistricting at a meeting
16 once.

17 Q Was that this year?

18 A I think it was earlier this year.

19 Q Okay. Do you know if it was after you filed
20 the lawsuit?

21 A Yes.

22 Q Do you remember if it was -- I mean, can you
23 estimate what month that happened in?

24 A It could have been April or May. It was after
25 the legislative session, because there was a legislative

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1 session recount.

2 Q Do you remember the gist of your comments?

3 A It was a general overview of this lawsuit.

4 Q And who was the audience?

5 A It was at a church and I cannot remember all of
6 the groups that got together for it, but it was open to
7 the public.

8 Q Was that in St. Pete?

9 A It was in St. Petersburg.

10 Q And going back to League Of Women Voters
11 overall and their work on redistricting, what's the
12 general gist, if you can summarize, the League Of Women
13 Voters position or concerns when it comes to
14 redistricting?

15 A I don't know.

16 Q It sounded like earlier you said there was
17 certain teams for certain issues in League Of Women
18 Voters?

19 A Yes.

20 Q Are you on any particular team?

21 A Not currently.

22 Q What do you do as president?

23 A I oversee our board meetings and oversee all of
24 the different committees that we have. I make sure that
25 our action teams are doing good work in the community. I

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1 have to approve anything that is, like, a press release
2 or other public comment that we're making. I help with
3 new member orientation. I work with our -- on our
4 financials with our treasurer and our finance team and
5 our fundraising teams.

6 Q You said you took office May of 2023, is that a
7 certain -- is there a certain term limit?

8 A Yes, it was one year.

9 Q And then you were reelected?

10 A Yes.

11 Q Okay. Just to finish the loop on elections,
12 other than the Illinois United For Marriage, Illinois
13 United For Marriage, have you ever volunteered as an
14 election service worker for any other issues or
15 candidates?

16 A Yes.

17 Q Can you tell me about that?

18 A Yes. I worked on the amendment for campaigns
19 to pass voting rights for returning citizens, I believe
20 that was in 2018. And then this past year I worked again
21 on the Amendment 4 campaign to end Florida's extreme
22 abortion ban.

23 Q Besides this lawsuit, have you ever been a
24 party in a civil lawsuit?

25 MR. SHAW: Hold on. What -- one of her

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1 lawsuits there's a court order that she can be an
2 anonymous litigant. If you got to know we can maybe
3 do some of a protective order, but I don't want her
4 to say right now the case where she was an anonymous
5 plaintiff.

6 MS. HARLE: Okay. Sure, that works.

7 MR. SHAW: You can ask her about it.

8 Q Other than things we will not speak about in
9 this lawsuit, have you ever been involved in a civil
10 lawsuit as a party?

11 A Yes.

12 Q Okay. Tell me what you can tell me? Tell me
13 about the lawsuit, what was the nature of it, when was
14 it?

15 A Sure. Well, the one that you just learned of
16 where I was an anonymous plaintiff, and then a second one
17 where there was a small claims issue.

18 Q And were you the plaintiff or defendant in this
19 small claim issue?

20 A Plaintiff.

21 Q I'm sorry? I didn't hear that?

22 A Plaintiff.

23 Q Okay. When was that?

24 A I believe 2014.

25 Q And that's been resolved?

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1 A Yes.

2 Q Have you ever been deposed before today?

3 A No. No, not to my recollection.

4 Q Have you ever testified in court?

5 A No, not to my recollection.

6 Q Have you ever been charged with -- well, have
7 you ever been convicted of a criminal offense?

8 A No.

9 Q Have you ever pled no contest to a criminal
10 offense?

11 A No.

12 Q Were you charged with a criminal offense in
13 2009?

14 A No.

15 Q Were you charge with criminal offense in 2012?

16 A No.

17 Q Okay.

18 A Not that at I'm aware of.

19 Q You would probably know. We'll follow up with
20 these. I suppose they're showing me someone with your
21 same name.

22 A Yeah.

23 Q Our background check does not specify. It'll
24 just tell you -- it just says "criminal offense" and it
25 gives the case names. So happy to share that with your

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1 attorney if you want to look into it.

2 A Sure.

3 MR. SHAW: Yeah, if you could share that.

4 MS. HARLE: I'll also follow up separately on
5 the other.

6 Q Any other lawsuits -- where your the anonymous
7 plaintiff, is that ongoing?

8 A No.

9 Q It's not. Okay. All right. So tell me, just
10 in your own words, why you're bringing this lawsuit?

11 A Sure. I believe that my community should have
12 a fair district and I believe that the current district
13 do not reflect a fair district.

14 Q And can you just tell me, in your own words,
15 what you think is unfair about the current district?

16 A Yes. I believe that as the district is drawn
17 right now it splits my community in half.

18 Q What your community?

19 A The St. Petersburg area.

20 Q Are you aware in your work on elections and
21 voting issues and redistricting that district lines do
22 run through communities and counties sometimes?

23 A Yes, I know that.

24 Q In your view, does that -- is [sic] that always
25 made district unfair or just sometimes?

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1 A I think it would depend on the community and
2 how it's drawn.

3 Q What are the things about the community of
4 St. Pete that made it unfair to separate the resident?

5 A The way that the map looks now is it literally
6 splits, like, St. Petersburg area and, in fact, in my
7 specific neighborhood it splits my very neighborhood. I
8 live in a historical northeast neighborhood in
9 St. Petersburg and even my neighborhood is split in half
10 based on the way the map is.

11 I also, as the league president of the
12 St. Petersburg area, I generally see the work that we do
13 is the St. Petersburg area of, like, Ulmerton, the
14 street, and south is kind of the geographical area that
15 we think of when we think of neighborhood and our
16 community and this map splits our community in half.

17 Q Do you know the neighbor lines are traditional
18 criteria in redistricting?

19 MR. SHAW: Object to form.

20 Q Do you know if communities lines are
21 traditional criteria in redistricting?

22 A I don't know that.

23 MR. SHAW: Object to form.

24 Q When you became involved in this lawsuit, were
25 there already other plaintiffs?

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1 A I have no idea.

2 Q Have you ever communicated with any of the
3 other plaintiffs directly in this lawsuit?

4 A Are you asking about this lawsuit?

5 Q No, not necessarily. Just have you ever -- you
6 know, have you ever communicated directly with any of the
7 other four plaintiffs about -- without asking what was
8 said or anything like that?

9 A I haven't talked to any of the plaintiffs about
10 this lawsuit.

11 Q Have you talked to them otherwise?

12 A Yes, Jen.

13 Q Which one?

14 A Ms. Garcia, yes.

15 Q Do you know her in a personal capacity?

16 A No.

17 Q Did you know her before this lawsuit?

18 A Yes.

19 Q How did you come to be a plaintiff in this
20 lawsuit without telling me anything that's
21 attorney-client privileged, of course?

22 A To your last question, I don't know what you
23 mean by do I know her on a personal level. We worked
24 together.

25 Q Okay. I think that basically meant that you

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1 knew her human being before this lawsuit other than just
2 you happen to know she exists now because of she's the
3 plaintiff. So you did know her prior to this lawsuit?

4 A Yes.

5 Q Okay. And did you say you worked together on
6 issues?

7 A I didn't hear your question.

8 Q Did you say you worked together on something?

9 A We worked at the ACLU at the same time.

10 Q Okay. I forgot about that.

11 I'm going back that, how did you come to be a
12 plaintiff in this lawsuit without sharing any privileged
13 information?

14 A I knew that this, like, was a potential lawsuit
15 and I wanted to be a part of it because it's my
16 community.

17 Q Were you aware at the time that redistricting
18 process was happening that resulted in this map, were you
19 aware of that process?

20 A Yes.

21 Q Did you read any news article on the
22 redistricting process while it was happening?

23 A I may have. I very likely could have.

24 Q During the redistricting process, did you
25 communicate with any members of the media about the

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1 redistricting?

2 A Not that I recall.

3 Q After the redistricting was done, did you
4 communicate with any members of the media about the
5 redistricting process that resulted in the map you're
6 challenging?

7 A Not that I recall.

8 Q During the redistricting process that resulted
9 in the map you're challenging, did you communicate with
10 any staff or members of the Florida legislature?

11 A Not that I recall.

12 Q After the redistricting process that resulted
13 in the challenged map, did you communicate with any
14 members or staff of the Florida legislature?

15 A Not that I recall.

16 Q While the redistricting process was going on
17 that resulted in these maps, did you communicate with
18 anyone at the ACLU of Florida regarding the redistricting
19 process?

20 MR. SHAW: Don't reveal attorney-client
21 communications, obviously.

22 A Not that I recall.

23 Q Do you remember what you first came to learn
24 about the maps that you're challenging now?

25 A I don't remember exactly when, no.

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1 Q Do you have an estimated timeframe of when you
2 came to realize that these maps had been drawn?

3 A When the legislature finalized them, around
4 then.

5 Q And do you remember at what point you decided
6 you wanted to bring a legal challenge to the maps?

7 A When I found out that there was one being
8 considered.

9 Q Did you have any role in advocating for
10 different maps during the redistricting process?

11 A No.

12 Q Have you had made any written or oral
13 statements to any reporters about this lawsuit?

14 A No, not that I recall.

15 Q Okay. I know you mentioned that you spoke
16 about it at a church and I think that was -- was that a
17 League Of Women Voters event?

18 A No. It was another group putting on the event,
19 but the League Of Women Voters was there.

20 Q I see. What group was hosting that event?

21 A I cannot remember at the moment.

22 Q Okay. So other than that event, have you made
23 any written or oral statements to any other community
24 groups or organizations about this lawsuit?

25 A Not that I recall.

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1 Q Have you had made ant statements or comments on
2 social media relating to this lawsuit?

3 A No.

4 Q When social media accounts do you have or
5 apps --

6 A I have Facebook -- sorry. What did you say?

7 Q Or apps. I don't know what they call these
8 things.

9 A I have Facebook, Instagram, X, I think it's
10 called Threads, and TikTok.

11 Q Are you currently a registered voter?

12 A Yes.

13 Q Have you voted in every presidential election
14 since you turned 18?

15 A Yes.

16 Q Have you voted in every state congressional
17 election since you turned 18?

18 A I think so.

19 Q Have you seen the alternative maps that your
20 lawyers and expert witnesses have proposed in this
21 lawsuit?

22 A Yes.

23 Q And do you know which district you would be in
24 under any of the alternative maps that your lawyers and
25 experts purposed?

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1 MR. SHAW: Object to form. Go ahead.

2 A I would have to look at it. 16 or 18, I
3 believe.

4 Q Okay. Okay. Let's look at the complaint. If
5 you can pull that up on your screen, this will be
6 Exhibit 1.

7 And if we can start with the maps that you're
8 challenging or the map that you're challenging on
9 Page 20, Figure 3? Okay. So you're in District 18; is
10 that correct?

11 A Yes.

12 Q I if you could just list for me -- you talked a
13 little bit earlier, but can you list for me all the
14 reasons you think that District 18 is -- well, all the
15 reasons you brought into the lawsuit to challenge
16 District 18, all the problems that you appreciate with
17 it?

18 A From my point of view as a St. Petersburg
19 resident, it cuts our community in half. And it -- you
20 know, it separates us and in my specific circumstance it
21 cut even my neighborhood in half. I live an historical
22 northeast neighborhood and cuts my very neighborhood in
23 haft and, like I mentioned earlier, as the president of
24 League Of Women Voters of the St. Petersburg area it cuts
25 that area in half which we view as one community that has

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1 similar policy concerns and would benefit from being in a
2 single district. I mean, those are two blatantly obvious
3 reasons that I think of off the top of my head. I can't
4 say, like, that covers everything that I've ever thought
5 of, but those are two I can think of right now.

6 Q Are there any others you can think of right
7 now?

8 A I mean, we as a St. Petersburg area, as a
9 community, we have a lot of the same concerns, and this
10 map cuts our community in half and the pairs half of my
11 community with communities on the other side of the bay
12 that do not share our same policy concerns.

13 Q So for the --

14 A -- for the part of our community.

15 Q Okay. Sorry to interrupt. Did you finish?

16 A Yes.

17 Q So for the top part of the line, does that, in
18 you view, cut off people that you think should be part of
19 your district? That top line across the top of 18? Is
20 that problematic to you?

21 MR. SHAW: Object to form.

22 A I would have to think about that more. I don't
23 know.

24 Q Okay --

25 A I mean --

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1 MR. SHAW: What were you going to say?

2 A I was going to say, I mean, I can tell you my
3 community is cut in half. The top line I would have to
4 think about it a little more.

5 Q So you're more focused on the boarder between
6 18 and 16?

7 A I'm concerned that my community were cut in
8 half and that line that is in the St. Petersburg area in
9 the north part of 16 is cutting that in half, yes.

10 Q Tell me more about -- you mentioned the policy
11 concerns of your community. Tell me about the policy
12 concerns for the folks in -- I guess let's start with --
13 I think you said your neighborhood?

14 A Sure. For example, when the hurricanes, hit we
15 had lot of infrastructure issues in the St. Petersburg
16 area. We've had sea walls destroyed. We've had major
17 sewage issues, people weren't even able to flush their
18 toilets because of the sewage issues. People didn't have
19 potable water access and there was a lot of damage from
20 the hurricanes from important, like, buildings in the
21 St. Petersburg building. Ones the raised stadium in the
22 Tropicana Field. There was also damage to the Tampa Bay
23 Rays building that's in downtown St. Petersburg. So
24 those are some recent community concerns that have come
25 up over the hurricane season.

1 Other major concerns in St. Petersburg include
2 areas of the community which don't access to, like,
3 grocery stores, while other parts of the community have
4 more grocery stores. Some of the development projects
5 are of concern to the community. We have a
6 St. Petersburg peer, that was a big project, development
7 project, in the city. Then the current big development
8 project that people are worried about in my area is,
9 again, related to the Rays Stadium and the Hines
10 development team working on developing 86 acres in
11 downtown St. Petersburg.

12 You know, we are concerned about our schools
13 and who are superintendent of schools is. We are
14 concerned about out school ratings. We are concerned
15 about fair elections and our supervisor of elections and
16 the work that they do to ensure we have fair elections.
17 We are concerned about, you know, the ability for small
18 businesses in our community to thrive and do well.

19 And, you know, I could go on everything from
20 making sure that some of our marinas stay as municipal
21 marinas to making sure that, you know, we have a
22 welcoming community for the LGBT Community and that we
23 maintain, like, our arts district and our priorities
24 related to the arts district.

25 And we have a lot of festival that the

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1 community cares about. We have one called Localtopia
2 where it focuses on all of the local business in the area
3 come out. So it's, like, no chain restaurants, no big
4 brands or names, it's all local businesses that join
5 together for Localtopia.

6 So that's a little bit of the concerns of the
7 St. Petersburg area.

8 Q Can you tell me on the map -- and I should know
9 this because I just watched the game last season, because
10 is the Rays' stadium in District 16 or 18 on this map?

11 A I believe it's in 16.

12 Q Okay. And the 86 acres that you're describing,
13 is that in 18 or 16 or both?

14 A I believe it's in 16.

15 Q When you were talking about the infrastructure
16 concerns from the hurricane and the sewage and other
17 issues, did that affect primarily your neighborhood or
18 were your saying that was a broader concern for St. Pete
19 or something else?

20 MR. SHAW: Object to form. Go ahead.

21 A It impacted parts of my neighborhood as well as
22 some of the neighborhood to the west of me and to the
23 north. I cannot remember for each of these issues, but
24 thing like the sea wall happened in 16.

25 Q Okay. So I think I initially was asking about

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1 what are the concerns of your neighborhood, but I think
2 -- did you -- do you have any other concerns of the
3 broader St. Pete, or did you cover that in your answer as
4 well?

5 A I covered everything I could think of at this
6 moment for broader St. Pete.

7 Q Are you --

8 A Sorry. A few more, like, developments going
9 up, like the concern of high rises going up and not
10 having the infrastructure to maintain the growth of our
11 community. And there's also preservation of historic
12 buildings that people are concerned about and that's
13 throughout all of St. Petersburg.

14 Q So the historic building concerns is in
15 Districts 18 and 16. Is the high rise concerns in
16 Districts 16 and 18?

17 A Yes. I mean, the ones that I can think of are
18 in 16. I'm not familiar with everything throughout the
19 whole area, so I could be wrong.

20 Q How about municipal marinas that you were
21 mentioning, where are those located?

22 A I don't know. I know of one that's in 16. I
23 don't know where others are.

24 Q Are you -- you're aware that your complaint
25 focuses primarily on the racial composition of the

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1 voters, primarily Black voters, right?

2 MR. SHAW: Object to form.

3 A I understand that, yes. Race is a part of our
4 complaint, yes.

5 Q Is there a certain percentage of the black
6 voting population that you think should be in
7 District 16?

8 A I don't have an answer for that.

9 Q Is there percentage of Black voting population
10 you think should be in your District 18?

11 A I don't have an answer for that either.

12 Q Are you familiar with the history of the
13 district boundaries in Hillsborough and Pinellas?

14 A Probably.

15 Q Are you aware that the communities that are
16 combined in District 16 on this map you're challenging
17 have been historically combined since the early 1990s?

18 A I'm aware of that, yes. My -- I think my
19 concern would still stay the same when the legislator
20 doing redistricting it has an obligation to reconsider
21 the lines and do better if can, and unfortunately the
22 legislator failed to do better.

23 Q What is your harm, in your own words, from
24 having -- from voters in south St. Pete not voting for
25 the same district as you or in the same representative as

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1 you?

2 A My community is cut in half and that means that
3 part of my community is represented by someone who's also
4 representing communities on the other side of the bay
5 that have different policy interests than we do, and I
6 think our community would be better if we weren't cut in
7 half and that we had a representative representing our
8 interests of the St. Petersburg area, generally.

9 Q And you feel like that is a harm to you?

10 A Yes.

11 Q Let's look at Paragraph 11 of the complaint.
12 It explains a lot about your community. I just want to
13 make sure I have your full understanding of what you mean
14 by -- where you say there, quote, "Plaintiffs are further
15 harmed that the legislator sacrificed genuine communities
16 of interest, unnecessarily dividing St. Petersburg and
17 Pinellas County, et cetera." Focusing on sacrificed
18 community interests, I just want to know are there any
19 other communities of interest that you have in mind that
20 you feel like are sacrificed under the maps you're
21 challenging?

22 A The community of interest is the St. Petersburg
23 area as well as, I mean, people in the community. So, as
24 this explains, it seems like it's combining areas because
25 they were both predominantly Black areas. And I think

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1 that to protect the community of interest you need make
2 sure that districts have people who have common, you
3 know, policy concerns, and the way the lines are drawn
4 right now it does not do that.

5 Q Do you think Black voters generally have common
6 policy concerns?

7 MR. SHAW: Object to form.

8 A They might, they might not. I know my
9 community of St. Petersburg has policy concerns that are
10 similar to each other as opposed to the policy concerns
11 of, let's say, Sun City or Ruskin or Apollo Beach. Like,
12 the community of St. Petersburg has different policy
13 concerns than those cities on the other side of the bay.

14 Q And when you say community of St. Petersburg,
15 do you mean -- are you referring to the municipal
16 boundaries?

17 A More like the St. Petersburg area, so it
18 wouldn't be just St. Petersburg the city. It would
19 include, like, the other smaller towns and cities around
20 the St. Petersburg area. That's how we call it.

21 Q Paragraph 12 says that: "Legislator's racial
22 gerrymandering unjustifiably attacked Black voters in the
23 District 16, stripping them from adjacent District 18 and
24 reducing their influence there."

25 I'm wondering do you know any specific facts

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1 supporting the assertion that the plan reduces the
2 influence of Black voters in District 18?

3 A Do I have specific facts?

4 Q Yes.

5 A I would rely on the work of my attorneys for
6 this and what they've provided.

7 Q Do you know the percentage of Black voters that
8 are in the current District 18?

9 A No.

10 Q The next paragraph there, Paragraph 13, says
11 that: "Floridians, including individual legislators
12 called out in the question the legislator's
13 unconstitutional actions but their concerns were
14 dismissed by the legislator as a whole."

15 I'm wondering are you aware of any particular
16 Floridian who called out or questioned the legislator
17 regard the redistricting process?

18 A I will have to guess. I believe one of my
19 attorneys.

20 Q Is that Nick Warren you're referring to?

21 A I'm just rereading so I can understand.

22 Q You can Zoom in also?

23 A Yes, I believe so.

24 Q Do you know when the legislator's response was?

25 A I was just going to say my understanding is

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1 there were organizations paying attention to this, but I
2 was not a part of it.

3 Q Do you know what the specific concerns were
4 that were called out in the legislator?

5 A No.

6 Q When you -- and looking at the map, you can it
7 pull up if you need to, but I think you know what it
8 looks like, what is it about the east side, the Tampa
9 side, of District 16 that you believe is dissimilar from
10 the St. Pete side of District 16?

11 A Are you pulling up the map?

12 Q I can, yeah. We can go back to Page 20. I'm
13 just curious if you can share a bit more about, you know,
14 the why you think it's unfair or the voters might have
15 different concerns on the east side of District 16 then
16 the folks on the western side of District 16?

17 A When I look at the map, that is two completely
18 different communities that have been put together in a
19 district. I can tell you personally I do not know a lot
20 about what is going on on the east side of the bay,
21 that's very far away. It's not easy to get to. You
22 might have to drive through two or three counties to even
23 get to some of those parts. So I cannot even begin to
24 tell you what the concerns are of those areas.

25 I mean, this city are, like, Ruskin, Apollo

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1 Beach, Sun City. Like, I don't know a lot of those
2 communities at all, so I cannot begin to tell you what
3 their concerns are.

4 Q So looking right there at Paragraph 97 just
5 before that map, the paragraph starts out referring to
6 the direct evidence of racial predominance. So what
7 evidence do you have that race predominates the drawing
8 of the lines for District 16 and 18?

9 A I would have to rely on any information that my
10 attorneys have provided you for that and I can speak to
11 south St. Pete there is a large Black population there.
12 I do not know about any of the communities on the other
13 side of the bay, however.

14 Q It actually, just before that, in Paragraph 95,
15 this says: "These race based decision resulted in map
16 that splits up neighborhoods and ignores traditional
17 redistricting criteria."

18 What criteria do you understand to be
19 appropriate criteria for the legislator to use in
20 redistricting?

21 A I would have no idea. I never worked in voting
22 right law, so I would rely on my attorneys and the
23 experts.

24 Q Let's look at Paragraph 131 of your complaint.
25 This one says: "The legislator lacks good reasons to

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1 believe that the enacted plan was necessary to achieve
2 Tier 1 compliance."

3 Do you know what Tier 1 compliance entails?

4 A I do not.

5 Q Sorry for jumping around. Let's look back at
6 Page 13 and 14 where Plan 42 is.

7 Does this map called "Plan 42" look familiar to
8 you?

9 A Yes.

10 Q And you just explain to me in your own words
11 why you think this is a better alternative map than the
12 one that was enacted?

13 A Yes. This map has the St. Petersburg area
14 together, which, again, is a community that has
15 spectacular policy concerns and it keeps that community
16 together and does not split it in half.

17 Q It sounds to me, but correct me if I'm wrong,
18 that seems to be your primary concern, is that the folks
19 of St. Pete are all kept together; that is right?

20 A I would like our district to be fairly
21 represented and consist of a community with similar
22 policies, like concerns and issues. And the way it is
23 drawn right now splits the community and it pairs with a
24 community far away that has different policy concerns.

25 Q Is it your belief that you will be unable to

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1 elect a representative that reflects your personal policy
2 concerns because of the way the lines drawn now?

3 A My community -- my community would not be able
4 to have a representative that fully represents our
5 interests.

6 Q Do you personally, as Ms. Azis, have -- do you
7 feel you have the same policy concerns as your community
8 or is there any diversity or day light between your
9 particular policy concerns and maybe the broader policy
10 concerns of your community?

11 MR. SHAW: Object to form. You can go ahead
12 answer.

13 A I don't know. Can you be more specific?
14 Sorry.

15 Q Yeah. I'm trying to figure out, do you think
16 you, because south St. Pete is cut off, that you
17 personally are not going to be able to elect a
18 representative that stand for the things that you want
19 represented?

20 A Right. I think I understand what you're
21 saying. I care about my community as a whole, so I care
22 that the south St. Petersburg area fairly represented,
23 yes. Those are the concerns that I have.

24 Q And is it your view that south St. Pete will
25 not be fairly represented because their vote would be

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1 diluted?

2 A I'm worried that they're -- yeah, they're
3 separate from other parts of the same community.

4 Q Given that the folks of south St. Pete under
5 the map you're challenging still have the opportunity to
6 vote and elect a representative, why is it that you think
7 that they will not be fairly represented?

8 A That representative is -- would also, the way
9 it is now, be representing an entirely different
10 community with different policy concerns.

11 Q Okay.

12 A So it's fractured our community and now part of
13 my community is now pair with another community that has
14 different policy concerns.

15 Q Let's look at Figure 6 in the complaint. Okay.
16 So does this map look familiar to you?

17 A Yes.

18 Q I think you explained very well what your
19 concerns are, so I just want to check is there anything
20 else about this map that makes it better than the
21 challenged map that we haven't already discussed?

22 A Makes it better?

23 Q Mm-hmm, yeah. So you proposed an alternative
24 map. I understand your testimony to be that you would
25 like St. Pete all together. So other than St. Pete being

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1 all together here is there anything else about this map
2 that makes it a good alternative and the reason why you
3 put it in your complaint?

4 A It keeps my community together.

5 Q Have you seen any of the maps that your expert
6 witnesses have proposed in this case as alternative maps?

7 A I don't know.

8 Q All right. Let's pull up your initial
9 disclosure. This will be Exhibit 2.

10 Okay. So does this look familiar to you?
11 We've introduced it in the other deposition this week
12 also.

13 A Yes.

14 Q So there is your name on the first -- the first
15 paragraphs and it says that you, "Have illustrations
16 intending to show that the challenged district causes
17 harm to yourself and other residents."

18 Is there anything that we haven't talked about
19 yet already today is a harm that you believe you or your
20 -- or other residents of your district are in inflicted
21 with because of the challenged district lines?

22 A Can you say that again? I'm sorry.

23 Q Yeah. Is there any other information that you
24 have that we haven't already talked about today that
25 shows that you or your fellow residents are incurring

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1 harm of because of the district lines?

2 A I mean, besides what we walked about and what's
3 been presented in the complaint and experts report, not
4 that I can think of right now.

5 Q Do you know of anyone else, any other
6 individuals, who might have information about whether the
7 district lines were drawn based on race?

8 A Not that I can think of. I mean, besides who?

9 Q Well, I think that you and I think that you
10 mentioned that your attorney, Nick Warren, has expressed
11 some concerns that generally, but is there any other
12 particular individual you know who would have knowledge
13 that the legislator drew the challenged district lines
14 predominantly because of race?

15 A I would have to rely on my complaint and our
16 expert testimony.

17 MS. HARLE: That's the end of my questions.

18 MR. SHAW: I may have one follow-up.

19 CROSS EXAMINATION

20 BY MR. SHAW:

21 Q Tell me again the significance of Ulmerton Road
22 in terms of Pinellas County communities?

23 A Sure. So as the League Of Women Voters
24 president of the St. Petersburg area, we define our
25 general community area that we work with as essentially

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1 Ulmerton and then south of Ulmerton and then there's
2 another league of women voters that is the League Of
3 Women Voters of north Pinellas County that is essentially
4 Ulmerton north.

5 Q Okay. Are those -- is Ulmerton Road as the
6 boundary between to communities something that the League
7 Of Women Voters came up or is that a broader thing?

8 A I don't know how we came up with that, but it
9 is generally, like -- it's really, really big county, so
10 it's generally understood, like, this is the
11 St. Petersburg area and then once you go north you're
12 more, like, in the Clearwater area.

13 Q Would you consider geopolitically the community
14 north of Ulmerton Road to be part of the same community
15 as what you're calling the greater St. Petersburg area?

16 A Well, there's -- yeah. Stay that again? I'm
17 sorry.

18 Q Would you consider geopolitically the community
19 north of Ulmerton Road to be part of the same community
20 as the greater St. Petersburg area?

21 A Maybe little part of it, but generally -- it's
22 Ulmerton south is what I think is the St. Petersburg area
23 just because of my position of the league. But yeah, I
24 think that's a good boundary.

25 Q Okay. So is the community north of Ulmerton

1 Road the same community as the community south of
2 Ulmerton Road?

3 A We would have -- you know, some things might be
4 the same because it was part of Pinellas County and some
5 things would be different. But generally, St. Petersburg
6 area, I think of it as Ulmerton south and we have lot of
7 the same concern that are different than some concerns
8 they have Ulmerton north.

9 Q What's different north of Ulmerton Road verses
10 south of Ulmerton Road?

11 A You get into different infrastructure. You get
12 into different major cities, again, the major city up
13 there is, like, Clearwater. And it's just -- it's a much
14 longer -- Pinellas is just very long county, so it would
15 be, you know, hard to say that all of -- like, all of
16 that area is the same.

17 MR. SHAW: I don't have anything further.

18 RE-DIRECT EXAMINATION

19 BY MS. HARLE:

20 Q I think it would be helpful, then, if we can
21 just pull up the map one more time so you be maybe see
22 where the Ulmerton Road is. Can you share the screen on
23 Page 3 of the complaint of Exhibit 1?

24 So these are the challenged district and the
25 surrounding area is enacted plans. Are you able from

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1 this map to describe where Ulmerton is? Is that -- is it
2 near a black line that serves as the top of District 18?

3 MR. SHAW: Can you zoom way in on it.

4 A It's close to that.

5 Q Can you tell if it's south or north of that
6 line?

7 A It's south.

8 Q Okay.

9 A I'm not expecting the districts exactly the way
10 the League Of Women Voters operates, but something closer
11 than what we're working with here.

12 Q Can you spell Ulmerton for me?

13 A U-L-M-E-R-T-O-N.

14 Q Okay.

15 A Just so you know, like, I'm giving that as a
16 general idea of that people think of the area in the
17 community. I'm not saying that's what the legislator
18 should be doing, but if that is -- that's better gauge
19 for what our area is than what 16 is currently doing.
20 And what -- sorry -- what these lines are doing
21 separating 16 and 18 this way.

22 MS. HARLE: All right. Thank you.

23 MR. SHAW: We will read, and if they order a
24 copy, we'll take copy as well, but please bill the
25 ACLU of Florida as opposed to us.

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1 MS. HARLE: We will order a copy. Thank you.

2 (DEPOSITION CONCLUDED AT 11:04 A.M.)

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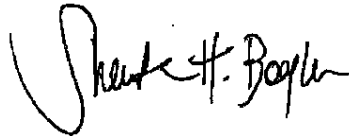
CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, SHERITA BOYLE, Court Reporter, Notary Public,
State of Florida, certify that JACQUELINE AZIS appeared
before me by Zoom Conference on NOVEMBER 22ND, 2024, and
was duly sworn.

Signed this 22ND day of NOVEMBER, 2024.



Sherita Boyle
Notary Public, State of Florida
Commission No: HH409035
Commission Expires: 06/11/2027

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CERTIFICATE OF REPORTER

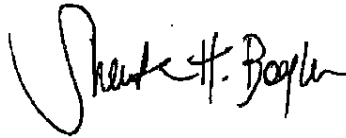
STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, SHERITA BOYLE, Court Reporter, certify that I was authorized to and did stenographically report the deposition of JACQUELINE AZIS, Pages 1 through 44; a review of the transcript was requested; and that the transcript is a true and accurate record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 5TH day of DECEMBER, 2024.



Sherita Boyle
Court Reporter

KETO NORD HODGES
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November 26, 2024

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

KETO NORD HODGES, et al.,

Plaintiffs,

v.

Case No.: 8:24-cv-879

KATHLEEN PASSIDOMO, et al.,

Defendants.

_____/

VIDEOCONFERENCE DEPOSITION OF KETO NORD HODGES

TAKEN ON BEHALF OF THE DEFENDANT

DATE TAKEN: November 26, 2024

TIME: 2:09 p.m. - 3:49 p.m.

LOCATION: Via Zoom Videoconference

Examination of the witness taken before:

Wendy E. Rivera, FPR

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(Via Videoconference)

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I N D E X O F E X A M I N A T I O N

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D E F E N D A N T ' S E X H I B I T S

EXHIBIT NO.	DESCRIPTION	PAGE
Exhibit 1	Complaint	29
Exhibit 2	Plaintiff's Rule 26 Initial Disclosures	51
Exhibit 3	November 9, 2012 Blog	54

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1 VIDEOCONFERENCE DEPOSITION OF KETO NORD HODGES

2 November 26, 2024

3 - - -

4 KETO NORD HODGES,

5 having been first duly sworn and responding "Yes,"
6 testifies as follows:

7 DIRECT EXAMINATION

8 BY MS. HARLE:

9 Q. Good afternoon, Mr. Nord Hodges. My name is
10 Denise Harle. I'm one of the attorneys for the Florida
11 Senate in this case and I'll be taking your deposition
12 today.

13 Can you please state and spell your name for
14 the record.

15 A. Yes. Keto, K-e-t-o, Nord, N-o-r-d, Hodges,
16 H-o-d-g-e-s.

17 Q. Great. And do you understand that you are
18 under oath today and giving deposition testimony, which
19 is subject to the penalty of perjury?

20 A. Yes.

21 Q. Have you ever been deposed before?

22 A. No, I haven't.

23 Q. Did you observe any of the depositions of your
24 co-plaintiffs in this case yet?

25 A. Yes. I observed the -- I believe it was the

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1 first one, the lady with the Hispanic last name. She
2 referred to herself as an Afro-Latina. I don't recall
3 her last name.

4 Q. Ms. Garcia?

5 A. Yes. There you go. Ms. Jen Garcia, yes.

6 Q. Great. Well, this will probably sound all
7 very familiar to you today, but we just need, for the
8 sake of ground rules, to make sure a few things happen:
9 One, that you speak audibly and give complete answers;
10 two, try to let me finish my question before you begin
11 to answer; three, if your attorney does object, you need
12 to go ahead and answer the question unless she instructs
13 you not to answer.

14 Four, if you don't understand my question, I
15 need you to just let me know that it's not clear. I
16 could've asked a bad question. That definitely happens.
17 If you do give an answer, it will be on the record under
18 oath and we will all assume that you understood the
19 question; and five, I just need you to make sure your
20 responses are verbal, so, you know, things like head
21 nods, for example, or uh-huhs doesn't really work very
22 well because this is being transcribed.

23 Does all that make sense to you?

24 A. Yes.

25 Q. Great. If you need to take a break at any

KETO NORD HODGES
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1 time, please just let me know and we can find a stopping
2 point. No problem. If at any point seeing a document
3 will help refresh your recollection, also please let me
4 know and I'll try to get that in front of you.

5 Is there anything that's preventing you from
6 giving truthful testimony today?

7 A. No, there's not.

8 Q. Very good. What did you do to prepare for
9 your deposition today?

10 A. Spoke with the attorneys.

11 MS. ROBERTSON: Keto, just make sure you don't
12 disclose anything you spoke about with your
13 attorneys.

14 THE WITNESS: Of course. Of course. I spoke
15 with the attorneys and I reviewed the -- I believe
16 it was the initial filing document laying out the
17 -- I guess the ground rules of the case or ground
18 information of the case.

19 BY MS. HARLE:

20 Q. Okay. Did you review any other documents in
21 preparation for today?

22 A. You asked did I review any other documents in
23 preparation for today?

24 Q. Yes, sir.

25 A. No, I did not.

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1 Q. And again, not telling me anything that was
2 said, but approximately how long did you meet with your
3 attorney to prepare for your deposition?

4 A. I'm not exactly sure how long.

5 THE WITNESS: Would you estimate an hour?

6 MS. ROBERTSON: If you know --

7 THE WITNESS: I'll estimate about two hours to
8 my recollection.

9 BY MS. HARLE:

10 Q. Okay. Can you please state your address,
11 where you currently reside.

12 A. Yes. I reside at 10907 North Hyacinth Avenue,
13 Tampa 33612.

14 Q. And when did you move to that address?

15 A. I moved to that address June of 2019.

16 Q. What was your most recent prior address?

17 A. My most recent prior address, I struggle to
18 remember. It was in Town 'n' Country, ZIP code 31655.
19 I believe it was 9,000 something. It was in a condo
20 community. I don't recall the exact address.

21 Q. Was that in Tampa?

22 A. Well, actually, let me see. Sorry. Give me a
23 -- may I correct myself?

24 Q. Yes.

25 A. Okay. Let's see. 7349 Abonado Road, Tampa,

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1 33615. There it is.

2 Q. Okay. How far is that from where you live
3 now?

4 A. I'm sorry. Can you repeat the question?

5 Q. Sure. How far is that Abonado Road address
6 from where you live now?

7 A. That is I'd say approximately eight to
8 nine miles.

9 Q. Okay. So then Abonado Road, is that -- it's
10 more in South Tampa or middle of Tampa?

11 A. That's in Town 'N' Country. That's on the
12 other side of the airport.

13 Q. Oh, okay. So -- okay. I'm bad at that.

14 Back to where you live now, is it a house or
15 an apartment?

16 A. It's a house.

17 Q. Do you own it?

18 A. No, rent.

19 Q. Is there any reason you're aware of that you
20 might be moving in the next year or two?

21 A. Possibly, yes. I may be moving in the next
22 year or two.

23 Q. And where would you be moving to?

24 A. I'm not sure yet, wherever the rent is not too
25 high.

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1 Q. Do you know if you would stay in Tampa?

2 A. I do not know that at this time. I have
3 children in college, so I'm not sure.

4 Q. Are they in college in Florida?

5 A. Yes. Yes, they are.

6 Q. Whereabouts?

7 A. Hillsborough Community College and University
8 of South Florida.

9 Q. It's nice to have your children nearby?

10 A. Yes, sometimes.

11 Q. Did you live in Lakeland, Florida, in the
12 past --

13 A. Yes, I did.

14 Q. Okay. When was that?

15 A. Let's see. Two -- eight through -- I believe
16 it was May 2008 through about the end of September 2011
17 I lived in North Lakeland, Florida.

18 Q. And did you own a home there?

19 A. Yes, I did. I owned a home with my -- with my
20 wife and family at the time.

21 Q. But you've been in Tampa since what year?

22 A. I originally moved to Tampa September 1991 as
23 a child.

24 Q. And then in your most recent stint in Tampa,
25 where did you move -- which year did you move back to

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1 Tampa?

2 A. I moved back to Tampa that -- I believe it was
3 the last day of September 2011.

4 Q. You said you may move somewhere in the next
5 year to find lower rent.

6 Are you currently scoping out different places
7 to live at the moment?

8 A. No, I'm not. I'm tired of looking right now
9 because the market is un -- has proven to be
10 unreasonable, so I'm not looking right at this time.

11 Q. Have you been looking for a place to move
12 recently, say, in the past three to six months?

13 A. In the past six months, yes.

14 Q. Can you give me your educational background,
15 if you would, starting just since high school.

16 A. All right. Certainly. I graduated from
17 Hillsborough Adult High school in Tampa with my underage
18 GED, and then I earned my associate in arts degree,
19 two-year degree, at Hillsborough Community College in
20 computer science. Then I transferred to the University
21 of South Florida, earned my bachelor of science in
22 management information systems magna cum laude in 2002
23 and my MBA from USF, entrepreneurship, in 2005 -- May
24 2005.

25 Q. Well, congratulations.

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1 A. Thank you.

2 Q. Who is your current employer?

3 A. My current employer is Hillsborough County
4 Public Schools.

5 Q. And what is your job title there?

6 A. VE. That's variant exceptionalities math
7 instructor. That's another word for special education
8 math instructor.

9 Q. Great. What -- are you assigned to one
10 particular school?

11 A. Yes. I'm assigned to Dr. Carter G. Woodson PK
12 through 8 academy.

13 Q. When did you first start working as a VE math
14 instructor for Hillsborough County Public Schools?

15 A. I started working as a VE math instructor
16 November 2014 full time, but I was a part-time VE
17 instructor, you know, as a substitute from about
18 August 2011 until November 2014.

19 Q. Thank you.

20 A. Yes.

21 Q. Are -- did your LinkedIn say that you're a
22 digital political organizer?

23 A. Yes, it says that among other things.

24 Q. All right. Could you tell me what that means,
25 that you're a digital political organizer?

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1 A. Yes. That means that -- excuse me -- I
2 utilize graphics design to create digital products for
3 different political campaigns in the Tampa Bay area.

4 Q. And is that a paid position?

5 A. Yes. Yes. It's a -- it's -- how would you
6 say -- at-will. So if a campaign reaches out to me and
7 says, you know, we need these particular products, then
8 they may pay me on a at-project basis or, you know, on a
9 monthly basis, for example, to provide work for the
10 campaign.

11 Q. So you're kind of like a contractor?

12 A. Yes. I would say that.

13 Q. And it's just your own business? You're kind
14 of an entrepreneur in that space?

15 A. Yes. Yes. Yes.

16 Q. List for me the -- any of the political
17 campaigns that you've worked on?

18 A. All right. Well, full time -- let's see.
19 Full time and part time or as a volunteer, it's too many
20 to name, but I could -- because I've been doing it since
21 -- I've been volunteering or working in different
22 campaigns since about 2019 when I first got my voter's
23 registration, but most recently, I recall three -- let's
24 see -- two or three campaigns, Tammy Shamburger for
25 school board in Hillsborough County. Let's see. Who

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1 else? Walter L. Smith, II, for Tampa City Council and
2 -- let's see. Who else? Starr Brookins for county
3 court judge in this most recent cycle. That is all I
4 can remember right now.

5 Q. And those three you just named, were those --
6 were those campaigns where you were hired digital
7 political organizer?

8 A. Let's see. The first two, Smith and
9 Shamburger, yes. The most recent one I named, I was a
10 photographer. So the photography on the -- you know,
11 some -- some clients will book me for both combined
12 services, photography and digital organizer; some, one
13 or the other.

14 Q. Have you ever volunteered on any political
15 campaigns?

16 A. Yes. Since 2019, it's been more campaigns
17 than I can count and I would do a disservice to try to
18 sit here and name all of them, local and -- local,
19 citywide, municipal, county, and statewide and national.

20 Q. Well, let's start with statewide.

21 Have you ever worked on any campaigns for a
22 state legislator?

23 A. Let's see. I don't believe I have. I don't
24 believe I have. Oh, wait. Let me see. I apologize. I
25 recall one in 2014. I volunteered. I wasn't on staff.

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1 I volunteered with photography. Let's see. 2014, yes,
2 I volunteered and I believe I was paid for photography.
3 I was a new photographer at the time for Ed Narain for
4 Florida State Representative in Hillsborough County.

5 Q. Can you name for me the national political
6 campaigns that you recall working on whether paid or
7 volunteer?

8 A. Yes, of course. Let's see. Let's see. Let's
9 see. I would say starting in 2008, I worked for the --
10 or did work. I volunteered photography and other
11 activities for Obama for America in 2008 and 2012,
12 volunteered for -- let's see -- I believe Hillary
13 Clinton campaign and then the Biden campaigns most --
14 the last two Biden campaigns most recently and the
15 Kamala Harris campaign.

16 Q. I may have misheard. Did you say you first
17 got your voting registration in 2019?

18 A. I believe -- I believe it was 2019 because I
19 had became a U.S. citizen a few months prior to that,
20 and so 2019 would've been the first time I was allowed
21 to vote.

22 Q. Well, that's wonderful.

23 A. Thank you. I take it very seriously.

24 Q. Are you currently involved with any voting
25 rights groups?

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1 A. How would you define a voting rights group?

2 Q. Are you currently involved with any
3 organizations that work on issues relating to voting or
4 voters?

5 A. Yes. I would say I -- involved as a
6 photographer and social media manager for Hillsborough
7 County NAACP.

8 Q. Anything else?

9 A. I don't recall any sort of organizations at
10 this time.

11 Q. Are you involved with the Hillsborough County
12 Democrats?

13 A. Yes, I am.

14 Q. How long have you been involved with them?

15 A. I've been a precinct captain or precinct
16 committee person since May 2018.

17 Q. Are you an officer currently for Hillsborough
18 County Democrats?

19 A. I'm not an officer. I am a committee
20 chairperson for the diversity equity and inclusion
21 committee.

22 Q. What do you do in your role as the committee
23 chair for diversity and inclusion for the Hillsborough
24 County Democrats?

25 A. As the DEI chairperson, I encourage

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1 approximately -- well, I encourage the membership of the
2 county Democratic Party to run for state committee
3 person positions for the -- for the Florida Democratic
4 Party, which -- to look as much as possible as the
5 makeup of our membership.

6 Q. And what do Hillsborough County Democrats do
7 just generally as a organization?

8 A. To my understanding, Hillsborough County
9 Democrats seek to encourage democracy by -- by educating
10 on voters' rights for anyone in the Tampa Bay area --
11 well, anyone in Hillsborough County, Florida, who is of
12 voting age.

13 Q. Have you ever done any election canvassing
14 like go door-to-door?

15 A. Yes, I have.

16 Q. And when did you do that?

17 A. I don't believe -- I don't believe it was for
18 the Democratic Party though. Well, not recently for the
19 Democratic Party.

20 Q. No. I guess I was switching gears a little
21 bit on you.

22 When did you do election canvassing?

23 A. I did election canvassing in 2018 and 2019 for
24 Walter L. Smith, II, for Tampa city council.

25 Q. Okay. Have you ever done any phone banking

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1 for election?

2 A. Yes, I have.

3 Q. Okay. And when was that?

4 A. I did phone banking for Walter L. Smith, II,
5 2018 and '19; Obama for America 2008 and 2012; and
6 possibly other campaigns as well, but I don't recall at
7 this time.

8 Q. Have you ever been involved with a campaign
9 that was not for a particular candidate or an issue that
10 was going to be on the ballot?

11 A. I would have to think about that. Let's see.
12 I'm trying to recall if there were any. Yes. Yes. I
13 believe I was -- I can recall being involved in
14 Hillsborough County -- Hillsborough Classroom Teachers
15 Association, HCTA, recently in -- in pushing for the
16 half-cent sales tax referendum for Hillsborough County
17 with the goal of increasing full-time teacher pay in
18 Hillsborough County.

19 Q. Have you done any public advocacy on any
20 political or partisan issues?

21 A. Any -- have I done any public advocacy on
22 political or partisan issues, do you ask?

23 Q. Yes.

24 A. I'm -- I'm trying to think. I hosted a town
25 hall for Black men for the Kamala Harris campaign

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1 recently.

2 Q. Where was that held?

3 A. That was held at a Baptist church in East
4 Tampa. I don't recall the name.

5 Q. Anything else you can think of?

6 A. I cannot recall any other events at this time.

7 Q. What did you-all discuss at the town hall for
8 Black men for Kamala Harris?

9 A. Let's see. There were multiple issues
10 discussed. I believe one issue may have been our stance
11 on support of public education in -- nationally and as
12 it relates to Florida.

13 Q. And did you-all discuss any issues particular
14 to Black men?

15 A. Yes. Yes. The whole town hall was for Black
16 men, so any issues that we discussed were related to how
17 it would impact Black men in Florida.

18 Q. Do you have a blog that you keep updated?

19 A. No, I don't.

20 Q. Do you have an old blog?

21 A. Yes, I have. My old blog was called The Great
22 Blog of Keto, and -- yes.

23 Q. Okay.

24 A. Yes. That's been discontinued. I'm surprised
25 it's still around, still up there.

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1 Q. Do you recall talking about political issues
2 on your blog?

3 A. Yes, I did.

4 Q. Okay. Did you criticize Republicans on your
5 blog?

6 A. Who? Can you repeat their name, please.

7 Q. Republicans?

8 A. Oh, Republicans --

9 Q. Yes.

10 A. -- on the blog? I don't recall. I may have.
11 I struggle to recall. It's been a long time since I had
12 that blog.

13 Q. Why did you discontinue it?

14 A. I'm really not sure. I started it when I was
15 a technology and blog trainer for -- for personal injury
16 law firms around the country and I became good at
17 blogging very quickly, and it was fun, so I started a
18 blog to speak about issues personal to me and my
19 community.

20 Q. What kind of issues do you remember blogging
21 about if not political?

22 A. Let's see. I remember blogging about my
23 adopted mom who was -- who was a missionary to Haiti
24 since 1969 and who moved here with me to Florida in
25 1991. She had at the time -- I know this was an article

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1 from 2010. I did several of them. She landed in Haiti
2 on the day of the 2010 earthquake, which killed possibly
3 100,000 or more people, and she went missing for several
4 weeks. So as part of my research and to try to find
5 her, I posted blogs from time to time about the process
6 of trying to locate -- locate her in Haiti.

7 Q. Did you find her?

8 A. Yes, we did.

9 Q. Okay.

10 A. Thank God, yes. Some missionaries -- some
11 American missionaries I believe located her at an
12 orphanage assisting with children in the countryside of
13 Haiti.

14 Q. I'm so glad to hear that.

15 A. Thank you.

16 Q. Are you a board member of the Corporation to
17 Develop Communities of Tampa?

18 A. Yes, I am.

19 Q. What does that group do?

20 A. Corporation to Develop Communities of Tampa is
21 a nonprofit in Hillsborough County founded by Ms. Chloe
22 Coney. It exists to do multiple things, which fight
23 poverty. One is workforce development, so through the
24 acquisition of grants and funding, training the
25 community, those hardest economically hit in places like

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1 East Tampa to have good economic paying jobs and careers
2 often with a certification or training component. So
3 that's one, the workforce.

4 And then buying and building affordable
5 housing for Tampa Bay's families, hardworking families,
6 that's two. There's a new unit that participates in
7 providing low cost marketing materials for small
8 businesses in the Tampa Bay area, nominal cost. That's
9 three, three pillars. There may be a fourth, but I
10 believe I referred to the real estate, which has to do
11 with acquiring and building the homes. That's what I
12 can recall.

13 Q. Is there a certain portion of Tampa that you
14 focus on or is it for the entire Tampa area?

15 A. Well, originally, the organization was born in
16 and targeted East Tampa, which is home to the largest
17 concentration of African-Americans in Hillsborough
18 County many of whom are chronically underemployed,
19 possibly undereducated and underemployed for the
20 workforce in order to help them bring up the standard of
21 living and their career opportunities, yes.

22 Q. Is your home in East Tampa?

23 A. No. My home is in North Tampa. I formerly
24 lived in East Tampa, but my home is in North Tampa and
25 what's considered an ALICE community, which is --

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1 Q. A what community?

2 A. An ALICE community, A-L-I-C-E. That means the
3 majority of the residents in that ZIP code are
4 economically underserved.

5 Q. So your -- let's see. Was your Abonado Road
6 address in East Tampa?

7 A. No. That's in Town 'n' Country.

8 Q. I see --

9 A. That was the -- I lived there -- I'm sorry.

10 Q. I still don't know where Town 'n' Country is.

11 A. Right. Right.

12 Q. So when was it that you lived in East Tampa?

13 A. I lived in east -- well, let's see -- East
14 Tampa from about 1995 to 2008 when I moved to Lakeland.

15 Q. All right. So -- I'm sorry. I think I
16 interrupted you. So originally, the Corporation to
17 Develop Communities of Tampa was focussed on East Tampa.

18 Is that still the mission focus today?

19 A. It's not -- it's the main focus, but we have
20 expended throughout Hillsborough County and also have
21 ongoing projects in St. Petersburg, Florida, for -- in
22 support of the business community there. Oh, let's see.
23 We also recently added Fort Myers, Florida, as home to
24 some of our workforce opportunities.

25 Q. So it's still called Corporation to Develop

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1 Communities of Tampa?

2 A. Yes, Inc. Incorporated, yes.

3 Q. Inc. Okay. But let me make sure I got this
4 right. Now, you-all serve Tampa, parts of St. Pete, and
5 Fort Myers, so also Hillsborough County and Pinellas
6 County; is that right?

7 A. Yes. That would be correct.

8 Q. All right. And the services on kind of the
9 same issues in all of those localities, it's workforce
10 affordable housing, small businesses; is that right?

11 A. Yes. I would say that.

12 Q. All right. Besides this lawsuit, have you
13 ever been involved in a civil lawsuit as a party?

14 A. No, I have not.

15 Q. Have you ever been charged with a crime?

16 A. No, I have not.

17 Q. Have you ever been charged with driving while
18 your license was suspended?

19 A. I do not believe I have.

20 Q. Ever filed for bankruptcy?

21 A. Yes, I have.

22 Q. How many times?

23 A. Once in 2013, I believe, as part of my divorce
24 -- as part of my economic restructure after my divorce.

25 Q. Have you ever testified in court?

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1 A. Yes, I have for -- I believe for minor traffic
2 offenses, traffic tickets.

3 Q. Your own traffic tickets?

4 A. Yes.

5 Q. Can you estimate how many times you've
6 testified in court for traffic infractions?

7 A. You'd have to specify over what number of
8 years or time periods.

9 Q. Ever.

10 A. Ever? Ever is a long time. I would struggle
11 to say. I'll say at least twice that I'm aware of.

12 Q. Tell me in your own words why you're bringing
13 this lawsuit?

14 A. I'm bringing this lawsuit because I believe
15 that it's fundamentally unfair to seemingly dilute the
16 will of the voters in multiple districts by trying to
17 combine all of the voters that -- as many as possible of
18 the voters that look alike into one district, whereas
19 previously, they were in two or -- those same persons or
20 communities were in two districts.

21 Q. And tell me a little bit more about how you
22 think the will of the voters is diluted, if I got your
23 word right, under the current map that you're
24 challenging?

25 A. Well, if previously -- if, for example,

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1 previously, the different communities had one, let's
2 call them representative -- political representative
3 each and now those communities only have one total
4 between the two of them, I would struggle to see how one
5 person could effectively represent and advocate for the
6 diverse interest of both communities.

7 Q. And which communities used to have two
8 representatives, but now only have one representative?

9 A. South St. Petersburg, Florida, and a large
10 portion of my district in -- which includes East Tampa,
11 Florida -- East Tampa, North Tampa, so forth.

12 Q. And again, I never want to know what you said
13 to your lawyer or what your lawyer said to you, but
14 other than that, can you tell me, how did you come to be
15 involved in this lawsuit?

16 MS. ROBERTSON: Keto, just make sure you don't
17 disclose any conversations with any of your
18 attorneys.

19 THE WITNESS: I got you. I got it. The law
20 firm reached out to me and informed me of the case.

21 BY MS. HARLE:

22 Q. Have you spoken with any of the other
23 plaintiffs in this case? Just yes or no. I don't need
24 to know what was said. Have you ever spoken with any
25 other plaintiffs?

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1 A. Yes, I have, but not about the case.

2 Q. Oh, okay. And which plaintiff was that?

3 A. Jarvis El-Amin.

4 Q. And do you know him in a personal capacity
5 separate and apart from the case?

6 A. Yes.

7 Q. Okay.

8 A. Yes. We volunteered for many community --
9 community activities together.

10 Q. Got it. When the redistricting process was
11 going on that resulted in the map that you're
12 challenging, were you aware at the time that
13 redistricting was happening?

14 A. Yes, I was aware.

15 Q. Did you communicate with any members of the --
16 members or staff of the Florida Legislature during the
17 redistricting process?

18 A. No, I did not.

19 Q. Have you communicated with any members or
20 staff of the Florida Legislature about the districts
21 since the redistricting happened?

22 A. No, I have not.

23 Q. Have you ever communicated with any members of
24 the media regarding the redistricting process?

25 A. Yes, I have.

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1 Q. When was that?

2 A. It was a few months ago after the lawsuit was
3 filed. I don't remember the reporter's name, but it was
4 a law reporting organization called -- I believe called
5 Law360, and they cover lawsuits and legal happenings all
6 over the State of Florida.

7 Q. All over the nation in fact. I'm very
8 familiar.

9 A. Okay. Okay.

10 Q. So did you communicate directly with the
11 Law360 reporter?

12 A. Yes, I did. He contacted me.

13 Q. Oh. Was your -- was it an interview?

14 A. I would say it was. He -- we spoke over the
15 phone briefly.

16 Q. Did he quote you in an article?

17 A. I believe he did.

18 Q. Was your attorney on the phone call too?

19 A. No. No, they weren't.

20 Q. Uh-oh. And what did you tell the reporter
21 about the redistricting process?

22 A. To my recollection, I told him the same thing
23 I stated a few minutes ago, which was that it was
24 difficult for me to see how having less representation,
25 less political representation for two or more distinct

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1 voting regions was beneficial to the communities in
2 those voting regions.

3 Q. Do you recall any other time that you've
4 spoken with the media about the district lines that
5 you're challenging?

6 A. I don't recall having participated in any
7 other interviews.

8 Q. Have you made any written or oral statements
9 to any community groups regarding the districts that
10 you're challenging?

11 A. No. I do not recall having made any written
12 or oral communications to any community groups.

13 Q. Have you spoken with folks at the NAACP
14 regarding the redistricting process or the lawsuit?

15 A. I don't recall having spoken with anyone at
16 the NAACP about the redistricting process.

17 Q. Have you spoken with anyone at the
18 Hillsborough County Democrats about the redistricting
19 process you're challenging?

20 A. No. I don't recall having spoken with anyone
21 at Hillsborough County Democrats about the districting
22 process.

23 Q. Have you made any statements or comments on
24 social media about this lawsuit?

25 A. I do not believe I've made any comments on

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1 social media about the lawsuit. I believe I may have
2 once mentioned to someone that the lawsuit had been
3 filed, but nothing beyond that.

4 Q. Okay. Which social media accounts do you
5 have?

6 A. I have multiple social media accounts on --
7 let's see -- Twitter, Facebook, and -- what's the other
8 one? Instagram to my recollection.

9 Q. And you have LinkedIn, right?

10 A. I'm sorry. Can you say that again?

11 Q. You have LinkedIn, right?

12 A. Yes. Oh, that's right, yes.

13 Q. Do you have TikTok?

14 A. I have, but I don't use it.

15 Q. Are you currently a registered voter?

16 A. Yes, I am.

17 Q. When's the last time you voted?

18 A. I vote every year. I'm a super voter.

19 Q. So have you voted in every state congressional
20 election you've been eligible for?

21 A. To my recollection, I have voted in every
22 state congressional election that I'm eligible for.

23 MS. HARLE: Let's pull up the complaint as
24 Exhibit 1.

25 (Defendant's Exhibit No. 1 was marked for

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1 identification.)

2 BY MS. HARLE:

3 Q. And looking at -- let's start just by looking
4 at the map that you're challenging, figure 3 on page 20.

5 A. Okay. Was there a question stated?

6 Q. Yes. I was just going to pull that up for --
7 to give us a frame of reference.

8 Can you explain to me -- well, first, I guess
9 does this map look familiar to you?

10 A. Yes, it does.

11 Q. Okay. And these are the districts that you're
12 challenging in this lawsuit, right?

13 A. Yes. That's correct.

14 Q. Can you just explain to me while we have this
15 up all of the reasons that you think that these district
16 line are problematic.

17 A. Yes. We can see all the sections in purple
18 are two different areas of the State of Florida. The
19 larger section to the right is primarily Hillsborough
20 County or -- yeah, Hillsborough County from about the
21 University of South Florida/North Tampa area down to
22 much further south, the southernmost part of
23 Hillsborough County, and then the small sliver on the
24 left is part of South St. Pete.

25 Q. Okay. So in terms of reason why you think

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1 this map is problematic and illegal --

2 A. Yes.

3 Q. -- tell me what those are.

4 MS. ROBERTSON: Object to form.

5 When I say that, you can still answer --

6 THE WITNESS: Okay.

7 MS. ROBERTSON: -- unless I tell you.

8 THE WITNESS: Okay. Yes. There are multiple
9 -- several reasons I can think of. People in
10 Hillsborough County and St. Pete -- excuse me --
11 have different factors that they're concerned
12 about. One is public transportation. So if you're
13 in South St. Pete, you have a certain level of
14 service that you come to expect from PSTA, which is
15 the public bussing system. If you're in -- and you
16 have a much smaller area in which you may need to
17 travel.

18 In Hillsborough County -- excuse me. Sorry.
19 In Hillsborough County, in that section of
20 Hillsborough County, HART, H-A-R-T, services much
21 of that area, but there's a totally different level
22 of service as customers try to piece together
23 routes so they can get back and forth from home to
24 work, school, church, shopping, sports activities,
25 so forth. That's one issue.

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1 Then another issue is the -- is the school
2 districting. If you're in South St. Pete, you're
3 part of the Pinellas County Public School district,
4 which is much -- much, much smaller and limited in
5 the number of schools and student that it serves.
6 In Hillsborough County, that's that slice -- the
7 purple slice is part of over 200 schools and I
8 believe the seventh largest school district in the
9 country with over \$3.2 billion budget, which has
10 very different factors and -- and points of
11 interest for the citizens of Hillsborough County as
12 opposed to St. Pete. Those are two of the issues
13 that I can think of.

14 Oh, affordable housing, of course, is the
15 third one. In St. Pete, where it looks like it's
16 South St. Pete, as far as property values and the
17 ability of the residents to secure affordable
18 housing is drastically different from what it looks
19 like in many parts of Hillsborough County with East
20 Tampa, North Tampa, you know, South Tampa, so forth
21 as far as ability of the residents to find
22 affordable housing.

23 BY MS. HARLE:

24 Q. Tell me just a little bit more about how the
25 affordable housing issue is different in East Tampa and

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1 North Tampa versus South St. Pete?

2 A. Well, I'm certainly not a geographic expert --
3 geographic or real estate expert. My understanding is
4 that some of the -- how do you say -- a number of the
5 communities in South St. Pete may primarily be
6 economically depressed, whereas in Hillsborough County,
7 throughout that large slice, you have multiple levels of
8 economic ability.

9 So you may have Seminole Heights, for example,
10 which has houses average three hundred, four hundred
11 thousand dollars, you know, whereas you may have East
12 Tampa where a lot of folks live in apartment
13 communities -- in low income apartment communities.

14 Q. And just going back to what you said about the
15 school districts, do the voters in the purple part of
16 St. Pete vote for the Pinellas County School Board?

17 A. Yes, they do.

18 Q. All right. Let's look up to paragraph 6 and 7
19 of your complaint. There we go. Okay. I'll give you
20 some time for you to read this.

21 A. All right. Okay.

22 Q. Okay. So I wanted to focus on a couple of
23 your -- your allegations here. In paragraph 6, you say,
24 quote, The legislature elevated race above all other
25 considerations, end quote. And then in paragraph 7, you

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1 say, quote, Legislators and their staff purportedly drew
2 these districts in a race-predominant manner, end quote.

3 So my first question was going to be, what --
4 do you have any particular facts regarding the racial
5 motivations of the legislature in drawing the district
6 lines?

7 A. No. I don't have any particular facts. I
8 would have to defer to my attorneys regarding that
9 discussion, but looking at the maps visually, I can't
10 see another reason why you would -- why someone or an
11 entity would divide up the voting district that way
12 especially considering you have two -- it's one of the
13 few if not the only district in the area where you have
14 to cross a body of water and possibly multiple counties.

15 Q. And who is it that you believe is harmed by
16 the way that district lines are currently drawn?

17 A. I believe primarily African-American voters
18 living in South St. Pete and Hillsborough County are
19 harmed by the redrawing of this district.

20 Q. And how are the Black voters in South St. Pete
21 and Hillsborough County harmed by the way the districts
22 are drawn?

23 A. Voters in both areas are harmed because they
24 are -- they previously had multiple political
25 representatives and now that number has been

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1 artificially shrunk to fewer representatives. Less
2 representation to me does not seem like a fair thing
3 especially when you have more, more, more residents
4 combined in that area now than in years past.

5 Q. Do you believe there are too many Black voters
6 in your district?

7 A. Let's see. Can you restate what you mean by
8 that?

9 Q. Yeah. I'm trying to get at what the harm is
10 to the Black voters from your perspective.

11 Is it your contention that there are too many
12 Black voters backed into District 16?

13 MS. ROBERTSON: Object to form.

14 You can answer, Keto, if you --

15 THE WITNESS: Okay. Okay. If I believe I
16 heard you correctly, you're asking do I believe
17 that the voters -- that the voters are harmed or a
18 specific group of voters are harmed?

19 BY MS. HARLE:

20 Q. Do you believe there are too many Black voters
21 that are packed into District 16 under the current map?

22 MS. ROBERTSON: Object to form.

23 Go ahead and answer if you know.

24 THE WITNESS: Yes, I do. I believe there are
25 too many voters in the district that are diverse --

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1 represent diverse communities.

2 BY MS. HARLE:

3 Q. Do you believe there are too many Black voters
4 in District 16 currently?

5 A. Yes, I do believe that.

6 Q. And do you know what the current percentage of
7 Black voting age population is for District 16?

8 A. I'm not aware of that fact. I would have to
9 defer to my attorneys for their knowledge.

10 Q. Do you have an estimated percentage in mind
11 that for you is a fair percentage of Black voting age
12 population for your district?

13 A. No. I do not have a certain percentage in
14 mind at this time.

15 Q. Are you familiar with the history of the
16 district boundaries for Hillsborough and Pinellas?

17 A. I'm familiar with some of the history, not all
18 of it, and for that discussion, I would certainly have
19 to refer to my attorneys for historical perspective.

20 Q. What of the history can you -- or which part
21 of the history of the boundaries are you familiar with?

22 A. I'm familiar with the fact that I -- to my
23 recollection, the South St. Petersburg sliver was
24 formerly in a Pinellas County voting district, whereas
25 the Hillsborough County sliver was strictly in a

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1 Hillsborough County voting district. And with the
2 drawing that we saw a few -- earlier today, that has
3 changed. You have combined voters from both areas.

4 Q. Are you aware that the communities that are
5 combined into District 16 currently have been combined
6 to a shared district since the early 1990s?

7 A. I'm not familiar with all of the dates. For
8 that, I'd have to defer to the knowledge of my
9 attorneys.

10 Q. Did you read the complaint before it was
11 filed?

12 A. I believe I did. I don't recall the exact
13 date, so I wouldn't be able to say for sure.

14 Q. Yeah. I don't need the date. I'm just
15 wondering did you read it in full before it was filed.

16 A. I believe I did.

17 Q. Let's go to paragraph 11.

18 A. Okay. You want me to read it silently?

19 Q. Yes. That'd be great.

20 A. Okay. Okay. I read it.

21 Q. Okay. Great. So I was going to ask about the
22 part where you say, quote, Plaintiffs are further harmed
23 because the legislature sacrificed genuine communities
24 of interest, end quote.

25 My first question is, which genuine

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1 communities of interest are you referring to there that
2 you believe the legislature sacrificed?

3 A. They genuine communities of interest would be
4 Black communities in particular in South St. Petersburg
5 and in Hillsborough County, for example, in East Tampa.

6 Q. And how do you believe the community of Blacks
7 in East Tampa were sacrificed by the legislature?

8 A. They -- the -- it's my belief that the
9 legislature put together two totally different
10 communities, communities who have sent their children to
11 school in different community schools and different
12 county systems. For example, communities that pay taxes
13 in a different -- in different ways at different tax
14 referendums, different tax rules, different incentives
15 for small business, for example, they put them all
16 together among other factors. All of those folks were
17 suddenly put together despite their differences.

18 Q. And so how has putting them together
19 sacrificed those communities, just in your own words?

20 A. Putting these two communities together
21 sacrifices their interest because it's very difficult
22 for a -- for one person to represent two totally
23 different areas that have different interests and
24 different factors that they struggle through on a daily
25 basis.

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1 Q. And what specific facts are you relying on for
2 that claim that the legislature sacrificed genuine
3 communities of interest?

4 A. Can you restate the question, please?

5 Q. Yeah. Were there any specific facts you're
6 relying on in support of your allegation that the
7 legislature sacrificed those genuine communities of
8 interest?

9 A. Well, for specific facts, I would have to
10 defer to the knowledge of my attorneys.

11 Q. Are there any other communities of interest
12 that you believe were sacrificed because of the way the
13 district lines were drawn?

14 A. I'm not aware of any other communities of
15 interest. It would seem strange for the district to be
16 drawn this way based on any other factors.

17 Q. What do you understand communities of interest
18 to mean?

19 A. Communities of interest are groups of people
20 that reside typically in the same or similar geographic
21 area in a region, and so they have I would just say many
22 commonalties and mutual interests in that particular
23 area that others outside that area may not share.

24 Q. And so the two communities of interest that
25 you've mentioned are the Black voters in South St. Pete

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1 and the Black voters in East Tampa.

2 So other than race, is there another factor
3 that you think can serve as a basis for a community of
4 interest?

5 A. I'm not aware of any other factor at this
6 time.

7 Q. Do you think political party could be the
8 basis for a community of interest?

9 A. Not sure. I'm not sure. I'm not sure. I
10 would have to defer to the knowledge of my -- of my
11 attorneys in this -- in that case.

12 Q. Do you think income level could serve as a
13 basis for a community of interest?

14 A. I'm not sure and I'd have to defer to the
15 knowledge of my attorneys.

16 Q. Looking at the next paragraph there, paragraph
17 12, just -- if you'll read that to yourself and let me
18 know when you're ready.

19 A. Yes, I'm ready.

20 Q. Okay. So this one says, quote, The
21 legislature's racial gerrymandering unjustifiably packed
22 Black voters into District 16 stripping them from
23 adjacent District 18 and reducing their influence there,
24 end quote.

25 So my question is, do you have any specific

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1 facts asserting -- excuse me -- supporting the
2 allegation that the influence of Black voters in
3 District 18 is reduced?

4 A. I'm not aware of any specific facts, so I
5 would have to defer to the knowledge of my attorneys,
6 but I can't see why you would divide up the district if
7 that were not a consideration.

8 Q. Okay. So the next paragraph we'll take a look
9 at too --

10 MS. ROBERTSON: I apologize. Is anyone ready
11 for a break? I actually need to use the bathroom.

12 MS. HARLE: Yeah. That's fine. We can go off
13 the record. Back in five.

14 (Brief recess.)

15 BY MS. HARLE:

16 Q. Mr Nord Hodges, I think we were just looking
17 at paragraph 13 there. We'll give you a minute to read
18 that. Let me know when you're ready.

19 A. All right. All right. I'm ready.

20 Q. So starting on that third line where you say,
21 quote, Floridians including individual legislators
22 called out and questioned the legislature's
23 unconstitutional actions, end quote, I'm wondering, are
24 there any specific Floridians you're aware of that
25 called out and questioned the legislature?

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1 A. I'm not aware of specific names at this time.
2 I'd have to defer to my attorneys for their knowledge of
3 different actors in the case.

4 Q. Do you have any general recollection that you
5 can share with me of who called out what?

6 A. I do not. I watched the news and -- at the
7 time and I know some did. I don't recall who because it
8 was all the local Tampa Bay area news stations.

9 Q. Okay. Let's look at paragraph 20, please.

10 A. I'm sorry. Which paragraph number?

11 Q. Paragraph 20. If you can just read that to
12 yourself.

13 A. Okay. I read it.

14 Q. Okay. So this one talks about the district's
15 line splitting up Plaintiff's communities.

16 My question is, which community are you
17 referring to there that you feel like is split up?

18 A. The two communities that's -- two communities
19 in particular are East Tampa community and the South
20 St. Petersburg community.

21 Q. And do you consider your community to be North
22 Tampa?

23 A. Yes. I live in North Tampa. I -- yes.

24 Q. Okay. But North Tampa is not split up, right?

25 A. I'm not sure what you mean by that.

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1 Q. Well, so this is -- quote, The enacted plan
2 harms Plaintiffs because among other reasons, it splits
3 up their communities.

4 So I'm just wondering, is your community,
5 North Tampa, split up in your view?

6 A. Oh, right. I'm trying to make sure I
7 understand what you're asking. The North Tampa
8 community that I'm in appears to be part of the same
9 portion of the Hillsborough County side of the district.
10 So it's not physically politically split up for them to
11 be divided from the St. Petersburg -- South
12 St. Petersburg district.

13 Q. And when you think of your own community, how
14 would you define your -- Mr. Hodges -- Nord Hodges'
15 community?

16 A. Let's see. How -- how would I define my
17 community? Can you be specific as to which community
18 you're referring to?

19 Q. Well, I'm trying to wrap my mind around what
20 is meant in your complaint. At various times,
21 communities are referred to. So I guess if I were just
22 asking you, you know, how do you define or describe your
23 community? Is there one answer? Are there different
24 answers that you would give me?

25 A. Well, one answer I would give you right now

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1 through my recollection is that I'm part of the
2 Hillsborough County community and all that that entails,
3 and that community is different from the South
4 St. Petersburg community.

5 Q. So later in that paragraph 20 where it says,
6 groups their communities with dissimilar ones, is --
7 what are you referring to there in terms of
8 dissimilar --

9 MS. ROBERTSON: Object to form. I'm sorry.
10 Object to form.

11 THE WITNESS: I'm referring to the fact that
12 Black communities in areas like East Tampa and
13 South St. Petersburg are very dissimilar other than
14 them being Black -- primarily Black.

15 BY MS. HARLE:

16 Q. And you don't consider yourself in East Tampa,
17 right?

18 A. That's correct, although I serve residents of
19 East Tampa in the -- through my job in the school
20 district.

21 Q. So your -- was it called Dr. Carter?

22 A. Yes, Dr. Carter G. Wilson school.

23 Q. That's located in East Tampa?

24 A. No. That's located in West -- in North Tampa
25 also, but the students come from all over -- all parts

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1 of Hillsborough County including East Tampa.

2 Q. Okay. And then that last line that says,
3 quote, Simply because of their race, are there any facts
4 that you know of that we haven't talked about today that
5 indicate that the lines were drawn simply because of the
6 race of the voters?

7 A. I would have to defer to my attorneys for
8 further discussion of that matter, but I can't see why
9 you would draw the district -- redraw the district that
10 way if race were not a factor.

11 Q. Let's look at paragraph 95. Read that and let
12 me when you're ready.

13 A. All right.

14 Q. So this is where you say, quote, These
15 race-based decisions resulted in a map that splits
16 neighborhood and ignores traditional redistricting
17 criteria.

18 So my first question is, which --

19 A. Well, hang on.

20 Q. I'm sorry.

21 A. I haven't had a chance to finish reading it
22 yet.

23 Q. Oh, I'm sorry.

24 A. That's okay. You said 95 or 96?

25 Q. Just number 95, yes, sir.

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1 A. Right. Okay. Go ahead.

2 Q. My first question is, which neighborhoods are
3 split in the map?

4 A. Well, South St. Petersburg -- South
5 St. Petersburg is politically split from the rest of
6 St. Petersburg, which is not -- which has not always
7 been the case.

8 Q. Is South St. Petersburg -- South
9 St. Petersburg itself a neighborhood?

10 A. Yes, it is.

11 Q. And is all of South St. Petersburg currently
12 in District 16?

13 A. You would need to show me a map again and
14 restate the question, please.

15 Q. Okay. Sure. Let's -- let's go down to the
16 figure 3 real quick.

17 So the purple part on the map there, that's
18 South St. Petersburg, correct?

19 A. Yes. Well, the purple shaded part.

20 Q. Purple with the diagonal white lines?

21 A. Yeah.

22 Q. Okay. So my question is, just that boundary
23 between 16 and 18 on the Pinellas side, do you see that?

24 A. Yes.

25 Q. Okay. Is any part of South St. Pete in

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1 District 18 on that map?

2 A. Yes, it is.

3 Q. Okay. So is South St. Petersburg the
4 neighborhood, as you described it, split between
5 District 16 and 18?

6 A. Oh, is South St. Pete split between District
7 16 and 18?

8 Q. That's what I'm trying to ask.

9 A. No, it's not. It's divided from it.

10 Q. Okay. Thank you. All right. Let's look back
11 at 95 for the second part of that question, which is --
12 this says that the legislature ignores traditional
13 redistricting criteria, so I'm wondering, which criteria
14 do you understand it to be appropriate for the
15 legislature to use when drawing district lines?

16 A. Well, for further discussion of that, I would
17 have to defer to the knowledge of my attorneys.

18 Q. And which criteria do you believe the
19 legislature ignored in drawing these district lines?

20 A. I believe they simply ignored geographic
21 criteria by going across multiple counties and dividing
22 it up with the body of water all of -- both of which are
23 unusual.

24 Q. Anything else?

25 A. Not at this time.

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1 Q. Okay. All right. Let's look at paragraph 97.

2 A. Okay. Let me read it. Okay. Go ahead.

3 Q. Just focussing on the first line that refers
4 to, quote, The direct evidence of racial predominance,
5 what direct evidence are you aware of that race
6 predominates the drawing of the district lines you're
7 challenging?

8 A. I'm not certain on all of the particular
9 factors, so I would have to defer to my attorneys for
10 more complete answering of this.

11 Q. But do you know of any direct evidence that
12 race predominates the drawing of the lines?

13 A. I'm not sure at this time, but I can't see why
14 else you would need to draw a district in this way.

15 Q. Looking at paragraph 131 -- take a minute to
16 read that and let me know, please.

17 A. Yes. You can go ahead.

18 Q. Okay. Do you know what the phrase Tier One
19 compliance means in that allegation?

20 A. I don't recall. I've seen the definition
21 somewhere in my reading of this lawsuit, I believe, but
22 I'd have to refer to -- or defer to my attorneys for
23 more definitions or knowledge.

24 Q. Let's look at the map of what's called plan
25 42, which is in your complaint. There it is.

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1 Does that look familiar to you?

2 A. Yeah. I have seen it in the past.

3 Q. I'll just represent to you this is a --
4 obviously, it's in your complaint. This is a map that
5 you and your Co-Plaintiffs have proposed as a better
6 alternative to the map you're challenging.

7 Can you tell me anything about this map that
8 you think is better than the map that you're challenging
9 in the lawsuit?

10 A. Yes. If you look at 19, 18, 16, and 24, you
11 can travel the width and height of the -- of those areas
12 without crossing into another county, and the entire
13 community or geographic area is enclosed within the
14 boundaries of each specific voting district.

15 Q. Based on your knowledge of the demographics in
16 Hillsborough, would there be roughly the same number of
17 Black voters in this map or more or less than the one
18 that you're challenging?

19 A. I would have to defer to my attorneys, who I'm
20 sure may be relying on the census and other political --
21 and other information or more accurate and complete
22 discussion of that question.

23 Q. Okay. Let's look at what's called the Isbell
24 map. It's also in your complaint. Does this -- let's
25 see.

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1 The Isbell Plan, does that look familiar to
2 you?

3 A. I believe I've seen it before.

4 Q. Okay. And this is in your complaint as an
5 alternative map.

6 What is it about this map that you prefer to
7 the map that you're challenging in the lawsuit?

8 A. Again, it appears that the -- that each of the
9 voting districts is self-contained and does not cross
10 over or -- or share parts of another voting district.
11 You can travel the width and the depth of each district
12 without crossing a body of water and without -- without
13 crossing through another district.

14 Q. And in this plan, it looks like the voters of
15 South St. Pete are not combined with the voters of
16 Tampa; is that right?

17 A. That appears to be accurate.

18 Q. Do you know whether under this plan in the
19 region shaded 17 there would be a diminishment of the
20 Black voting power as compared to the map that you're
21 challenging now?

22 A. I'm not aware of all the specific boundaries
23 of this proposed plan. I'd have to defer to my
24 attorneys for more complete and accurate discussion.

25 Q. Have you seen any of the maps that your expert

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1 witnesses have provided in their reports in this case?

2 A. I'm not sure. I -- I'm not sure. I would
3 have to be pointed to specific maps. It seems like
4 there's a lot of them.

5 MS. HARLE: That is correct. Let's look at
6 your initial disclosures. This will be Exhibit 2.

7 (Defendant's Exhibit No. 2 was marked for
8 identification.)

9 If you can scroll down, Leila, to the bottom
10 and then back up.

11 BY MS. HARLE:

12 Q. Does this document look familiar to you
13 Mr. Nord Hodges?

14 A. Let's see. Let me see. Well, my name looks
15 familiar.

16 Q. Okay. Are you able to say whether you've
17 reviewed this before?

18 A. I believe I have. All the documents kind of
19 seem to run together.

20 Q. I understand. Well, let's look at what it
21 says there in 1A where it has your name. So it says
22 that you, quote, have information tending to show that
23 the challenged districts caused harm to themselves and
24 other residents.

25 So I'm wondering, what harm do the challenged

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1 districts cause to you?

2 A. Yes. Specifically, the harm to me is that I'm
3 forced to share a legislature now -- or not necessarily
4 legislature, a political representative with -- with
5 residents of South St. Pete with whom I have nothing in
6 common other than being Black. So again, less
7 representation to me is not better than more
8 representation.

9 Q. And do you believe that Black voters are a
10 community of interest?

11 A. Yes, I do.

12 Q. So in what way does being in the same district
13 as other Black voters harm you?

14 MS. ROBERTSON: Object to form.

15 You can answer.

16 THE WITNESS: Okay. In what way does being in
17 a district with other Black voters harm me?

18 MS. HARLE: Yes, sir.

19 THE WITNESS: Well, if the -- I'm sorry. Go
20 ahead.

21 MS. HARLE: Yes, sir. That was my question.

22 THE WITNESS: Okay. It harms me if I have to
23 share time with a legislator who's -- instead of
24 being able to be dedicated to the interest of my
25 community has conflicting interest in at least two

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1 different communities that they have to consider,
2 research, work on, so forth. So possibly, I may
3 get less, less advocacy on -- for my community on
4 my side of the map and some in another part of the
5 map.

6 BY MS. HARLE:

7 Q. And if -- if the voters of South St. Pete were
8 moved out of your voting district and that caused the
9 number of Black voters in your district to go down,
10 would you be in favor of that?

11 A. Yes, I would.

12 Q. Okay. So the second part of your claim there
13 is that you have information tending to show that the
14 challenged district cause harm to other residents.

15 So is there any harm to other residents of the
16 districts that you have information on that we haven't
17 talked about yet?

18 A. I'm not aware of other specific information.
19 I'd have to defer to my attorneys for complete and
20 accurate discussion.

21 Q. Okay. Are there any other individuals you
22 know of that have information about whether the district
23 lines were drawn near -- primarily based on race?

24 A. I'm not aware at this time of who has or
25 doesn't have information about the districts being

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1 redrawn.

2 MS. HARLE: And then just one, I think, final
3 exhibit. This will be your blog from November 9th,
4 2012. Give you time to read it.

5 (Defendant's Exhibit No. 3 was marked for
6 identification.)

7 THE WITNESS: Okay.

8 BY MS. HARLE:

9 Q. Does this kind of look like your blog?

10 A. Yes. That is definitely me.

11 Q. Okay. If you don't mind, just read that entry
12 and I'll just have a couple questions.

13 A. All right. Sure. Give me a moment. All
14 right. I finished.

15 Q. Okay. I just wanted to hone in on towards the
16 bottom there starting with -- I'll read it into the
17 record just so we have it. Quote, Even the Cuban
18 population is no longer Republican in Florida.

19 Unfortunately, I guarantee that the blind will continue
20 to lead the blind and tea partying war-mongering GOP
21 party leadership will stupidly assume that they lost
22 this election because their candidates were not more
23 extreme. For their sakes, they should get it right
24 because the number of old white men in America is
25 shrinking and you cannot win with just their vote. Duh,

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1 end quote.

2 Did I read that right?

3 A. Yes, you did.

4 Q. Okay. Would you say that you had animosity
5 towards Republicans at the time you wrote this?

6 A. No, not at all. I've -- I'm a first
7 generation immigrant who grew up in the south in
8 Arkansas and Florida surrounded by Republicans,
9 Democrats, Independents, and others from school age
10 including my school in church and my community groups
11 that I actively fellowshiped and was and am still
12 friends with until this day.

13 Q. Okay. So you don't have any animosity today
14 towards old white men?

15 A. No, I did not.

16 Q. Okay. And do you think -- do you think
17 Republicans are stupid?

18 A. No. This was just an opinion piece based on
19 certain political actions at the time. And being 12
20 years ago, many things have -- are not the same today as
21 they were in 2012.

22 MS. HARLE: Understood. Well, thank you. I
23 think that's the end of my questions.

24 THE WITNESS: You're welcome.

25 MS. ROBERTSON: I don't have any questions.

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1 We would like to read.

2 MS. HARLE: And we will order an electronic
3 copy.

4 MS. ROBERTSON: We'll also order. And can you
5 bill the ACLU instead of Butler.

6 (This deposition was concluded at 3:49 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF DUVAL)

I, WENDY E. RIVERA, Florida Professional
Reporter, Notary Public, State of Florida, certify that
KETO NORD HODGES personally appeared before me via
videoconference on November 26, 2024, and was duly
sworn.

Signed this 13th day of December, 2024.

Wendy E. Rivera
Notary Public, State of Florida
Commission No.: HH 373469
Expires: March 15, 2027



WENDY E. RIVERA
Commission # HH 373469
Expires March 15, 2027

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF DUVAL)

I, WENDY E. RIVERA, Florida Professional
Reporter, do hereby certify that I was authorized to and
did remotely stenographically report the videoconference
deposition of KETO NORD HODGES; that a review of the
transcript WAS requested; and that the foregoing
transcript, pages 1 through 56, is a true record of my
stenographic notes.

I FURTHER CERTIFY that I am not a relative,
employee, or attorney, or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 13th day of December, 2024.



Wendy E. Rivera

**Senate Committee on Reapportionment
January 13, 2022**

Transcript of video recording available at:
<https://thefloridachannel.org/videos/1-13-22-senate-committee-on-reapportionment/>

Senate Committee on Reapportionment - Jan. 13, 2022

1	Ray Rodrigues: The Committee on Reapportionment will now come to order.
2	Dana: Chair Rodrigues.
3	Ray Rodrigues: Here.
4	Dana: Vice-Chair Broxson.
5	Doug Broxson: Here.
6	Dana: Senator Bean.
7	Aaron Bean: Here.
8	Dana: Senator Bracy.
9	Randolph Bracy: Here.
10	Dana: Senator Bradley.
11	Jennifer Bradley: Here.
12	Dana: Senator Burgess.
13	Danny Burgess: Here.
14	Dana: Senator Gibson.
15	Audrey Gibson: Here.
16	Dana: Senator Harrell
17	Gayle Harrell: Here.
18	Dana: Senator Rodriguez.
19	Ana Maria Rodriguez: Here.
20	Dana: Senator Rouson.
21	Darryl Rouson: Here.
22	Dana: Senator Stargel.
23	Kelli Stargel: Here.

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1 Dana: Senator Stewart.

2 Linda Stewart: Here.

3 Dana: A quorum is present Mr. Chair.

4 Ray Rodrigues: Thank you, I would bring to the members' attention and those in the
5 audience a request to silence all of your electrical devices. We wouldn't want those going off
6 while we are in the meeting here today. Anyone wishing to speak before the committee should
7 complete an appearance card and hand it to a member of the sergeant's office. Should you elect
8 to waive your speaking time, your position will be included in the committee records.

9 I'd like to commend the members of the Select Subcommittees on Congressional and
10 Legislative Reapportionment for their hard work and their efforts in recommending plans that are
11 consistent with all legal requirements and with the directives issued to staff by the full committee
12 after reviewing the recommendations of the Select Subcommittees with staff and counsel. I have
13 filed amendments to SJR 100 and Senate Bill 102. The substance of my amendments are
14 Congressional Plan S000C8040 and Senate Plan S000S8046, which I believe most consistently
15 adhere to the directives issued to staff by the full committee.

16 Today, the committee will take up amendments, questions, debate, and public testimony
17 on both the Congressional and the State Senate maps. The Congressional map will be considered
18 first before we move on to consideration of the Senate map. For the Senate map, I have proposed
19 to the committee that we follow the Supreme Court precedent of numbering districts in an
20 incumbent-neutral manor. The Court has accepted a random numbering process as compliant
21 with its precedent. Accordingly, once we have concluded our consideration on the geographical
22 makeup of the Senate map, we will randomly number the Senate map. As a reminder, the Florida
23 Constitution specifies that odd numbered districts run for elections in years that are multiples of

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1 four. So after this one the next one would be 2024. Even numbered districts run for election in
2 years that are not. So the next election after this one that an even one would appear would be
3 2026.

4 As we all know, all Senate districts will be up for election this year in 2022. To facilitate
5 the numbering process, 40 cards have been produced. Each card is the same size and weight.
6 There are 20 cards labeled 'even' and 20 cards labeled 'odd.' Each of those cards have been
7 placed into an envelope. There are no distinguishing features on any envelope. No card is visible
8 in any way from the outside of the envelope. The Secretary of the Senate has placed the
9 envelopes in a glass container with a lid and mixed the cards both before and after placing them
10 in the container to ensure that there was no possibility of an intentional pattern with which the
11 cards were put in the container. The Secretary is here to present the closed container to the
12 committee, Secretary Debbie Brown. Thank you, Secretary, and she has given us the process by
13 which the cards were created, placed in the envelopes, sealed and attested to the chain of custody
14 up to the point that we have received them. I will hand that over to the Staff Director to be
15 entered into the record. Prior to the committee's final vote on the Senate map, each district will
16 have a card drawn from the container to designate as an odd- or even-number district. After the
17 random numbering has been completed, the committee will then take an informal recess so that
18 the committee staff can prepare an amendment to overlay the new district numbers on the map.

19 From a process standpoint, the numbering overlay will take the form of a late-filed
20 substitute amendment. Please be prepared for an informal recess of approximately one hour
21 before the committee's final procedural vote on the Senate map as it's been randomly
22 renumbered. Do we have any questions on the process that I've just described?

23 Aaron Bean: Mr. Chairman.

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1 Ray Rodrigues: Yes, sir. President Pro Tem Bean, you are recognized.

2 Aaron Bean: Chairman, thank you so much for very illustriously laying out the
3 randomness of the selection of districts, and I know it's going to be random. Here's my question
4 and we have – and maybe it's not an issue at all. But we have – you know, our districts have all
5 been laid out where they're close to being a number and they are easily followed. Are we worried
6 if we get five or six evens in a row or something? Are we worrying about clusters of even
7 numbers in a certain area or have we anticipated that or is that just due to the randomness or the
8 way it will be drawn out of the jar? Is that a valid concern, or it's not a concern at all?

9 Ray Rodrigues: What I would say is what we've seen from the court is that the random
10 method has been blessed as a method for renumbering the districts. If that were to happen that
11 would be definitely a statistical anomaly, but it is a possibility that could occur. We will proceed
12 bringing up each district so that everybody knows the number we are pulling and then going
13 through this process to make the determination of whether that is odd or even.

14 Aaron Bean: Very good so with a follow-up question. So we will identify what is now
15 known as, say, District 1, which typically always starts in the Panhandle. That's just traditionally
16 the way – the easiest way to understand a numbered map, but under the circumstances of which
17 you've outlined that district. So this is the first district of which we are drawing the card will be
18 drawn and then opened and then whatever that is odd or even, if it's an odd it will then again be
19 assigned the number 1 and then an even would then we would start with number 2.

20 Ray Rodrigues: That is correct.

21 Aaron Bean: Then if, traditionally, if the number two district which we will draw for, if
22 that's an even, that would not be labeled 2, but it would be labeled then 4?

23 Ray Rodrigues: The second district, assuming the first one was odd, the one next to it if it

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1 was even that would probably be 2. Then we would proceed on –

2 Aaron Bean: Okay.

3 Ray Rodrigues: – to the district that's currently known as 3 to make a determination of
4 whether it would be odd or even.

5 Aaron Bean: Odd or even. And again if we get six in a row or whatever, because it's
6 going to be random, it's like a coin flip. But if there's six in a row It could be 2, 4, 6, 8, across the
7 top before we get to our first odd number, and you and Jay the Staff Director is nodding that
8 could be it and that's the way the ping-pong bounce or the cards are drawn. Thank you.

9 Ray Rodrigues: That is a possibility indeed. Do we have any other questions? Senator
10 Gibson?

11 Audrey Gibson: Thank you Mr. Chair. I don't think I heard how the years are going to
12 work. I think there's four, two. I'm pretty sure that's correct. Where is that in the process?

13 Ray Rodrigues: That's dictated by the Constitution. So in the Florida Constitution it says
14 that odd-number districts run for election in years that are multiples of four. And even-numbered
15 districts run in years that are not. We are in 2022 now, which is a redistricting year. Every race
16 will be on the ballot. In 2024, which is a multiple of four, the odd numbers would be on the
17 ballot. Then in 2026 is when the even numbers would first appear on the ballot after this
18 election.

19 Audrey Gibson: Thank you. Can I understand the card process again. So, we are going to
20 randomly draw the cards that are stacked up in the jar. And then the cards are going to be placed
21 on a map?

22 Ray Rodrigues: So we will identify the district we are drawing for. So let's use the
23 example that President Bean mentioned and we start in the Panhandle with District 1. We

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1 announce we are drawing for District 1, we will pull a card out open it up, and it will either say
2 odd or even. If it says odd, we will write on the map odd for that district. We will do that for all
3 40 districts and identify whether their card is indicated that they will have an odd number or an
4 even number. Once we have completed that, we will then take an informal recess. Committee
5 staff will go back and re-number the map either odd or even based upon how the cards were
6 drawn.

7 Audrey Gibson: Mm-hm. Okay. Thank you.

8 Ray Rodrigues: Senator Stewart do you have a question?

9 Linda Stewart: No, but I did want to point out that when these were drawn in the last ten
10 years, four of the Central Florida area all had odd numbers.

11 Ray Rodrigues: So those anomalies can occur in a random process. And have in the past.
12 Thank you. Do we have any other questions on the process. Seeing none we will move forward
13 unless – Senator Gibson you are recognized for a question.

14 Audrey Gibson: Is this more random than – when I was at Reapportionment, we had like
15 the – I called it Senate lotto. Is this more random or equally as random as that process?

16 Ray Rodrigues: Although not a mathematician, I believe what we would be told is that
17 they were equally random. Okay seeing no more questions, we will move to the agenda. Let's
18 take up Tab One, Senate Bill 102, on establishing the congressional districts of the state,
19 sponsored by the Chair, Senator Rodrigues. There is one amendment so let's take up the
20 amendment, which is barcode 652836. That is the amendment that I filed that is based upon the
21 map that I received from the Select Subcommittee, and Mr. Ferrin can you please walk us
22 through that map.

23 Jay Ferrin: Thank you Mr. Chairman. So pursuant to the directives given to staff, this

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1 plan was drawn to be consistent with the plain language of the Florida Constitution, federal law,
2 and existing judicial precedent. The balance is the co-equal criteria outlined in the Tier Two
3 standards of Article III, Section 20 of the Florida Constitution, except where doing so conflicts
4 with the Tier One standards. A functional analysis of the minority districts in the plan confirms
5 that it does not diminish the ability of racial and language minorities to elect candidates of their
6 choice.

7 When drawing visually compact districts, county boundaries were used where it was
8 feasible. When the county was split, static geographic features such as major roads, railroads,
9 and water bodies were used in a manner that sought to keep cities whole, where feasible. In cases
10 where a municipality was split, static geographic features were used to do so. Where none were
11 available, a municipal boundary may have been used, consistent with the committee's directives
12 to prepare congressional plans with population deviations of plus or minus one person from the
13 ideal population. Boundaries may deviate – may deviate slightly from political and geographic
14 boundaries.

15 Like the benchmark plan, this plan has four African American districts and four Hispanic
16 districts. Starting in the Panhandle, District 1 was drawn eastward until it reached the ideal
17 population in Walton County. The boundary uses State Road 83 for its entirety except where
18 necessary to balance population in and around the City of DeFuniak Springs, which is consistent
19 with the committee's directives to utilize easily recognizable and readily ascertainable
20 boundaries while considering the impermanent and changing nature of municipal boundaries.
21 This also results in a visually and mathematically compact configuration.

22 District 2 comprises fifteen whole counties, which is consistent with the committee's
23 directives to, where feasible, explore configurations consisting of whole counties in less-

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1 populated areas. Its configuration is affected by the neighboring District 5, a Tier One protected
2 district. As directed by the committee, the boundary utilizes easily recognizable and readily
3 ascertainable boundaries while also considering municipal boundaries' impermanent and
4 changing nature. This results in a 4% use of non-political and geographic boundaries.

5 District 3 is composed of Union, Bradford, Clay, Alachua, Putnam Counties, and part of
6 Marion County. Its extensive use of county boundaries and keeps the City of Ocala whole within
7 the district.

8 District 4 comprises all of Nassau County and part of Duval and St. Johns. Its district
9 uses extensively political and geographic boundaries, with a 3% use of non-political and
10 geographic features. Departures from these features were necessary to maintain the ability-to-
11 elect in a neighboring Tier One protected district, and to equalize population.

12 District 5 is an effective minority district. Functional analysis confirms that this
13 configuration does not deny or abridge the opportunity for African Americans to participate in
14 the political process and does not diminish their ability to elect candidates of their choice.
15 District 5 follows county lines and major roadways for a substantial portion of its boundaries.
16 The 2% following non-political and geographic boundaries. Where it splits Jefferson County,
17 District 5 follows I-10 in its entirety. And in Columbia County, it follows I-75 and State Road
18 100, except where necessary to equalize population. In Leon County, the boundary primarily
19 follows major geographic boundaries such as State Road 261, which is better known as Capital
20 Circle, U.S. Highway 27, and Apalachee Parkway and Monroe Street, and uses part of I-10.

21 In Central Florida, the southern boundary of Volusia County is used in District 6 and it
22 gains its remaining population from Lake County, which already contains a county split. And
23 reflects a consistent application of methodology relative to the other areas of the state where

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1 counties were kept whole by moving a split to a neighboring county that is already split. Its
2 configuration is affected by districts to the south, which are drawn to respect county boundaries
3 as directed by the committee.

4 District 11 contains all of Citrus and Sumter Counties and parts of Marion and Lake. This
5 follows the committee's directives to examine the use of county boundaries where feasible and
6 its configuration is affected by respecting the county boundaries of Hernando and Sumter.

7 District 8 uses the Brevard-Volusia County line as its northern boundary and gains the
8 remainder of its population in Orange County.

9 District 9 is a Hispanic opportunity district protected from diminishment under Tier One.
10 Due to an increase in the Hispanic population in the area, the district becomes a majority-
11 minority District. A functional analysis confirms that this configuration does not deny or abridge
12 the opportunity for Hispanics to participate in the political process and does not diminish their
13 ability to elect candidates of their choice. District 9 is configured to respect the county
14 boundaries of Osceola, Polk, and Brevard, meaning that it gains its remaining population from
15 Orange County, which is already split. This is another example of the consistent application and
16 methodology concerning the placement of county splits.

17 District 12 follows the committee's directive to examine the use of county boundaries
18 where feasible and keeps all of Hernando and Pasco Counties whole. Because Polk, Sumter, and
19 Citrus are also kept whole, District 12 regains its remaining population in Pinellas County.

20 District 28 is configured to respect county boundaries to its east, south, and west. It
21 includes all of Polk County, and given that the population of Polk County is over 700,000, or
22 excuse me, only 725,000 people, it extends into Lake County to balance the population. Taking
23 District 28 into Lake County allows counties into the south to be kept whole and is consistent

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1 with the committee's directive to explore concepts that, where feasible, keep districts entirely
2 within a county in the more densely populated areas, and use county boundaries.

3 District 7's configuration is affected by the neighboring Districts 9 and 10, which are Tier
4 One protected districts. Because Osceola and Polk Counties are kept whole, District 9 goes into
5 Orange County to balance its population. This causes District 7 to gain its remaining population
6 from Volusia County, and is consistent with the committee's directives to use county boundaries
7 where feasible and draw districts which are visually and mathematically compact, which keeps
8 both Osceola and Polk Counties whole.

9 District 10 is also wholly contained within western Orange County. It's an African
10 American opportunity district protected from diminishment under Tier One of Article III, Section
11 20 of the Florida Constitution. Functional analysis confirms that this configuration of the district
12 does not deny or abridge the opportunity for African Americans to participate in the political
13 process and does not diminish their ability to elect candidates of their choice. The district utilizes
14 Orange County's western border in addition to easily recognizable and readily ascertainable
15 geographic features, using only 2% of non-political and geographic boundaries.

16 Looking over at Pinellas, this county has a population of 959,000 people, which is more
17 than the ideal population of one district. Therefore, the county must accommodate more than one
18 district to balance population. And District 13 is wholly contained within Pinellas County. There,
19 the boundary primarily follows major roadways, departing only from these geographic features
20 when necessary to equalize population. This is consistent with the committee's directives to keep
21 districts wholly within a county in the more densely populated areas and to use easily
22 recognizable and readily ascertainable boundaries while considering the impermanent and
23 changing nature of municipal boundaries and drawing districts which are visually and

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1 mathematically compact.

2 District 14 is made up of parts of Hillsborough and Pinellas County. Placing District 14 in
3 Pinellas while primarily using geographic boundaries allows District 15 to be wholly contained
4 within Hillsborough. It also allows for Pasco County to be kept whole, which results in a more
5 compact configuration of the region that utilizes political and geographic boundaries, as was
6 directed by the committee.

7 District 15 is wholly contained within Hillsborough County and is consistent with the
8 committee's directives to keep districts entirely within a county in the more densely populated
9 areas. Its western and southern boundary primarily follows interstates and major roadways and
10 railroads, departing only from these geographic features when necessary to equalize population.

11 District 16 contains the remainder of Hillsborough County, all of Manatee County, and
12 part of Sarasota. It has a high usage of political and geographic boundaries, with only 5% of the
13 boundary falling on non-political and geographic features in order to balance population.

14 District 17 contains all of Charlotte, DeSoto, Hardee, Highlands, Glades, and
15 Okeechobee Counties and parts of Lee and Sarasota Counties. This is consistent with the
16 committee's directives to explore concepts that consist of whole counties in less-populated areas
17 that result in districts which are visually and mathematically compact. In both Lee and Sarasota
18 Counties, political and geographic boundaries are highly utilized, resulting in a 2% non-political
19 and geographic boundary usage score.

20 To the east, District 18 is comprised of all St. Lucie and Martin Counties and part of
21 Indian River and Palm Beach. Its configuration is affected by District 20, which is a neighboring
22 Tier One protected district.

23 District 19 is located within Lee and Collier Counties and is affected by the neighboring

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District 25, which is a Tier One protected district. The district uses political and geographic boundaries, with only 8% falling on non-qualifying boundaries.

District 25 is a majority-minority district protected from diminishment under Tier One. Functional analysis confirms that the district does not deny or abridge the opportunity for Hispanics to participate in the political process and does not diminish their ability to elect candidates of their choice. Comprised of all of Hendry County and part of Collier and Miami-Dade Counties. Its configuration is affected by adjacent Tier One protected districts.

Moving into South Florida, this region contains five Tier One protected districts. They are 20, 24, 25, 26, and 27. This has a significant impact on the configuration of the region. District 20 is a majority-minority district protected from diminishment under Tier One. A functional analysis confirms that the district does not deny or abridge the opportunity for African Americans to participate in the political process and does not diminish their ability to elect candidates of their choice.

Districts 21 and 22 are both affected by the configuration of District 20. 21 is wholly contained within Palm Beach County and is consistent with the committee's directive to explore concepts that, where feasible, keep districts within a county in the more densely populated areas.

District 22 is contained within Palm Beach and Broward and the district makes extensive use of political and geographic boundaries in addition to being visually and mathematically compact, given its proximity to a Tier One protected district.

District 23 is also affected by District 20 to the north and District 24 to the south. Both of those are Tier One protected districts. Consistent with the committee's directives, the district is wholly contained within Broward County. It utilizes political and geographic boundaries where feasible, and is visually and mathematically compact.

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District 24 is an effective African American minority district protected from
diminishment under Tier One. The functional analysis of this district confirms that the district
does not deny or abridge the opportunity for African Americans to participate in the political
process and does not diminish their ability to elect candidates of their choice.

Districts 26 and 27 are both majority-minority Hispanic districts that are protected from
diminishment under Tier One. The functional analysis of both of these districts also confirms that
they did not deny or abridge the opportunity for Hispanics to participate in the political process
and did not diminish their ability to elect candidates of their choice.

District 26 contains all of Monroe County and part of Miami-Dade County, makes
extensive use of political and geographic boundaries, with only 1% falling on non-qualifying
boundaries.

District 27 is wholly contained within Miami-Dade, makes extensive use of political and
geographic boundaries, and it both visually and mathematically compact.

Overall, this plan has a deviation of one person. The average compactness score of the
plan is .80 for Convex-Hull, .43 for Polsby-Popper, and .46 for Reock. The average use of non-
political and geographic boundaries for the districts in this plan is 8%, which means that 92% of
the district boundaries are falling on features that have been identified by the United States
Census Bureau's geographic layers as city boundaries, county boundaries, interstates, U.S.
highways, state roads, contiguous water bodies larger than ten acres, or railroads.

There are eleven districts with less than or equal to 5% non-political and geographic
boundary usage. And 27 districts with less than or equal to 20% non-political and geographic
boundary usage. There are 48 whole counties, 6 districts wholly contained within a county, 367
cities with all of their boundaries contained within a single district, and 372 cities with all of their

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1 population contained within a single district. That, Mr. Chairman, is the plan before us today.

2 Ray Rodrigues: Thank you for walking us through the plan. Members, are there any
3 questions on the amendment? Seeing no questions, we are going to hold the appearance cards
4 until we dispose of the amendment and have the appearance cards appear on the bill. So we'll
5 move forward. Is there any debate on the amendment? Seeing no debate on the amendment, I
6 will waive close on the amendment. All in favor of the amendment say yea.

7 All Members: Yea.

8 Ray Rodrigues: All opposed say nay. We will show that the amendment has been
9 adopted. Now we are back on the bill as it's been amended. Are there any questions on the bill as
10 it's been amended? Seeing none, we'll move to public appearance cards and we do have two. The
11 first one is Steven Mangual, you are recognized.

12 Steven Mangual: Good afternoon and thank you for the opportunity to offer this written
13 testimony on the concerns of LatinoJustice PRLDEF regarding the current state of the
14 redistricting process and its impact on the Latino population and the Latino community. In short,
15 we oppose the proposed maps because they dilute Latino political power. My name is Steven
16 Mangual, I am Justice Advocate Coordinator with Latino Justice PRLDEF out of the Southeast
17 Regional Office. Our organization has a long history of participating in Florida's redistricting
18 process and or organization is closely monitoring the work of the Florida Legislature to ensure
19 protection of Latino Floridians' rights in the redistricting process under the protections of the
20 Voting Rights Act of 1965 and Constitutional norms. Latino Floridians must have an equal
21 opportunity to elect their candidates of choice and remain politically unified in communities of
22 interest. The Florida Legislature's proposed maps ignore dramatic Latino population growth after
23 the last decade. The process has been inaccessible for public comment by limited English

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1 proficient Floridians and the many members of the public impacted by the COVID-19 pandemic.
2 The end result has been the dilution of Latino political power. Regarding Latino population
3 growth, Florida's Latino population growth has increased 34% since the 2010 census, adding
4 almost one and a half million people to the state and now comprising over 26% of Florida's total
5 population. This incredible demographic growth has benefited the entire state. Turning to mean
6 public participation, language access, Spanish-dominant Floridians deserve to have their voices
7 heard in meaningful ways and participate in this redistricting process without English-only
8 barriers. The Legislature should ensure that public hearing notifications, information on the
9 floridareistricting.gov website, forms to submit public comment and review proposed maps, are
10 fully accessible to limited English proficient Floridians who have an equal right to participate in
11 defining the political boundaries that will endure for the next decade. Existing Google translate
12 options online are inadequate. For example, links to historical redistricting plans in the
13 "resources" section and memorandums in the Senate committee sections of the
14 www.floridareistricting.gov websites are only available in English. The Legislature should take
15 all reasonable steps to provide translators at public hearings and provide double time for
16 individuals using a translator to provide public comment at hearings. LatinoJustice PRLDEF has
17 been monitoring Florida's compliance with federal and state language access guarantees in the
18 area of voting rights access for decades. We urge this legislature to make public participation
19 equally accessible to all Floridians. Regarding the need for public participation virtual option, on
20 September 8, 2021, LatinoJustice PRLDEF, NALEO Education Fund, and Hispanic Federation
21 submitted a request for virtual public hearings in light of the grave health risks of in-person
22 testimony during COVID-19 pandemic. Our requests went unheeded. Today, two of my
23 colleagues who were supposed to be here today to testify, asked me to fill in because they are in

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1 quarantine under CDC guidelines. Turning to congressional maps, the proposed congressional
2 maps from both the Senate and House fail to provide a sufficient level of Latino-majority
3 districts proportionate to Latino population growth. For example, in the Senate proposed
4 congressional maps, the Senate across all of its plans creates four Latino-majority districts,
5 majority in total population and majority in Hispanic voting-age population. However, these four
6 districts were already majority districts at the end of the decade. For example, District 9 on the
7 Senate proposals is now a slim majority district, CD 9, despite massive Latino population
8 growth. While the Senate adds the new congressional seat in Central Florida, all configurations
9 of the district proposed it as a white-majority district, despite the fact that the population growth
10 has overwhelmingly been driven by Latinos. Any main influence, sorry, seats, and instead boasts
11 as white political power despite their relative stagnant demographics. The House-proposed
12 congressional maps, House plan H8003 removes the Latino majority –

13 Ray Rodrigues: Sir, sir.

14 Steven Mangual: Yes.

15 Ray Rodrigues: We're not going to discuss the House maps.

16 Steven Mangual: Okay. All right. I will skip to – Senate maps.

17 Ray Rodrigues: The bill you are speaking on is the Senate bill for the congressional map.

18 Steven Mangual: Okay. Thank you so much. I'll jump to then regarding Senate maps,
19 yes?

20 Ray Rodrigues: The congressional map is before us. The Senate maps will be –

21 Steven Mangual: Okay and I already spoke the congressional map then. Okay then. In
22 conclusion. Thank you. Every indication in this process points to redistricting proposals that do
23 nothing more than provide Latino Floridians with the same number of majority districts at the

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1 end of the decade under existing ten-year-old districts. Both houses of this Legislature seek to
2 cap that growth when every demographic indicator shows clearly that Latino population growth
3 requires more, not the same. It is clear to LatinoJustice PRLDEF that Section 2 of the Voting
4 Rights Act requires that where Latino-majority districts can be drawn feasibly, they must be
5 drawn even in spite of the countervailing state mandates. We call on this commission to draw
6 districts that protect communities of interest, provide the growing Latino community an equal
7 opportunity to elect candidates of its choice, and ensure that they are conducting the necessary
8 performance analysis to ensure these proposed districts are not diluting the Latino vote. Share
9 such work products to the general public. Thank you very much and if there are any questions I
10 will gladly take them down and I will apologize if I won't be able to answer them today. But my
11 colleagues, if it's okay, will respond, via email. Are there any?

12 Ray Rodrigues: Seeing no questions. Thank you for your comments.

13 Steven Mangual: Okay, thank you very much, have a good day.

14 Ray Rodrigues: You too. Next up, Cecile Scoon with the Florida League of Women
15 Voters, President.

16 Cecil Scoon: Good afternoon, thank you for this opportunity. Cecil Scoon, President of
17 the League of Women Voters of Florida. The gentlemen that was just speaking for LatinoJustice,
18 I think, gave an example of the problem that the League has been raising when the testing, the
19 functional analysis, data analysis, testing has only been done on the benchmark districts that
20 were determined in 2015 and through caselaw. Because that's what we've been saying, it doesn't
21 take into account the population growth, it doesn't take into account all these other things, so if
22 you're going to be sure that the Tier One guidelines are protected, has been done with regards to
23 the benchmark. You have to look beyond the benchmark. Certainly, the indications of population

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1 growth would be one indication of where we know where different groups have settles and things
2 of that nature. Review of the Census information would give the Senate and the Legislatures an
3 opportunity to dig past what was established in 2015. This issue has been raised by others in
4 regards to the Haitian Creole language protections that they are seeking and again has been
5 demonstrated as a concern with the Hispanic community. And has certainly been raised as a
6 concern with the African American communities because both the Fair Districts and the Voting
7 Rights Act require that protection of the minority groups. So that if there is an opportunity for the
8 lines to be drawn in a way where the language minorities or the racial minorities have an
9 opportunity to select a representative of their choice, then it is our understanding that is the way
10 the line should be drawn. And the problem is that the analysis to determine that has only been
11 done looking backwards. Taking the benchmark districts that were determined based on 2010
12 census, the caselaw from 2015 was looking at 2010 and we have not heard or seen either in the
13 portal or through any of the testimony or the discussion about the process any of the Senate's
14 effort to look forward and in the present to take into account all the population changes. Thank
15 you.

16 Ray Rodrigues: Thank you for your comments. That concludes public testimony. Now we
17 are back on the bill as amended. Is there debate? Seeing no debate, Dana please call the roll on
18 Committee Substitute for Senate Bill 102.

19 Dana: Senator Bean.

20 Aaron Bean: Yes.

21 Dana: Senator Bracy.

22 Randolph Bracy: Yes.

23 Dana: Senator Bradley.

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1 Jennifer Bradley: Yes.

2 Dana: Senator Burgess.

3 Danny Burgess: Yes.

4 Dana: Senator Gibson.

5 Audrey Gibson: Yes.

6 Dana: Senator Harrell

7 Gayle Harrell: Yes.

8 Dana: Senator Rodriguez.

9 Ray Rodrigues: Yes.

10 Ana Maria Rodriguez: Yes.

11 Ray Rodrigues: Sorry.

12 Dana: Senator Rouson.

13 Darryl Rouson: Yes.

14 Dana: Senator Stargel.

15 Kelli Stargel: Yes.

16 Dana: Senator Stewart.

17 Linda Stewart: Yes.

18 Dana: Vice-Chair Broxson.

19 Doug Broxson: Yes.

20 Dana: Chair Rodrigues.

21 Ray Rodrigues: Yes. By your vote, we will show that Committee Substitute for Senate
22 Bill 102 has been reported favorably. Now Senators, we are going to move to Tab 2, Senate Joint
23 Resolution 100, on joint resolution of apportionment, filed by me. There is – we do have

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1 amendments on this bill, so let's take up the first amendment, which is barcode 360368. Mr.
2 Ferrin, will you walk us through the map.

3 Jay Ferrin: Yes, thank you Mr. Chairman. So, the Senate plan that's filed as the
4 amendment barcode 360368 is Plan S8046. This plan was drawn pursuant to the directives given
5 to staff, consistent with the plain language of the Florida Constitution, federal law, and existing
6 judicial precedent. It balances the co-equal criteria outlined in the Tier Two standards of Article
7 III, Section 21 of the Florida Constitution, except where doing so conflicts with the Tier One
8 standards. Functional analysis of the minority districts in the plan confirms that it does not
9 diminish the ability of racial and language minorities to elect candidates of their choice.

10 When drawing visually compact districts, county boundaries were used wherever it was
11 feasible to do those. When a county was split, static geographic features such as major roads,
12 railroads, and water bodies were used in a manner that sought to keep cities whole where
13 feasible. In cases where a municipality was split, a static geographic feature was used. Where
14 none were available, a municipal boundary may have been used. Like the benchmark plan, this
15 plan has five African American districts and five Hispanic districts.

16 As is the case with the congressional plan, District 1 was drawn eastward until it reached
17 its ideal population and in the Senate plan that's in Okaloosa County. The configuration of
18 Districts 1 and 2 is fully contained within Escambia, Santa Rosa, Okaloosa, Walton, Holmes,
19 Washington, Bay, Calhoun, and Jackson Counties. Because the total population of these nine
20 counties is roughly 1,100 people over the ideal population for two districts, each district must be
21 overpopulated by 550 people. This configuration respects the static nature of county boundaries
22 while configuring districts consisting of whole counties in less populated areas, and results in
23 districts which are visually and mathematically compact. The boundary of Districts 1 and 2

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1 utilizes State Road 85 for a significant portion of its boundary, which results in the splitting of
2 Crestview and Laurel Hill. For a 0% non-political or geographic boundary usage in both Districts
3 1 and 2. This is consistent with the committee's directives to utilize easily recognizable and
4 readily ascertainable features, while also considering the impermanent and changing nature of
5 municipal boundaries.

6 District 3 contains all of Gadsden, Liberty, Gulf, Leon, Wakulla, Franklin, Jefferson,
7 Madison, Taylor, Hamilton, Suwannee, Lafayette, and Dixie Counties in their entirety. This is
8 consistent with the committee's directives to examine the use of county boundaries and where
9 feasible draw districts that consist of whole counties in less-populated areas.

10 Districts 4 and 6 are fully contained within Duval and Nassau Counties. Because the total
11 population of these two counties is roughly 9,000 over the ideal population for two districts, each
12 district must be roughly overpopulated by 4,500 people. This configuration keeps District 6 fully
13 within Duval County, since its population is greater than the ideal population for one district.
14 Static political and geographic features were used for the entire boundary for District 6, which
15 was a Tier One protected district. This is consistent with the directives to use easily recognizable
16 and readily ascertainable boundaries where feasible, to explore concepts that keep districts
17 wholly within a county in more densely populated areas, and results in visually and
18 mathematically compact districts.

19 The configuration of Districts 5 and 8 is fully contained within Columbia, Baker, Union,
20 Bradford, Clay, Gilchrist, Alachua, Levy, and Marion Counties. Because the total population of
21 these nine counties is about 1,100 people over the ideal population for two districts, each must be
22 roughly underpopulated by 550 people. This configuration respects the static nature of county
23 boundaries, as directed by the committee. It results in visually and mathematically compact

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1 districts. For population balancing, District 5 includes part of Alachua County and uses easily
2 ascertainable and commonly understood geographic features. District 8 takes the remainder of
3 Alachua County and all of Marion and Levy Counties. This results in Districts 5 and 8 having 0%
4 non-political and geographic boundary usage score.

5 In Central Florida, District 7 consists of all of St. Johns, Putnam, and Flagler Counties
6 and part of northern Volusia. In Volusia, the boundary utilizes static geographic features
7 throughout the entire county. This results in 0% non-political and geographic usage for the
8 district.

9 Directly below District 7, District 14 takes the remainder of Volusia County and part of
10 Brevard County. To utilize political and geographic boundaries in coastal Brevard County, the
11 boundary of Districts 14 and 17 follow State Road 50 and 405 to the Kennedy Space Center.

12 District 10 consists of all of Citrus, Sumter, and Hernando Counties and part of Pasco.
13 Within Pasco, District 10 follows State Road 52 and State Road 589, which is the Suncoast
14 Parkway, for the entirety of its boarder. It results in a 0% non-political and geographic boundary
15 usage score and visual and mathematically compact districts.

16 Elsewhere in the I-4 Corridor, District 17 is fully contained within Brevard County,
17 which is consistent with the committee's directives to keep districts wholly within a county in
18 more densely populated areas. And as previously stated, the boundary between District 17 and 14
19 falls entirely on geographic boundaries.

20 Districts 9, 11, 12, 13, and 15 are fully contained within Lake, Seminole, Orange, and
21 Osceola Counties. Because the total population in these counties is 18,889 under the ideal
22 population for five districts, each district must be roughly underpopulated by 3,780.

23 District 15 is a Hispanic opportunity district protected from diminishment under Tier

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1 One. It contains all of Osceola County and part of Orange County. Due to an increase in the
2 area's Hispanic population, this district becomes a majority-minority district. A functional
3 analysis of the district confirms that the district does not deny or abridge the opportunity for
4 Hispanics to participate in the political process and does not diminish their ability to elect
5 candidates of their choice.

6 Districts 11 and 13 are fully contained within Orange County, which follows the
7 committee's directive to examine configuration that keep districts wholly within a county in the
8 more densely populated areas. District 13 is affected by the configurations of the two
9 neighboring Tier One districts in Districts 15 and 11, and makes extensive use of county
10 boundaries on its north, east, and southern boundaries.

11 District 11 is an effective minority district protected from diminishment under Tier One.
12 A functional analysis confirms that the district does not deny or abridge the opportunity for
13 African Americans to participate in the political process and does not diminish their ability to
14 elect candidates of their choice.

15 District 12 contains all of Lake County and the remainder of Orange County. The district
16 gains its remaining population from Orange, which already includes a split, and is consistent in
17 its application of the methodology relative to other areas of the state where counties were kept
18 whole by moving a split to a neighboring county with multiple districts in it.

19 In the Tampa area, Districts 10, 16, and 20 split Pasco County entirely along State Road
20 52 and the Suncoast Parkway. District 16 is contained within Pasco and Pinellas Counties. It has
21 a 1% non-political and geographic boundaries score, which is consistent with the committee's
22 directives to use existing political and geographic boundaries where feasible.

23 District 18 is fully contained within Hillsborough, while substantially utilizing political

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1 and geographical boundaries. Its configuration is affected by a neighboring Tier One protected
2 district.

3 District 20 is contained within Hillsborough and the remainder of Pasco. It makes
4 substantial use of political and geographic boundaries and is affected by the shape of the
5 neighboring Tier One protected district.

6 District 24 is fully contained within Pinellas County, its shape is affected by the
7 neighboring Tier One District 19, which is an effective minority district protected from
8 diminishment under Tier One. The functional analysis confirms that this district does not deny or
9 abridge the opportunity for African Americans to participate in the political process and does not
10 diminish their ability to elect candidates of their choice. To ensure this configuration does not
11 result in the denial or abridgement of the equal opportunity to participate in the political process,
12 District 19 includes the minority populations of St. Petersburg and Tampa, as historically drawn
13 since 1992.

14 District 21 contains the remainder of Hillsborough County and part of Manatee County.
15 Within Manatee, the boundary consists entirely of State Road 70, except to balance population
16 near the coast. Utilizing the Manatee and Sarasota County boundary does result in a splitting of
17 the city of Longboat Key, which is split by the two counties.

18 Polk County's population allows one district to be fully contained within the county,
19 consistent with the committees directives. Polk County's municipalities contain numerous
20 discontinuities and irregular boundaries. Due to this, the boundary of District 22 relies
21 extensively on geographic boundaries, primarily utilizing three major roadways and a railroad.
22 This results in a 2% usage of non-political or geographic boundaries, which is consistent with the
23 committee's directives to use easily recognizable and readily ascertainable boundaries while also

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1 considering the impermanent and changing nature of municipal lines.

2 Moving to the southern half of Florida, District 26 consists of all of Hardee, DeSoto, and
3 Charlotte Counties, and part of Polk and Lee. It's configured to respect county boundaries on its
4 east and west borders and contains three whole counties: Charlotte, DeSoto and Hardee. It has
5 the remainder of Polk and Lee as well. This is consistent with the committee's directive to
6 explore concepts that, where feasible, result in districts consisting of whole counties in less-
7 populated areas.

8 District 27 is drawn in a manner consistent with the committee's directive to explore
9 concepts that, where feasible, keep wholly within a county in the more densely populated areas.
10 In Lee County, District 27 splits the Cities of Fort Myers, Estero, and Bonita Springs by
11 following the Interstate 75 for the majority of its eastern border. This is consistent with the
12 committee's directive to draw compact districts and to consider municipal boundaries'
13 impermanent and changing nature. Results in a 0% non-political and geographic boundary
14 usage.

15 District 28 makes high usage of county boundaries and contains all of Collier and Hendry
16 Counties and the remainder of Lee. Within Lee, its boundary falls entirely geographic features.

17 District 25 uses county boundaries by keeping four counties wholly within the district
18 and taking part of Saint Lucie County, resulting in the configuration consistent with the
19 committee's directive to explore concepts that, where feasible, result in districts consisting of
20 whole counties in less populated areas and utilization of county boundaries. Within Saint Lucie,
21 Districts 25 and 29 make substantial use of static geographic boundaries. To the south, District
22 29 contains the remainder of Saint Lucie, all of Martin County, and part of Palm Beach. Its
23 configuration is impacted by the use of county boundaries to the south.

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1 Districts 30 and 31 are contained wholly within Palm Beach County and are consistent
2 with the committee's directives to keep districts entirely within a county in the more densely
3 populated areas. These result in districts which are visually and mathematically compact and
4 utilize political and geographic boundaries.

5 District 32's configuration is affected by a neighboring Tier One protected district, and is
6 wholly located within Broward County. As directed by the committee, the boundary utilizes
7 easily recognizable and readily ascertainable boundaries while also considering the impermanent
8 and changing nature of municipal lines. This results in a non-political and geographic score of
9 1%.

10 District 33 is an effective minority district protected from diminishment under Tier One.
11 A functional analysis confirms that the district does not deny or abridge the opportunity for
12 African Americans to participate in the political process and does not diminish their ability to
13 elect candidates of their choice. Its boundaries rely heavily on political and geographic features
14 with 3% falling on non-political and geographic features. This also results in a visually and
15 mathematically compact District 33 and surrounding districts.

16 District 34 contains the remaining population of Broward County and must go into Palm
17 Beach County to balance its population. It does this while utilizing political and geographic
18 boundaries and remaining visually and mathematically compact.

19 Turning to Miami-Dade and Monroe, the population of these counties allows five districts
20 to be fully encapsulated within their borders with a remainder of 92,000 people. To stay within
21 the 1% population deviation directive, a district from southern Broward County must come into
22 northern Miami-Dade and assign the remaining population to a district. This is District 38, which
23 is also affected by the two surrounding Tier One districts. It accomplishes this with 100%

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1 utilization of geographic and political boundaries and keeps three districts wholly within Miami-
2 Dade.

3 Within Miami-Dade, Districts 35, 36, 37, 39, and 40 are majority-minority districts that
4 are protected from diminishment under Tier One of Article III, Section 21 of the Florida
5 Constitution. The functional analysis for each district confirms that these districts do not deny or
6 abridge the opportunity for minorities to participate in the political process and does not diminish
7 their ability to elect candidates of their choice. These districts were drawn to also be compliant
8 with the Tier Two constitutional criteria and the committee's directives. They are visually and
9 mathematically compact and utilize easily ascertainable and commonly understood geographic
10 features where feasible.

11 Overall, this plan has a deviation of 10,362, which is 1.92%. The average compactness
12 scores for this plan are .82 Convex Hull, .43 Polsby-Popper, .46 Reock. The average use of non-
13 political or geographic boundaries is 4%, which means that on average, 96% of the district
14 boundaries fall on features identified by the U.S. Census Bureau's geographic layers as city
15 boundaries, county boundaries, interstates, U.S. highways, state roads, contiguous waterbodies
16 larger than ten acres, or railroads. There are 14 districts with 0% non-political or geographic
17 boundary usage and 37 with less than or equal to 10%. There are 51 whole counties, 16 districts
18 wholly contained within a county, 360 cities with all of their boundaries contained within a
19 single district, and 368 cities with all of their population contained within a single district. And
20 that, Mr. Chairman, is the Senate map.

21 Ray Rodrigues: Thank you. We do have two amendments to the amendment. We will
22 take those up now. We will start – and we will take those up in the order that they were filed. So
23 we will start with amendment to the amendment barcode 212004 by Senator Gibson. Senator

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1 Gibson, you are recognized to explain your amendment.

2 Audrey Gibson: Thank you Mr. Chair. This amendment is specific only to Districts 4 and
3 6 and meets the constitutional requirement. The district actually incorporates so that African
4 American communities, I call it “the duck” on the other side of the – I’m sorry, of the current
5 configuration on this map. Will include African Americans who are disenfranchised outside of
6 the area that doesn’t continue like it does on my amendment, which looked similar to this, the
7 way it is on this 8026 just prior to 2012. Also, there is no diminishment in African Americans to
8 elect the candidate of their choice. Actually, the BVAP increases in, amazingly enough, the lines
9 actually follow pretty much the lines that are drawn in the congressional district. And also adds
10 African Americans who are disenfranchised in both on both the east and the west and the north
11 side of the district, actually. Based on increase in population and where individuals have moved
12 even with the numbers that are on the map in consideration right now, it doesn’t take into
13 consideration the movement. And I mentioned this in our last committee. It doesn’t take into
14 consideration the population shift its supposed to, but it really does not do that. There is no
15 unconstitutional movement of any lines or population, and the difference in the deviation in the
16 numbers is minimal. I believe this map follows the law and enfranchises more voters without
17 packing the district. And I don’t know any other way to put it. Except it’s constitutional and it
18 enfranchises voters who are disenfranchised as we sit here today.

19 Ray Rodrigues: Are there any questions of the sponsor? Any questions? President Bean
20 you are recognized.

21 Aaron Bean: Maybe the word that you are using, I don’t understand. But when you – and
22 thank you for the amendment Senator Gibson – you use the word disenfranchised. I mean that’s a
23 powerful word. That means we’ve taken away their vote or somebody has taken away their vote.

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1 So I want you to clarify that word, disenfranchise. That's a very powerful word. And that is a
2 very – we all, whether in Florida or America, take our vote very seriously. Would you clarify the
3 word disenfranchise?

4 Ray Rodrigues: Y'all can go back and forth if you need to.

5 Audrey Gibson: Mr. Chair. In terms of the ability for African Americans to elect the
6 candidate of their choice, the map as it currently is leaves several swaths of African American
7 voters outside of the district. The BVAP can be increased without any diminishment and the map
8 remains constitutional. Thank you Mr. Chair.

9 Aaron Bean: Just to clarify, maybe we're splitting hairs, but outside the district is one
10 thing but they've always – everybody, everybody has always had the right to vote regardless of
11 the district they are in. They can still vote, everybody can vote regardless of my Senate district.
12 But you want to put others in a specific district, is that not correct Senator Gibson?

13 Ray Rodrigues: You are recognized.

14 Audrey Gibson: Thank you Mr. Chair. Everyone is in a specific district.

15 Ray Rodrigues: Are there any other questions of the sponsor? I just have one. Do we
16 know what the impact of the metrics would be? You gave us what the increase in the BVAP
17 would be, but how does that impact the remainder of the Tier One or the Tier Two metrics?
18 Specifically, do you know what the impact would be on Reock, Polsby-Popper, or Convex Hull?

19 Audrey Gibson: Thank you Mr. Chair. I do have that information here. And as far as I
20 understood it. The dimensions are negligible.

21 Ray Rodrigues: Very good. Any other questions?

22 Audrey Gibson: And still constitutional.

23 Ray Rodrigues: Any other questions? Seeing no more questions, we had a couple of

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1 comment cards but I think they are for the actual bill itself, not for the amendment to the
2 amendments. So we are going to move forward and we are going to move into debate. Is there
3 debate on the amendment? Chair Burgess you are recognized.

4 Danny Burgess: Thank you Mr. Chair and thank you Senator Gibson. I am glad that you
5 brought this forward, I know we had some discussion on this in our subcommittee. Appreciate
6 the opportunity to talk about this further. I certainly don't think there is any bad faith in the
7 measurements that you are bringing forward, but in every iteration that we worked on in the
8 twelve. And I think the reason we ended up with 8046, and the other ways that District 6 ended
9 up being configured in the finality of the last four maps, was we always move towards better
10 metric improvement each and every time. The staff-drawn maps had always sought to improve
11 upon those metrics and build upon them, and understanding what you are saying, District 6 under
12 the 8046 configuration before us is by metrics and by those standards that Chair Rodrigues has
13 brought up a more compact, better use of political and geographic boundaries. In fact, I think it
14 registers at 100% use, which shows that we truly adhered to the directives from the committee
15 that we are on now. Most importantly though, in my mind, of course, is that there is no
16 diminishment, and it performs exactly the same. And so understanding that it adheres to those
17 requirements under Tier One and Tier Two, I feel that it's important that we ensure that we have
18 adhered to all directives to the best of our ability and that's why the map that we put forward in
19 8046 since it better complies should be the one that we continue to push.

20 Ray Rodrigues: Any other debate or discussion? President Bean, you are recognized.

21 Aaron Bean: Thank you, and I'm – to – if I may go to Senator Burgess. Senator Burgess,
22 is it your recommendation this is a friendly amendment or unfriendly amendment? Your opinion
23 on the directives of the Constitution and how it all un–, I was just unclear of your end result.

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1 Ray Rodrigues: And thank you for the question. What I would say is I've conferred with
2 staff. I believe either option of that district for Tier One purposes complies. So we have full
3 compliance on Tier One with either option. What we've done, to the point that Chair Burgess has
4 made, as we move through the process, is once we've satisfied Tier One criteria and made sure
5 there was no retrogression or diminishment, the goal has been to improve upon the Tier Two
6 metrics as we've moved forward. And I looked at the metrics that Senator Burgess has
7 referenced, and I don't believe that this improves the Tier Two metrics. So I would say as an
8 amendment to the amendment it would be an unfriendly amendment because, while I consider
9 the Senator very friendly, we've been very consistent, in that every iteration of the map has been
10 an improvement on, once we've satisfied Tier One, on the Tier Two metrics as we've moved
11 forward. This would be a step in the direction that we have not gone in. Is there any other debate?
12 Seeing none, Senator Gibson, you are recognized to close on your amendment to the
13 amendment.

14 Audrey Gibson: Thank you Mr. Chair. This amendment conforms with constitutional
15 requirements. The deviation and the changes that you mentioned are negligible and it allows
16 African Americans on the north, east, and west sides to be in a district where they can help elect
17 the candidate of their choice. It even fits exactly inside of the congressional district lines as well
18 rather than the split that is on, what map is this, 8046, where the district is just like an island. And
19 certainly way more tight than the surrounding district that is District 4 today. The other thing I
20 was speaking about the other day in terms of square miles and how most of the African American
21 districts are majority districts, are those that give them the ability to elect the candidate of their
22 choice. Have not expanded in terms of the square miles since the previous map was drawn and
23 that's just impossible for that to be true. Most of those are 248 square miles or something and

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1 when they are surrounded by square miles that are much larger, even in the case of Districts 4
2 and 6. As was mentioned earlier when you look at the census data that those areas in the minority
3 community don't expand but the others do. And so with that I ask for your favorable support,
4 thank you.

5 Ray Rodrigues: Having closed on the amendment. All those who are in favor of the
6 amendment say yea.

7 Some Members: Yea.

8 Ray Rodrigues: All those opposed say nay.

9 Majority Members: Nay.

10 Ray Rodrigues: We will show that the amendment has failed and will not be adopted. At
11 this point I am going to pass the gavel over to Vice-Chair Broxson.

12 Doug Broxson: Thank you Mr. Chairman. Taking up amendment to the amendment
13 barcode 444992, Senator Rodrigues. Senator Rodrigues, you are recognized to explain your
14 amendment to the amendment.

15 Ray Rodrigues: Thank you Chair. From the outset of this process our goal has been to
16 follow the example that the House set during the last redistricting process that was specifically
17 blessed by the court when we went through the litigation and to avoid the mistakes that the
18 Senate made as the Senate went through redistricting in the last cycle, so that those are not
19 repeated. I think if you look at the process we followed, we have been true to that. We formed
20 subcommittees who are legislative and congressional, much like the House did during the cycle.
21 There were maps that were considered that were publicly workshopped, like the House did
22 during the last cycle, which the Senate did not.

23 There were different iterations of the map at each of the meetings. In each iteration of the

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1 map was an improvement of the previous iteration of the metrics that were presented that was
2 different than what the Senate did last time. If you look at the House process, the final step in that
3 process was when the subcommittee sent their map to the full committee for consideration. The
4 full committee then looked at the map and said where is there an opportunity for improvement.
5 So much like the House did a decade ago, the foundation of our map is with keeping counties
6 whole, because those are stable boundaries and counties are contiguous. We've also used the
7 geographic boundaries that the House used and the court blessed in the last cycle. Then we used
8 municipal boundaries where we did not have county boundaries or geographic boundaries.

9 I looked at the cities that were split and worked with staff to come up with an objective
10 criteria. What I am putting forth is an amendment that would take the cities that were split with
11 less than 1,000 people, the split is between two districts, the boundary of the municipality is
12 contiguous, and it does not impact a Tier One district, and I am proposing that we make those
13 municipalities whole. Municipalities that would be made whole are Laurel Hill, which is split
14 between Districts 1 and 2, Holly Hill, which is split between Districts 7 and 14, Titusville, which
15 is split between Districts 14 and 17, Winter Haven, which is split between Districts 22 and 26
16 and Pembroke Pines, which is split between Districts 32 and 38.

17 If we were to adopt this map, then we would have the result of a map that would yield
18 only 22 cities in which the entire population is not contained in one district, outside of our Tier
19 One requirements. When you consider that we have 412 municipalities in the State of Florida,
20 that would mean more than 95% of our cities, either their population is wholly contained or if
21 there is a split, it is for a Tier One purpose. Looking at the metrics across the board, it does not
22 diminish any of our Tier One requirements, because we have excluded the Tier One cities as
23 we've done this. And if you look at our Tier Two requirements, the metrics are either improved

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1 or remain the same across the board. And with that I'd ask for your favorable support.

2 Doug Broxson: Members are there any questions to the amendment to the amendment?
3 Senator Bracy.

4 Randolph Bracy: Thank you Chairman. Is there a visual that you can give us to see what
5 this looks like?

6 Ray Rodrigues: Yes we do have the visuals prepared and they are on the back row there.
7 So each of the cities are there on that.

8 Randolph Bracy: Okay.

9 Ray Rodrigues: Because the split in population was a thousand or less. There is not a
10 significant movement in the boundaries of the municipalities for contiguous. But there is a blow
11 up of each of the insets so that you can see.

12 Randolph Bracy: Yeah, if you would just give me a second, I want to look at each of
13 these cities.

14 Doug Broxson: Senator Bracy, do you mind if we come back to you and let me go to
15 Senator Stewart with a question.

16 Randolph Bracy: Sure, sure.

17 Doug Broxson: Senator Stewart, you are recognized.

18 Linda Stewart: Yes, thank you. What I understand we are looking at are two maps, 46
19 and 56. We haven't picked one yet, or we did? We did not. Okay so your suggested amendment
20 would apply to either one of these maps?

21 Doug Broxson: You are recognized.

22 Ray Rodrigues: Thank you Chair. Yes, because the split on both of those maps in these
23 districts is the same. It would be equally applicable to either map.

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1 Linda Stewart: Okay thank you. Just trying to keep up.

2 Doug Broxson: Before we go back to Senator Bracy, is there anyone else that has a
3 question? Senator Bracy, are you ready to continue with your line of questions?

4 Randolph Bracy: I have no more questions. I looked at the maps. I am satisfied with
5 what I have seen.

6 Doug Broxson: I do not see any appearance forms, is there anyone in the audience that
7 wishes to speak? Okay. Is there any debate on the amendment to the amendment? Senator
8 Burgess, you are recognized.

9 Danny Burgess: Thank you, I just want to thank Chair Rodrigues for bringing this
10 forward for discussion. I think, falling in line with my previous comments – the Chair already
11 noted this so I think it's just important to highlight consistency where we can. What we are
12 seeing here as Chair Rodrigues noted was metric improvement, as opposed to even minimal
13 regression on those metrics in Tier Two. So for those reasons, this amendment I think takes what
14 we've built upon and continues to improve those metrics. Like we've strived to do in every one
15 of our three meetings and all twelve of those iterations. So, I would see no reason why, since
16 there is metric improvement, that we shouldn't put this on our map.

17 Doug Broxson: I want to make sure everyone is good before we move forward to
18 Senator Rodrigues' closing. Senator Rodrigues, you are recognized to close on the amendment to
19 the amendment.

20 Ray Rodrigues: Thank you Chair. In the House process, they were able, at the full
21 committee level, to clean up eleven city splits, with this we will clean up five. But I would point
22 out we had fewer city splits than they did, which is a natural result of having larger districts than
23 they had. But where we have an opportunity honor the political boundaries, I think reading the

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1 opinion of the court in *Apportionment I*, we should, this I consider low hanging fruit and we do
2 improve our metrics by doing that. So I'd ask everyone to support the amendment to the
3 amendment.

4 Doug Broxson: All those in favor of the amendment to the amendment say yea.

5 All Members: Yea.

6 Doug Broxson: Opposed say nay. The amendment to the amendment is adopted. Back on
7 the main amendment as amended. Are there any questions on the amendment? One question,
8 Senator Bracy.

9 Randolph Bracy: Yes, Senator Rodrigues, can you explain for the committee your
10 decision making on the South Florida district where we talked about the effective majority verses
11 the minority-majority district and how you came to choose the map with the effective minority
12 district.

13 Ray Rodrigues: Yes, Senator Bracy and thank you for the question. I sat down with staff
14 and counsel and we walked through both of the maps. One of the maps, which is the one I put
15 forth, is an effective minority district and the other would have been a minority-majority district.
16 If you look at the functional analysis which was performed on both of them, it is clear that in
17 both maps that is a seat that will be controlled by Democrats. If you look at both maps, the
18 primary in both seats will be controlled by the African American population. So we went with
19 the configuration that was effective minority because it provided us full compliance with Tier
20 One. They were both equally Tier One compliant. But provided better metrics on the Tier Two if
21 you looked at the compactness scores, Convex Hull, Reock, and Polsby-Popper. So from that
22 standpoint, we felt being consistent by satisfying Tier One and making improvements on Tier
23 Two that would be the map to go with.

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1 One of the things I learned as I went through the process was in the last redistricting
2 cycle – and this is analogous, it's not a complete apples-to-apples because it was on the
3 congressional map – there was a district where the Senate moved to have a minority-majority
4 district, which was then Representative Corrine Brown's U.S. congressional seat. And we had
5 put it just over 50%, which is where the minority-majority option on the map here would have
6 been, because we took the position that since we could maximize that we should. And it was
7 litigated, during that litigation the NAACP joined the State Senate in defending that iteration of
8 the map we did, and ultimately we lost that lawsuit and the court said an effective minority
9 district was appropriate because it satisfied the Tier One components and it could have been done
10 in a more compact manner.

11 In that case, instead of running north to south, they directed the Legislature to run east to
12 west to do that. So that's why it's not a pure apples-to-apples comparison. But the principle is the
13 same. We had to decide whether to go with an effective minority or with a minority-majority.
14 Both of them equally comply on Tier One metrics and in both cases the functional analysis show
15 that it will undoubtedly perform for the minority candidate. So I went with the metric map that
16 gave us the better overall metrics.

17 Doug Broxson: Follow-up? Any additional questions?

18 Randolph Bracy: No, no. Thank you.

19 Doug Broxson: I see no appearance forms. Is there anyone in the audience that wishes to
20 speak? Is there any debate on the amendment as amended?

21 Ray Rodrigues: Mr. Chair, I would move to temporarily postpone the amendment at this
22 point so that we could move into the district numbering process.

23 Doug Broxson: Without objection, show the amendment temporarily postponed. I return

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1 the gavel back to the Chair.

2 Ray Rodrigues: Thank you Chair Broxson. Let's move to Tab 4, members, which is
3 consideration of district numbering for Senate Joint Resolution 100 as necessary to maintain the
4 staggered election terms. President Pro-Tem Bean can you please join us up here? I would like
5 you to be the Master of Ceremonies as we go through this process.

6 Aaron Bean: Very good, good afternoon committee members and good afternoon Florida
7 Senate. In just a few minutes we are going to be drawing envelopes out of this jar and just so
8 everybody knows, I discussed the process with Chairman Rodrigues, which I wholeheartedly
9 agree with to have a process that is open, fair, and transparent. To do this in a committee setting,
10 I think, is wonderful because not only all of our eyes are upon the drawing of these cards, all of
11 Florida's eyes. Because with the Florida Channel this will be replayed over and over again to see
12 the exact process. So hats off to you, Mr. Chairman, in allowing me to participate and, of course,
13 I love making it as exciting as I possibly can. I don't know how exciting we can make it. But
14 certainly we will add as much pizzazz as we possibly can. I know we talked about the ping-pong
15 balls, but staff suggested this was a more logistically easier process, still maintaining the
16 randomness of a coin flip, of an odd and even flip. So before I begin, and I don't care how hard a
17 question you want to ask, Chairman Rodrigues, I would welcome that question right now. Is
18 there any other questions before we begin?

19 Ray Rodrigues: Senator Rouson, I couldn't quite hear it.

20 Aaron Bean: Very good and members I'll remind everyone this random jar of 40 cards
21 that has been placed in random envelopes was certified by our Secretary with the Florida Senate,
22 Debbie Brown, who signed over that she has maintained control and she attests to the integrity of
23 it. So with that, let's deal some cards Florida Senate, are we ready to go? Okay thank you

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1 everything is on top of the board right now.

2 Ray Rodrigues: We don't want any dealing from the bottom of the deck here.

3 Aaron Bean: Yeah, exactly. I will just do it right now. Let's be clear, let's be clear once
4 again. Mr. Chairman, I am going to reach in and I'm going to draw a random card. This card, the
5 very first card, will be for the district that we now know as District 1.

6 Ray Rodrigues: That is correct.

7 Aaron Bean: Very good, without objection, Senators, here we go. I am opening the jar.
8 It's got that fresh card random cardness and look at me I'm going further by just ruffling through
9 it and I have a card. Here's our first one. Mr. Chairman I'm opening it up now. Yeah, Florida and
10 the Florida Senate holds its breath. District 1, and we have an odd number. Odd it is.

11 Ray Rodrigues: Yep. I will write the number as it is drawn and put it back in the
12 envelope. And staff is logging it so we're going to have everything.

13 Aaron Bean: And let's put them in order. We're gonna have 40 of them, they will be
14 labeled. Once again, if you're just tuning in on the Florida Channel, we're drawing Senate
15 district numbers for a proposed map and we have a random set of cards. This is item number two.
16 Formerly known as the district – or currently known as District 2. Let's open it up and see what
17 District 2 is. It is – yeah they are sealed.

18 Ray Rodrigues: Sealed up tight.

19 Aaron Bean: It is an even number. Even for Number 2, congratulations Number 2.
20 Number 3, here we go, I'm just rifling through, and we are gonna go, in just a moment we're
21 gonna start going faster. How about this here we go, Number 3 is odd, odd for Number 3.

22 Ray Rodrigues: What are the odds.

23 Aaron Bean: I am mixing them up as we go. Number 4, and there is some super glue on

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1 these things that are sealed so it takes me a while to open up Number 4. Number 4 is even. Four
2 is even. If you are asking what are the chances I know what they are they are 50/50 that's the
3 chances. 50/50, this is number five. The fifth one drawn. The fifth even, even for Number 5.
4 Number 6, Number 6 is being opened up. Number 6 is odd. Number 6 is odd. Number 7,
5 Number 7 odd, Number 7 is odd. Number 8, Number 8 is odd, Number 8 is odd. Number 9 is
6 even, Number 9. Number 10 is odd, we are 25% of the way done. Number 10 is odd. The 11th
7 card drawn for the 11th currently district is odd, is odd, Number 11. Number 12, Number 12 is
8 odd. Lucky Number 13 is odd, Number 13 is odd. I'm still shuffling up, this is Number 14,
9 Number 14 is even. Even for Number 14. Number 15, Number 15 is odd. Odd for Number 15.
10 We are drawing 16, District 16 is odd. 16 is odd. Number 17 odd, Number 17 odd. Number 18 is
11 even, 18 is even. Number 19 is even, Number 19 is even. Look at me go shuffling them up. Here
12 we go, still a 50/50 shot. This is currently our 20th card drawn. The 20th card drawn is odd, odd.
13 And we are halfway, halfway. The 21st card drawn is even, even for the 21st card drawn. Number
14 22, Number 22, Number 22 is even. Here is the 23rd card drawn is even, it's even. The 24th card
15 drawn is even. Card number 25, card number 25 is odd. It's an odd number. The 26th card drawn
16 is odd it's an odd number. The 27th card drawn it's an odd number. The 28th is even, the 28th is
17 an even. Look at me still shuffling up, getting a random sampling. This is the 29th card being
18 drawn and the 29th is an odd district. Number 30, Number 30, 30 is even, 30 is even. 30 was
19 ripped but it still says even. We have ten left, Senators, ten left. And here we go. And I know
20 you're saying, 'any time now Bean, you can go fast, any time you want,' is what you're saying.
21 This is the 31st District, it's even, even. The 32nd card being drawn, it is odd, odd. 33, district
22 number currently the 33rd District, even, even. Card number 34 is even. The 35th card being
23 drawn, it's even. 36 odd, 36 is odd. There are four left. This is the 37th, the 37th is even, even.

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1 38th, the 38th card being drawn, it is odd. It has also been ripped but it clearly says odd district.
2 Two left, two left. 39, District 39, current district, will be labeled even. And your final district, if
3 you have been playing along at home or here, you already know what's left. There are 20 odds,
4 20 even. I don't know, I've lost track. But let's be clear, it's even for your final card being drawn.
5 Thank you for playing, Florida Senate. You now know our future map numbers. Thank you, Mr.
6 Chairman.

7 Ray Rodrigues: Thank you, President. Okay at this point we are going to stand in
8 informal recess while the staff goes back and numbers with this odd/even random drawing so
9 that the map that we do take our vote on will be the final geographic boundaries having been
10 renumbered randomly. We stand in informal recess. Plan to be back here, please, no later than
11 4:00.

12 The Senate Committee on Reapportionment will come out of informal recess and come
13 back to order. Senators, the staff has prepared a late-filed substitute amendment to overlay the
14 new district numbers on the map that we were considering. That is Senate map S027S8058. And I
15 am told it is posted online already. So I would say at this point let's take up late-filed substitute
16 amendment which is barcode 357120, by Senator Rodrigues, me. Are there any questions on the
17 substitute amendment? Seeing no questions, we do not have appearance forms on the substitute
18 amendment, the appearance forms we have we will come to when we get to the substance of the
19 main bill. Is there debate on the substitute amendment? Seeing no debate, in closing, I will say I
20 want to thank the work of the subcommittees, both of the subcommittees, our congressional and
21 our Senate subcommittees worked very hard in putting their maps together and I think both of
22 them sent up good options. This map, which has been overlaid with the numbers that were
23 randomly drawn, I think is a very strong product and I want to thank President Bean for handling

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1 the random drawing. And taking what could have been a very dry process and making it a little
2 bit more exciting. With that, I would ask for your favorable support of this substitute amendment.

3 All in favor of the substitute amendment say yea.

4 All members: Yea.

5 Ray Rodrigues: All opposed say nay.

6 Audrey Gibson: Let me get in proper posture for myself. I'm sorry Mr. Chair I
7 misunderstood where we are right now.

8 Ray Rodrigues: We are voting on whether to adopt late-filed substitute amendment
9 which is barcode 357120. It is the map that ends in 8058, which is the geographic configuration
10 that we went through earlier, which has now been overlaid with the numbering that we did with
11 the random drawing.

12 Audrey Gibson: And then we are going to vote. Okay thank you.

13 Ray Rodrigues: Then we will go back to the bill as a – Okay yes. So I'll call the vote
14 again just to make sure we are clear. All in favor of the substitute amendment say yea.

15 All members: Yea.

16 Ray Rodrigues: All opposed say nay. The substitute amendment is adopted. So now we
17 are back on the bill as it has been amended. Are there questions on the bill as it has been
18 amended? Seeing none, we will move to the appearance cards and we have two. First we will do
19 Cecile Scoon, who is the President of the Florida League of Women Voters. You are recognized.

20 Cecile Scoon: Thank you, good afternoon. Cecile Scoon with the League of Women
21 Voters of Florida. Every time I come, I learn something more and something more and that is
22 much appreciated in the conversation and the questioning and answering that the Senate has put
23 a lot of effort, and your staff, into bringing as much information to the public as possible and it's

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1 | been helpful to the League. We really appreciate the work that you have done. We can see that
2 | there have been efforts to comply with the law. We absolutely see that, but we are in the position
3 | where we believe that more can be done. We believe that the law requires and it's good common
4 | sense when there has been so many changes with the population to do those additional functional
5 | analysis than just the ones that were selected based on 2015. We just feel that that makes sense
6 | and that's something we are asking the Senate to do going forward and just to be sure that all the
7 | Tier One priority is, in fact, enforced because there has been so much focus on the Tier Two. And
8 | we will just leave it at that. Thank you very much.

9 | Ray Rodrigues: Thank you for your comments. Next up we have Steven Mangual, you
10 | are recognized.

11 | Steven Mangual: Thank you once again honorable chair and representatives for the
12 | opportunity to offer this testimony on the concerns of LatinoJustice PRLDEF regarding the
13 | current state of the redistricting process and its impact on the Latino community. In short, we
14 | oppose the proposed maps because they dilute Latino political power. My name is Steven
15 | Mangual, Justice Advocate Coordinator at LatinoJustice PRLDEF's Southeast Regional Office.
16 | Our organization has a long history of participating in Florida's redistricting process. Our
17 | organization is closely monitoring the work of Florida legislators to ensure the protection of
18 | Latino Floridians' rights in the redistricting process under the Voting Rights Act of 1965 and
19 | constitutional norms. Latino Floridians must have an opportunity to elect their candidates of
20 | choice and remain politically unified in communities of interest. The Florida Legislature's
21 | proposed maps ignore dramatic Latino population growth after the last decade. The process has
22 | been inaccessible for public comment by limited-English-proficient Floridians and the many
23 | members of the public impacted by COVID-19 pandemic. The end result has been the dilution of

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1 Latino political power. Latino population growth. Florida's population has increased 34% since
2 the 2010 Census, adding almost one and a half million people to the state and now comprising
3 over 26% of Florida's total population. This incredible demographic growth has benefited the
4 entire state. Meaningful public participation language access. Spanish-dominant Floridians
5 deserve their voice heard in meaningful ways and participate in the redistricting process without
6 English-only barriers. This Legislature should ensure that public hearing notifications,
7 information on the floridaredistricting.gov website, forms to submit public comment, and review
8 proposed maps are fully accessible to limited English proficient Floridians who have an equal
9 right to participate in defining the political boundaries that will endure for the next
10 decade. Existing Google translate options online are inadequate. For example, links to historical
11 redistricting plans in the resources section, and the memorandums in the Senate committee
12 section of the floridaredistricting.gov website are only available in English. The Legislature
13 should take all reasonable steps to provide translators a public hearings and provide double time
14 for individuals using a translator to provide public comment at hearings. LatinoJustice PRLDEF
15 has been monitoring Florida's compliance with federal and state language access guarantees in
16 the area of voting rights for decades. We urge this Legislature to make public participation
17 equally accessible to all Floridians. Moving to meaningful public participation, the virtual
18 option. On September 8, 2021, LatinoJustice PRLDEF, NALEO Educational Fund, and Hispanic
19 Federation submitted a request for virtual public hearings in light of the grave health risks of in-
20 person testimony during COVID-19 pandemic. Our request went unheeded and today, two of my
21 colleagues who were scheduled to testify today asked me to fill in because they are both in
22 quarantine under the CDC guidelines. House maps. The proposed Florida House maps failed to
23 provide a sufficient level of Latino-majority districts.

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1 Ray Rodrigues: Sir, sir.

2 Steven Mangual: We're in the House maps, right?

3 Ray Rodrigues: We're not going to discuss House maps in a Senate committee.

4 Steven Mangual: Okay apologies. Senate maps.

5 Ray Rodrigues: We're talking about the Senate maps.

6 Steven Mangual: All right so again, apologies and thank you Chair. So turning to the
7 Senate maps. The proposed Florida maps similarly fail to provide a sufficient level of Latino-
8 majority districts proportionate to the Latino population growth. For example, the Senate add no
9 additional plurality- or majority-Latino districts despite massive growth in the Latino population,
10 exacerbating the inequality of the status quo. In conclusion, every indication in this process
11 points to redistricting proposals that do nothing more than provide Latino Floridians with the
12 same number of majority districts they enjoyed at the end of the decade on the existing ten-year-
13 old districts. Both houses of this Legislature seeks to cap the growth when every demographic
14 indicator shows clearly that Latino population growth requires more, not the same. It's clear to
15 LatinoJustice PRLDEF that Section 2 of the Voting Rights Act requires that, where Latino
16 majority districts can be drawn feasibly, they must be drawn, even in spite of countervailing state
17 mandates. We call on this commission to draw districts that protect communities of interest,
18 provide that growing Latino community an equal opportunity to elect candidates of its choice
19 and ensure that they are conducting the necessary performance analysis to ensure that these
20 proposed districts are not diluting the Latino vote and share such work products to the general
21 public. Thank you.

22 Ray Rodrigues: Thank you for your comments. That concludes our public appearance. At
23 this point we'll move into debate. Is there debate on the bill as it's been amended? Seeing no

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1 debate, I will move into closing and just say it's been a long process. We started this back in
2 September and I'm glad we've arrived at the final map here that we are considering. I think this
3 is a strong map and it's clearly compliant with Tier One requirements. I believe it is an
4 improvement on Tier Two requirements over the base map that we inherited. And with that, I
5 would ask for your favorable support. Dana, please call the roll on Committee Substitute for
6 Senate Joint Resolution 100.

7 Dana: Senator Bean

8 Aaron Bean: Yes.

9 Dana: Senator Bracy.

10 Randolph Bracy: Yes.

11 Dana: Senator Bradley.

12 Jennifer Bradley: Yes.

13 Dana: Senator Burgess.

14 Danny Burgess: Yes.

15 Dana: Senator Gibson.

16 Audrey Gibson: No.

17 Dana: Senator Harrell.

18 Gayle Harrell: Yes.

19 Dana: Senator Rodriguez.

20 Ana Maria Rodriguez: Yes.

21 Dana: Senator Rouson.

22 Darryl Rouson: Yes.

23 Dana: Senator Stargel.

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1 Kelli Stargel: Yes.

2 Dana: Senator Stewart.

3 Linda Stewart: Yes.

4 Dana: Vice-Chair Broxson.

5 Doug Broxson: Yes.

6 Dana: Chair Rodrigues.

7 Ray Rodrigues: Yes, and by your vote, we show Committee Substitute for Senate Joint
8 Resolution 100 is reported favorably. Let me begin by asking, in closing, does any senator wish
9 to be recorded as voting on bills that were before the committee today? Senator Rouson, you are
10 recognized.

11 Darryl Rouson: Thank you very much Mr. Chairman. And I had a little stomach burn as I
12 voted in the affirmative for map 8040, I would respectfully like to change that vote to a nay. My
13 rationale is that I have never filed an amendment that I didn't like. And the amendment that was
14 not taken, I think the amendment splits the City of Tampa, draws Pinellas voters into an
15 historically Tampa seat, and although this process has been mostly cordial along the way, and I
16 compliment you, Mr. Chairman, for the way you handled this, I would appreciate the opportunity
17 to record a different vote. On the congressional.

18 Ray Rodrigues: On the congressional. Is there any objection to that? Seeing none, that
19 will be recorded. Do we have any other members wanting to record any other votes? Senator
20 Gibson you are recognized.

21 Audrey Gibson: Thank you Mr. Chair. I'm going to be consistent and would like to be
22 recorded as a no on the congressional maps as well.

23 Ray Rodrigues: Any objection? Seeing none, we'll have the record reflect that as well.

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1 As we wrap up, I want to begin by making a couple of points in closing that I think are
2 important. At the very beginning, we announced that we were doing a joint website with our
3 House counterparts, which would serve as a mechanism for the public to submit maps and to
4 submit comments, and I encouraged everyone on the committee to review those maps and review
5 those comments. It was brought to my attention that we have it put on the record whether that's
6 been done or not. So I want to make sure that I'm clear. I reviewed every map that was a Senate
7 map or a congressional map that was submitted via the joint website. I also read every comment
8 that was posted. Particularly paying close attention to comments on the Senate map and the
9 congressional map. On the maps, it's very clear whether it's a House, Congress, or Senate map.
10 On the comments, you actually got to get into them to see whether they are commenting on the
11 House, Senate, or Congressional map. But everything that was submitted by the public was at
12 least reviewed by the Chair, and having had informal conversations with members over the
13 months, I've been told by many of you that you have been looking at them as well. So to the
14 public that participated, thank you for participating and thank you for submitting your
15 submissions.

16 The next thing I would like to do is thank first my subcommittee chairs, Senator Burgess
17 and Senator Bradley. Y'all worked very diligently and I think your committees gave the full
18 committee two good options to consider today, which made this expedited process. And a
19 process that has yielded, I believe, strong maps that we can take forward. Thank you for your
20 efforts and your leadership. They are very appreciated.

21 The next thing I would say to the committee members is thank you. I would venture that
22 our committee and subcommittees have been working very hard from the very first committee
23 week. I know not all committees were meeting during every committee week, but some version

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1 of the Reapportionment Committee was. Whether it was the full committee or the
2 subcommittees. And many of us were meeting early in the week when it's not the most
3 convenient time because that's the way the committee blocks worked out. Thank you for your
4 diligence and participating and being here and in working so hard for us to accomplish this. So
5 that we could get this done as quickly as possible.

6 The final thing I would like to do is thank our staff. For those that are on the outside, I
7 don't think they understand just how herculean the task in front of our staff was. The Census was
8 delayed. The data from the Census was delayed by eight months, we received in August what we
9 would have gotten much sooner in a normal basis. And they accomplished in weeks, what, if you
10 went back and looked at the last redistricting cycle, staff took months to accomplish. And that
11 happened because they were working every day, including weekends, including holidays, and
12 working at night. So your efforts are noted and they are appreciated. And I want to say on behalf
13 of the full committee, thank you for your hard work. I'm proud of our product and I'm very
14 proud of the job that our staff has done to get us into this position. And with that, I will turn the
15 floor over to Vice-Chair Broxson who has some comments.

16 Doug Broxson: Mr. Chair, when we first learned that you were going to be our
17 Chairman, and we knew your body of work as a senator and how thorough you are, I want to tell
18 you how much I appreciate the way you handled yourself during this process. You almost
19 sequestered yourself from the rest of the Senate process. You did not file any bills until this was
20 resolved. And frankly, my anticipation of how well you would do was surpassed by your
21 performance. Thank you for your hard work. Thank you for your dedication, your isolation, and
22 all the things that you brought to this process, and I think along with the other members, I
23 certainly appreciate your leadership in this regard.

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1 Ray Rodrigues: Thank you for your kind words. I think a lot of people are thanking me
2 for my isolation. But it's been a very enjoyable process. I've enjoyed working with all of you. Is
3 there any other business to appear before the committee today? Senator Bracy you are
4 recognized.

5 Randolph Bracy: Yeah, yeah, yeah, I would. I've been thinking about the Senate vote. I
6 would like to change my vote also to a no. And I hate to have to do it after such a great speech
7 you gave. But I'll echo the comments that were made about your leadership and how you
8 handled this whole process. I think it was done in a transparent way, and I know staff has been
9 available to talk to and answer questions, so I'd like to thank everyone involved here. With that
10 that will conclude my comments.

11 Ray Rodrigues: Is there any objection to the vote change? Seeing none, we will have the
12 record reflect that you have changed your vote on the Senate map.

13 Randolph Bracy: Correct.

14 Ray Rodrigues: Any other business before the committee? Thank you, Senator Gibson.
15 And with that, Senator Gibson moves that we adjourn. Any objections? Seeing none, we'll show
16 that motion adopted and we are adjourned.



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Senate Session
January 19, 2022

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1 [00:57:25]

2 President Simpson: Show the bill passes. Read the next bill.

3 Secretary: Committee Substitute for Senate Bill 102, a bill to be entitled an act establishing
4 the congressional districts of the state.

5 President Simpson: Senator Farmer, I was going to make an announcement here that was
6 important, Senator Farmer. There was a question on whether we were going to do a transcript or a
7 spread this on the journal today and what I'm assuring senators of is we will have an official
8 transcript of what we're doing here, documenting what we're doing on the map. So just to be clear,
9 there will be an official transcript to be able to use as a public record to how people would see fit
10 to use that transcript. Senator of the 27th District, Senator Rodrigues, you are recognized to explain
11 the bill.

12 Ray Rodrigues: Thank you, Mr. President. The Florida Legislature has a responsibility
13 every decade to go through the process of reapportionment and redistricting. It is our responsibility
14 to reapportion our congressional delegation because due to population growth, we have gained a
15 congressional seat. This bill is the reapportionment bill for Florida's congressional delegation. And
16 that is the bill.

17 President Simpson: Are there any amendments?

18 Secretary: On the desk, Mr. President.

19 President Simpson: Read the first amendment.

20 Secretary: Late-filed amendment barcode 578304 by Senator Jones, delete lines 86 to 3211
21 and insert amendment.

22 President Simpson: Is there any objection to taking up the late-filed amendment? Seeing
23 none, show the amendment introduced. Senator Jones, you are recognized to explain your

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1 amendment.

2 Senator Jones: Thank you so much, Mr. President, and I do want to take this opportunity to
3 thank Senator Rodrigues for the work that he has done on this map. So I really appreciate that.
4 Members, this amendment seeks to do one thing and that is to keep the principal city in my district,
5 which is the largest Black municipality within the State of Florida, keeping that whole in one
6 congressional district. Additionally members, this map strengthens the Tier Two criteria that the
7 Congressional Reapportionment Committee set out to govern the process, which includes: districts
8 shall consist of contiguous territory; districts shall be as nearly equal in population as is practicable;
9 districts shall be compact; and district lines shall, where feasible, follow existing political and
10 geographic boundaries.

11 Members, we are all sent here to fight for the people we serve and in this instance, this
12 would be a huge move to, if we go in the direction that we're going right now in splitting this
13 district up. And so my ask is that you all help me keep representation to one congressional district
14 for the City of Miami Gardens. And that is the amendment, Mr. President.

15 President Simpson: Thank you. Are there any questions on the amendment? Any questions?
16 Is there any debate on the amendment? Senator Rodrigues, you're recognized in debate.

17 Ray Rodrigues: Thank you, Mr. President. And Senator Jones did come to both the staff
18 and speak with me as this amendment was crafted. It actually does improve the Tier Two criteria.
19 It meets all the criteria we laid out in staff and sent out – or laid out in committee I should say, and
20 sent out in memo form to each of the members for what to consider should you decide to propose
21 an amendment to either map. As such, I consider it a friendly amendment and an improvement on
22 the map.

23 President Simpson: Is there any additional debate? Senator Jones, you're recognized to

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1 close.

2 Senator Jones: Man, if Session's going like this, I am good.

3 President Simpson: All in favor of the Amendment say yea. All opposed, nay. Show the
4 amendment has been adopted. Read the next amendment.

5 Secretary: None on the desk, Mr. President.

6 President Simpson: Read the next amendment?

7 Secretary: None on the desk, Mr. President.

8 President Simpson: Are there any questions on the bill? Senator Torres, you're recognized
9 for a question.

10 Senator Torres: Thank you, Mr. President and Chairman Rodrigues, thank you for your
11 work on the committee, but I have a few questions. The population of the Hispanics in Florida
12 grew by 1.2 million from 2010 to 2020, a 39% total population increase. Was there any analysis
13 done to determine if the growth was located in a specific area of the state to justify the creation of
14 a new Hispanic opportunity congressional seat?

15 President Simpson: Senator Rodrigues, you're recognized.

16 Ray Rodrigues: Thank you, Mr. President. And the answer to that question would be yes.

17 President Simpson: Senator Torres, you're recognized.

18 Senator Torres: Did you look at the Hispanic population growth in Central Florida to see if
19 that justifies the creation of a new Hispanic opportunity congressional seat?

20 President Simpson: Senator Rodrigues, you're recognized.

21 Ray Rodrigues: Thank you, Mr. President. And the answer to that question is also yes and
22 if I could elaborate for just a brief moment. What we did was we took the data from the 2020
23 Census, and anyone could go into the software that we have and do this themselves, brought it up,

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1 and there's the ability to view population distribution by racial demographics. The staff looked at
2 that as we were looking at crafting the maps. So yes, that step was taken.

3 President Simpson: Senator Torres, you're recognized.

4 Senator Torres: Thank you, Mr. President. These proposed maps included the same number
5 of African Americans and Hispanic opportunity congressional seats for the next decade that we
6 had in the past decade. Why are we not seeing the additional at least one new Hispanic opportunity
7 congressional district to represent the increase of percentage of Hispanic population growth over
8 the past decade?

9 President Simpson: Senator Rodrigues, you're recognized.

10 Ray Rodrigues: Thank you, Mr. President. The first point I would make is that we draw our
11 map based upon the data that we received from the U.S. Census. The districts are drawn around
12 where the population resides. That's what we've done with this map. The second thing that I would
13 point out is that if you look at the benchmark congressional districts specific to the Hispanic
14 districts, there were three majority-minority districts and one opportunity district. Due to the
15 growth that occurred, there are still four seats, but the opportunity district is now majority-minority
16 district. That is because that's where the population settled in the State of Florida as we grew.

17 President Simpson: Senator Torres, you're recognized. Oh, you're good. Are there any
18 additional questions on the bill? Senator Cruz, you're recognized.

19 Senator Cruz: Thank you, Mr. President, and I too want to thank you, Senator Rodrigues.
20 This is a monumental task and you'll never make all the people happy all of the time, and I
21 understand that, but I want to expand upon what Senator Torres said, because and I don't have the
22 numbers that he has, but it's been my understanding that there's explosive growth in the Hispanic
23 community in the Orlando counties. Yet, this map chooses to push the new seat towards me,

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1 towards my coastline in the Lakeland area where I don't see quite as much growth as I do in
2 Orlando and I'm curious as to why that happened.

3 President Simpson: Senator Rodrigues, you're recognized.

4 Ray Rodrigues: Thank you, Mr. President, and thank you for the question. What I would
5 note is that the new seat was placed in Central Florida which is the I-4 corridor, which is where
6 the growth occurred. Placement of that seat is what pushes additional seats outward, which is why
7 you saw changes to the seat that you have in the county in which you reside.

8 President Simpson: Senator Cruz, you're recognized.

9 Senator Cruz: So could you tell me then, this seat that will be the new seat, can you tell me
10 where that seat is located now?

11 President Simpson: Senator Rodrigues, you're recognized.

12 Ray Rodrigues: Thank you, Mr. President. If you look on the map, that would be seat
13 number 28, which is located in Central Florida.

14 President Simpson: Senator Cruz, you're recognized.

15 Senator Cruz: Thank you, Mr. President. Moving onto the Tampa Bay area, I have a few
16 questions, and one is of which is: Previously, Congressional District 14 was located solely in
17 Hillsborough County. Under this map it now includes portions of Pinellas. I know because I live
18 in Hillsborough County that the growth is explosive there. So why was that district drawn that
19 way?

20 President Simpson: Senator Rodrigues, you're recognized.

21 Ray Rodrigues: Thank you, Mr. President, and as I alluded to earlier, once we placed the
22 new seat in the area of the state that had the greatest population growth, which was Central Florida,
23 that required adjustments to the surrounding districts. Those adjustments are what impacted the

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1 seat you're questioning.

2 President Simpson: Senator Cruz, you're recognized.

3 Senator Cruz: Thank you, Mr. President. I'm sorry. According to the 2020 Census, both
4 Congressional District 15 and Congressional District 16 were well over the target population for a
5 congressional district. But these districts share borders with Congressional District 14. Wouldn't
6 it have made more sense for Congressional District 14's eastern border to move further east?

7 President Simpson: Senator Rodrigues, you're recognized.

8 Ray Rodrigues: Thank you, Mr. President. We believe, following the directives that the staff
9 was given by the committee of what they should follow in drawing the map – and I'll go over those
10 directives so that we have them on the record from the floor as well as committee. We instructed
11 staff to follow the plain language of the Constitution, federal law, and related existing judicial
12 precedent. They were directed to confirm that districts comply with Tier One constitutional
13 standards and with federal law. Specifically, that districts are not drawn with the result of denying
14 or abridging the equal opportunity of racial or language minorities to participate in the political
15 process or diminish the abilities to elect representatives of their choice. This is accompanied by
16 conducting a functional analysis on relevant districts.

17 Staff was directed to draw districts without reviewing political data, other than where
18 review of political data was required to perform an appropriate functional analysis. Staff was
19 directed to draw districts without the use of any residential information of any sitting member of
20 the Florida Legislature or Congress, and to draw the districts without regard to the preservation of
21 existing district boundaries.

22 Staff was drawn to prepare – I will skip this part since we're talking about the congressional
23 map. Staff was drawn to prepare congressional plans with a population deviation of plus or minus

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1 one person of the ideal population of 769,221 people.

2 Staff was directed to comply with the Tier Two standards related to the compactness by
3 drawing districts that are visually and mathematically compact. Staff was drawn to comply with
4 Tier Two standards related to utilizing existing political boundaries by using county boundaries
5 where feasible; where feasible, drawing districts consisting of whole counties in less-populated
6 areas, and districts wholly within a county in more densely populated areas; and keeping cities
7 whole while also considering the impermanent and changing nature of municipal boundaries. And
8 finally, use static existing geographic boundaries where feasible, specifically railways, interstates,
9 federal and state highways, and large water bodies, such as those deemed to be easily recognizable
10 and readily ascertainable by Florida's Supreme Court.

11 Our staff followed those directives. The simple fact is, in a state our size, to your question,
12 you could come up with an infinite number of possible maps that could have been drawn. But with
13 these standards, these are the maps – this is the map that we have brought to the body.

14 President Simpson: Senator Cruz, you're recognized.

15 Senator Cruz: Thank you, Mr. President. So based on what you just read to me, do you feel
16 that under this map the new congressional district that is Congressional District 15, which is most
17 of Eastern Hillsborough County, I'm curious why was the new district located here? I'm still not
18 understanding. Did this area see more growth overall than the Orlando area for example?

19 President Simpson: Senator Rodrigues, you're recognized.

20 Ray Rodrigues: Thank you, Mr. President. And I'll go back to the answer that I've already
21 submitted. Once we made the decision to place the new seat in the center of the state, the I-4
22 corridor where the highest growth that occurred, that required adjustments to surrounding districts.
23 Your district is one of those surrounding districts that had to be adjusted.

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1 President Simpson: Cruz, you're recognized.

2 Senator Cruz: Thank you, Chair Rodrigues. Moving on. In general, can you tell me why
3 are Hillsborough and Pinellas County in one district? I live there and I think of them as separate
4 communities.

5 President Simpson: Chair Rodrigues, you're recognized.

6 Ray Rodrigues: Thank you, Mr. President. What I would submit is I would be willing to
7 wager that all of the counties in this state believe they're separate communities. The simple truth
8 is we had to cross boundaries and counties to draw these districts. This was just one of the
9 boundaries that had to be crossed.

10 President Simpson: Senator Cruz, you're recognized.

11 Senator Cruz: Thank you, Mr. President. I'm done.

12 President Simpson: Senator Taddeo, you're recognized for a question.

13 Senator Taddeo: Thank you, Mr. President. Senator, the current map keeps the islands
14 around Biscayne Bay together in Congressional District 27, but the new map uses MacArthur
15 Causeway as the dividing line, thus splitting this community. Why was this done?

16 President Simpson: Senator Rodrigues, you're recognized.

17 Ray Rodrigues: Thank you, Mr. President. Just so I'm clear on the question. The question
18 is why was MacArthur Causeway utilized as the boundary for that district?

19 President Simpson: Senator Day, you're recognized.

20 Senator Taddeo: Thank you, Mr. President. Why was MacArthur Causeway used as the
21 dividing line for Congressional District 27, which now splits the community. Versus before, it was
22 Biscayne Bay – I mean, it was the islands were kept together in Congressional District 27? Now
23 they're separate.

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1 President Simpson: Senator Rodrigues, you're recognized.

2 Ray Rodrigues: Thank you, Mr. President. I'm going to yield this question to the map
3 drawer since it's specific to a boundary that was utilized.

4 President Simpson: Mr. Ferrin, you're recognized.

5 Mr. Ferrin: Thank you, Mr. President. And Senator, so specifically you're talking about the
6 northeastern boundary of District 27. That was – as you're drawing up from the southern end of
7 the state, starting with District 26 – and keep in mind that you're drawing Tier One protected
8 Hispanic districts here – that's a main geographic boundary which results in actually a much more
9 compact configuration than is present in the benchmark.

10 President Simpson: Senator Taddeo, you're recognized.

11 Senator Taddeo: Thank you. The current map keeps the community of Fontainebleau whole,
12 but under the proposed map this community is split. Why was this community split?

13 President Simpson: Senator Rodrigues, you're recognized.

14 Ray Rodrigues: Thank you, Mr. President, and I would go back to the answer that the staff
15 director just gave. We started drawing from the bottom up there, keeping in mind this is a Tier One
16 protected district, so we had to ensure that the district, after it was drawn, would continue to
17 perform in a functional analysis. Due to the population distribution within the district, that
18 community was divided between those two congressional seats.

19 President Simpson: Senator Taddeo, you're recognized. Are you good? Are there any
20 additional questions? Any additional questions on the bill? Senator Farmer, you're recognized.

21 Senator Farmer: Thank you, Mr. President. Just a few questions, Chair Rodrigues. So we
22 know that it's been often discussed and cited, of our limitations in this process and how, in
23 particular, we cannot engage in political conduct in connection with the drawing of these maps,

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1 and you talked a lot about the safeguards that were put in place. And I just – one of the questions
2 I have is, what safeguards were put in place to ensure that staff is bound by the same standards that
3 bind us?

4 President Simpson: Senator Rodrigues, you're recognized.

5 Ray Rodrigues: Thank you, Mr. President, and thank you for the question. For the
6 edification of the body, I'll walk through what those safeguards were and why we needed those
7 safeguards. In the last redistricting cycle which occurred ten years ago, the court threw out both
8 the congressional map and the State Senate map. And the reason those maps were thrown out was
9 the court found that there was improper partisan intent that was utilized in drawing both of those
10 maps. Specifically, there was a shadow organization, which the court found occurred on both sides
11 of the political spectrum, to attempt to influence the drawing of the maps through astroturfing the
12 public hearings that were held around the state, through the submission of maps under assumed
13 names from folks who had not drawn the maps, and the maps were created by political operatives.

14 When President Simpson constituted this reapportionment committee, the charge that he
15 gave to the committee was that we not repeat the mistakes that had been made in the past.
16 Specifically, our charge was to draw a map that was constitutional, that complied with all federal
17 requirements, and that met all state statutory requirements. So to that end, we took a number of
18 steps to prevent what occurred in the last cycle from occurring again. First, on the appearance
19 forms, before anyone could appear before the committee, they had to disclose if they collaborated
20 with anyone or if they – on a map that they were bringing forth to comment on, and they had to
21 disclose if they were being compensated from anyone for their testimony or any written
22 submissions that they were making to the committee. On the website, which we did with the House,
23 which was the public portal for the public to submit maps and for the public to submit comments,

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1 there was also a form that would have to require the disclosure of who was collaborated with in
2 the drafting of the map and whether anyone was receiving compensation. We made the decision
3 that we would treat the redistricting amendments like we treat the amendment for any other bill in
4 that, if a member of the public submitted it, and a member wanted it considered, it would be the
5 member's responsibility to check with the person who submitted the map, confirm there was no
6 improper partisan intent or incumbent protection intent, and then serve as the sponsor for that
7 amendment to the bill.

8 When it came to the staff directives, our staff was directed to communicate with no one in
9 the drafting of the maps with the exception of the general counsel, whom we retained as a body to
10 guide us through this process. Our staff was insulated from external communications and the only
11 people staff communicated with were members and our general counsel. We believe we have put
12 in safeguards that have prevented the influencing of these maps for any illegal intent or illegal
13 purposes. And we believe we've done that through every possible means.

14 President Simpson: Senator Farmer, you're recognized.

15 Senator Farmer: Thank you, Mr. President. Thank you, Chair Rodrigues, for that response.
16 I think it was well known and publicized that release of the final census data was delayed largely
17 because of COVID. I think we blame just about everything on COVID. But in this case, it did
18 impact finalization of the census data. Would it be fair to assume that the initial first drafting of the
19 maps took place using 2010 benchmarks and that then the initial drafts were revised once the final
20 census data was obtained?

21 President Simpson: Could everybody please silence their phones? Senator Farmer, you're
22 recognized. Were you finished with the question? Senator Rodrigues, you're recognized.

23 Ray Rodrigues: Thank you, Mr. President, and thank you for the question, and I'll repeat

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1 the question in case anyone missed it. The question was: because the census data was delayed, is
2 it fair to assume the initial drafts of the maps were done with 2010 Census data and then later
3 updated? And the answer to that question would be no. It is correct that the census data was
4 delayed. We did not receive the raw unformatted data from the U.S. Census Bureau until August.
5 We did not receive the formatted data until September. In any other redistricting year, we would
6 have gotten that data the same time and we would have received it in April. The staff did not begin
7 drawing maps until after they had received the direction from the committee on what the criteria
8 would be to draw the maps. That is the criteria that I offered earlier in response to Senator Cruz.
9 We did not offer that criteria until our October meeting. By the time the staff received that criteria
10 in the direction to begin drawing the maps, we had the census data, the census data had been loaded
11 into our software and had been verified. So all the maps that have been produced, whether they're
12 congressional maps or Senate maps, by our committee and by our staff, were produced with 2020
13 Census data.

14 President Simpson: Senator Farmer, you're recognized.

15 Senator Farmer: Thank you, Mr. President, and thank you for that answer, Chair Rodrigues.
16 In September of last year, I wrote to President Simpson, yourself, Chair Bradley, and Chair Burgess
17 requesting under Senate Rule 1.47 access to information, including any One Drive folders in or
18 files, and any cloud-based documents used by or accessible to members and/or staff for the
19 reappointment committee and its select committees, any non-cloud based files that are used by or
20 accessible to members and/or staff of the reapportionment committee or select committees in
21 relation the committee's business, any emails sent or received by committee members and/or staff,
22 any calendars used by or accessible to committee members and/or staff related to the committee's
23 reapportionment business, software used by or accessible to members and/or staff in connection

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1 with reapportionment, and scanned copies of any digital information promulgated by, maintained
2 by, or available to members and/or staff of the reapportionment committee or select committees.

3 On September 22, I received a response from President Simpson indicating that we would
4 have access those materials under Rule 1.47, but also noting that my request made assumptions
5 that the Senate was further along in the redistricting process than I had assumed you were, and that
6 delays in census data necessary for map drawing had caused delays in your process, and that when
7 the process was complete the joint redistricting website would be launched. Since September of
8 2021, have you been part of any endeavors to update responses to this request and if so, could you
9 tell us what that was?

10 President Simpson: Senator Rodrigues, you're recognized.

11 Ray Rodrigues: Thank you, Mr. President. I will begin by saying I believe the response that
12 you received from the President was accurate. In September, we had not begun drawing any
13 districts yet. Staff did not begin that work until October. So, if you were asking for any data related
14 to the drawing of districts, there would not have been anything to provide to answer that. I have
15 not received or acted upon any additional information related to your request since that answer
16 from the President in September.

17 President Simpson: Senator Farmer, you're recognized for a question.

18 Senator Farmer: Thank you, Mr. President. I think this is my last one. And in that request,
19 I did include the request for emails or communications or correspondence that was relevant to,
20 mentioned, or pertained to the redistricting process. And of course, the response mentioned the
21 creation of the joint redistricting website, which is now up. But there is no correspondence that is
22 in the joint redistricting website. Are we to assume that there was no email communication or
23 correspondence by and between yourself, staff, or other members of this body relative to the

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1 redistricting process?

2 President Simpson: Senator Rodrigues, you're recognized.

3 Ray Rodrigues: Thank you, Mr. President. As you can imagine, I've received multiple
4 public record requests on the emails and communications that I've engaged into this process. We
5 have a standing order with my staff to turn over all of those documents upon their request. What I
6 would say is there have been communications and I turned those communications over upon all
7 public records requests. What I would also add to that is the communications I've had with staff, I
8 would submit every member has seen, because not long after that communication, the memo
9 comes out where I update the members of the Senate on where we are in the process, which is
10 typically the subject of the communications that I'm having with staff.

11 President Simpson: Senator Farmer, you're recognized.

12 Senator Frammer: Thank you, Mr. President. Just one follow-up on that. And I can imagine
13 yes, I'm aware of some of the public records request, and why – you're doing so much responding.
14 It's a noble undertaking you've done for us as a body, but can you tell us why those sorts of
15 communication haven't been uploaded to that website for the general public to see?

16 President Simpson: Senator Rodrigues, you're recognized.

17 Ray Rodrigues: Thank you, Mr. President. My understanding is that if the general public
18 wants to see those specific communications, they can request them just like any other public record
19 and they'll be turned over to them just like many of the requests that I perceived have been.

20 President Simpson: Are there any additional questions? Any additional – seeing no
21 questions, by agreement of the Democrat and Republican leaders, Leader Book, you don't hear
22 what I'm saying? I'm just joking. Is there any further comments by the sponsor? Pursuant to Rule
23 4.19, the bill is placed on the calendar of the bills on third reading. Before we move to the next

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1 bill, Senator Polsky, you are recognized for recognition.

2 Senator Polsky: Thank you Mr. President and thank you all up in the east gallery for being
3 so patient. We have over fifty students from Broward County here. I was lucky enough to meet
4 with that great group over there. And we have board members, Patricia – Rosalind Osgood, Ann
5 Murray, Debra Hixon, Lori Alhadeff – yes, future Senator Osgood. Did I say – Vickie Cartwright,
6 Superintendent, Nora Rupert. I'm sorry. I hope I caught everyone. And welcome to the Florida
7 Senate.

8 President Simpson: Senator Berman? You don't? Okay, thank you. Read the next bill.

9 Secretary: Committee Substitute for Senate Joint Resolution 100, a joint resolution of
10 apportionment.

11 President Simpson: Senator of the 27th District, Senator Rodrigues, you are recognized to
12 explain the bill.

13 Ray Rodrigues: Thank you, Mr. President. This is the second portion of the responsibility
14 we have as a Legislature to redistrict every ten years. This joint resolution is the redistricting map
15 for the Florida State Senate that we submit for your consideration.

16 President Simpson: Are there any amendments?

17 Secretary: On the desk, Mr. President.

18 President Simpson: Read the first amendment.

19 Secretary: Amendment barcode 603792 by Senator Gibson. Delete line 74 to 3116 and
20 insert amendment.

21 President Simpson: Senator Gibson, you are recognized on your amendment.

22 Audrey Gibson: Thank you, Mr. President. This amendment is one that I filed in committee
23 and it is certainly drawn in a constitutional manner. It is so nice I thought I'd do it twice, Mr.

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1 President, to bring it at least to the full Senate. I call it the Duck in the River as opposed to a
2 constitutional drawn map that is negligible difference in the compactness and the spread of the
3 population that adds several minority communities, African American communities, to the district
4 who are not included in the configuration in the map before us for consideration today. Those
5 communities could and should be included in the newly drawn district, which again, and I repeat,
6 is constitutional. They are communities of interest that should be included in the drawing, which
7 functions appropriately and also actually raises the Black voting-age population a little higher from
8 41% to 42%. Let's understand that just a Black voting-age population is not, it has to be relevantly
9 considered when you talk about turnout as well. So when the population is constitutionally okay,
10 and it's higher without packing, which is a term I'm sure many of you are familiar with, it's
11 constitutional and it should be considered better for those communities that would come out of the
12 river and we would no longer have a duck in the river, Mr. President. There is, on each side of the
13 map that we're considering outside of my amendment, north, south, east, and west, are
14 communities of color and communities of interest that would very well fit into a constitutionally
15 drawn district that also promotes – and while not constitutional, I do not mean it's not
16 constitutional. While it's not one of the constitutional considerations, the economic growth
17 opportunity as well as economic development within a constitutionally drawn district would help
18 those citizens who live in the district. This is in Jacksonville, where I've lived almost all of my
19 entire life except for my 17 years in Southern California. I've represented the area since 2002, so
20 I know it very well. I know that we could use my amendment to ensure the economic health and
21 the physical health and well-being of those who are left out of the current district, in the new map,
22 I believe is District 5. I can tell where this is going to go. I think it's important on behalf of the
23 people in Jacksonville and the people who live just on the outside perimeters where there has been

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1 growth but not overgrowth so that changing the district lines does not denigrate compactness.
2 Because the constitution doesn't say, it has to be as compact as possible. It says compact. Compact.
3 My amendment keeps that compactness. I will ask questions on the map once we're done. I will
4 withdraw my amendment today. Thank you very much for the opportunity to present a map on
5 behalf of the people in Jacksonville.

6 President Simpson: Senator Gibson, I show the amendment withdrawn without objection.
7 Read the next amendment.

8 Secretary: None on the desk, Mr. President.

9 President Simpson: Are there any questions on the Bill? Any questions on the Bill? Senator
10 Gibson, you are recognized for a question.

11 Audrey Gibson: Thank you, Mr. President. Someone asked after our last committee meeting
12 that Democrats get together on voting and questions or did anyone give me questions? I wrote a
13 note on my paper when I got home over the weekend and said its dated 1/14/2022 at 6:20 pm, Mr.
14 Chair, and under that it says, at home. I did my work totally by myself. I have a question as it
15 relates to the demographic info – first of all, how many individuals were added to the – both what
16 – should I refer to the map now with the new numbers on it? Or the previous numbers? New?

17 President Simpson: Mm-hm. The new is fine.

18 Audrey Gibson: Okay. How many voters were added to what is now 4 and 5? Let me
19 establish it this way. Were both 4 and 5, previously 4 and 6, underpopulated? Let me lay the
20 foundation first.

21 President Simpson: Senator Rodrigues, you're recognized.

22 Ray Rodrigues: Thank you, Mr. President. On the benchmark map, which was the map that
23 we're operating under now that was ordered by the court, District 4 was overpopulated by 20,662

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1 people, and District 6 was underpopulated by 11,653 people.

2 President Simpson: Senator Gibson, you're recognized.

3 Audrey Gibson: Thank you, Mr. President. The overpopulation in District 4 was moved
4 where?

5 President Simpson: Senator Rodrigues, you're recognized.

6 Ray Rodrigues: Thank you, Mr. President. The population would have been balanced
7 among the surrounding districts so that we could get to a population deviation of less than 2%.
8 What I would also add to that, though, is because one of these districts is a Tier One protected
9 district, a functional analysis was performed, which would have been provided in committee and
10 is provided on the back of the maps that were distributed to each of the members today to show
11 that even with the population rebalancing, it remains a district in which racial and language
12 minorities may continue to participate and elect candidates of their choice.

13 President Simpson: Leader Gibson, you're recognized.

14 Audrey Gibson: Thank you, Mr. President. I'm not sure I understood what that number is.
15 Do we know based on the benchmark, which wasn't underpopulated when it was drawn but is over
16 time only one of the districts became underpopulated and the other became overpopulated? Is that
17 what you expressed, Mr. Chair?

18 President Simpson: Senator Rodrigues, you're recognized.

19 Ray Rodrigues: Thank you, Mr. President. Yes, that's correct.

20 President Simpson: Leader Gibson, you're recognized.

21 Audrey Gibson: Thank you, Mr. President. In District now 4, oh, no it was 4 before, was
22 there more than just Nassau and Duval in the district?

23 President Simpson: Senator Rodrigues, you are recognized.

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1 Ray Rodrigues: Thank you, Mr. President. The counties that were in the district before
2 remain in the district now. That did not change.

3 President Simpson: Senator Gibson, you're recognized.

4 Audrey Gibson: Thank you, Mr. President. I think I asked this question before. I wasn't
5 sure of the answer. The overpopulated District 4 shifted their overpopulation to District formerly
6 6, now 5? Where did the overpopulation go to?

7 President Simpson: Chair Rodrigues, you are recognized.

8 Ray Rodrigues: Thank you, Mr. President. That's correct. The overpopulation shifted to the
9 neighboring district in between the two counties. The population was balanced to get to the
10 variation of less than 2%.

11 President Simpson: Leader Gibson, you are recognized.

12 Audrey Gibson: Thank you, Mr. President. The overpopulation number was how much in
13 District 4?

14 President Simpson: Senator Rodrigues, you are recognized.

15 Ray Rodrigues: Thank you, Mr. President. In District 4, the overpopulation was 20,662 and
16 in District 6 the under population was 11,653.

17 President Simpson: Leader Gibson, you are recognized.

18 Audrey Gibson: I'm sorry. The overpopulation in District 4 was 20,000 and the under
19 population in District 6 was 11,000?

20 President Simpson: Chair Rodrigues, you are recognized.

21 Ray Rodrigues: Thank you, Mr. President. Just to use the precise figures, the overpopulation
22 was 20,662 in District 4. The underpopulation in District 6 was 11,653.

23 President Simpson: Leader Gibson, you are recognized.

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1 Audrey Gibson: Thank you, Mr. President. Maybe I don't get the math because I asked
2 where did the 11,653 additional, were there more than 11,653 voters or people added to district 6
3 or now 5?

4 President Simpson: Senator Rodrigues, you are recognized.

5 Ray Rodrigues: Thank you, Mr. President. District 6 grew by about 15,000, which resulted
6 in both districts being overpopulated by about 4,500 each, which puts them within the less than
7 2% threshold.

8 President Simpson: Senator Gibson, you are recognized.

9 Audrey Gibson: Thank you, Mr. President. What is the demographic of the voters that were
10 added? Or the individuals that were added to District now 5?

11 President Simpson: Senator Rodrigues, you are recognized.

12 Ray Rodrigues: Thank you, Mr. President. What I would do is I would refer you to the map
13 that we distributed and refer you to the functional analysis. That's where I feel we can provide the
14 most accurate data, because we performed a functional analysis on each of our protected districts.
15 If you look at Tab 5 under the functional analysis, you can see the population. We could go back,
16 pull the base map, and compare that to the base map. For our purposes to ensure that the map is
17 constitutional, our requirement is to ensure that all Tier One districts are protected and that the
18 racial and language minorities do not have their opportunity to participate or elect candidates of
19 their choice diminished. We feel this map does that.

20 President Simpson: Leader Gibson, you are recognized.

21 Audrey Gibson: Thank you. Thank you, Mr. President. I'm trying to understand the
22 demographic change in the maps, largely between, well I guess that wasn't done for the previous
23 map that I mentioned. I'd still like to get an answer for what the demographic is for the voters that

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1 were added to the district, even in its constitutionally aligned mode.

2 President Simpson: Senator Rodrigues, you are recognized.

3 Ray Rodrigues: Thank you, Mr. President. Pulling the benchmark map, the BVAP under
4 that map for District 6 was 43.06%. The BVAP for the new District 5 is 41.2%.

5 President Simpson: Leader Gibson, you are recognized.

6 Audrey Gibson: Thank you, Mr. President. What is diminishment?

7 President Simpson: Senator Rodrigues, you are recognized.

8 Ray Rodrigues: Thank you, Mr. President. The court has held that diminishment isn't the
9 raw number of voters. Diminishment is whether the minority voters have the opportunity to
10 participate in the political process and elect the candidates of their choice. In this case, a functional
11 analysis shows that they would still be able to elect the candidate of their choice, even with the
12 diminishment of 1% in total voters.

13 President Simpson: Senator Gibson, you are recognized.

14 Audrey Gibson: Thank you, Mr. President. Which way were the lines drawn to capture the,
15 I think you said it was only 4,000 more voters. If that's wrong, if you can correct me on that. Which
16 way were the lines drawn to capture those additional people in the District now 5?

17 President Simpson: Senator Rodrigues, you are recognized.

18 Ray Rodrigues: Thank you, Mr. President. In the drawing of the map, we started with a
19 blank map, pulled in the demographics and then drew until we had a Tier One protected district.
20 In order to answer your question, they would have to go run the data from the prior benchmark
21 map, and then overlay it, which we do not have here on the floor with us at this time.

22 President Simpson: Senator Gibson, you are recognized.

23 Audrey Gibson: Thank you, Mr. President. There's a blank map and it starts to draw the line

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1 from the middle? I don't understand. The benchmark map had lines north, south, east, and west,
2 but we use a blank map to draw lines for the new district? Where does it start at?

3 President Simpson: Senator Rodrigues, you are recognized.

4 Ray Rodrigues: Thank you, Mr. President. The benchmark map identifies what the existing
5 Tier One districts are. Those are the districts that we cannot diminish. So once we've identified the
6 Tier One districts, we then start with a blank map, highlight the data we've received from the U.S.
7 Census Bureau by race, and then the staff began drawing around the population distribution in
8 order to ensure we had not diminished the opportunity for minorities to participate or elect a voter
9 of their choice. The base map just gave us the starting point.

10 President Simpson: Senator Gibson, you are recognized.

11 Audrey Gibson: Thank you, Mr. President. I think my question is, are you starting at some
12 middle point and just drawing in a circle? Do you go north, south, east, and west? How do we end
13 up with this picture?

14 President Simpson: Senator Rodrigues, you are recognized.

15 Ray Rodrigues: Thank you, Mr. President. Once you've identified the population
16 distribution, you encircle it and continue to grow until you have the metrics that are required to
17 protect the Tier One district.

18 President Simpson: Senator Gibson, you are recognized.

19 Audrey Gibson: Thank you, Mr. President. I guess my question is in terms of how the lines
20 are drawn and who's captured and who's not captured in a minority access district that could be
21 constitutionally drawn more than one way. Where in this configuration, and I call it a duck, where
22 was this started and how was it decided which way to take the lines? For example, why wasn't it
23 decided to take the line closer to the county line? The broken line that's on the map?

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1 President Simpson: Senator Rodrigues, you are recognized.

2 Ray Rodrigues: Thank you, Mr. President. I'll go back to the statement I made earlier,
3 because it's still applicable here. Once we highlighted the racial population, we began drawing
4 from there. If you'll go back and look at the previous maps, you could follow the population
5 multiple ways. In the amendment that you offered, it was followed to the east. In the configuration
6 that we chose to go with, I believe went north. The reason we went with the configuration we went
7 with, is we followed political and geographical boundaries that the court has recognized are
8 indicators of following Tier Two constitutional criteria. Once we had assured that we were Tier
9 One compliant, which trumps all the other Tier Two metrics, then the question was which map is
10 the most Tier Two compliant among the Tier One choices. The one we put forth is the most Tier
11 Two compliant of the multiple Tier One choices that we had.

12 President Simpson: Leader Gibson, you are recognized.

13 Audrey Gibson: Thank you, Mr. President. I'm still not exactly sure which way you started
14 or you went north or south. I'm not sure about that part. In terms of the adjoining district, do you
15 know what the African American population is just, do you know where the African American
16 population is within the District 4?

17 President Simpson: Senator Rodrigues, you are recognized.

18 Ray Rodrigues: Thank you, Mr. President. The population in District 4 would be 13.54%.

19 President Simpson: Senator Gibson, you are recognized.

20 Audrey Gibson: Thank you, Mr. President. I think maybe I misstated my question. Do you
21 know, or were you able to look at the line just, I guess you would call it, north of the dotted line
22 between, in the yellow in 4 and 5? Are you familiar if there is an African American population
23 west and north of the current District 5?

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1 President Simpson: Senator Rodrigues, you are recognized.

2 Ray Rodrigues: Thank you, Mr. President. I'm unaware of that. I've not looked at that data.

3 President Simpson: Senator Gibson, you are recognized.

4 Audrey Gibson: Thank you, Mr. President. I'll write it down. I'm sorry, is that data part of
5 the map for District 4?

6 President Simpson: Senator Rodrigues, you are recognized.

7 Ray Rodrigues: Thank you, Mr. President. We would not have conducted a functional
8 analysis on District 4 because District 4 is not a Tier One protected seat. The demographics are
9 available, which is one of your earlier questions that we were able to offer. That is the data that we
10 have running the report.

11 President Simpson: Leader Gibson, you are recognized.

12 Audrey Gibson: I'm getting there, Mr. President.

13 President Simpson: Are there any additional questions? Senator Gibson? You are
14 recognized.

15 Audrey Gibson: Thank you, Mr. President. If I look at the demographic data of, well, I can
16 look at the demographic data of District 4 but it won't tell me the location or how close an African
17 American community or a community of color and a community of interest is to the borderline of
18 District 5. Is that correct?

19 President Simpson: Senator Rodrigues, you are recognized.

20 Ray Rodrigues: Thank you, Mr. President. Yes, I believe that is correct.

21 President Simpson: Senator Gibson, you are recognized.

22 Audrey Gibson: Thank you, Mr. President. I just need to write this down because I keep
23 losing that number of the population number that was overpopulated in District 4 and where did

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1 that population go to? If you could give me that number one more time, Mr. Chair, I would greatly
2 appreciate it. The overpopulated number for District 4, which is still District 4, was?

3 President Simpson: Senator Rodrigues, you are recognized.

4 Ray Rodrigues: Thank you, Mr. President. The overpopulation for District 4 was 20,662.
5 The under population for District 6 was 11,653.

6 President Simpson: Leader Gibson, you are recognized.

7 Audrey Gibson: Finally, Mr. President, what is the number population that was added to
8 District 5?

9 President Simpson: Senator Rodrigues, you are recognized.

10 Ray Rodrigues: Thank you, Mr. President. The district that was overpopulated would have
11 had their numbers moved into the district that was underpopulated. Then the remaining population
12 would have been evenly split between the two districts. I believe in an earlier answer we said the
13 even split was 15,000 after we took care of the underpopulation and that 15,000 was distributed
14 between the two districts.

15 President Simpson: Leader Gibson, you are recognized.

16 Audrey Gibson: Thank you, Mr. President.

17 President Simpson: You're welcome.

18 Audrey Gibson: Thank you, Mr. Chair.

19 President Simpson: Are there any additional questions? Any additional questions? Senator
20 Farmer, you're recognized for a question.

21 Gary Farmer: Thank you, Mr. President. I'll get through this quickly. You won't need
22 another bottle of water there. Just sort of housekeeping here, for the record. The questions I asked
23 you on the congressional map, if I were to ask those same questions with regard to the state

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1 legislative maps, I'm assuming your answers would be the same?

2 President Simpson: Senator Rodrigues, you are recognized.

3 Ray Rodrigues: Thank you, Mr. President. Yes, they would.

4 President Simpson: Leader Farmer, you are recognized.

5 Gary Farmer: Thank you, Mr. President. You have talked throughout the process, spoken I
6 should say, throughout the process about retrogression and avoiding retrogression. We know
7 through the census numbers that we saw a dramatic increase in Hispanic population here in the
8 State of Florida. It looks like it's a little over 1.2 million in growth, almost 39% change in Hispanic
9 population for the State of Florida. Can you talk about how you accounted for this growth in
10 Hispanic population? Sort of related to the questions Senator Torres asked earlier, doesn't that
11 show for a need for more Hispanic-represented districts in the state legislative maps?

12 President Simpson: Senator Rodrigues, you are recognized.

13 Ray Rodrigues: Thank you, Mr. President. The first thing I would point out is that the maps
14 that we drew follow the population. We get our data from the U.S. Census. We do not manipulate
15 that data once we receive it from the U.S. Census. Then you follow the population distribution. The
16 second point I would make is if you look at the benchmark map for Senate districts, there were
17 four majority-minority districts and one opportunity district for Hispanic voters due to the
18 population distribution with the data we have from the U.S. Census. All five of those seats are now
19 majority-minority districts. I would submit that the upgrade from an opportunity district to a
20 majority-minority district is reflective of the growth, and it's reflective of that growth because that
21 is where the population settled.

22 President Simpson: Leader Farmer, you are recognized.

23 Gary Farmer: Thank you, Mr. President. Just to follow up to that question, Chair, which are

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1 the districts that we reflect that upgrade or upgrowth that you just reflected? Particularly as to those
2 Hispanic districts and as it relates to growth in the African American population, which I think was
3 just north of 300,000?

4 President Simpson: Senator Rodrigues, you are recognized.

5 Ray Rodrigues: Thank you, Mr. President. We'll start with the Hispanic districts first. Those
6 would be District 25, District 39, District 36, District 38, and District 40. For the African
7 Americans, those districts would be 5, 15, 16, 32, and 34.

8 President Simpson: Leader Farmer, you are recognized.

9 Gary Farmer: Thank you, Mr. President. That's all I had. Thank you.

10 President Simpson: Perfect. Are there any additional questions? Any additional questions
11 on the bill? Leader Rodrigues, would you like to make any further comments?

12 Ray Rodrigues: Not at this time.

13 President Simpson: Pursuant to Rule 4.19, the bill is placed on the calendar of bills on third
14 reading. Read the next bill.

15 [02:01:14]



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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

KÉTO NORD HODGES, et al.,

Plaintiffs,

v.

Case No: 8:24-cv-879

KATHLEEN PASSIDOMO, et al.,

Defendants.

_____ /

**PRESIDENT PASSIDOMO'S RESPONSES AND OBJECTIONS
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION**

Senate President Kathleen Passidomo, in her official capacity, hereby
responds to Plaintiffs' First Set of Requests for Admission as follows:

GENERAL OBJECTIONS

A. President Passidomo objects to the Requests to the extent they
call for information protected by the attorney-client privilege, the attorney
work-product doctrine, legislative privilege, joint defense privilege, or any
other privilege or doctrine available under federal or state law, either
statutory, regulatory, constitutional, or common law.

B. President Passidomo objects to the Requests to the extent they impose on her obligations that exceed those imposed by the Federal Rules of Civil Procedure and relevant orders issued in this case.

C. President Passidomo objects to the Requests to the extent they are overly broad or seek information that is neither relevant to the claim or defense of any party in this action nor proportional to the needs of the case.

D. President Passidomo objects to the Requests to the extent they are duplicative and cumulative.

E. President Passidomo objects to the Requests to the extent they necessarily call for a legal conclusion.

F. President Passidomo's failure to object on a particular ground or grounds shall not be construed as a waiver of her rights to object on any additional grounds. In making these objections, President Passidomo does not in any way waive or intend to waive any additional objections, but rather intends to preserve and does preserve any additional objections should they become appropriate.

G. President Passidomo responds to the Requests to the best of her present knowledge, information, and belief. President Passidomo continues to investigate the matters that are the subject of this litigation. The responses

set forth herein are at all times subject to additional or different information that discovery or further investigation may disclose.

Subject to and without waiving these General Objections, President Passidomo sets forth her responses and objections to the Requests as follows:

REQUESTS

1. Admit that Article III, Section 21 of the Florida Constitution prohibits Black voters' ability to elect representatives of their choice from being diminished from their ability in Benchmark Senate District 19 in the Senate plan in effect from 2016–2022.

Admitted that Article III, section 21, of the Florida Constitution provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice,” and that District 16 in the Enacted Plan complies with this provision with respect to Benchmark Senate District 19 in the Senate plan in effect from 2016-2022.

2. Admit that Article III, Section 21 of the Florida Constitution requires a Senate district in which Black voters have an ability to elect representatives of their choice in Hillsborough County.

Admitted that Article III, section 21, of the Florida Constitution provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice,” and that District 16 in the Enacted Plan complies with this provision with respect to Benchmark Senate District 19 in the Senate plan in effect from 2016-2022. Denied that the Florida Constitution “requires a Senate district in which Black voters have an ability to elect representatives of their choice in Hillsborough County.”

3. Admit that Article III, Section 21 of the Florida Constitution requires a Senate district in which Black voters have an ability to elect representatives of their choice in Pinellas County.

Admitted that Article III, section 21, of the Florida Constitution provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice,” and that District 16 in the Enacted Plan complies with this provision with respect to Benchmark Senate District 19 in the Senate plan in effect from 2016-2022. Denied that the Florida Constitution “requires a Senate district in which Black voters have an ability to elect representatives of their choice in Pinellas County.”

4. Admit that Article III, Section 21 of the Florida Constitution requires a Senate district in which Black voters have an ability to elect representatives of their choice in Hillsborough and Pinellas Counties.

Admitted that Article III, section 21, of the Florida Constitution provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice,” and that District 16 in the Enacted Plan complies with this provision with respect to Benchmark Senate District 19 in the Senate plan in effect from 2016-2022. Denied that the Florida Constitution “requires a Senate district in which Black voters have an ability to elect representatives of their choice in Hillsborough and Pinellas Counties.”

5. Admit that Article III, Section 21 of the Florida Constitution requires a Senate district in which Black voters have an ability to elect representatives of their choice in Hillsborough or Pinellas Counties.

Admitted that Article III, section 21, of the Florida Constitution provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect

representatives of their choice,” and that District 16 in the Enacted Plan complies with this provision with respect to Benchmark Senate District 19 in the Senate plan in effect from 2016-2022. Denied that the Florida Constitution “requires a Senate district in which Black voters have an ability to elect representatives of their choice in Hillsborough or Pinellas Counties.”

6. Admit that, in the totality of the circumstances, the political processes leading to nomination or election for the Florida Senate are not equally open to participation by Black voters in Florida, in that they have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

The Senate President objects to this request on the grounds that it is vague and calls for a legal conclusion rather than a fact or the application of law to a specific and identifiable set of factual circumstances.

7. Admit that the 2022 enacted Senate Plan *was not* drawn with the intent to favor or disfavor a political party.

Admitted.

8. Admit that the 2022 enacted Senate Plan *was not* drawn with the intent to favor or disfavor an incumbent.

Admitted.

9. Admit that District 16 in the 2022 enacted Senate Plan *was not* drawn with the intent to favor or disfavor a political party.

Admitted.

10. Admit that District 16 in the 2022 enacted Senate Plan *was not* drawn with the intent to favor or disfavor an incumbent.

Admitted.

11. Admit that District 18 in the 2022 enacted Senate Plan *was not* drawn with the intent to favor or disfavor a political party.

Admitted.

12. Admit that District 18 in the 2022 enacted Senate Plan *was not* drawn with the intent to favor or disfavor an incumbent.

Admitted.

13. Admit that the 2022 enacted Senate Plan *was* drawn with the intent to favor or disfavor a political party.

Denied.

14. Admit that the 2022 enacted Senate Plan *was* drawn with the intent to favor or disfavor an incumbent.

Denied.

15. Admit that District 16 in the 2022 enacted Senate Plan *was* drawn with the intent to favor or disfavor a political party.

Denied.

16. Admit that District 16 in the 2022 enacted Senate Plan *was* drawn with the intent to favor or disfavor an incumbent.

Denied.

17. Admit that District 18 in the 2022 enacted Senate Plan *was* drawn with the intent to favor or disfavor a political party.

Denied.

18. Admit that District 18 in the 2022 enacted Senate Plan *was* drawn with the intent to favor or disfavor an incumbent.

Denied.

19. Admit that Tampa Bay is a geographical boundary.

Admitted, to the extent that Tampa Bay is a significant water body of contiguous area hydrography feature of greater than ten acres.

20. Admit that Tampa Bay is a major geographical boundary.

Admitted, to the extent that Tampa Bay is a significant water body of contiguous area hydrography feature of greater than ten acres.

21. Admit that the boundary between Pinellas and Hillsborough Counties is a political boundary.

Admitted.

22. Admit that the boundary between Pinellas and Hillsborough Counties is a major political boundary.

Admitted.

23. Admit that Tampa Bay is *not* a geographical boundary.

Denied, to the extent that Tampa Bay is a significant water body of contiguous area hydrography feature of greater than ten acres.

24. Admit that Tampa Bay is *not* a major geographical boundary.

Denied, to the extent that Tampa Bay is a significant water body of contiguous area hydrography feature of greater than ten acres.

25. Admit that the boundary between Pinellas and Hillsborough Counties is *not* a political boundary.

Denied.

26. Admit that the boundary between Pinellas and Hillsborough Counties is *not* a major political boundary.

Denied.

27. Admit that preserving the cores of pre-existing districts *was not* a criterion utilized in the drawing of the 2022 enacted Senate Plan.

Admitted, to the extent that “preserving the cores of pre-existing districts” is not an explicit standard under Article III, section 21, of the Florida Constitution, but denied to the extent the Florida Senate reasonably considered the historical configuration of pre-existing districts that have been litigated and/or upheld by the courts.

28. Admit that preserving the cores of pre-existing districts *was not* a criterion utilized in the drawing of District 16 in the 2022 enacted Senate Plan.

Admitted, to the extent that “preserving the cores of pre-existing districts” is not an explicit standard under Article III, section 21, of the Florida Constitution, but denied to the extent the Florida Senate reasonably considered the historical configuration of pre-existing districts that have been litigated and/or upheld by the courts.

29. Admit that preserving the cores of pre-existing districts *was not* a criterion utilized in the drawing of District 18 in the 2022 enacted Senate Plan.

Admitted, to the extent that “preserving the cores of pre-existing districts” is not an explicit standard under Article III, section 21, of the Florida Constitution, but denied to the extent the Florida Senate reasonably considered the historical configuration of pre-existing districts that have been litigated and/or upheld by the courts.

30. Admit that preserving the cores of pre-existing districts *was* a criterion utilized in the drawing of the 2022 enacted Senate Plan.

Denied, to the extent that “preserving the cores of pre-existing districts” is not an explicit standard under Article III, section 21, of the Florida Constitution, but admitted to the extent the Florida Senate reasonably considered the historical configuration of pre-existing districts that have been litigated and/or upheld by the courts.

31. Admit that preserving the cores of pre-existing districts *was* a criterion utilized in the drawing of District 16 in the 2022 enacted Senate Plan.

Denied, to the extent that “preserving the cores of pre-existing districts” is not an explicit standard under Article III, section 21, of the Florida Constitution, but admitted to the extent the Florida Senate reasonably considered the historical configuration of pre-existing districts that have been litigated and/or upheld by the courts.

32. Admit that preserving the cores of pre-existing districts *was* a criterion utilized in the drawing of District 18 in the 2022 enacted Senate Plan.

Denied, to the extent that “preserving the cores of pre-existing districts” is not an explicit standard under Article III, section 21, of the Florida Constitution, but admitted to the extent the Florida Senate reasonably considered the historical configuration of pre-existing districts that have been litigated and/or upheld by the courts.

33. Admit that, in the development of the 2022 enacted Senate Plan, the Florida Senate complied with Article I, Section 24 of the Florida Constitution; Article III, Section 4 of the Florida Constitution; and Chapter 286 of the Florida Statutes.

Admitted that the Florida Senate complied with Article I, section 24, and Article III, section 4, of the Florida Constitution in the development of the 2022 enacted Senate Plan. Chapter 286 of the Florida Statutes contains 23

sections, many of which have no relevance to legislative functions, and to that extent the Florida Senate is unable to admit or deny this portion of the Request.

34. Admit that the Executive Office of the Governor was not involved in the drawing of the 2022 enacted Senate Plan.

Admitted.

35. Admit that the Florida Department of State was not involved in the drawing of the 2022 enacted Senate Plan.

Admitted, except to the extent that the Florida Department of State provided data that was integrated into the Florida Legislature's map drawing software.

Dated: July 22, 2024

Respectfully submitted,

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*Counsel for Kathleen Passidomo,
in her official capacity as President of the Florida Senate*

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2024, I served this document by email
on all counsel of record.

/s/ Daniel Nordby
Attorney

**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 [00:13:11]

2 The Speaker: Read the next bill.

3 Clerk: By Reapportionment and Senator Rodrigues, CS Senate Joint Resolution 100, a
4 Joint Resolution of Apportionment.

5 The Speaker: First, we're going to start the redistricting bill here in a moment. I'd ask
6 that you take your conversations back to the bubble or back to the lounge so that members can
7 hear the debate that's going to transpire here on the floor. Representative Leek, you're
8 recognized to explain the bill.

9 Tom Leek: Thank you, Mr. Speaker. Members, this is a joint resolution of apportionment
10 that we discussed yesterday.

11 The Speaker: Are there any amendments?

12 Clerk: None on the desk, Mr. Speaker.

13 The Speaker: Alright. Having no amendments, members, we're going to go into
14 structured debate on CS for SJR 100. The debate will be limited to 90 minutes per side in 15-
15 minute blocks. Total debate time will not exceed 180 minutes. Representative Willhite, you are
16 recognized to begin the debate and the clerk will begin the debate clock.

17 Matt Willhite: Thank you, Mr. Speaker. I'd like to yield the floor to Representative
18 Geller.

19 The Speaker: Representative Geller, you're recognized.

20 Joe Geller: Thank you, Mr. Speaker. Thank you for personally presiding over this very
21 important bill. We appreciate that. I want to preface my remarks today by saying that I have
22 affection for every member in this chamber. I respect each and every one of you. I want it
23 understood that my remarks are directed to the substance of this bill and not directed at any

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1 individual member of this house, all of whom I respect. Mr. Speaker, today I along with many of
2 my colleagues are going to be voting no on this bill. There are a lot of reasons for that. There are
3 reasons that are related to the substance of this bill. There are reasons that are related to the
4 failure to take what I and other members of my caucus consider are adequate steps to protect the
5 Creole speaking citizens from that language minority in the state of Florida. There are
6 substantive reasons related to the way districts were drawn for Hispanic speakers. There are
7 substantive reasons to oppose this bill related to the failure to address our African American
8 citizens here in the state of Florida. There are other substantive reasons to oppose this bill, but
9 most of those I'm going to leave to other speakers. Today I want to focus more on the process.
10 Yesterday I raised, along with a lot of other members of my caucus, a lot of process questions.
11 By our count, 36 times we didn't get answers. Some of that was because we were told our
12 questions could only relate to the maps. Some of that was because we were told that the question
13 had been asked and answered and I agree on almost all of those that the question had been asked,
14 answered is kind of another story.

15 The Speaker: Representative Geller, you got to keep your debate to the substance of the
16 bill, just like the questions, substance of the bill. You're recognized.

17 Joe Geller: Thank you, Mr. Speaker. Let me say the process by which we arrived at the
18 bill does impact the substance of the bill and that's my focus today. In the process leading up to
19 this, we were told on the committee, we're on the ranking Democrat, that certain things were
20 premature. We were told that we couldn't really do much with the workshop maps that were in
21 front of us. Maps dropped. In short order after they dropped, there was an amendment and then
22 we had a vote less than a week for both. We were told at that time and we were told on the floor
23 those are process issues. That opportunity has passed. Members, I have to tell you there is an old

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1 routine by an idol of mine, Groucho Marx, and he was the leader in that movie of a place called
2 Fredonia. If that sounds a little bit like the free state of Florida or the Orange Free State if you're
3 a history buff like me, then you're not wrong. At a meeting, someone tried to raise an issue and
4 he said sorry, this is old business, that's new business. They came back and he said okay, we'll
5 move on to new business and the same person tried to raise the issue and he said that's old
6 business already. I feel like we got a little bit of that treatment yesterday. That there were things
7 that it was premature to bring up and then all of a sudden, it was too late to bring up. We did not
8 adequately solicit the input of the citizens of Florida and with new Zoom technology that would
9 have been easy. It really would have been a no brainer to do it. But we didn't do it. We were told
10 as an individual member, you can solicit that, even though we only had workshops maps and
11 comment on them was worth bringing. We were told that the maps were drawn by somebody. I
12 stand here today and I still don't know who was in the room. We're told that counsel is shown on
13 the House website, and yes, it is. Three sets of law firms. That's a fact. It's there. Which of them
14 and who from them was substantively in the room when the policy decisions were made I'm not
15 clear on. I was told the staff drew them. But something was too complicated for staff. Were
16 members present at that point? Which attorneys were present who weighed in on those policy
17 decisions? I don't know. I'm troubled by that. I'm troubled by the fact that the chamber never
18 took a position that we would accept the Florida Senate map as drawn. I understand there's some
19 tradition. I'm a great respecter of tradition. But I'm troubled because I'm asked to vote on a
20 Senate map with no idea if that map is constitutionally compliant. I don't want to vote for any
21 map that is not constitutionally compliant. With that said, I'm also asked to vote today on our
22 House map, even though I have all these unanswered questions. I don't choose to vote for a map
23 that I don't know is constitutionally compliant. That is my sworn duty. Why we could not

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1 address the technical end of where Haitian Creole speakers reside and how to protect them. Why
2 despite growth in both the Hispanic community and the African American community the
3 number of protected districts, benchmark districts, the language varies from time to time, why
4 that number was unchanged even when a district was lost in South Florida and somehow gained
5 in Central Florida so the bottom line numbers are the same. I don't know what methodology was
6 used. I don't know who decided. I asked some questions about Esri and we didn't get answers.
7 What was turned off in Esri? What functionality did it have that we told them not to use?

8 The Speaker: Members. Representative Geller. I will remind you that Rule 8.2, the House
9 Rules, members should confine all remarks to the questions under debate. Representative Geller,
10 I understand you have lots of opinions about the process. You've confined some of your
11 comments to the issues that were brought up yesterday about language speakers. Of course,
12 that's relevant to the substance of the bill. I'll ask you again to keep your comments to the
13 substance under debate today, which is the bill in front of us. You're recognized.

14 Joe Geller: Thank you, Mr. Speaker. The result of the process that was followed is the
15 bill before us today. The bill before us today must be compliant with our Constitution and
16 mandatory is adherence to the Tier One standards. I'll just, to try to conclude my remarks today.
17 Say to you that since I don't know how we got there, since I don't know why we got to where we
18 did. Since I don't know if the process we followed resulted in a constitutionally compliant map. I
19 feel I have no choice in honoring my oath to uphold the Constitution of this state of Florida, to
20 uphold the Constitution of the United States upon the which the Voting Rights Act that we're
21 mandated to follow, since I don't know that what we're voting on this very map is in compliance
22 with those constitutional standards, I have no choice but to withhold my vote along with many
23 other members of my caucus because I will not violate my oath to the federal and Florida

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1 Constitution. Thank you, Mr. Speaker.

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

3 Matt Willhite: Thank you, Mr. Speaker. I'd like to yield the floor to a member of the 59th
4 District, Representative Learned.

5 The Speaker: Representative Learned, you're recognized.

6 Andrew Learned: Thank you, Mr. Speaker. I rise today to talk about maps, of course. But
7 also about baseball because one of the things that everybody from Tampa Bay knows is that the
8 Tropicana Field has one of the worst attendance records in modern baseball. The reason we
9 almost lost our major league baseball team to Canada was because we can't get enough people to
10 show up at the stadium for games. The reason that is true is because it takes an hour and 45
11 minutes to drive from my eastern suburbs of Tampa all the way through Tampa's downtown
12 traffic, past MacDill Airforce Base's traffic, cross Tampa Bay over into St. Pete. It can take three
13 hours at rush hour if you try to make it to a game. My problem with the map before us is that it is
14 splitting part of eastern Hillsborough County and putting it in with downtown St. Petersburg,
15 Retirement communities in eastern Hillsborough with downtown districts two hours away. We're
16 doing it because we're saying it's contiguous across water, which is a concept that I understand
17 makes sense mathematically in a formula, but it doesn't make sense to anybody who actually
18 lives there. Crossing the bay at 7pm to get to, I mean, all of us have done house parties in our
19 districts. All of us have gone out and gone to speak to the local Chamber of Commerce. All of us
20 have talked to a local club, a Sons or Daughters of the American Revolution, or a Boy Scout
21 troop. Every meeting I think I've ever gone to all starts at 7 o'clock, which is right in the middle
22 of rush hour traffic when you'd need to leave your district office three hours away just to talk to
23 your constituents. Crossing the Bay is a problem. It means that people will be underrepresented.

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1 It is not, I would stand before any court and say it is not constitutionally contiguous to say that
2 those two communities have anything to do with each other, other than manatees in the middle.
3 Brandon, Florida, which is the town that I represent, is not incorporated. We're not a city. We're
4 just in unincorporated county, 200,000 residents. One of the largest unincorporated towns in
5 America, we don't have a voice because of that and this map splits Brandon four ways because
6 we don't count to the mathematical formulas that are used to generate these maps. Anybody from
7 Brandon says they're from Brandon. Everybody knows where Brandon is. It's Tampa's eastern
8 suburb. It's a very clearly understood area. Yet, because we didn't check that constitutional box,
9 we're going to get it split four ways. I know every Chamber of Commerce, every small business
10 owner, everybody that I know in Brandon is going to have less of a seat at the table because of it.
11 Lastly, Mr. Speaker, I'll just talk about time. We got these districts a week ago. The people back
12 home are probably seeing this for the first time now. They probably haven't even been on the
13 website. They don't know who their new representative is. They haven't had their voice in this
14 process. I know that it's taken us a lot of time but the people back home haven't had the same
15 amount of time. This map was finalized a week ago and now we had it amended onto a Senate
16 map, which is something that even fewer people understand the logistics of how that all
17 happened. They deserve a seat in this chamber, too. This is a map that will decide their
18 representative for the next ten years. We talk about people choosing their representative, not
19 representatives choosing their people. The reality is in this process we have been choosing the
20 people. We wrote the map. The people back home haven't had the same opportunity but for a
21 week. I am against this map for those reasons, Mr. Speaker.

22 The Speaker: Thank you, Representative Learned. The time having expired, you don't get
23 your two seconds. Leader Grant, you're recognized.

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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

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1 compliant map ready for a vote. I would encourage everybody's favorable support. Thank you,
2 Mr. Speaker.

3 The Speaker: Thank you, Representative Tuck. Leader Grant, you're recognized.

4 Michael Grant: Thank you, Mr. Speaker. We yield the remainder of our time back to the
5 Chair.

6 The Speaker: Having yielded back, members, we have some former members with us
7 today. First, I'd like to welcome back to the Florida House Senator Ray Rodrigues. We also like
8 to welcome back former members David Richardson and Bob Cortes. Welcome back,
9 gentlemen. Representative Willhite, you're recognized.

10 Matt Willhite: Thank you, Mr. Speaker. I'd like to yield the floor to the member from the
11 44th district, Senator Thompson.

12 The Speaker: Representative Thompson, you're recognized.

13 Geraldine Thompson: Thank you, Mr. Speaker. Members, when I look at the map that
14 has been presented to us, it reflects what, in my opinion, is a quota mentality. A quota mentality
15 suggests that the minimum is enough. In 2012 after the 2010 census, there were maps drawn that
16 provided an opportunity for 30 minority individuals to be a part of this process. Today, in 2022
17 after the 2020 census, we still have only 30. The minimum that is required. If you believe that a
18 quota is what we have to do. If you believe that a quota is what's appropriate. A quota is the
19 floor, not the ceiling. If we had 30 in 2012, we're on the floor when we had an opportunity to
20 reach for the ceiling. We had tremendous growth in our minority population. The census data
21 shows 500,000 more black residents in the state of Florida. The census data shows 1.5 million
22 more Hispanic residents in the state of Florida. Despite this growth, we're still at 30, a quota
23 mentality. Members, the maps that we vote, the maps that we put forward should reflect

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1 Florida's population and Florida's electorate. It should reflect our Haitian Creole speakers, our
2 Hispanic population, our African American population. We should not be bound by a quota.
3 When the maps go forward, after they are voted on, we will be bound to these maps for ten years.
4 It won't be until the 2030 census, after the 2030 census that we will have an opportunity or
5 someone will have an opportunity to draw other maps. We have to be deliberate because we are
6 bound to these maps for ten years. While we won't show retrogression in terms of fewer
7 minority seats, at the same time unfortunately, we won't show progression. We haven't made
8 any progress in terms of the participation of minority populations in this chamber. We had an
9 opportunity to reach for the ceiling. Instead, we are reclining and stuck on the floor. A functional
10 analysis was performed on only the 30 seats that we already have rather than the 120 seats that
11 offer a possibility of maximizing the participation of minority individuals in this process. We
12 have squandered an opportunity to bring divergent voices, divergent experiences, divergent
13 perspectives –

14 The Speaker: I apologize for interrupting you, Representative Thompson, but I'm
15 struggling to hear you. Members, if you could move your conversations to the back of the
16 bubble, there's obviously going to be a lot of debate today, both sides, 15-minute blocks. It's
17 going to continue to get loud in here. Just take your conversations to the back so we can hear
18 everybody. Representative Thompson, you're recognized.

19 Geraldine Thompson: Thank you, Mr. Speaker. We had an opportunity to bring diversity,
20 greater diversity to this chamber. We did not take that opportunity. We looked at the 30 as the
21 ceiling while it is actually the floor. Members, please vote no on this map. Thank you, Mr.
22 Speaker.

23 The Speaker: Thank you, Representative Thompson. Representative Willhite, you're

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1 recognized.

2 Matt Willhite: Thank you, Mr. Speaker. I'd like to yield the floor to the member of the
3 97th District, Representative Daley.

4 The Speaker: Representative Daley, you're recognized.

5 Dan Daley: Thank you, Mr. Speaker. I rise today with several concerns for many
6 different reasons but the two I want to touch on at this time are the lack of minority
7 representation or the verification of minority representation in these maps, and candidly, the
8 process that got us here today. I do not believe that we've been given all the data, particularly the
9 data that would enable us to perform a functional analysis as my esteemed colleague just
10 mentioned on all districts. We were provided data for 30 districts and told to trust us. Well folks,
11 when you look at the numbers and over the last ten years you've seen an increase of two million
12 Floridians who happen to be in the minority, 1.5 million Hispanics and 500,000 black Floridians.
13 That to me shouldn't equate to the same number of minority districts, protected districts that we
14 have today. It doesn't make sense. It doesn't add up. Process-wise just because we say again and
15 again and again that something has been open and transparent doesn't make it open and
16 transparent. There's been a lack of access to data and information. There's been a lack of
17 adequate notice. I don't know about you folks, but this is the most important thing we do as a
18 body. We only do it every decade. Two days does not make adequate notice. We've had
19 overlapping meetings. As many of you know who sit on the state redistricting committee, I
20 mentioned it again and again because we were meeting at the same time as the congressional
21 meeting. How are members of the public supposed to adequately weigh in when they can't be in
22 two places at once. There's been no meaningful access for the public. Ten years ago, there was a
23 statewide tour. We've all heard about it. Heck, Representative Jenne was here for it. We actually

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1 | went and toured the state. Now, everything going on with Covid I understand. We couldn't do an
2 | in-person tour. That's fine. But if my 93-year-old grandmother can figure out how to use Zoom,
3 | I'd bet most Floridians can do the same. You mean to tell me we couldn't have done that to some
4 | degree across the state to solicit public input. I take offense to that. I want to mention one other
5 | thing on the process. In our committee, I asked the question: when are we going to make the
6 | policy decisions? When you talk about policy decisions, I mean what do we do with the prison
7 | population. Are we prioritizing keeping cities whole, keeping counties whole? Those are all
8 | policy decisions. I was told at that time well we need to draw the maps first. Then we can decide
9 | the policy decisions. Somewhere in between there and two committee meetings later, we had the
10 | maps, all the policy decisions had been made by the admission of the Chair by him and other
11 | chairs. We had never actually had the opportunity to weigh in and have an actual conversation
12 | about those policy decisions that impact all Floridians. I want to talk for just a second because
13 | some members of the majority party mentioned yesterday well, listen you could have proposed
14 | your own amendment. Why didn't the Democrats propose an amendment? Well, here's part of
15 | why we chose not to propose an amendment. We lack the data. We lack the data and that in
16 | particular is the data that is being housed in Florida State University. When we asked for that
17 | data, we were told that we couldn't have it for constitutional reasons because it was part of some
18 | data. But that's incorrect. That's incorrect. Members of the Florida Supreme Court have already
19 | said that mere access to partisan data does not equal partisan intent. In fact, that data is necessary
20 | to make sure that a minority group has the opportunity to elect the candidate of their choice. It's
21 | the only way to do it, members. There was no way for us to even propose a constitutional map
22 | without that data. Members, in closing this is the most important thing we do as a government. It
23 | is the very foundation of our democracy. It is who our residents, all 22 million of them across

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1 this state, it's who they're going to have the option to elect for the next ten years. For these
2 reasons and so many more, I'm asking you to vote no. Let's start over. Let's do this right. We
3 still have time because our democracy depends on it. Thank you, Mr. Speaker.

4 The Speaker: Representative Willhite, you're recognized.

5 Matt Willhite: Thank you, Mr. Speaker. I yield the floor to the member of the 92nd
6 district, Representative Williams.

7 The Speaker: Representative Williams, you're recognized in debate.

8 Patricia Williams: Thank you, Mr. Speaker. I rise because on yesterday we heard several
9 times that any information or question that we asked was in the packages. Several of us did not
10 have the opportunity to serve on the Redistricting Committee. If any information that was needed
11 was in the packages, why did we receive the packages just on yesterday? That did not give us
12 enough time to look in the package and go over the package. It did not give us enough time to
13 contact the district that we serve. It did not give us enough time to question the person that put
14 the packages together. With receiving the information at such short notice, we as a body did not
15 have enough time to discuss with each other, to debate our concerns because of the short notices
16 of receiving the packages. I heard several times on yesterday rest assure me that certain things
17 was not taken into consideration or rest assure me that certain things was taken into
18 consideration. It's not that I don't trust the one that put the maps together. It's not that I don't
19 trust the one that put the packages together. It's that I trust myself more. You had heard the
20 numbers of additional Blacks being added to the state of Florida. You have heard additional
21 numbers of Hispanics being added to the state of Florida. But what we have not heard any
22 additional seats added for the minority party. With those reasons, I will be voting down and I ask
23 my colleagues to do so. Thank you, Mr. Chair.

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1 The Speaker: Representative Willhite, you're recognized.

2 Matt Willhite: Mr. Speaker, I yield back the remaining balance of this time.

3 The Speaker: Leader Grant, you're recognized.

4 Michael Grant: Thank you, Mr. Speaker. If you would, sir, please recognize
5 Representative Fine.

6 The Speaker: Members, before – please pause the debate clock. Before we get to
7 Representative Fine, let's just pause for a quick recognition.

8 [Recognitions]

9 The Speaker: Members, we're back in debate. Representative Fine, you're recognized in
10 debate.

11 Randy Fine: Thank you, Mr. Speaker. This morning at six o'clock I was up working with
12 my son, who's taking algebra II, tutoring him and thinking through math. Since I was up that
13 early, I couldn't go back to sleep. It prompted me to take a look at our maps in general and to
14 think about some of the arguments that were made yesterday. We have heard the argument from
15 some already today that somehow minority population has not been thought through in this
16 map. The argument that is made, I'd like to make it for them. I think I can do that. The argument
17 that is made is that there are 16% more Black people living in Florida today than there were ten
18 years ago. Why aren't there 16% more seats that reflect that? By the way, there are 35% more
19 Hispanics in Florida than there were ten years ago. Why are there not 35% more seats that are
20 primarily Hispanic? By the way, if you add them together, you get to 51% more seats. Hopefully,
21 I've delivered that argument with a little bit of enthusiasm. The problem with it is it belies a
22 basic understanding of math. It does not matter how much your population increases. It matters
23 how your percentage of the population increases. Ten years ago, 17% of this state was made up

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1 of Black residents, 2010 census data. You know what it is in the 2020 census data. 17%. It hasn't
2 changed. Actually, it changed a little bit. It went from, I wrote it down, if you want to do to the
3 hundredths of a decimal place. It went from 17.02% to 17.25%. It did go up a little bit. The
4 population of our state increased 15% over the last ten years. Hispanic population, 23% ten years
5 ago, 26% today the fact that it went up by 35% overall is irrelevant to the discussion. It is the
6 percentage of the overall population, which has not changed that much. One could argue, wait it
7 did go from 23% to 26%. Well, that's a little more. Why hasn't it changed? Well it also matters
8 where you move and where you live. See it's not the same 30 seats today. We've talked about
9 that before. There was a primarily Hispanic seat down there in Dade County. It went away. You
10 want to know why, because while the state grew by 15%, Dade County only grew by eight.
11 We've got to allocate these seats based on population. They just have fewer people as a
12 percentage of the state as they did ten years ago. But you know what the number one growing
13 county in the state of Florida was over the last ten years? It was Osceola County, the county near
14 me. It increased by 45%. That is where a new minority seat exists because it grew faster than the
15 state as an average. The math works. I'd like to address one other point as well. We've heard
16 discussions about data that doesn't exist. Data that we wanted, it didn't exist. It was just
17 referenced as FSU data that we can't have it. It doesn't exist. This is not correct. For starters,
18 there is no FSU data. It is state elections data and not only does it exist, it has been in the
19 software available to us since October of last year. Which begs the question, I've heard it over
20 and over again, why did we not run the functional analysis for the other 90 seats? First off, the
21 data existed to do it. Any member of this chamber with, I guess, adequate math background,
22 which most of us I would hope have, could have run that analysis themselves. You didn't have to
23 go through some committee. If you wanted to do a functional analysis on a district, you had all of

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1 the data. You could have done it yourself. The choice not to do so does not impugn the good
2 work of Chair Leek and his team. More importantly, the question is why did we not do it?
3 There's a reason. A, it's not required. It's not the law. But a functional analysis requires the
4 importation of partisan data, of elections data. We're supposed to do this process without paying
5 attention to that except in those 30 districts, where we are. These maps were drawn without
6 consideration of that. To do that in those other 90 districts would have brought that effort in. This
7 is a great work product that many people have worked hard on. I want to congratulate Chair Leek
8 for the great job that he's done as well as his team. These are legally compliant maps and with
9 that, I ask for your favorable support on those maps.

10 The Speaker: Leader Grant, you're recognized.

11 Michael Grant: Thank you, Mr. Speaker. I yield the remainder of our time to the chair.

12 The Speaker: Representative Willhite, you are recognized.

13 Matt Willhite: Thank you, Mr. Speaker; I'd like to yield the floor to the member from the
14 99th district, Representative Jenne.

15 The Speaker: Leader Jenne, you are recognized in debate.

16 Evan Jenne: Thank you Mr. Speaker, members, I would like to talk to you a bit about
17 what Floridians deserve and what they got. I personally believe that every single Floridian,
18 irrespective of where they are from, irrespective of their political affiliation deserves to have
19 their voices heard. They deserve to have their right and freedom to speak to relevant committees.
20 But what did they get? They got public input if you could drop everything, travel to one of the
21 most inaccessible state capitals in the entire nation and that is the same public that can barely
22 afford affordable housing at this point the same public that we ignore when they come up asking
23 for relief on their rent. Now I am very thankful that the citizens of Tallahassee had the

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1 opportunity to come to the capitol and speak. I love Tallahassee. I think it gets a bad rap. I think
2 it's one of the most lovely cities in all of Florida. But what about the folks in Pensacola, what
3 about the folks in Tampa, what about the folks in Broward County, what about the folks in
4 Miami-Dade and everywhere else in between all the way down to Key West? What about them?
5 They don't have that same right to come and petition their government. So let's talk about what
6 Floridians deserve again because I think they deserve a website that accommodates millions of
7 language minorities in the state of Florida. I believe that website should be easy to use and
8 functional. What they got, a website nearly devoid of any language other than English. I mean
9 the actual redistricting PDF was still only in English a week and a half, two weeks ago. When the
10 process has been done, the cake's already in the oven it's being baked at that point and it was
11 only in English. Have you actually taken a second to look at it? I know I have, I know probably a
12 lot of you have. I think it probably falls between Byzantine and impossible. What do Floridians
13 deserve? I believe they deserve a collaborative process to drawing this map and the policy
14 making as follows. But what we gave them, a map drawn in the dark we don't know who was
15 directing it. We have heard commentary yesterday that some attorneys made some changes but
16 they can't be explained on the floor. Can't be explained, just have to trust us. That's the right
17 thing to do and I heard that ten years ago when two out of three maps were roundly rejected by
18 the Supreme Court. So, what do Floridians deserve? How about more than two or three days to
19 review a map that is foundational to the very concept of democracy in the state of Florida. We
20 had in committee last week part of this bill. That bill and that map was three days old when it
21 reached committee. Today members it's ten days old, ten days old on data that covers the entire
22 Floridian peninsula and the Panhandle, the entire thing and we had ten days to review all of those
23 numbers. We had ten years to get this right. Ten years. Now we are dealing with a map that was

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1 created ten days ago. How do you expect anyone to filter through all of that information. What
2 do you expect to happen? Because I have been in this process [audio breaks 00:56:49-00:56:51]
3 you expect or actually two. Ignorance and acquiescence. You will find neither of those in the
4 back rows. What do Floridians deserve? They deserve to know what data was and was not used
5 in the creation of these maps. Why wasn't readily available data used to determine where Haitian
6 Floridians lived in this state. That same question except overlay Hispanic Latino Floridians, that
7 same question overlay African American Floridians. We have that data, so why not use the
8 American Community Survey. We used it ten years ago, the data's good and it helps identify and
9 make sure that we have representation for all communities in this state. There was nothing to
10 stop anyone from using it except, except poor marching orders. Not using it has allowed what I
11 believe to be an unconstitutional map to arrive on this floor once again. Why do I believe it's
12 unconstitutional, because I believe it is an easy provable violation of the Voting Rights Act. I
13 believe it is an easily provable violation of the tier system in place within the Fair Districts
14 Amendment in Florida's Constitution. Both of those documents have very clear vote dilution
15 prohibitions that prevent the packing and cracking of minority voters under certain conditions
16 mandated by those documents they must create new minority access seats. There is no evidence
17 that the House has followed these mandates. Now we just heard a little bit earlier about how
18 Hispanic Floridians have only jumped 3% when you look at the overall. Well, here's the news.
19 Let's do a little more math. Let's continue down that path that there was only a 3% increase, 3%
20 of a 120 is 3.6 that means somewhere between 3 and 4 Hispanic access seats should have been
21 created. Using the same math that we just heard moments ago; 3.6 and how many did we get?
22 Zero, zero. So I appreciate math and I will just follow it to its ultimate end. We look at that and
23 what did they get, not a single additional protected Hispanic seat, not a one. The same thing is

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1 happening to African Americans on a smaller scale and the complete, and it is admitted and
2 unnecessary, overlooking of our Haitian Floridians. Completely overlooked in this entire
3 process. Members I get tired standing up here and saying don't vote for, this don't vote for that. I
4 really wish I could just vote for this. I really do. I wish there was a map in front of me I could
5 vote for. But as I review the multitude of process abnormalities that have occurred over the last
6 month it shows me that I cannot. When I review the growth of minority populations and the lack
7 of proper representation evidence in the maps that demands that, I cannot vote in favor of this
8 bill. And I would urge every member on this floor to reject this map and begin the work on
9 creating new maps. When they are done with that, creating an independent redistricting
10 commission, because I believe that is the only true path to fair districts. Thank you so much Mr.
11 Speaker.

12 The Speaker: Representative Willhite you are recognized.

13 Matt Willhite: Thank you Mr. Speaker I would like to yield the floor to the member from
14 the 47th District, Representative Eskamani.

15 The Speaker: Representative Eskamani you are recognized in debate.

16 Anna Eskamani: Thank you so much Mr. Speaker, and believe it or not, members, I will
17 be brief. So I appreciate the opportunity to speak on my opposition to these maps that we are
18 going to be voting on in just a little while. So I am going to take you back in history a little bit to
19 last decade. Well little Anna Eskamani was a college student at the University of Central Florida,
20 go Knights. Actually, it was that space where I first got engaged in the redistricting process as an
21 advocate. I was attending what were the public hearings in district about the maps. I remember
22 being given the opportunity as a 20-year-old to speak on behalf of the communities that I care
23 about and continue to care about. And what my recommendations were on how to craft the maps

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1 where they governed us for the next 10-years. So, one of my biggest pieces of advocacy in this
2 process has been why was public access limited throughout this endeavor? I know the feedback
3 from committee staff and committee leaders is, there's a website there is all these tools of
4 engagement, but I won't repeat what my colleagues have already said when it comes to concerns
5 around what we made available this go around. The emphasis on how important it is to make
6 sure that this once every ten years process is one that every person can have clear engagement
7 and access and have it available in multiple languages and ensure that we are taking that
8 feedback into consideration. But we are bring government to you verses the assumption that
9 folks will just find us. Because in my now, short, four years of service one of the lessons I have
10 learned is I can't expect people to know what they don't know. If folks don't realize this is
11 happening, they don't understand what the process is it is up to us as public servants to unpack
12 that and bring it to them. So, I don't think that was a job well done here in this process. Now, to
13 the heart of my concerns I am going to echo Representative and Senator Geraldine Thompson
14 along the fact that with population growths in Florida in more diverse directions we don't see
15 that reflected in the maps. My understanding too is that a decade ago we did consider racial
16 minorities and language minorities to be protected, integrated those elements into the drawing of
17 maps ten years ago. The Legislature even provided percentages of the Haitian population in each
18 district. Something that I have not seen this session. So, this is such a beautiful state, such a
19 diverse state and other points that have been made by the courts speak to the fact that you don't
20 necessarily have to have, for example, a majority Black district for those electorates to choose a
21 candidate of their choice. But unfortunately what ends up happening in this process at times is
22 those voters are intentionally put into one district so they don't have voting power in surrounding
23 districts. It is my belief that with the population shifts in Florida we should have seen more

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1 minority access districts. The state has transformed in its diversity. It doesn't make sense that we
2 still have the same number ten years later. Again, it is not required and the court said this, If a
3 minority population can elect a candidate of their choice without a majority voting-age
4 population there is no need to maintain or create a majority-minority district. So I am concerned
5 about packing in these maps and for those reasons and the ones I already listed I will be voting
6 against the maps today. Thank you so much Mr. Speaker.

7 The Speaker: Representative Willhite you are recognized.

8 Matt Willhite: Thank you Mr. Speaker I would like to yield the balance of this block.

9 The Speaker: Members before we go to Leader Grant, let's take a pause for recognitions.

10 [Recognitions]

11 The Speaker: Members we are back in debate. Leader Grant you are recognized.

12 Michael Grant: Thank you, Mr. Speaker. Would you please recognize Representative
13 Sirois in debate.

14 The Speaker: Representative Sirois you are recognized in debate.

15 Tyler Sirois: Thank you very much Mr. Speaker, thank you leader Grant. I appreciate a
16 few minutes of your time this afternoon, members, to speak in support of the joint resolution
17 establishing state legislative districts and specifically the House maps that we discussed
18 yesterday. But there are a few things that I heard in debate that I feel compelled to comment on.
19 The first is this question of accessibility and I think it's important to point out that in terms of
20 public participation we launched a joint website with the Florida Senate, floridaredistricting.gov,
21 which has the data and the software that is used and available to us and the members of the
22 public to produce maps and our fellow Floridians did take the opportunity and the time to go
23 onto that website and to provide comment and to produce maps of their own. I think for

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1 somebody to suggest that they couldn't have used the same tools to produce amendments as a
2 part of this process, to say that, frankly, is misleading. The other thing that I would point out in
3 the same vein of accessibility and public input with the website, we have the testimony available
4 as a part of the committee process. But each of us as 120 members of this body have a role and
5 responsibility in terms of representing our constituents and I seem to recall every committee
6 meeting that I participated in, members were invited to share questions. To bring comments
7 forward, to share their concerns, to voice it in committee. Every memorandum that went out
8 related to redistricting encouraged members to bring their concerns, comments, and questions.
9 Not only to Chair Leek, but to committee staff.

10 I would also like to take a moment to talk about the substance of the bill here before us
11 today, which I think has gotten a little bit lost in the weeds. It should be said more than once that
12 the benchmark map includes 30 protected minority districts. And compliant with the law, the
13 map before us today has 30 protected minority districts. Eighteen of these districts are protected
14 Black performing districts, 12 are protected Hispanic performing districts. In addition to
15 maintaining these protections, the map before us today improves the visual and mathematical
16 compactness of many of these protected districts, to further balance Tier Two standards and, of
17 course, to maintain Tier One compliance.

18 For example, I would like to point to District 88 a protected majority-minority Black
19 performing district in Palm Beach. In the benchmark map, the district was a long and skinny
20 district running from Palm Beach Gardens in the north end of the county all the way to Delray
21 Beach in the south end of the county. This had the effect of splitting numerous cities along the
22 way. Members, the map before us today not only reconfigures and improves the protected
23 District 88, but also improves the other districts in the county. As a result, Boynton Beach and

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1 Delray Beach are now kept wholly within District 90, Lantana is wholly within District 87, and
2 Boca Raton is wholly within District 91. This is just one of the many, many ways the map before
3 us today is an improvement from the benchmark map. I want to thank Chair Leek and Chair
4 Byrd for their leadership and efforts over the past several months. I encourage all members to
5 vote in support of this map. Thank you, Leader Grant.

6 The Speaker: Leader Grant you are recognized.

7 Michael Grant: Thank you, Mr. Speaker. We remand the remainder of the time back to
8 the chair.

9 The Speaker: Members before we go to Representative Willhite, let me recognize a few
10 members for recognitions.

11 [Recognitions]

12 The Speaker: Representative Willhite, you are recognized.

13 Matt Willhite: Thank you Mr. Speaker I would like to yield the floor to the member from
14 the 49th District, Representative C. Smith.

15 The Speaker: Representative C. Smith, you are recognized in debate.

16 Carlos Smith: Thank you Mr. Speaker. Members I would like to start by talking about the
17 process. This has not been an open and transparent process. We needed robust public input.
18 There has been virtually no public access to how these maps were put together. Ten years ago,
19 the State Legislature hosted public meetings across Florida seeking public input. The Legislature
20 went from Pensacola to Tallahassee all the way east to Jacksonville. They went down to Central
21 Florida, Tampa, Miami, Palm Beach County, and the Florida Keys. Members, we were
22 everywhere ten years ago holding public meetings asking for input. Ten years later, zero public
23 meetings outside of the Florida Capitol, zero. So we've deviated from the standard legislative

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1 process. But the Legislature said don't worry, trust us, we're going to put these maps together
2 fairly. I want to speak to the State House map and address minority representation and the
3 tremendous growth of the Hispanic and Latino community. We had 12 Hispanic performing
4 districts ten years ago and 12 Hispanic performing districts now in this map. Yet our community,
5 *nuestra comunidad, el pueblo*, grew more than any other. One and a half million new Hispanic
6 and Latino Floridians. Floridians who are driving our state's economic growth. Who are leaders
7 and entrepreneurs and leaders in business and educators and leaders in healthcare. Where are our
8 new Hispanic and Latino districts? Are they in all 12 of the currently drawn Hispanic performing
9 districts? Are they all packed in there? Where did they go? Where is the data that shows us
10 where they went, data on where Latinos grew the most in our state? Where is the data on how the
11 Latino community is voting? So we had 12 Hispanic performing districts and 12 again ten years
12 later despite leading every other group in growth over the past ten years, and as Representative
13 Thompson mentioned before me, the minimum is not enough. The absence of retrogression
14 doesn't mean we have progression or progress. We can do better than the bare minimum
15 members. We need fair districts, and I cannot vote for a map like this one. Especially a map that
16 leaves my community, the Latino community, behind. That's why I urge you members to vote
17 down on this bill and pass a fair map. Thank you.

18 The Speaker: Representative Willhite, you are recognized.

19 Matt Willhite: Thank you Mr. Speaker I yield the floor to a member from the 108th
20 District, Representative Joseph.

21 The Speaker: Representative Joseph, you are recognized in debate.

22 Dotie Joseph: Thank you Mr. Speaker. So, I heard one of my colleagues talking about
23 math and you know the funny thing is most lawyers don't like math and generally I tend to be

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1 one of them except for the fact that in high school I was a member of Mu Alpha Theta, which is
2 the math – that’s it, the national math honor society. So I know how to play with my numbers. It
3 might take me a little bit longer than other folks, but I’ll get there. He talked about numbers, so
4 let’s talk about some of the numbers that he posited. Specifically referring to the Hispanic
5 population. He pointed out, let’s just assume his numbers are correct, that we went from 22% to
6 26% of the population overall in Florida, and while that might seem like a small percentage, that
7 percentage can equate to millions of people. For every House district, the estimation is about
8 180,000 people, multiply that by 120 districts. That’s a good like, at least, going by his
9 calculation, over two million additional people. Alright fine, let’s put that aside. I agree with him
10 that what matters more is where those people live. And you know what, wouldn’t it be great to
11 know where those people live? That’s the data that we have been asking for. When I asked about
12 how some of these numbers came about, I was told that those numbers were evaluated only in
13 the areas that were protected previously. That still doesn’t get us to where are we now. When I
14 say previously, benchmark numbers 2010. That still doesn’t get us to where we are now in 2022.
15 We have newer census data, so we should be able to use it. So if I wanted –

16 Another thing was, if you wanted to do a functional analysis yourself, you could have
17 done it yourself. But Chair Leek yesterday talked about how nobody in this room was qualified
18 to do a functional analysis, and not even the staff. And there were some elements that not even
19 the staff, the redistricting staff, who we’re relying on with these maps, had to rely on outside
20 counsel with these maps. So it’s very flippant to be like, well if you wanted to do it, you could do
21 it, but none of you all could do it either. I mean, anyway.

22 Before even getting to a functional analysis, part of the questions we were directing to
23 yesterday was that you need to do a threshold analysis on a couple of things, and I’ll just posit

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1 three: racially polarized voting, racial bloc voting, and minority voter cohesion. That's where
2 you know where the analysis needs to be done. By all accounts, outside of the benchmark
3 districts from 2010, that additional analysis may or may not have been done. If it was done, it
4 was not shared with us, and that was the decision that was made. If it was not done, then that's
5 problematic in and of itself.

6 Lastly, I wanted to just address this information – references to the ACS data as it
7 pertains to identifying Haitian Creole speakers as a language minority as required by the Florida
8 Constitution. At some point yesterday, the bill sponsor mentioned that at some point the minority
9 caucus or the Democratic caucus objected to the usage of that data and at the time the objection
10 of the usage of that data was because there was superior census data that tracked that information
11 in a more accurate way than what the ACS data did. This go-around the census data that we are
12 talking about is not yet available, therefore that superior data cannot be relied on. In court, we
13 have something we call best evidence. If you have superior information, you use that superior
14 information. If you do not have that superior information and that information is available in the
15 thing that you are trying to assess like a Tier One criteria under that Florida Constitution and the
16 Voting Rights Act, then you use what you have. The closest data that we have is the ACS data in
17 the context that we are sitting here today. In fact, if we are going beyond the 2010 analysis,
18 which is the last time we had this, we have ACS data that is done down to the census tract level
19 as late as 2019. So that's nine years updated from 2010. Sure it's not 2022, but it's the best
20 we've got. When I ask questions about were there any attempts to look at what other states may
21 have done where they also have language minorities, I got a vague answer that basically said, no.
22 Or if there was an attempt, it just wasn't shared with me. I don't know. The bill sponsor may or
23 may not address that in his closing. But to the extent that we can address required criteria in a

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1 way with data that is available, it would behoove us to do that, and while the bill sponsor said
2 that Haitian language minorities are included in this map in two particular districts, 107 and 108,
3 it gives us no information about how, if at all, they were addressed beyond those two districts out
4 of 120. We just don't know. We don't know where the Black people are, we don't know where
5 the Hispanic people are, we don't know where the Haitians are. Maybe we don't want to know.
6 But the Tier One criteria, which is the starting point, not the Tier Two, requires us to examine
7 where our minority populations are to ensure that they can elect the representative of their
8 choice. Thank you.

9 The Speaker: Before we go to Representative Willhite let's recognize – I want to pause
10 for some recognitions.

11 [Members made recognitions]

12 The Speaker: Welcome to the Florida House. Representative Willhite, you are
13 recognized.

14 Matt Willhite: Thank you Mr. Speaker, I would like to yield back the balance of this
15 block.

16 The Speaker: Representative Clemons from Representative Grant's desk, you are
17 recognized.

18 Charles Clemons: Thank you Mr. Speaker at this time we would like to yield the floor to
19 Representative Robinson from the 71st District.

20 The Speaker: Representative Robinson, you are recognized in debate.

21 Will Robinson: Thank you, Mr. Speaker. I rise in strong support of CS for CJR 100
22 related to the joint resolution of apportionment, because I am pleased with both our process and
23 our product. First quickly our process. We established an extremely effective and user-friendly

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1 website that provided valuable feedback and resulted in 19 folks drafting House maps. I
2 reviewed all 19 by the way. One actually came from one of my constituents in my district. We
3 held seven subcommittee meetings totaling over 16 hours of scheduled meeting time where we
4 learned about federal and state districting law, census information, and other relevant workshop
5 draft maps. We devoted an entire meeting to public testimony and input. For the main
6 redistricting committee, we basically did the same process. Held five meetings and conducted a
7 thorough process. In this once-in-a-decade process, the public for the very first time could create
8 and submit a map from their living room, and many did. Because of our exceptional process we
9 have an exceptional product. One that is constitutionally compliant.

10 As members of the Florida House of Representatives we all raised our hands to support
11 and defend the Florida and federal constitutions. I think it's important, maybe, to take a couple of
12 seconds to remind ourselves what Section 21 of Article III provides. And I quote, in establishing
13 legislative district boundaries, no apportionment plan or individual district shall be drawn with
14 the intent to favor or disfavor a political party or incumbent. The districts shall not be drawn with
15 the intent or result of denying or abridging the equal opportunity of racial or language minorities
16 to participate in the political process or to diminish their ability to elect representatives of their
17 choice. And the districts shall contain contiguous territory. This is called Tier One. And in
18 subsection (b), these districts shall be nearly equal in population as practical, compact, and where
19 feasible, utilize political and geographical boundaries. Or what is called Tier Two. I personally
20 take my responsibility very, very important to defend all portions of our Constitution, and in my
21 view, there are three critical improvements on this map and the basemark map.

22 First, with this plan before you, there are half of fewer Florida cities split than there were
23 in 2012. If we look at the compactness measures, in terms I had never heard of, by the way. In all

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1 three categories, compactness improved from the basemark map. You look at boundary analysis.
2 Up and down the board from the base map in 2012, massive improvements. But there is one
3 district that actually sticks out to me most particularly. It's in the Tampa Bay region and I'm
4 going to have to disagree with my friend from Brandon on this district. This district is the current
5 District 70. And it's a protected Black district that currently crosses four counties i a very
6 noncompact manner that frankly snakes its way through Manatee and Sarasota Counties,
7 splitting three cities in the process. The proposed House District 62 is a vast improvement over
8 the current configuration, as it includes two counties as opposed to four, eliminates that snake
9 portion of the district and keeps three cities entirely whole. All this while maintaining its
10 protected Black district as required by Tier One of the Florida Constitution.

11 Members, I am proud of both our process and our product. Our charge was to produce a
12 legally compliant and constitutional map. All while navigating and adhering to federal and state
13 constitutions, and federal and state law. I rise in strong support of this map because we met our
14 constitutional charge. After our vote and approval of this map. I will actually be proud to visit
15 with the folks of the new House District 62 and tell them that we did our job. We followed the
16 Constitution and we improved on your ability to be better represented in your district and in your
17 neighborhoods because of our process and our product.

18 The Speaker: Representative Clemons from Representative Grant's desk, you are
19 recognized.

20 Charles Clemons: Thank you Mr. Speaker, next in the lineup to yield the floor to
21 Representative Persons-Mulicka from the 78th District.

22 The Speaker: Representative Persons-Mulicka, you are recognized in debate.

23 Jenna Persons-Mulicka: Thank you Mr. Speaker. Members, I also rise today in support of

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1 the maps before you and I want to spend some time talking about the substance, since that's why
2 we are here. And I'm going to talk about how the process made the substance better. I'll build on
3 what Representative Robinson stated before. What me and others have debated today and talk a
4 little bit about that process and the substance. We have heard claims from across the aisle that the
5 process was somehow flawed or there wasn't enough time or data to thoroughly vet the maps
6 before you and I'll submit to you that those claims are unsupported by any facts. Even more
7 importantly, there has been no connection made between those claims and the substance of the
8 maps before you. For the public watching, I want to point out that the Chair's, Chair Leek and
9 the subcommittee chairs and their entire team and staff were available to all members from day
10 one to answer any and all questions and have discussions on districts and the maps. I called up
11 the staff, I met with them on WebX, I had questions. And I got answers. I had the pleasure of
12 serving on the State Legislative Redistricting Subcommittee. It was a true honor. I learned a lot
13 in every one of our meetings. I was able to witness firsthand the excellent feedback that we had
14 committee members from across the aisle, on both sides of the aisle. I witnessed how that
15 feedback was taken into consideration to make our maps, which are already better than the
16 benchmark, as we heard from Rep. Robinson, to make these maps even better. As an example,
17 we had a committee member who brought up concerns regarding Miami Gardens. The question
18 was, can we keep Miami Gardens whole, or can we split it fewer times. It was a very compelling
19 argument and at that time the map would split Miami Gardens into four districts. With the next
20 stop, changes were able to be incorporated and when the map went to the full Redistricting
21 Committee, Miami Gardens was only split into two districts. It went from four to two based on
22 comment in the subcommittee.

23 That feedback not only improved the Miami Garden situation, but added additional

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1 benefits. Because of that feedback in the map, we were able to keep another district, District 105,
2 entirely within Broward County. So that now the map before you has only one district that
3 crosses the Miami-Dade-Broward County line. The benchmark, in comparison, has four such
4 districts, one of which spanned coast-to-coast, connecting Collier, Miami-Dade, and Broward. In
5 the map before you, we don't have that coast-to-coast district, but rather only two districts in the
6 map before you cross the Miami-Dade County line, being 104 and 120. And 120 has to cross the
7 line, because it's made entirely of Monroe County, which is too small for a single district.

8 So members, I present before you today that the maps are not only constitutional and
9 legally compliant, and not only an improvement upon the benchmark maps that we started with,
10 but were made better throughout the process based on member feedback, and I'm proud of the
11 process that we went through and I'm proud of the maps before us. I congratulate the chairs and
12 their entire teams for their hard work, and I ask you to join with me today to vote in favor of
13 these great maps. Thank you.

14 The Speaker: Representative Clemons from Representative Grant's desk, you are
15 recognized.

16 Charles Clemons: Thank you Mr. Speaker. For the benefit of the House, we will yield
17 back five minutes and 20 seconds.

18 The Speaker: Members before we go to Representative Willhite, I will recognize
19 Representative Rizo for a recognition, you are recognized.

20 [Recognitions]

21 The Speaker: Representative Willhite, you are recognized.

22 Matt Willhite: Thank you Mr. Speaker, I would like to yield the floor to the distinguished
23 Representative from the 63rd District, Representative Driskell.

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1 The Speaker: Representative Driskell, you are recognized in debate.

2 Fentrice Driskell: Thank you Mr. Speaker. Members, good afternoon. It's been stated that
3 this is the most important thing that we do. In fact, we only do it once every decade and I have
4 had the honor of working with many of you now for going to four years. So you know that I take
5 my job very seriously and I take the job that we do in this chamber very seriously. It is out of that
6 spirit that I just want to see us get this right. Because I don't believe that we have actually done
7 everything that we could do or should do to get this right, I'll be down on these maps today. We
8 talked a lot about or you heard a lot about, in questions yesterday, and then also in debate today
9 that there was more data that we'd wished we had and I wanted to put a finer point on that. What
10 we needed to do the job right data on where Haitian Creole speakers are. Data on where Haitian
11 communities are. Where the communities grew that most and where people lived the most and
12 data on how these communities vote. Data on where the Hispanic or Latino communities grew
13 the most. On how compact Hispanic and Latino communities are. Where the communities grew
14 the most and data on how these communities vote. Data on where Black communities grew the
15 most. Data on how compact Black communities are, where the communities grew the most and
16 data on how these communities vote. We were told that there was functional analysis performed
17 on the 30 minority access seats that were the benchmark. But we were not a part of the policy
18 decision that was made in terms of what went into that functional analysis. That is what I
19 understand to mean policy decision. That's what I mean when I talk about that. That wasn't my
20 input, that wasn't my caucus's input, that wasn't the Black caucus's input.

21 One piece of analysis that we did not do is racial voting pattern analyses or racially
22 polarized voting analyses. According to *Thornburg versus Gingles*, which is the first Supreme
23 Court to interpret the 1982 amendments to the Voting Rights Act, incorporating the results test,

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1 racially polarized voting is the evidentiary lynchpin of a vote dilution claim. That is why it is so
2 important. A racial bloc voting analysis was required to determine if minorities vote cohesively
3 and if whites bloc-vote to defeat minority-preferred candidates, two of the three *Gingles*
4 preconditions for establishing illegal vote dilution. That is why such an analysis is so important.

5 And we were given performance analyses on those 30 districts, as they are right now, but
6 the challenge is that we weren't a part of the policy decision in terms of what to take into account
7 in conducting that performance analysis. Well why does that matter? That matters because you
8 need that analysis to understand whether or not the maximum number of minority access district
9 maps were drawn. We are here about to vote these maps out on the floor and we still don't know
10 whether or not there could have been more minority access districts in this map. Members, that's
11 a problem. How do we know that we did the best that we could? And how did our redistricting
12 committee seek input from Black communities and Haitian communities, Latino communities,
13 Jamaican, Caribbean. How did we do that? Candidly, at the start of the process, I was very
14 excited about the redistricting website. Probably like many of you I pushed it out over email and
15 social media. And was optimistic that it could be a useful tool in collecting meaningful feedback
16 from our communities. But the fact remains that in-person meetings and us going out into the
17 communities as a Legislature would have been the best tool. That is how we could have done our
18 best. We could have done a road show as was mentioned from the Keys all the way to the
19 Panhandle. We didn't have access. We did not use software and expertise to use non-census
20 datasets such as the American Community Survey to gap-fill our missing data. That's also
21 information that was needed to do the job right. Now there was a policy decision made not to use
22 ACS data, but I wasn't part of that policy decision. My caucus wasn't a part of that policy
23 decision. The Black caucus wasn't a part of that policy decision. The fact remains that there were

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1 policy decisions made before we were ever shown copies of the actual maps. When you consider
2 that we also needed language accessibility for all Floridians, particularly for Haitian, Creole, and
3 Spanish speakers. That's also something to take into account in terms of information we needed
4 to do the job right. Then we reflect, members, on the fact, I echo that – that we had ten years. We
5 only do this once every ten years. We owe it to ourselves to do the job right. And that means if
6 that we don't have the data that we needed from the census, then we go out and get the additional
7 data that we need. We're the Florida Legislature. You mean to tell me we don't have the
8 resources to do that? I know that we do and that we can. So members, I tried to put a finer point
9 on it so you could understand better, perhaps, what is meant when we talk about additional data
10 that was needed to do the job right. We know that these maps will go to the court for review. If
11 past history is any indicator, they likely will be subject to litigation. I can tell you as a litigator, I
12 always prefer to put my clients in the best position so that when they walk into the courtroom
13 they can have some confidence in their claims. Members, do we have enough confidence in our
14 claims in terms of these maps? It seems that we have very different perspectives on these maps
15 and what was needed.

16 Yesterday, you heard me ask a series of questions regarding some districts in South
17 Florida, around, like, District 114, 115, 116, 117, 118, I think, thereabout. The reason why I
18 honed in on these districts is because when you look at them with the eye test, with compactness,
19 they don't look very compact. They look a little irregularly drawn. Some of them have
20 appendages. And when you look at their compactness scores under the different ways to analyze
21 those, whether it's Reock, Convex Hull, or Polsby Popper, these maps look like outliers. And the
22 questions that I asked specifically went to compactness and whether or not we took into
23 consideration if we lopped off an appendage and tried to make it pass the eye test better, and

Florida House Session - Feb. 2, 2022

1 look more compact, what would that have done to the performance for minority voters in those
2 districts. That's just one example of one geographic region in the state where I believe we could
3 have done a better job.

4 And the bottom line is that we do have the time to do a better job. So, when we consider
5 the congressional map that surely is to come, members, we are going to have another shot at this.
6 We are going to have the opportunity to take our time, to do a better job, to make sure that we
7 access the data that we need to do our job right. I have the faith and confidence that if we put our
8 minds together and we're willing to work together towards that end that we could accomplish it.
9 For we are the Florida House. Thank you, Mr. Speaker.

10 The Speaker: Before we go to Representative Willhite, members I want to recognize
11 former representative, now Senator Bobby Powell. Welcome back to the Florida House.
12 Members, let's take a brief pause for some recognitions.

13 [Recognitions]

14 The Speaker: Representative Willhite, you are recognized.

15 Matt Willhite: Thank you Mr. Speaker, I would like to yield back the balance of this
16 block.

17 The Speaker: Representative Clemons, you are recognized from Representative Grant's
18 desk.

19 Charles Clemons: Thank you Mr. Speaker. We will yield back the balance of our final
20 block.

21 The Speaker: Representative Willhite you are recognized.

22 Matt Willhite: Thank you Mr. Speaker. In the interest of fellowship with my colleagues,
23 we are going to yield back the balance our time.

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

Florida House Session - Feb. 2, 2022

1 ago, or thirty years ago. This is a new process. We have the benefit of our prior history. I want
2 you to think about the rules that we have. Many states, unlike ours, don't have similar rules.
3 Some states have a single rule, you must redistrict. Think about it as an open field and your uncle
4 saying here's a go-cart go have fun. The states with no rules you can go out and you can do
5 donuts in this corner, you can do donuts in that corner, you can race as fast as you want from
6 right to left, or left to right. Florida is not like that. Florida is like the Tomorrowland Raceway at
7 Disney. It's a little car, goes really slow, you can ping a little bit left, you can ping a little bit
8 right, you can step on the brakes, but you can't fall off the rails. That's the way the rules are in
9 Florida.

10 I want to talk about the opportunities to engage, because my biggest disappointment is
11 the lack of engagement in this process by some members. Now, there are 62 members on the
12 three committees, over half of this body sat on a committee in redistricting. We had teaching
13 sessions, where we spent hours going through how to use the website, how to access the data.
14 We had our lawyers come in and walk through the law and teach us how we had to utilize the
15 data that we had to comply with the law. And we had hours upon hours of opportunity for
16 members to ask questions. Our staff had 46 individual meetings with members. 46. 29 of which
17 came from the minority caucus. We had 320 public comments submitted. We had a total of 91
18 maps submitted through the website, 20 on the State House maps alone.

19 I want to commend you for the quality of yesterday's questions. For those of you who
20 chose to engage, we haven't seen a level of engagement like that until we got here. And for those
21 of you who put thoughtfulness and asked deliberate questions, I want to say thank you. So, here
22 we are. Now it's time to vote on the bill. Some of you will vote yes because you think the bill or
23 know the bill is legally compliant. Some will vote no. But you're going to vote no on this bill,

Florida House Session - Feb. 2, 2022

1 and if you're going to vote no on this bill, you should at least ask yourself why. Why are you
2 voting no on this bill? Can you point to anything in this map, any district, any line, and say that
3 that district, that line is unlawful? And if you can't, and you're still voting no, you need to think
4 long and hard why you're voting no. And if you can, if you can point to a line on that map or a
5 district on that map and tell us what's wrong with it, where have you been? Not a single
6 alternative map was submitted. So, we didn't have the data we couldn't – listen, you know who
7 was able to figure it out? The public. You know who else was able to figure it out? Your
8 companions in the Senate.

9 What you have – oh wait a minute let me go back to a question. I heard someone ask,
10 what did you deserve, what did you get? I think that's a great question. And our constituents
11 should be asking that. What did you deserve, what did you get? And maybe rather than re-dredge
12 up the sins of our predecessors, and thoughtfully engaging in the process. Maybe rather than
13 point to the ghost of alleged wrongdoing that can neither be seen nor proven. Maybe what they
14 deserved was someone to engage in the process. So now it's time to confront the reality of the
15 maps that are before you. Because these maps are good maps, they're legal maps and they're
16 constitutionally compliant maps. And members, I urge you to vote up on the resolution. Thank
17 you.

18 The Speaker: Members, Representative Leek having closed on his bill, the question now
19 recurs on final passage of CS for SJR 100. The Clerk will unlock the machine and members will
20 proceed to vote. Have all members voted? Have all members voted? Clerk will lock the machine,
21 announce the vote.

22 Clerk: 77 yeas and 39 nays, Mr. Speaker.

23 The Speaker: Show the bill passes. Congratulations Chairman Leek. Congratulations

Florida House Session - Feb. 2, 2022

1 Chairman Byrd to your committee as well for all your hard work. Representative Renner, you're
2 recognized.

3 Paul Renner: Mr. Speaker, I move that CS for HJR 7501 be laid on the table and that we
4 immediately certify CS for SJR 100 to the Senate.

5 The Speaker: Representative moves that CS for HJR 7501 be laid on the table and that we
6 immediately certify CS for SJR to the Senate. All in favor say yea.

7 Multiple speakers: Yea.

8 The Speaker: All opposed no. Show the motion is adopted. Read the next bill.

9 [01:58:40]



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Date: 12th November 2024

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KÉTO NORD HODGES, *et al.*,

Plaintiffs,

v.

Case No. 8:24-cv-879

BEN ALBRITTON, *etc., et al.*,

Defendants.

_____ /

STIPULATION RE 2015 PLANS

1. The October 2015 plans proposed by Rep. Matt Caldwell (H079S9073), Sen. Jeff Clemens (S027S9096), and Sen. Oscar Braynon (S036S9098 and S036S9104) that are referenced at Complaint ¶ 113 each included at least one Senate District in the Tampa Bay region wholly contained within Hillsborough County, and another district that encompassed all of the southern end of Pinellas County, including all of the City of St. Petersburg. Plans H079S9073 and S027S9096 included two districts wholly contained within Hillsborough County.

2. Images of plans H079S9073, S027S9096, S036S9098, and S036S9104 are attached as Exhibit A. Unlike the 2016 Benchmark Plan and the 2022 Enacted Plan, these proposed plans did not include a Senate district in the Tampa Bay region that includes portions of both Hillsborough County and southern Pinellas County.

3. Figure 4 in the Complaint is an accurate depiction of Plan H079S9073 for the region shown, except that Figure 4 does not depict certain portions of the districts consisting of water but instead depicts them as light blue.

Dated January 10, 2025.

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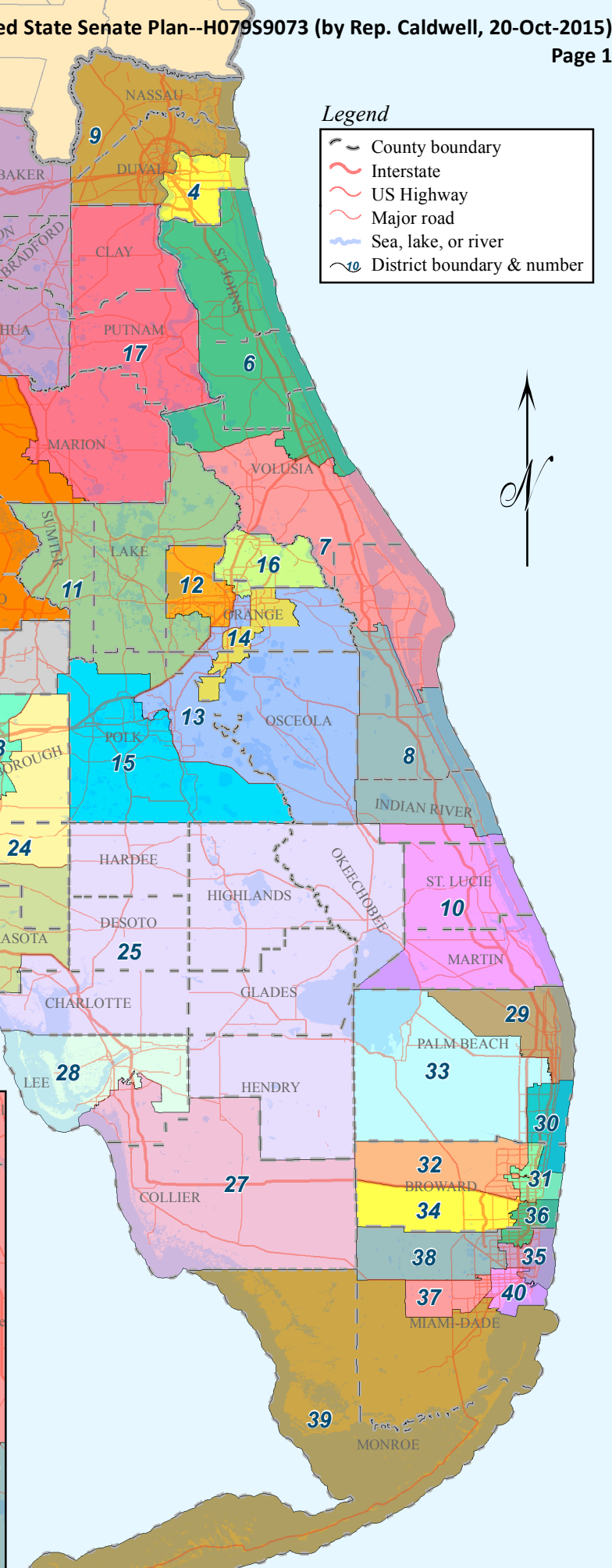
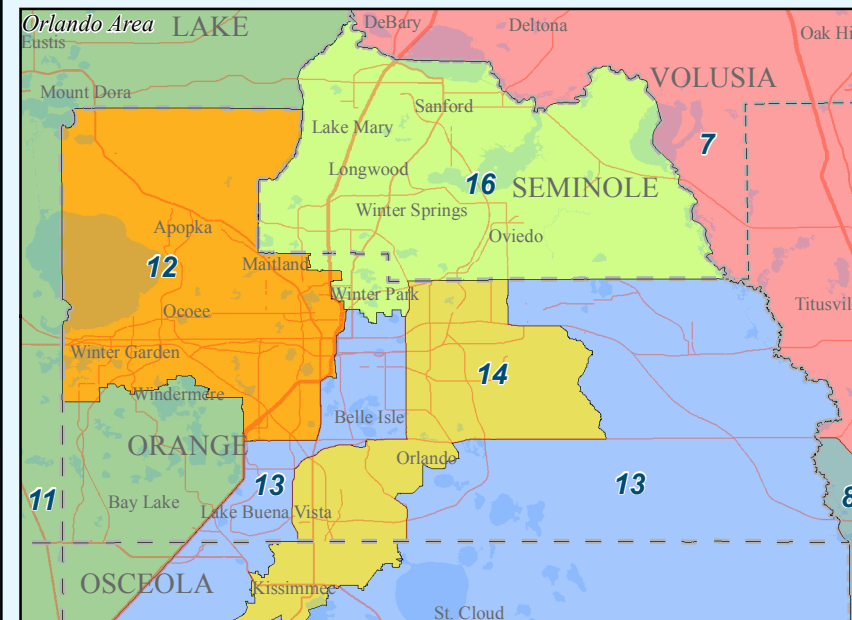
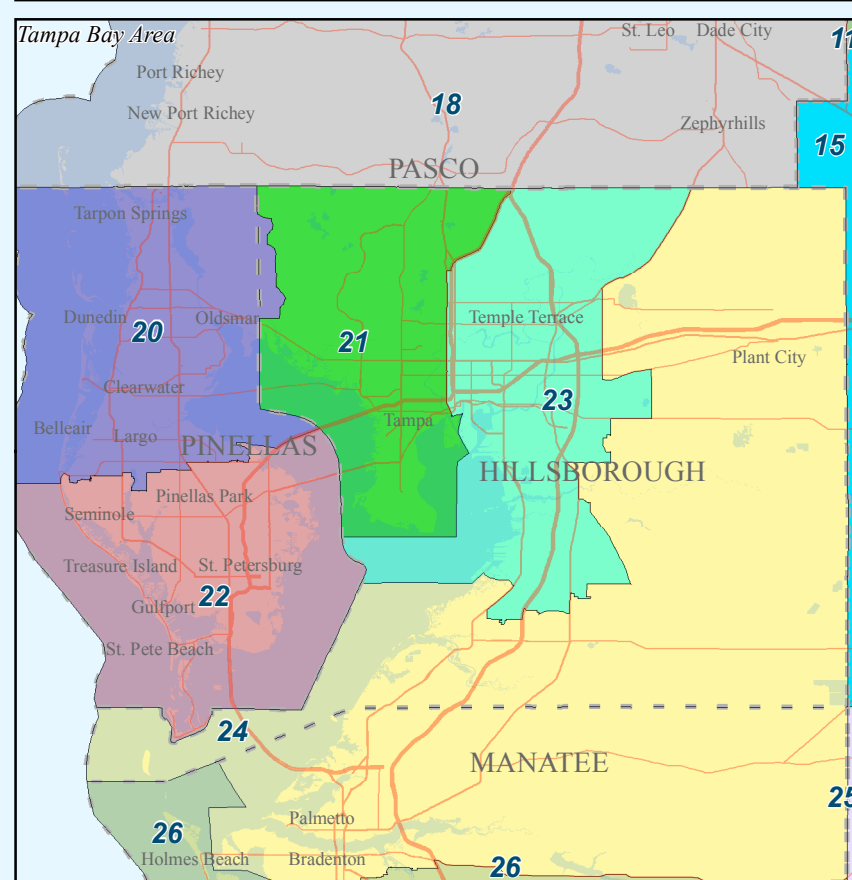
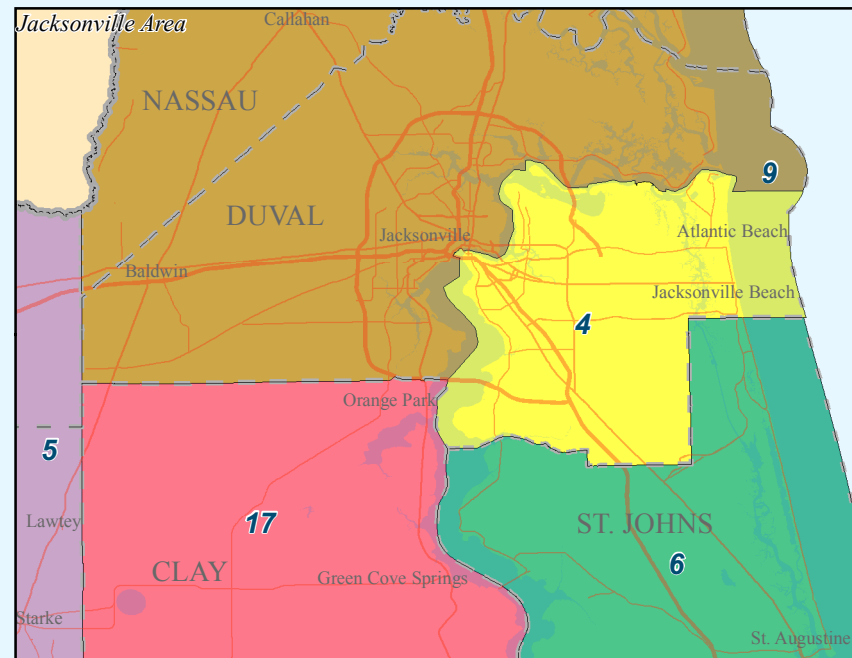
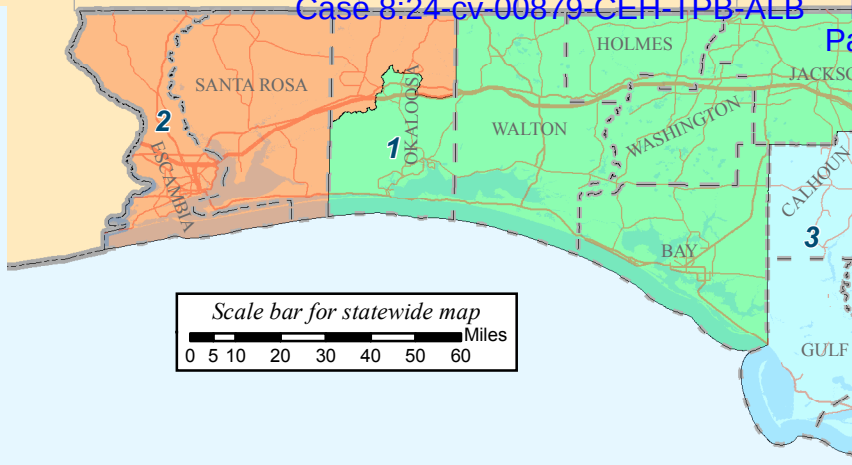
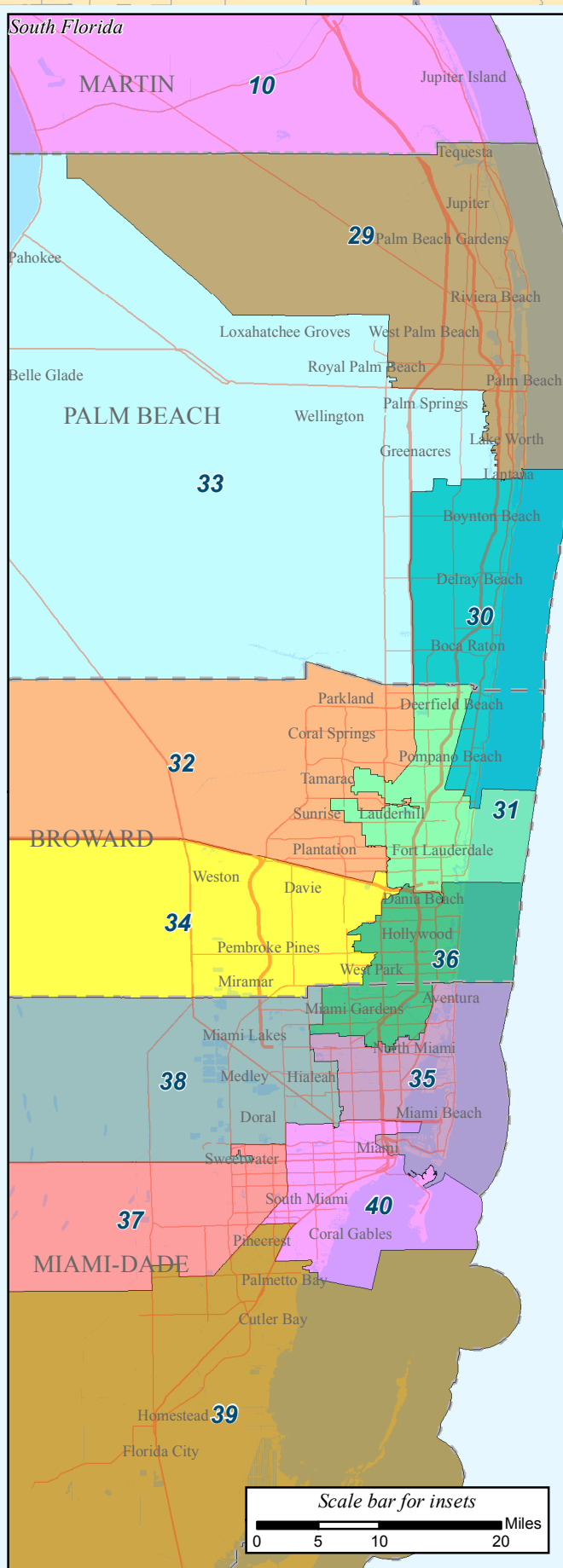
/s/ Daniel E. Nordby

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EXHIBIT A

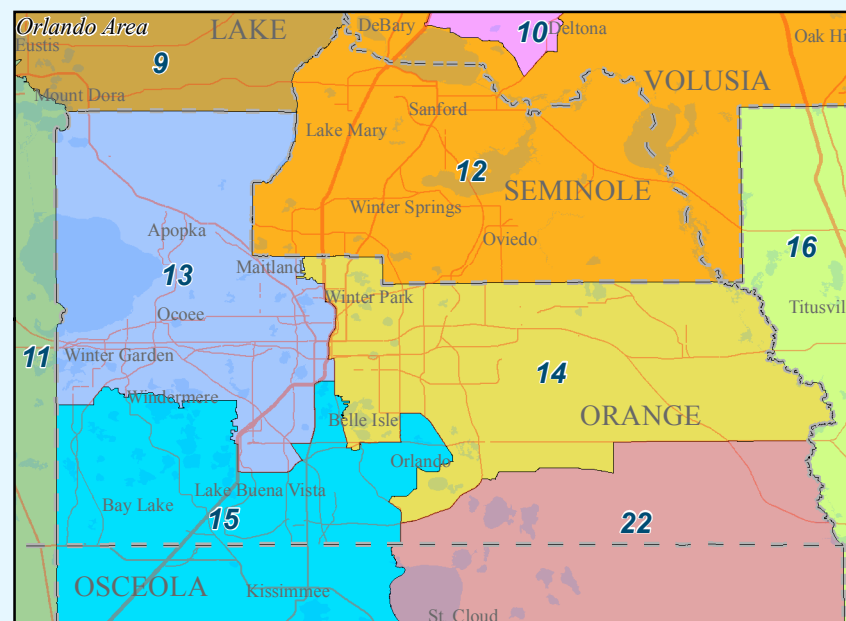
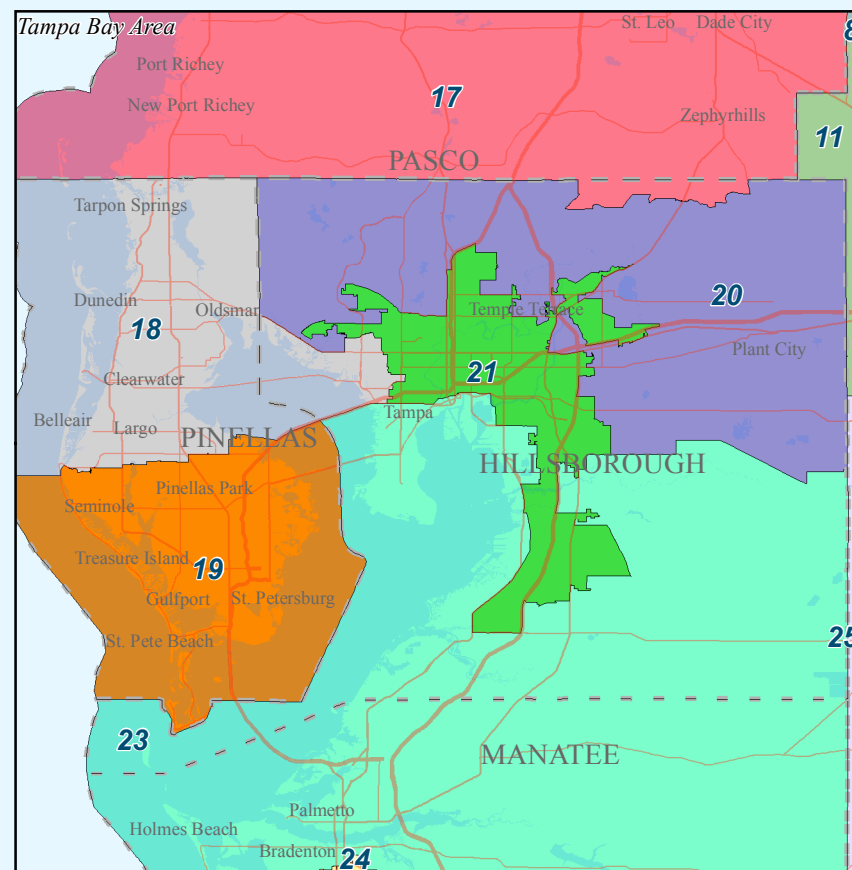
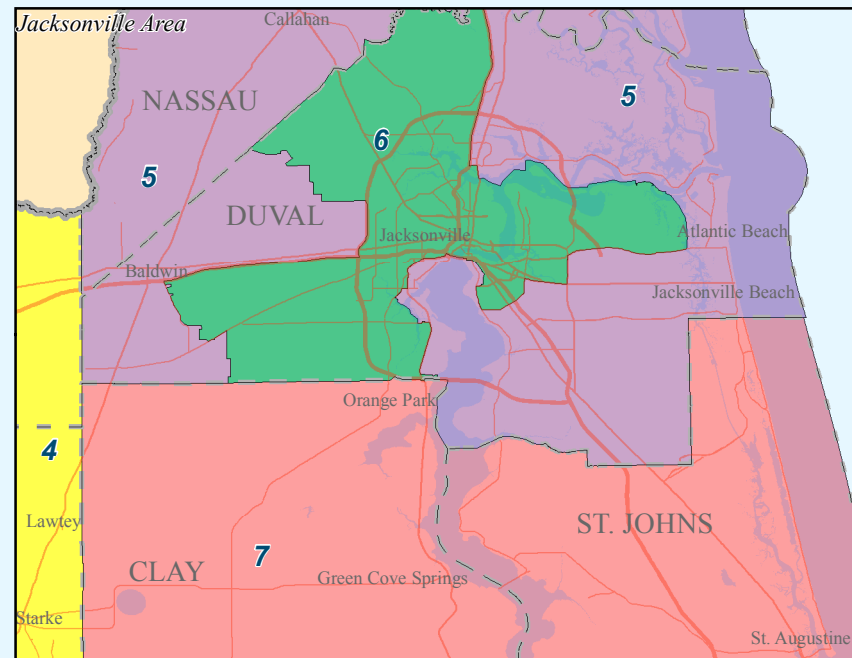
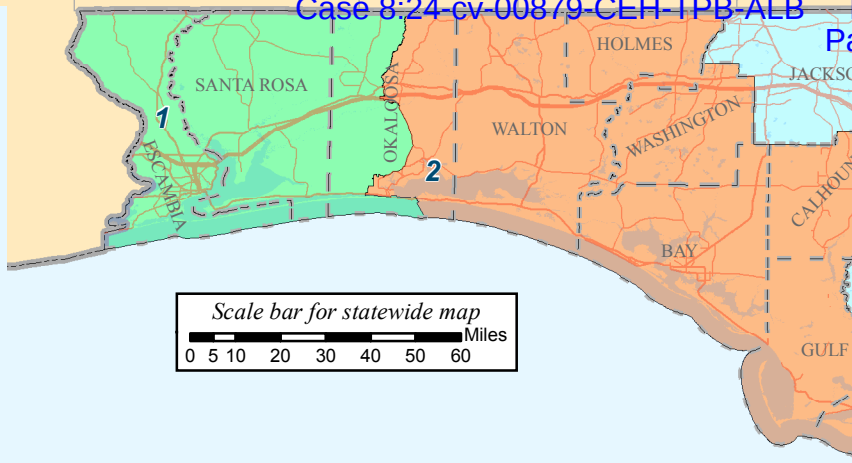
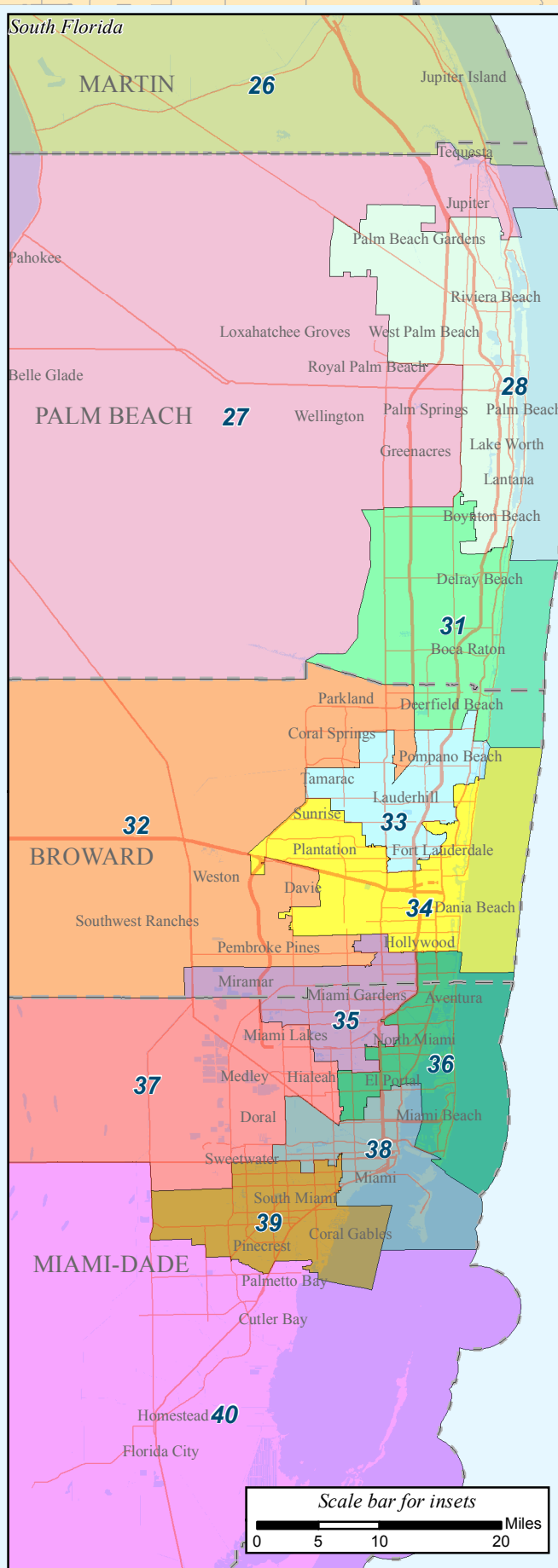


- Legend
- County boundary
 - Interstate
 - US Highway
 - Major road
 - Sea, lake, or river
 - District boundary & number



*Proposed
State Senate Districts
H079S9073*

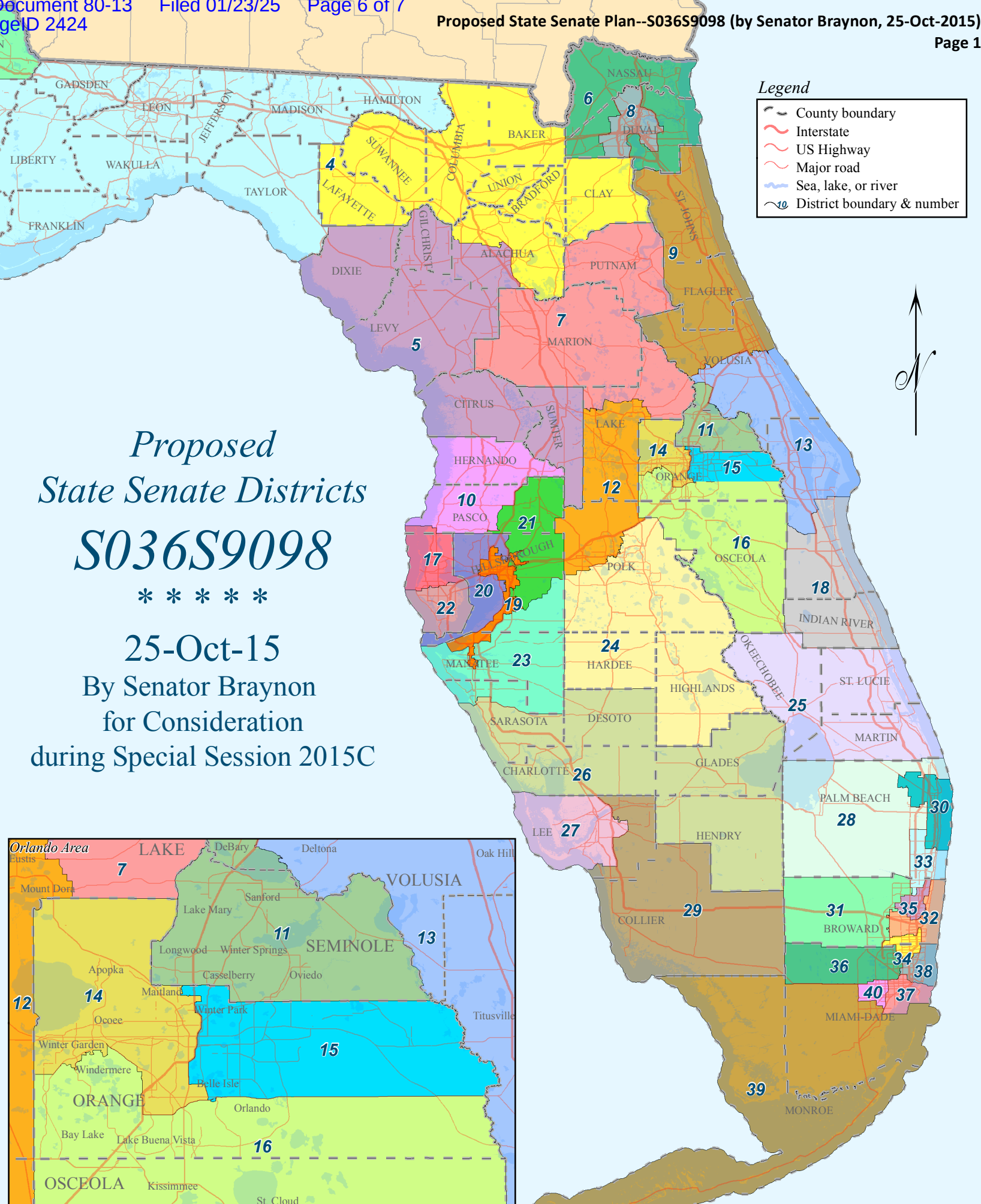
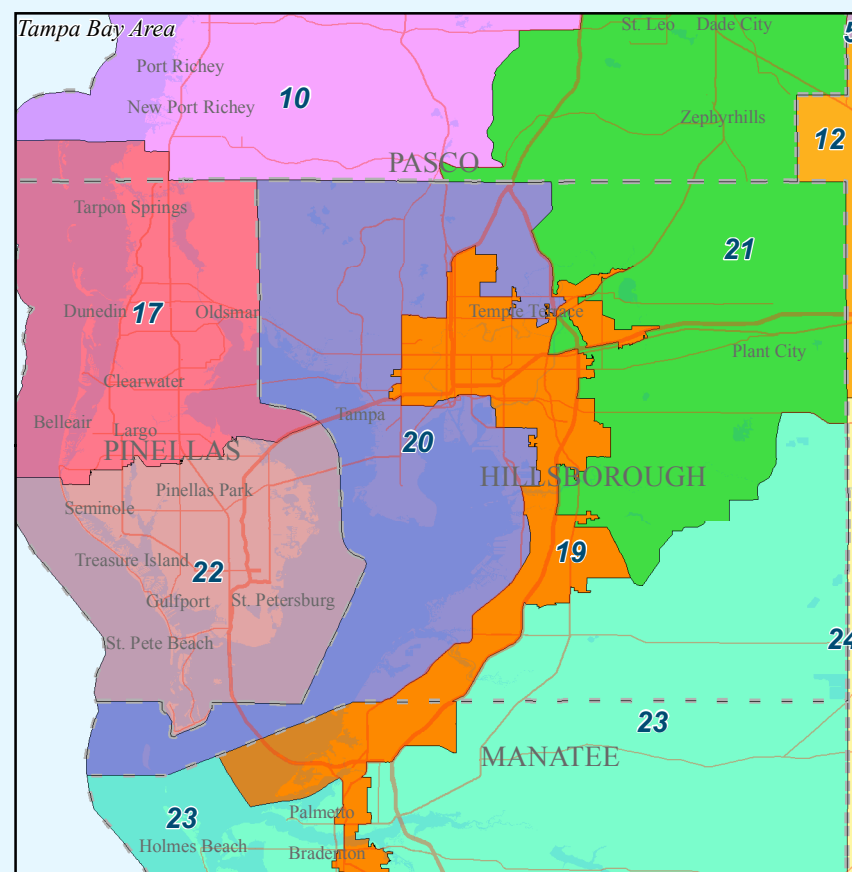
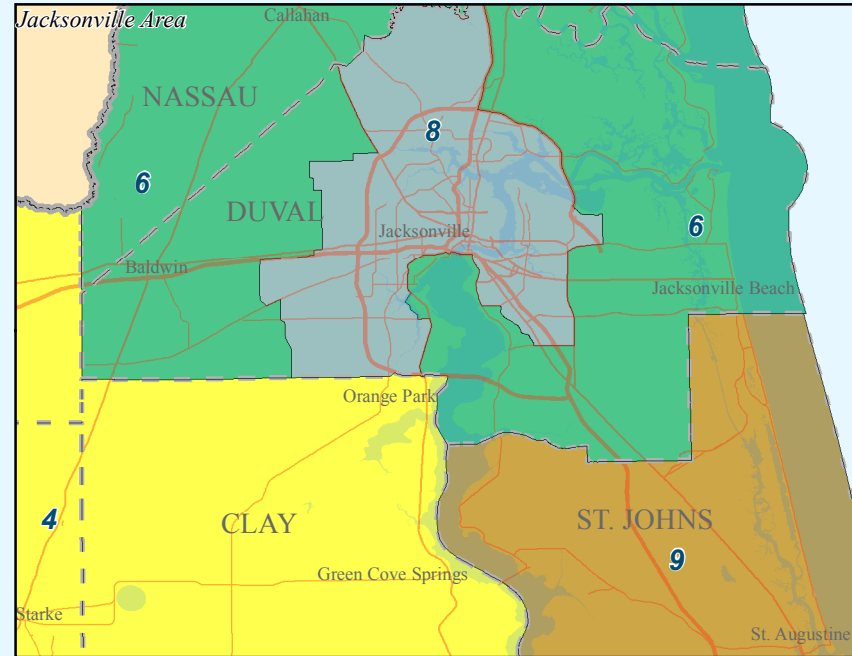
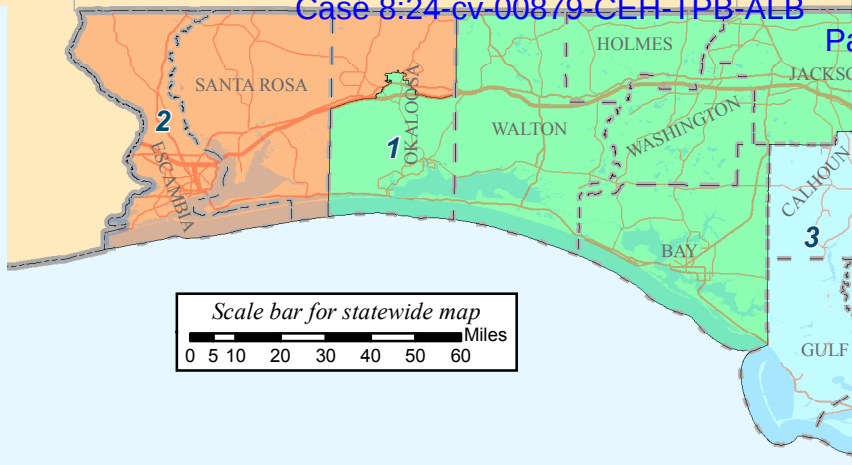
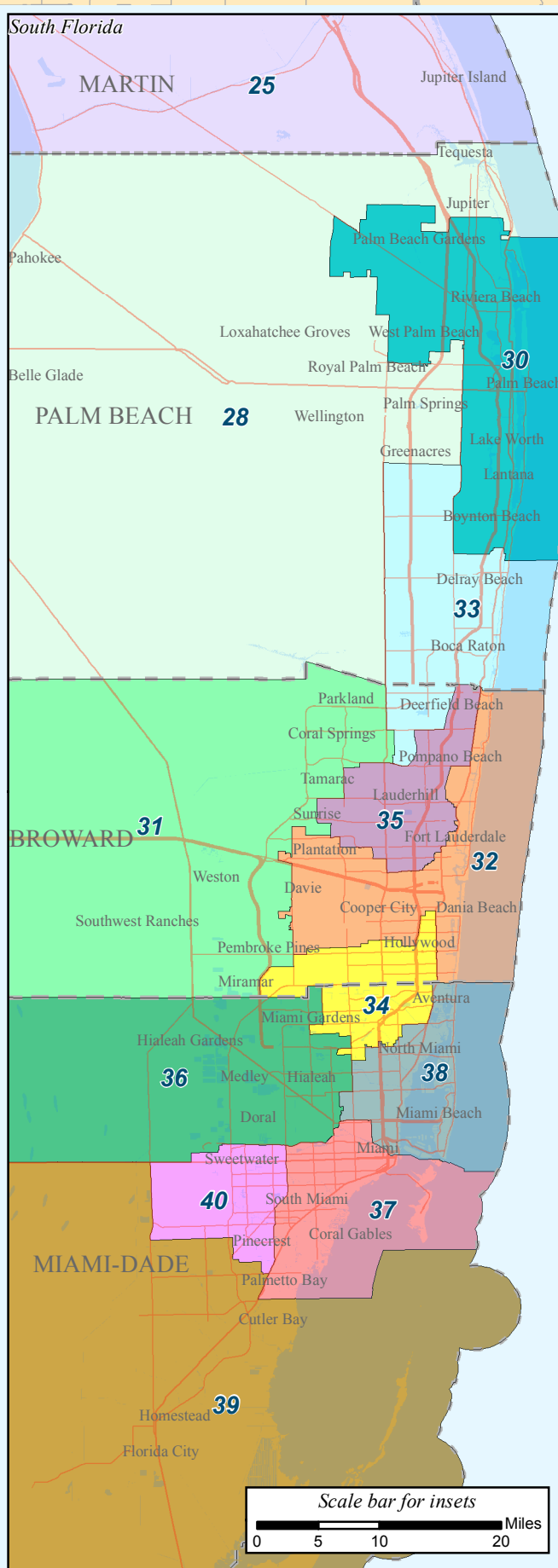
20-Oct-15
By Representative Caldwell
for Consideration
during Special Session 2015C



*Proposed
State Senate Districts
S027S9096

22-Oct-15
By Senator Clemens
for Consideration
during Special Session 2015C*

- Legend**
- County boundary
 - Interstate
 - US Highway
 - Major road
 - Sea, lake, or river
 - District boundary & number

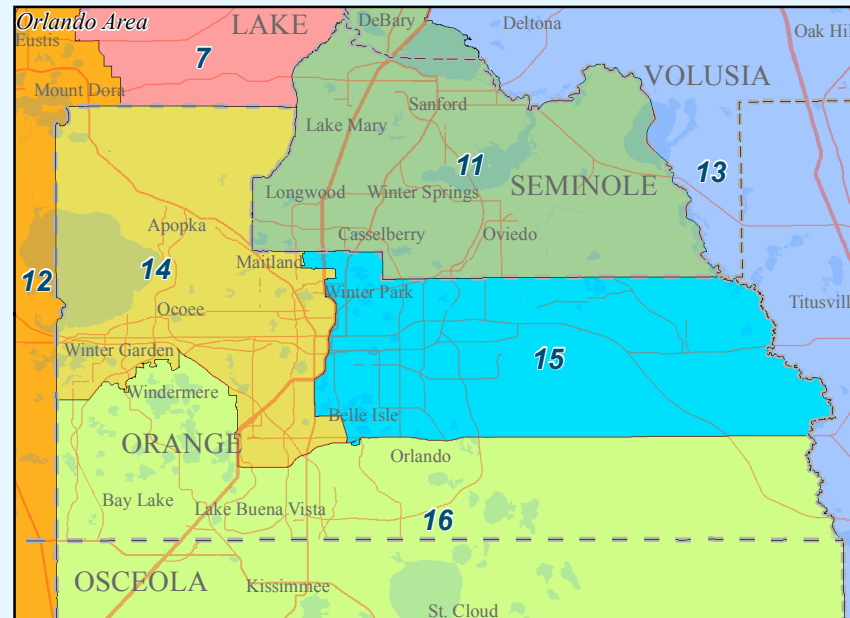
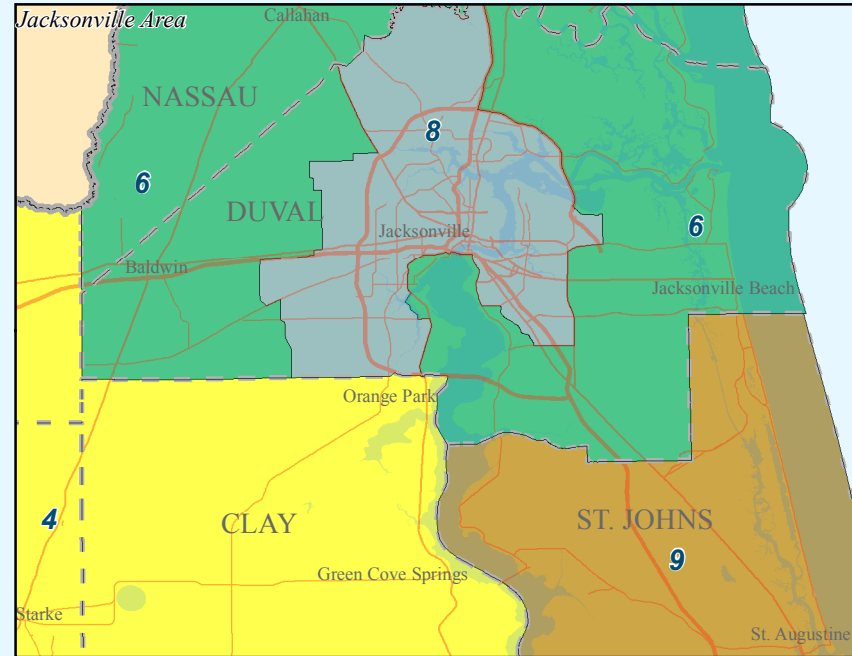
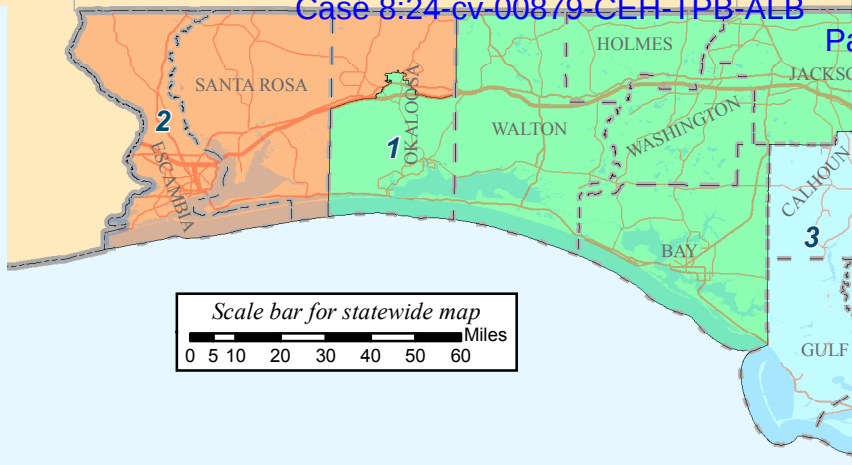
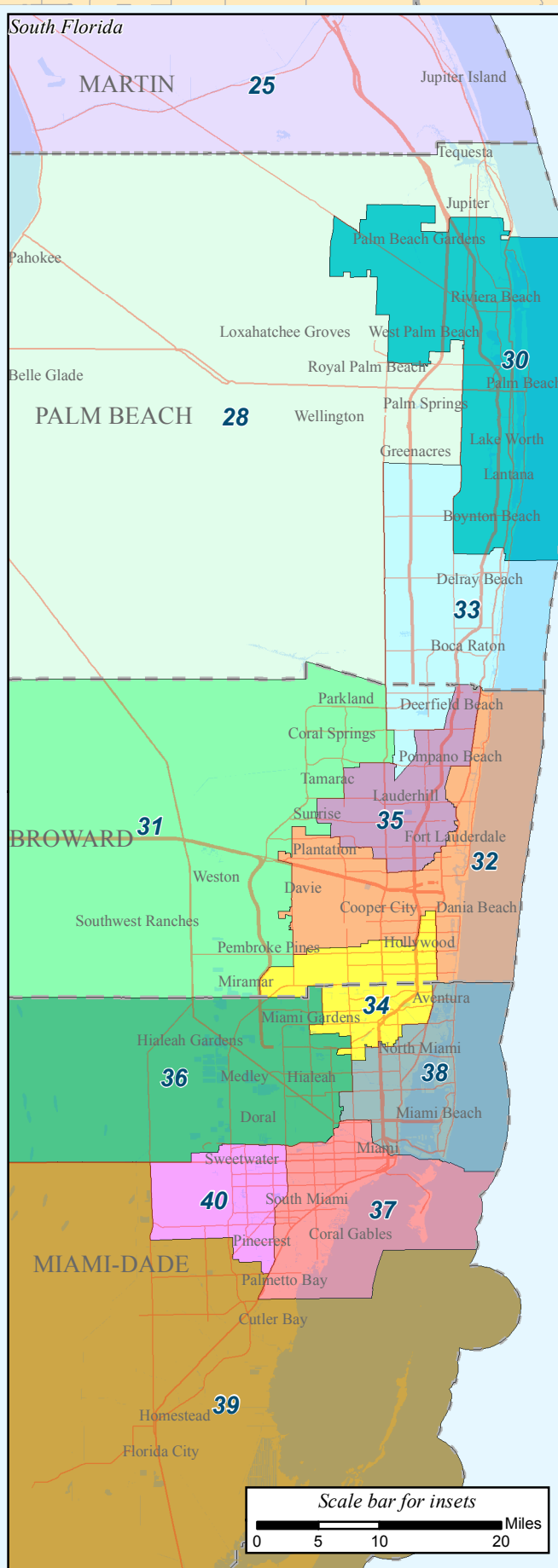


*Proposed
State Senate Districts
S036S9098*

25-Oct-15
By Senator Braynon
for Consideration
during Special Session 2015C

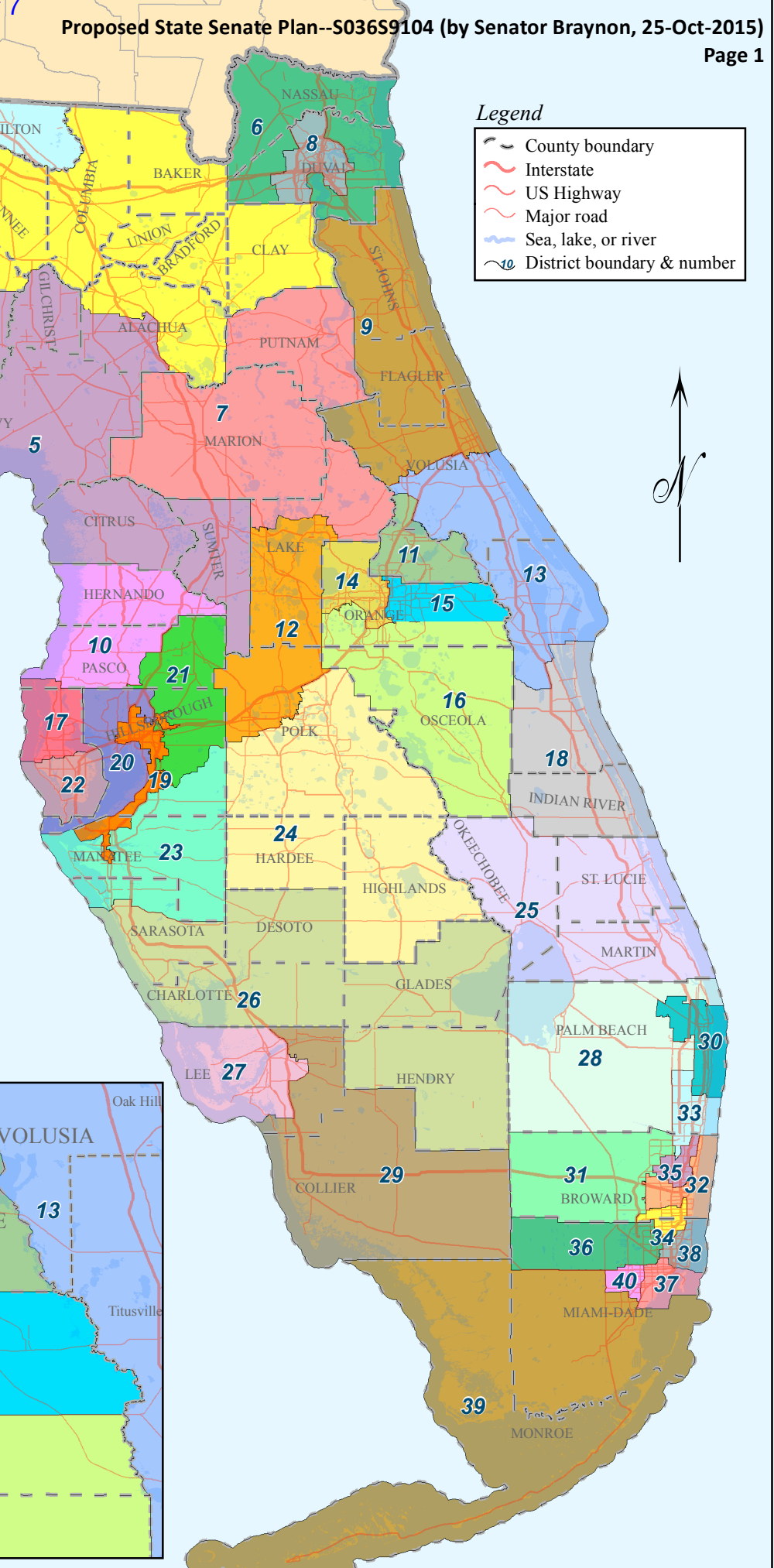


Map produced by professional staff:
Florida Senate Committee on Reapportionment
404 S. Monroe St., Tallahassee, FL 32399-1100
Office: Suite 2000, The Capitol; Phone: (850) 487-5855;
Website: <http://www.flsenate.gov/session/redistricting>



*Proposed
State Senate Districts
S036S9104

25-Oct-15
By Senator Braynon
for Consideration
during Special Session 2015C*



Map produced by professional staff:
Florida Senate Committee on Reapportionment
404 S. Monroe St., Tallahassee, FL 32399-1100
Office: Suite 2000, The Capitol; Phone: (850) 487-5855;
Website: <http://www.flsenate.gov/session/redistricting>

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

THE LEAGUE OF WOMEN VOTERS OF FLORIDA;
COMMON CAUSE; JOAN ERWIN; ROLAND
SANCHEZ-MEDINA, JR.; J. STEELE OLMSTEAD
CHARLES PETERS; OLIVER D. FINNIGAN;
SERENA CATHERINA BALDACCHINO; AND
DUDLEY BATES,

PLAINTIFFS,

v.

KENNETH W. DETZNER, in his official
capacity as Florida Secretary of State; THE
FLORIDA SENATE; ANDY GARDINER,
in his official capacity as President of the
Florida State Senate; THE FLORIDA HOUSE OF
REPRESENTATIVES; and STEVE CRISAFULLI, in
his official capacity as Speaker of the Florida
House of Representatives,

DEFENDANTS.

CASE No.: 2012-CA-2842

**PLAINTIFFS' WITHDRAWAL OF CERTAIN PROPOSED ALTERNATIVE
REMEDIAL PLANS (CPS-2a and CPS-2b) AND NOTICE OF FILING
AND SERVICE (.doj) OF CORRECTED PROPOSED ALTERNATIVE
REMEDIAL SENATE PLAN (CPS-3b corrected)**

The League of Women Voters of Florida, Common Cause, Joan Erwin, Roland Sanchez-Medina, Jr., J. Steele Olmstead, Charles Peters, Oliver D. Finnigan, Serena Catherina Baldacchino, and Dudley Bates (collectively "Plaintiffs"), hereby withdraw CPS-2a and CPS-2b as proposed remedial plans, give notice of the filing and service (in native .doj format) of a corrected Alternative Remedial Senate Plan "CPS-3b corrected," and state the following bases therefor:

During the special session, members of the Senate and the public requested that the Legislature avoid crossing Tampa Bay in the remedial senate districts. In response to this

commentary, Plaintiffs prepared and submitted Alternative Remedial Senate Plans CPS-2a and CPS-2b, which contained a configuration of District 19 that was wholly within Hillsborough County and did not cross Tampa Bay. However, although there is a likelihood that the Hillsborough-only district would retain African Americans' ability to elect candidates of choice, Plaintiffs will rely only on their alternative version of District 19 that crosses Tampa Bay in CPS-3a, CPS-3b, CPS-4a, and CPS-4b, in order to narrow the issues for trial and ensure that African Americans retain their ability to elect candidates of choice. Accordingly, Plaintiffs withdraw CPS-2a and CPS-2b.

In addition, Plaintiffs submit a corrected Alternative Remedial Senate Plan **CPS-3b corrected**. CPS-3b corrected is the same as the version disclosed to the Legislative Defendants on November 18, 2015, except that Districts 1 and 2 have been replaced to exactly match the versions of Districts 1 and 2 in the other Alternative Remedial Senate Plans (CPS-2a, CPS-2b, CPS-3a, CPS-4a, and CPS-4b) that Plaintiffs disclosed on November 18, 2015 to the Legislative Defendants. Plaintiffs' November 18, 2015 disclosure regarding the Plaintiffs' Alternative Remedial Plans remains accurate in its description of the individuals involved in drawing, reviewing, directing, or approving the Alternative Senate Remedial Plans, including the districts that comprise CPS-3b corrected.

Dated: November 23, 2015

Respectfully Submitted,

/s/David B. King

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 23, 2015 I filed the foregoing using the State of Florida ePortal Filing System, which will serve a copy by email on all counsel listed on the Service List below.

/s/ David B. King
David B. King
Florida Bar No.: 0093426

Counsel for Plaintiffs

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

THE LEAGUE OF WOMEN VOTERS OF FLORIDA;
COMMON CAUSE; JOAN ERWIN; ROLAND
SANCHEZ-MEDINA, JR.; J. STEELE OLMSTEAD
CHARLES PETERS; OLIVER D. FINNIGAN;
SERENA CATHERINA BALDACCHINO; AND
DUDLEY BATES,

PLAINTIFFS,

v.

KENNETH W. DETZNER, in his official
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FLORIDA SENATE; ANDY GARDINER,
in his official capacity as President of the
Florida Senate; THE FLORIDA HOUSE OF
REPRESENTATIVES; and STEVE CRISAFULLI, in
his official capacity as Speaker of the Florida
House of Representatives, and PAM BONDI, in
her official capacity as Attorney General of the
State of Florida,

DEFENDANTS.

CASE No.: 2012-CA-2842

FINAL JUDGMENT ADOPTING REMEDIAL SENATE PLAN

THIS MATTER came before the Court following entry of the Stipulation and Consent Judgment dated July 28, 2015. The Court has conducted a four-day bench trial during which it considered testimony from fact and expert witnesses, reviewed and considered documentary evidence, and heard argument of counsel.

The Court is grateful to the parties for their proposed Final Judgments which the Court has reviewed. The Court has relied primarily on Plaintiffs' proposed "Final Judgment Adopting Remedial Senate Plan" in writing this opinion and has incorporated it to the extent it reflected the Courts own findings and opinions based on the evidence presented at trial. The Court has tried to be mindful of the limited time available to prepare this Final Judgment and apologizes to the readers of this opinion for any technical errors that may be contained herein. Further, the Court

treated all of Plaintiffs' and Defendants' demonstrative exhibits as evidence and admitted them as such.

Based upon the evidence and argument presented at trial, the Court hereby adopts Plan CPS-4a as the remedial Senate redistricting plan and finds as follows:

FINDINGS OF FACT

2012 Initial and Enacted Plans

1. On February 9, 2012, the Legislature passed Senate Joint Resolution 1176 apportioning Florida into 120 House districts and 40 Senate districts. *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 600 (Fla. 2012) ("*Apportionment I*"). In *Apportionment I*, the Florida Supreme Court, on a facial review, found that the initial Senate plan (the "2012 Initial Plan") was "rife with objective indicators of improper intent," *id.* at 654, and invalidated the 2012 Initial Plan and eight districts for failure to comply with the tier-one and tier-two mandates of Article III, Section 21 of the Florida Constitution, *id.* at 683.

2. On March 27, 2012, the Legislature passed Senate Joint Resolution 2-B adopting a remedial Senate redistricting plan (the "2012 Enacted Plan") in response to *Apportionment I*. Even though there are more registered Democrats than registered Republicans in Florida, *id.* at 642, the 2012 Enacted Plan contains 22 Republican-performing districts based on the 2012 presidential election, 25 Republican-performing districts based on the 2010 gubernatorial election, and 23 Republican-performing districts based on the 2008 presidential election.¹ Republicans currently hold 26 out of 40 Senate seats under the 2012 Enacted Plan.²

3. The Florida Supreme Court approved the 2012 Enacted Plan based on a facial review conducted on a limited record. *See In re Senate Joint Resolution of Legislative*

¹ J. Ex. 6 at 8.

² See <https://www.flsenate.gov/Senators>.

Apportionment 2-B, 89 So. 3d 872 (Fla. 2012) (“*Apportionment II*”). Following *Apportionment II*, Plaintiffs brought this as-applied challenge to the 2012 Enacted Plan.³ Plaintiffs asserted both a whole-plan challenge and challenges to 28 individual districts.⁴ The whole-plan challenge alleged that the 2012 Enacted Plan “was drawn with systemic partisan intent in violation of Article III, Section 21, of the Florida Constitution.”⁵ Among other things, Plaintiffs asserted that the Legislature provided non-public draft maps to Republican partisan operatives, solicited feedback and advice from the operatives, relied on partisan maps submitted by the operatives through “straw” persons for the enacted districts, and deleted relevant documents.⁶

4. On July 9, 2015, the Florida Supreme Court affirmed Judge Lewis’s finding of partisan intent in the 2012 Congressional Plan based, in significant part, on the same conduct alleged in this as-applied challenge. *See League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363 (Fla. 2015) (“*Apportionment VII*”). The Supreme Court, however, ruled that “the burden should have shifted to the Legislature to justify its decisions in drawing the congressional district lines.” *Id.* at 371. As a result, the Supreme Court found that Judge Lewis should have invalidated additional districts and rejected the Legislature’s 2014 remedial congressional plan. *Id.* at 371-72.

5. In light of *Apportionment VII*, on July 28, 2015, the Senate stipulated that the 2012 Enacted Plan violated Article III, section 21 “because the [2012 Enacted Plan] and certain individual districts were drawn to favor a political party and incumbents.”⁷ Accordingly, the

³ In *Apportionment III*, the Florida Supreme Court determined that as-applied challenges to state redistricting plans may be pursued after the initial facial review. *See Fla. House of Reps. v. League of Women Voters of Fla.*, 118 So. 3d 198 (Fla. 2013) (“*Apportionment III*”).

⁴ See Pltf. Disclosure of District Challenges dated May 8, 2015.

⁵ *Id.* at 2.

⁶ *Id.* at 2-3.

⁷ Stipulation & Consent Judgment at 2.

Legislature consented to entry of a judgment in this action invalidating the 2012 Enacted Plan.⁸

In the Consent Judgment, this Court ordered that the 2012 Enacted Plan “shall not be enforced or utilized for the 2016 primary and general elections” and directed as follows:

In the remedial proceedings, the burden shall be shifted to Defendants to justify the Legislature’s decisions in drawing Senate district boundaries, no deference shall be afforded to the Legislature’s decisions (whether advanced by the whole or either chamber of the Legislature) regarding the drawing of Senate districts, and the review of the Remedial Senate Map and individual districts shall be subject to the same standards as set forth in *Apportionment VII*.⁹

The Special Session

6. Under the Consent Judgment, the Legislature had the opportunity to enact a proposed remedial plan by November 9, 2015.¹⁰

7. Before the Legislature met in special session to consider a remedial plan, the presiding officers of the Legislature directed legislative staff to draw “base maps” in accordance with certain directions, including that the maps be prepared according to two methodologies relating to the splitting of counties.¹¹ At the direction of the presiding officers, staff did not consider Plaintiffs’ district challenges or prior alternative maps submitted in this case when they drew the base maps.¹² Staff interpreted the *Apportionment I* decision as holding that it was “absolutely necessary to stay above 50 percent” minority voting age population in any majority-minority district that existed in the 2002 Benchmark Plan, even at the expense of tier-two compliance.¹³ Finally, staff was instructed to keep total population deviation within a maximum range of 4.0%.¹⁴

⁸ *Id.* at 5-7.

⁹ *Id.* at 6.

¹⁰ *Id.* at 5; *see also* Agreed Scheduling Order dated August 19, 2015.

¹¹ J. Ex. 405.

¹² Rem. Tr. Vol. 2 at 204:15-205:18.

¹³ Rem. Tr. Vol. 1 at 95:20-96:11; 98:11-99:8.

¹⁴ J. Ex. 405.

8. Staff members Jay Ferrin, Jason Poreda, and Jeff Takacs drew six base maps¹⁵ for the Legislature's consideration:

- a) Plan 9070;
- b) Plan 9072;
- c) Plan 9074;
- d) Plan 9076;
- e) Plan 9078; and - (which becomes Plan 9090)
- f) Plan 9080 - (which becomes Senate Map 1 when Plan 9080's South Florida districts were added to Plan 9078/9090¹⁶).

9. Staff analyzed the base maps with the assistance of counsel and confirmed that all of the minority districts in each of the six base maps did not diminish the ability of minorities to elect candidates of their choice in any of their districts.¹⁷

10. On October 19, 2015, the Legislature commenced a special session for the purpose of enacting a remedial Senate plan.¹⁸

11. Senator Bill Galvano served as Chairman of the Senate Committee on Reapportionment during the special session.¹⁹

12. Senator Galvano also serves as Majority Leader for the Senate and, in that capacity, is responsible for working on issues that are important to the Republican Caucus.²⁰

13. During the special session, Senator Galvano also served as head of the Florida Republican Senatorial Campaign Committee.²¹ In that capacity, Senator Galvano was charged

¹⁵ J. Ex. 406; See J. Exs. 73-78.

¹⁶ Same Plan - different numbers. Plan 9078 was renumbered to Plan 9090.

¹⁷ Rem. Tr. Vol. 1 at 115:24-116:20.

¹⁸ J. Ex. 404.

¹⁹ Rem. Tr. Vol. 5 at 470:6-9.

²⁰ Rem. Tr. Vol. 5 at 466:13-21.

with fundraising for Republican campaigns, “ensur[ing] campaign success for Republicans in 2016,” and “lead[ing] the Republican Senatorial Campaign to... a victory in 2016.”²² This role required Senator Galvano to be especially concerned with “making sure that Senate campaigns perform well for the Republican Party.”²³

14. Members of the Republican Caucus of which Senator Galvano is the leader have elected Senator Galvano to become Senate President in 2018.²⁴ Senator Galvano will succeed Senator Joe Negron and then be succeeded by Senator Wilton Simpson as Senate President.²⁵

15. Senator Galvano selected Plan 9078 from the six base maps to present to the Senate Committee on Reapportionment for approval.²⁶ Senator Galvano did not poll the Committee to decide which map should be put forward.²⁷

16. Plan 9078 was one of the best Republican-performing plans among the base maps and only paired one set of Republican incumbents in the same district (Senator Diaz de la Portilla and Senator Flores in District 36).²⁸ Among other pairings, every base map except for Plan 9078 paired Senator Galvano, Senator Negron, or Senator Simpson with another Republican senator.²⁹

17. Plan 9078 had the second highest total population deviation, the highest standard deviation, and the lowest metric compactness (averaging together the Reock, Convex Hull, and Polsby-Popper scores) of the six base maps.³⁰ Plan 9078 also split four more cities and two more

²¹ Rem. Tr. Vol. 5 at 467:8-468:6.

²² Rem. Tr. Vol. 5 at 468:11-469:16.

²³ Rem. Tr. Vol. 5 at 470:16-19.

²⁴ Rem. Tr. Vol. 5 at 466:22-467:1.

²⁵ Rem. Tr. Vol. 5 at 467:2-7.

²⁶ Rem. Tr. Vol. 5 at 484:21-485:1, 488:13-17.

²⁷ Rem. Tr. Vol. 5 at 487:20-488:21.

²⁸ J. Ex. 416 at 2.

²⁹ *Id.*

³⁰ P. Dem. Ex. 1-2; J. Exs. 73-78.

counties than the lowest base maps.³¹

18. Senator Galvano offered that Plan 9078 outperformed the other base maps based on a so-called “Pol/Geo” index that is calculated internally by Senate staff.³²

19. The “Pol/Geo” index was created by John Guthrie, the former staff director for the Senate Committee on Reapportionment.³³ None of the witnesses at trial participated in the creation of the index, and no one could explain in any detail how the index is calculated except that it takes into account city and county boundaries, primary and secondary roads designated by the U.S. Census Bureau, and bodies of water over five acres in area.³⁴ The testimony reflects that the index (a) was not updated at any time after *Apportionment I* and thus does not incorporate the guidance in that opinion, (b) is not weighted, such that following creeks is given the same credit as following county boundaries, and (c) assigns no penalty for breaking boundaries.³⁵ The result is that a district can score 100% under the “Pol/Geo” index by exclusively following county roads and creeks, even if the district’s lines break every county and city boundary in their path. *But see Apportionment I*, 83 So. 3d at 638 (holding that political boundaries include “counties and municipalities” and acceptable geographical boundaries include “rivers, railways, interstates, and state roads,” while “the decision to simply use any boundary, such as a creek or minor road, would eviscerate the constitutional requirement”).

20. The failings of the “Pol/Geo” index are best illustrated by Districts 1 and 3 in the 2012 Initial Plan, which the Florida Supreme Court criticized at length for violating the constitutional requirement of respecting political and geographical boundaries where feasible. *See id.* at 656 (citing Senate District 1 as an example of a district that “freely split counties and

³¹ P. Dem. Ex. 3; J. Exs. 73-78.

³² Rem. Tr. Vol. 5 at 520:16-18.

³³ Rem. Tr. Vol. 1 at 76:25-77:10.

³⁴ Rem. Tr. Vol. 1 at 76:25-77:10; Rem. Tr. Vol. 2 at 254:22-255:1.

³⁵ Rem. Tr. Vol. 5 at 568:14-569:10; Rem. Tr. Vol. 2 at 250:9-251:22.

follow[ed] a variety of roads and waterways, including minor residential roads and creeks”); *id.* at 663-65 (remarking that the boundary between Districts 1 and 3 “follows no consistent political or geographical boundary” and instead “follows a variety of boundaries, switching between major roads (Interstate 10), minor roads, county lines, city boundaries, major waterways, rivers, and even creeks”). Although Districts 1 and 3 in the 2012 Initial Plan divided every county along their common border (five in total) and followed minor and constitutionally unacceptable boundaries, the districts scored 98% and 99% percent on the “Pol/Geo” index.³⁶ Accordingly, the Court finds that the Legislature’s internally calculated “Pol/Geo” index is of limited use as a reliable way of measuring tier-two compliance. Indeed, the Court notes that witnesses for the Legislature could not identify a single example in which the Legislature cited or relied on the “Pol/Geo” index in the nearly four years of redistricting litigation that occurred before this remedial trial.³⁷

21. After a random renumbering of the districts, Plan 9078 was re-designated Plan 9090 with no changes to the districts themselves.³⁸ On October 23, 2015, the Senate Committee on Reapportionment approved Plan 9090 for presentation to the full Senate.³⁹

22. The Senate declined to pass Plan 9090 as drawn by staff. Instead the Senate passed Plan 9124, based on an amendment offered by Senator Diaz de la Portilla.⁴⁰ Plan 9124 modified the South Florida districts in Plan 9090, including the district in which Senators Diaz de la Portilla and Flores had previously been paired.⁴¹ In addition to unpairing those two incumbents, the reconfigured version of the district where Senator Diaz de la Portilla resides

³⁶ J. Ex. 7 at 2.

³⁷ Rem. Tr. Vol. 1 at 128:14-130:8.

³⁸ Rem. Tr. Vol. 5 at 485:2-21; J. Ex. 413.

³⁹ J. Ex. 14 at 113-115.

⁴⁰ J. Ex. 15 at 127, 145; J. Ex. 16 at 50.

⁴¹ P. Ex. 120.

went from being Democratic-performing to Republican-performing in the 2012 presidential election.⁴²

23. Following the Senate's adoption of Plan 9124, House staff members Jason Poreda and Jeff Takacs prepared Plan 9079 for consideration by the House.⁴³

24. Plan 9079 modified Plan 9124 by, among other things, incorporating district configurations proposed by Plaintiffs in Plan CPS-1, an alternative plan that Plaintiffs submitted to the Legislature during the special session.⁴⁴ House staff touted the changes they made based on CPS-1 as improvements to the map.⁴⁵ Plan 9079 contained twelve districts derived from Plan CPS-1.⁴⁶ House staff incorporated these districts into Plan 9079 because they recognized that the compactness of CPS-1 was "significantly higher beyond the range [legislative staff] had previously drawn" and that Plaintiffs' map drawer "had done a very good job with compactness and keeping cities whole," particularly in the South Florida districts.⁴⁷

25. Among the districts incorporated into Plan 9079 from CPS-1 was Hispanic District 37, which is nearly identical to District 35 in Plaintiffs' Plans CPS-3a, 3b, 4a, and 4b.⁴⁸ During the special session, legislative staff, legislative counsel, Professor Moreno (an expert for the House), and Senator Galvano all took the position that the South Florida minority districts in Plan 9079, including District 37, did not retrogress after spending an "inordinate amount of time" analyzing the issue.⁴⁹

⁴² Compare J. Ex. 77 at 7 (District 36) with P. Ex. 120 at 4 (District 37).

⁴³ P. Ex. 130; Rem. Tr. Vol. 1 116:21-117:9.

⁴⁴ S. Ex. 35.

⁴⁵ Rem. Tr. Vol. 1 at 117:10-118:2; 121:21-122:2.

⁴⁶ Rem. Tr. Vol. 1 at 122:3-12.

⁴⁷ Rem. Tr. Vol. 1 at 123:3-11; 124:4-11; J. Ex. 19 at 30.

⁴⁸ P. Dem. Ex. 25.

⁴⁹ Rem. Tr. Vol. 5 at 498:21-502:15; Rem. Tr. Vol. 1 at 130:9-135:25.

26. The House passed Plan 9079, and the Senate and House then convened a conference committee to attempt to agree on a plan.⁵⁰ The conference committee recommended Plan 9079, but the Senate voted against it, and the special session adjourned without a legislatively enacted remedial plan.⁵¹

27. During the special session, Plaintiffs submitted three proposed remedial plans to the Legislature (Plans CPS-1, CPS-2, and CPS-3), along with several letters advocating for their plans and objecting to the legislative plans under consideration.⁵² Although House staff relied on CPS-1 to make improvements to the map in drawing Plan 9079, the Plaintiffs argue the Legislature did not offer any of Plaintiffs' proposed plans in their entirety for consideration or for a vote during the special session. The Senate disputed this version of the events and suggested the Plaintiffs participated when and where they deemed it strategic. The Senate's view is that:

In fact, unlike the Senate which presented the testimony of Senator Galvano to explain the decision making process behind the maps the Senate submitted, Plaintiffs presented no such testimony for any of their maps. Throughout the course of this redistricting cycle, the Plaintiffs have submitted more than 20 maps to courts or to the Legislature, yet have never explained why they selected CPS-3a, 3b, 4a and 4b for this Court's consideration. (Senate [Proposed] Order Approving Remedial Senate Plan filed December 23, 2015 - p.11)

Other aspects of Plaintiffs' process raise additional concerns. Despite their professed support for transparency, Plaintiffs, Mr. O'Neill, and their attorneys drew, reviewed, discussed, modified, and approved their maps in a closed process. And despite the Legislature's invitation to participate in the public process, Plaintiffs waited until after the first Senate plan passed the Senate Committee on Reapportionment before sending their plan to the Legislature on the eve of the vote on the Senate floor.⁵³ After the

⁵⁰ Rem. Tr. Vol. 5 at 496:6-497:13.

⁵¹ Rem. Tr. Vol. 5 at 502:16-23.

⁵² P. Ex. 2-5; S. Ex. 35.

⁵³ Plaintiffs Ex. 4.

House Committee on Redistricting passed its own remedial plan, Plaintiffs submitted two more maps, apparently engaging in a game of “leapfrog” in which they awaited the Legislature’s map and then attempted to draw a map that was marginally better on certain tier-two metrics.⁵⁴ But, as Plaintiffs’ map drawer testified, a skilled map drawer can always improve a given map on the tier-two metrics.⁵⁵ And, as Judge Lewis found in the congressional case, “changes which improve tier two performance somewhat” may be “motivated by a desire to affect political performance.” Order Approving Remedial Plan at 9, *Romo v. Detzner*, 2012-CA-412 (Fla. 2d Cir. Ct. Oct. 9, 2012). Thus, while the Legislature’s process was transparent, Plaintiffs deliberately chose to limit the record by which this Court could discern their true motivations, and their efforts to create maps with better compactness scores does not persuade this Court that Plaintiffs’ maps are in fact the “best.” (Senate [Proposed] Order Approving Remedial Senate Plan filed December 23, 2015 - p.12)

Irrespective of each parties’ claims, what is clear is that no map came out of either the Legislature as a whole or from the Senate as a body that was the product of a majority of the members.

The Proposed Remedial Plans

28. Having made the above factual findings concerning the special session, this Court will now turn to the parties’ respective remedial plans. Consistent with the framework outlined by the Florida Supreme Court in both *Apportionment VII* and in *League of Women Voters of Fla. v. Detzner*, 2015 WL 7753054 (Fla. Dec. 2, 2015) (“*Apportionment VIII*”), and consistent with Judge Lewis’s approach during the congressional remedial proceedings, the Court will first address the Senate’s proposed plan, Senate Map 1. The Court will then address Plaintiffs’ proposed plans – CPS-3a, 3b, 4a and 4b – and the parties’ expert testimony and other evidence offered at trial. Mindful of this Court’s duty to adopt the plan that best and most faithfully fulfills all constitutional requirements, this Court will then evaluate Senate Map 1 in light of

⁵⁴ Plaintiffs Ex. 5.

⁵⁵ Rem. Tr. Vol. 6. 733.

Plaintiffs' alternatives, the Senate's burden of proof, and the parties' whole plan and individual district challenges without affording any deference to the Senate.

Senate Map 1

29. As a result of the Legislature's failure to adopt a remedial plan, this Court commenced proceedings to judicially adopt a remedial plan and directed the parties to submit proposed remedial plans by November 18, 2015.⁵⁶

30. The Senate elected not to submit either Plan 9124 (passed by the Senate) or Plan 9079 (passed by the House) in these remedial proceedings. Instead, the Senate offers a plan designated "Senate Map 1" that was neither passed nor even considered by either chamber.⁵⁷

31. On October 24, 2015, well before the end of the special session, Senator Galvano directed staff member Jay Ferrin to draw Senate Map 1 by combining Plan 9090 (formerly base map Plan 9078) with the South Florida districts in base map Plan 9080.⁵⁸

32. Staff did not independently choose to combine Plans 9078/9090 and 9080 as part of their map drawing efforts, and they did not include such a combination in the six base maps offered for the Legislature's consideration.⁵⁹ Senator Galvano did not seek the advice or input of staff regarding the merits or tier-two impact of combining Plans 9078/9090 and 9080.⁶⁰

33. No legislator other than Senator Galvano participated in the decision to combine Plans 9078/9090 and 9080 into a single map.⁶¹ Senator Galvano conceded at trial that this "was

⁵⁶ Amended Scheduling Order dated November 12, 2015 at 1-2.

⁵⁷ J. Ex. 1.

⁵⁸ P. Ex. 52.

⁵⁹ Rem. Tr. Vol. 2 at 223:16-224:18

⁶⁰ Rem. Tr. Vol. 5 at 502:24-504:1, 504:24-505:19; Rem. Tr. Vol. 2 at 224:2-9.

⁶¹ See Senate's Second Corrected Disclosure of Proposed Remedial Plan dated November 20, 2015 at 2; Rem. Tr. Vol. 5 at 503:17-19.

Senator Galvano creating a map himself” and that he “created a new map” by combining two base maps that staff themselves had not combined.⁶²

34. Although Senator Galvano directed Jay Ferrin to prepare Senate Map 1 for submission, he ultimately decided not to offer it for the Legislature’s consideration during the special session and instead kept Senate Map 1 “on the shelf” in legislative parlance.⁶³ As a result, Senate Map 1 was never offered, considered, or voted on during the special session. But the Senate maintains that Plaintiffs view is too partisan and harsh in its rendition of what was happening within the halls of the Legislature. The Senate view is that:

During trial, Senator Galvano provided several reasons why he selected Senate Map 1 over plans previously considered by the Senate. He testified that even though the Senate had passed map 9124, he did not feel comfortable in presenting a map that had been explicitly rejected by the House.⁶⁴ Senator Galvano felt that filing Plan 9124 might provoke the House to file plan 9079, which had passed the House, as a competing plan; and Senator Galvano did not want the two chambers to file competing maps as had recently happened in the case considering congressional redistricting.⁶⁵ Senator Galvano knew that the House had supported the base map-drawing process and suspected that the House would not oppose the Senate’s presentation of one of the six base maps—or some combination thereof—in this proceeding.⁶⁶ Senator Galvano testified that he understood that each sandbox within the six base maps was constitutionally compliant, and therefore swapping one sandbox for another would also produce a constitutionally compliant map.⁶⁷ (Senate [Proposed] Order Approving Remedial Senate Plan filed December 23, 2015 - pp.7-8)

Senator Galvano also explained why he felt Senate Map 1, which is composed of the base map 9078 with the South Florida “sandbox” (including the counties of Palm Beach, Broward, Miami-Dade, and Monroe) from base map 9080, was an ideal plan

⁶² Rem. Tr. Vol. 5 at 505:20-506:1, 525:23-526:2.

⁶³ Rem. Tr. Vol. 5 at 504:8-23, 506:13-18.

⁶⁴ Rem. Tr. Vol. 5. 507-08.

⁶⁵ Rem. Tr. Vol. 5. 511-13, 558.

⁶⁶ *Id.*

⁶⁷ Rem. Tr. Vol. 5. 546.

to present to the Court. Twenty-eight of the 40 districts in Senate Map 1 follow Plan 9090, a base map advanced by the Senate Committee on Reapportionment which addressed concerns senators had expressed about the configuration of Tampa Bay found in four base maps.⁶⁸ Senate Map 1 also shared 28 districts with map 9124, which the full Senate had passed.⁶⁹ Senator Galvano instructed Jay Ferrin to add the South Florida “sandbox” from Plan 9080, which had a more-compact configuration of the South Florida sandbox than 9090.⁷⁰ The change also served to address concerns expressed on the Senate floor about the configuration of South Florida in Plan 9090.⁷¹ Senator Galvano did not consider whether his configuration would pair any Senate incumbents or favor or disfavor incumbents or political parties; instead his goal was to create a constitutionally compliant map.⁷² (Senate [Proposed] Order Approving Remedial Senate Plan filed December 23, 2015 - pp.8-9)

35. Senate Map 1 performs better for Republicans and better protects incumbents than Plan 9078/9090 or any of the other base maps. Under Senate Map 1, there are 23 Republican-performing districts based on the 2012 presidential election, 24 Republican-performing districts based on the 2010 gubernatorial election, and 22 districts Republican-performing districts based on the 2008 presidential election.⁷³ Senate Map 1 eliminates the sole pairing of Republican incumbents in Plan 9078/9090 by combining the Republican incumbent friendly North and Central Florida in Plan 9078/9090 with Republican incumbent friendly South Florida in Plan 9080.⁷⁴

36. Senate Map 1 only marginally improves tier-two compliance over Plan 9078/9090 and still underperforms many of the other base maps in tier-two compliance.⁷⁵

⁶⁸ Rem. Tr. Vol. 5. 512.

⁶⁹ Rem. Tr. Vol. 5. 558.

⁷⁰ Rem. Tr. Vol. 5. 558..

⁷¹ Rem. Tr. Vol. 5. 558.

⁷² Rem. Tr. Vol. 5. 563.

⁷³ P. Dem. Ex. 4; J. Ex. 1 at 7.

⁷⁴ J. Ex. 416 at 1.

⁷⁵ P. Dem. Ex. 1-3; J. Exs. 73-78.

37. Senate Map 1 has, on average, a Reock score of 0.43 and a Convex Hull score of 0.79. It splits sixteen counties and fourteen cities. The most overpopulated district in Senate Map 1 is District 7 (7,695 people for a deviation of 1.6%), and the most underpopulated district in Senate Map 1 is District 19 (-6,934 people for a deviation of 1.5%). Total deviation in Senate Map 1 (*i.e.*, the difference between the most overpopulated district and the most underpopulated district) is 14,629 people, or 3.1%.⁷⁶

38. The total population deviation of Senate Map 1 is over 50% greater than the 2.0% total deviation in the invalidated 2012 Initial Plan and the 2.0% total deviation in the admittedly unconstitutional 2012 Enacted Plan.⁷⁷

39. Based on the findings of fact set forth above, and after carefully considering the testimony, demeanor, and credibility of the various witnesses, this Court finds, by the greater weight of the evidence, that Senate Map 1 was created to favor the Republican party and incumbents. Further, Senate Map 1's political performance lends credibility to the inference that it was created to intentionally favor the Republican Party and incumbents. The Court relies on the following circumstantial evidence to reach its finding of improper intent:

a. The Senate repeatedly lauded the efforts of its staff, relied exclusively on staff testimony for the fact witness portion of its case-in-chief, and highlighted the sterile environment that it created so that staff could draw Senate Map 1 without improper partisan influence. Yet the testimony reveals that the Senate intentionally rejected the work product of its staff and instead submitted a plan that legislative staff did not initially create. Indeed, the Senate did not even consult staff about the merits of combining Plans 9078/9090 and 9080 into a single plan,

⁷⁶ J. Ex. 1 at 2.

⁷⁷ J. Ex. 1 at 2; J. Ex. 6 at 2; J. Ex. 7 at 2.

and the resulting map is more favorable to the Republican Party and incumbents than any of the maps that staff drew.

b. The person who admittedly created Senate Map 1 – Senator Galvano – was the Majority Leader of the Republican Caucus and head of the Republican Senatorial Campaign Committee. These roles required Senator Galvano to consider partisanship and benefiting Republican incumbents to effectively perform his duties, and presumably he was counting on the continued support of the Republican senators who committed to elect him Senate President in 2018. Those conflicting roles leaves Senator Galvano open to the charge that he was acting in a partisan manner when he created Senate Map 1. However, this Court finds that charge “of having conflicting roles” to be a remote inference, as anyone who is in the leadership ranks of a partisan institutional body will likely have several roles to play. Based on his testimony and attendance at trial it appears to this Court that Senator Galvano did all that he could, under less than optimal circumstances, to provide a Senate redistricting map for the citizens of Florida. Senator Galvano testified that he was unaware of the partisan performance of the base maps and that the Legislature did all that it knew how to do to insulate the redistricting process from partisan influences. In the less than optimal circumstances he found himself in, Senator Galvano would have benefited his efforts if he had not acted alone and had consulted with others to the extent possible. In acting alone he has left himself open to the charge of acting in a partisan manner as it relates to how Senate Map 1 came into being. The Court finds that, in acting alone, irrespective of the circumstances the Senate found itself in, the inference of partisan intent is reasonably supported.

c. The record shows Senate Map 1 is within a pattern of selected maps that progressively favored the Republican Party and incumbents. Plan 9078, was one of the most favorable base maps in terms of Republican performance and the most favorable base map for

Republican incumbents, and then performance was improved for the Republican Party and incumbents when Plan 9078/9090 was combined with Plan 9080 to form Senate Map 1. The Court finds that, the continually improving political performance that resulted in Senate Map 1, reasonably supports the inference of partisan intent.

d. Although the Senate stipulated that the 2012 Enacted Plan had been drawn with impermissible partisan intent, Senate Map 1 matches the Republican performance of 2012 Enacted Plan based on the 2008 and 2012 presidential elections and contains only one fewer Republican seat based on the 2010 gubernatorial election. Thus, Senate Map 1 maintains essentially the same Republican performance as a map that was admittedly “drawn to favor a political party and incumbents” in violation of Article III, Section 21.⁷⁸ Political performance data is a reliable lens by which to measure a map’s overall compliance with the Constitutional requirement that no map “. . . be drawn with the intent to favor or disfavor a political party” In fact, in a minority district, it is the standard by which lawful compliance is determined. The same should hold true in non-minority districts. When the political performance of a map in non-minority districts is outside the bounds of reasonable expectation based on objective metrics then, absent an explanation, it provides a reasonable basis for an inference of partisan intent. The Supreme Court in *Apportionment I* held that “. . . although effect can be an objective indicator of intent, mere effect will not necessarily invalidate a plan.”, it also held that “While we agree that the standard does not prohibit political effect, the effects of the plan, the shape of the district lines, and the demographics of an area are all factors that serve as objective indicators of intent.” (e.s.). In this case we have more than ‘mere effect’⁷⁹, we have an established pattern of map selection that reasonably indicates an intent to choose the best performing map for the

⁷⁸ Stipulation & Consent Judgment at p.1.

⁷⁹ Definition of the word “mere” includes: By itself, by itself and without anything more. Encarta World English Dictionary, First Edition, 1999.

Republican party. Although, in this case the Court has found more than “mere effect” the issue of political performance appears to be an issue which will surface every time a redistricting map is challenged. Political map drawing is no longer an art but a very sophisticated and precise science. The results and each of the factors that help contribute to the overall result of a map, which is drawn to determine political boundaries are now done by computer programs and results are known instantly of even the slightest movement of a boundary in one direction or another. How a map performs politically is the first thing people want to know about a proposed redistricting map. It is true in this case and, I suspect it will remain true for as long as we live in a competitive democracy. Its human nature, its human political nature. That is why a clear boundary needs to be established regarding the political performance of a redistricting map. If the political performance of a proposed map is outside the bounds of reasonable expectation then the Legislature needs to understand that an explanation will be required to avoid an inference of improper partisan intent.⁸⁰ While the Senate maintains that the selection of Senate Map 1 was without partisan intent and that all safeguards were taken to insulate staff from outside political influence, it is difficult to infer anything other than impermissible partisan intent in the selection of Senate Map1 based on its political performance.

e. The Senate rejected more tier-two compliant district configurations drawn by staff (including other base maps and Plan 9079) and attempted to rely on metrics that had never previously been relied upon – such as the “Pol/Geo” index – to justify its proposed district configurations.

f. Plaintiff’s alternative plans demonstrate that more tier-two compliant configurations are feasible without violating any tier-one mandate.

⁸⁰ That same principle would apply to maps submitted by challengers to a legislative redistricting map if it seeks to become the “map” rather than just a tool to point out weakness in the legislative map. See finding in last sentence of paragraph 85 of this Final Judgment.

Plaintiffs' Proposed Remedial Plans

40. Plaintiffs have submitted four alternative remedial plans – CPS-3a, 3b, 4a, and 4b.⁸¹ The following is a summary of the four plans:

a. CPS-4a – Plaintiffs offer CPS-4a as their principal alternative map. CPS-4a has, on average, a Reock score of 0.51 and a Convex Hull score of 0.81. It splits sixteen counties and eleven cities. The most overpopulated district in CPS-4a is District 22 (4,385 people for a deviation of 0.9%), and the most underpopulated district in CPS-4a is District 35 (-4,617 people for a deviation of 1.0%). Total deviation in CPS-4a from ideal population is 9,002 people, or 1.9%. As is explained in more detail below, CPS-4a contains four Hispanic-performing districts in South Florida, compared with only three in Senate Map 1, Plans CPS-3b and 4b, and Plan S17S0036 (the “2002 Benchmark Plan”).⁸²

b. CPS-3a – Compared with CPS-4a, CPS-3a keeps an additional county whole by reducing compactness and slightly increasing population deviation, but still maintains substantially higher compactness metrics and lower population deviation than Senate Map 1. CPS-3a has, on average, a Reock score of 0.50 and a Convex Hull score of 0.80. It splits fifteen counties and ten cities. The most overpopulated districts in CPS-3a are Districts 15 and 26 (4,700 people for a deviation of 1.0%), and the most underpopulated district in CPS-3a is District 35 (-4,617 people for a deviation of 1.0%). Total deviation in CPS-3a from ideal population is 9,317 people, or 2.0%. CPS-3a, like CPS-4a, contains four Hispanic-performing districts in

⁸¹ Before trial, Plaintiffs corrected an error in their initially submitted CPS-3b and filed and served the revised plan as “CPS-3b_corrected.” References to CPS-3b in this final judgment are to CPS-3b_corrected.

⁸² Compare J. Ex. 4 at 2 with J. Ex. 1 at 2, J. Exs. 3 and 5 at 2, and J. Ex. 8 at 2.

South Florida.⁸³

c. CPS-3b and CPS-4b – CPS-3b and CPS-4b are alternative configurations of Plans 3a and 4a that contain only three Hispanic-performing districts in South Florida. CPS-3b has, on average, a Reock score of 0.50 and a Convex Hull score of 0.81. It splits fifteen counties and ten cities, and has a total deviation of 9,317 people or 2.0%. CPS-4b has, on average, a Reock score of 0.51 and a Convex-Hull score of 0.81, splits sixteen counties and eleven cities, and has a total deviation of 9,002 people or 1.9%.⁸⁴

41. Plaintiffs' proposed plans were drawn by John O'Neill ("O'Neill"), the same person who drew CP-1, which was approved by Judge Lewis and the Florida Supreme Court in *Apportionment VIII* and now serves as the official congressional redistricting plan for the State of Florida.⁸⁵

42. The Court heard extensive testimony from O'Neill regarding the drawing of Plaintiffs' proposed maps, with the opportunity for cross-examination by the Senate, and the Court closely observed O'Neill's demeanor.

43. O'Neill explained how his approach to map drawing was designed to be objective, to avoid arbitrary or subjective decisions, and to achieve the highest compactness and lowest population deviation at successive numbers of split counties⁸⁶ – ultimately, alternatives with 15 and 16 split counties, respectively. O'Neill described taking an objective approach that began by identifying whole-county groups within which one or more compact districts could be drawn with nearly ideal population, while minimizing the number of split counties. In that

⁸³ J. Ex. 2 at 2; J. Ex. 4 at 2.

⁸⁴ J. Ex. 3 at 2; J. Ex. 5 at 2.

⁸⁵ Rem. Tr. Vol. 6 at 614:20-615:3; *see also*, Final Judgment Adopting Remedial Congressional Redistricting Plan dated December 22, 2015 and entered in Case Nos.: 2012-CA-00412 and 2012-CA-00490.

⁸⁶ Rem. Tr. Vol. 6 at 617:21-620:11, 622:7-623:4.

regard, he eventually divided up Florida's 67 counties into a series of 10 whole-county groups that limited the number of split counties to 15, as reflected in Plan CPS-3a.⁸⁷

44. Legislative staff likewise created whole-county groupings in their approach to drawing Senate Map 1. In fact, of the 10 whole-county groups in CPS-3a and CPS-3b, 6 are the same in Senate Map 1 (the "Identical Whole-County Groups").⁸⁸ O'Neill's approach, however, incorporated a more exacting approach to the tier-two requirements of compactness and nearly equal population deviation. Specifically, within the Identical Whole-County Groups, O'Neill drew the districts to achieve high average compactness, respect political and geographical boundaries, generally divide population deviations evenly between districts in each whole-county group, and always avoid population deviations greater than 1%.⁸⁹ As a consequence, O'Neill's objective approach yielded more compact districts on average, and yielded lower and more even deviations among the districts in each Identical Whole-County Group, except in one instance where O'Neill adopted a more compact configuration of Plaintiffs' Districts 4 and 9, which was derived from the House's Plan 9079.⁹⁰

45. In the rest of Florida, O'Neill identified whole-county groups that were different from Senate Map 1.⁹¹ In regard to Plans CPS-3a and CPS-3b, O'Neill described his selection of different whole-county groups in Central North and West Florida as being driven, initially, by a desire to minimize county splits and avoid unnecessary population deviations.⁹² The different whole-county groups that O'Neill selected allowed him to draw CPS-3a and CPS-3b with one

⁸⁷ Rem. Tr. Vol. 6 at 623:25-625:3; P. Dem. 38

⁸⁸ P. Dem 39.

⁸⁹ Rem. Tr. Vol. 6 at 625:14-630:22

⁹⁰ P. Dem. 39; Rem. Tr. Vol. 6 at 630:23-632:11.

⁹¹ See P. Dem. 41.

⁹² Rem. Tr. Vol. 6 at 635:17-638:8.

fewer split county than Senate Map 1,⁹³ avoid population deviations of greater than 1% (which Senate Map 1 exceeded in 14 districts),⁹⁴ and draw substantially more compact districts than in Senate Map 1.⁹⁵

46. Similarly, in Plans CPS-4a and CPS-4b, O'Neill identified whole-county groups that were different from Senate Map 1 in North Florida.⁹⁶ O'Neill described exploring whether he could achieve higher compactness and lower population deviations by increasing the number of split counties from 15 to 16.⁹⁷ As reflected in CPS-4a, O'Neill selected a configuration that resulted in a significant increase in average compactness throughout a region that included 15 districts in North Florida.⁹⁸

47. After considering the testimony of O'Neill and reviewing the resulting maps, the Court, like Judge Lewis, finds that O'Neill's testimony was credible and that O'Neill's approach to drawing the map was logical and effective, resulting in the most tier-two compliant district configurations offered in these proceedings. Mr. O'Neill is a talented young man who I am sure initially had no idea that his every action in drawing the Plaintiffs' maps would be subject to scrutiny and cross-examination in a court of law. This Court allowed the details of Mr. O'Neill's map drawing and his prior map drawing associations to be examined and presented to the Court.⁹⁹ Again, we come to the issue of knowledge of political performance data for non-

⁹³ P. Dem. 44, 50.

⁹⁴ P. Dem. 41, 48, 50

⁹⁵ Rem. Tr. Vol. 6 at 647:21-649:16; P. Dem. 43, 47, 50.

⁹⁶ P. Dem. 46.

⁹⁷ Rem. Tr. Vol. 6 at 654:14-655:8.

⁹⁸ P. Dem. 46, 58.

⁹⁹ There was a clear perception by this Court that the Defendants' believed their right to a fair trial was being abridged by any attempt to judicially restrict or limit the discovery regarding Plaintiffs' and their agents motivations regarding when, how and with what knowledge their maps were drawn. The Defendant's maintain Plaintiffs are nothing but a proxy for the opposing political party. Therefore, in order to insure a complete record and to address Defendant's concerns this Court allowed full discovery

minority districts. While it appears that the use of political performance data for non-minority districts is evidence of improper partisan intent, it amazes me that, as to both sides, that maps drawn without such knowledge don't end up totally out of whack with what would be the reasonably expected political performance.

48. The Court further finds that O'Neill did not draw CPS-3a, 3b, 4a, or 4b with the intent to favor or disfavor any political party or incumbent. O'Neill was instructed by counsel for Plaintiffs to draw the most constitutionally compliant map possible without considering partisan data (except to the extent necessary to assess minority districts) or incumbent information or drawing districts with partisan intent.¹⁰⁰ This Court finds that O'Neill followed these instructions,¹⁰¹ developed an objective approach focused on tier-two compliance, and the resulting maps, on the whole, significantly outperform Senate Map 1 in tier-two compliance.¹⁰²

49. The improved tier-two compliance of Plaintiffs' proposed plans created plans that reflect a roughly equal breakdown of Republican-performing and Democratic-performing districts.¹⁰³ Also, the Plaintiffs' proposed plans contain features disfavoring both political parties. For example, Plaintiffs' plans pair three Democratic incumbents in District 27 in all of their plans; two Republican incumbents in District 11 in CPS-4a and 4b; a Republican incumbent with an announced Republican state Senate candidate, Representative Matt Gaetz, in District 1 in all of their plans; and Republican incumbents with Democratic incumbents in several other districts.¹⁰⁴

and cross-examination of Mr. O'Neill. While there is some conflicting understanding of what he knew or didn't know about political performance data, overall, he was a credible and reliable witness.

¹⁰⁰ Rem. Tr. Vol. 6 at 616:24-617:18.

¹⁰¹ Rem. Tr. Vol. 6 at 713:21-714:5.

¹⁰² P. Dem. Ex. 1-3.

¹⁰³ P. Dem. Ex. 52.

¹⁰⁴ J. Ex. 416 at 1; Rem. Tr. Vol. 7 at 961:21-964:6; *see also*,

<http://www.sunshinestatenews.com/story/matt-gaetz-makes-it-official-will-shoot-dads-senate-seat-2016> .

50. The evidence does not support the Senate's claim that O'Neill intentionally underpopulated Democratic performing districts with partisan intent. The Senate's own demonstrative shows that the principal map offered by Plaintiffs, CPS-4a, contains 10 underpopulated Democratic districts and 8 underpopulated Republican districts, which does not reflect significantly disproportionate underpopulation.¹⁰⁵ In any event, the districts in question are located in South Florida.¹⁰⁶ O'Neill explained that the underpopulation in his South Florida districts was the result of his decision to create a whole county group in South Florida that did not include Okeechobee County, while the whole county group used by legislative staff in the base maps joined Okeechobee County with other counties.¹⁰⁷ As reflected in the resulting maps, O'Neill's decision allowed him to maintain underpopulation or overpopulation under 1% – a significantly lower population deviation than Senate Map 1 – while permitting the creation of more tier-two compliant configurations of South Florida than the configuration in Senate Map 1.¹⁰⁸ Further, the Senate has failed to explain how minor underpopulation of less than 1% results in any partisan advantage, particularly when Plaintiffs' maps disfavor Democrats in the very same South Florida districts by, for example, pairing three incumbents in a single district.¹⁰⁹

51. To ensure a complete record and because it was a non-jury trial, the Court allowed the Senate over Plaintiffs' objections to introduce certain emails from 2011 into evidence and to question O'Neill regarding their content. The emails dealt with alternative plans that were drawn by Strategic Telemetry, when O'Neill was interning for the company, and that were offered by Coalition Plaintiffs during the 2012 redistricting process and Florida Supreme Court facial review. The 2011 emails, on the whole, reflected that Strategic Telemetry

¹⁰⁵ S. Dem. Ex. 2.

¹⁰⁶ See J. Ex. 2 at 1-2; J. Ex. 3 at 1-2; J. Ex. 4 at 1-2; J. Ex. 5 at 1-2.

¹⁰⁷ Rem. Tr. Vol. 6 at 659:12-664:12.

¹⁰⁸ *Id.*; see P. Dem. Ex. 47-51.

¹⁰⁹ J. Ex. 416 at 1.

considered political performance data in preparing Plaintiffs' earliest alternative plans, a fact not in dispute at trial.¹¹⁰

52. In their *Apportionment I* brief, Plaintiffs argued that partisan data could properly be considered in drawing a map and contended that the Legislature should adopt a map that “reflect[ed] – to the extent possible consistent with other constitutional requirements – the revealed preferences of Florida’s electorate as measured by returns in recent statewide elections.”¹¹¹ Plaintiffs further argued that submitting a map reflecting the statewide composition of Florida voters, like the initial maps prepared by Strategic Telemetry, meant that “the Legislature’s plan must be found invalid” because of its skewed partisan performance.¹¹²

53. The Florida Supreme Court rejected Plaintiffs’ argument that “once the political results of the plan are known, the Legislature must alter the plan to bring it more in balance with the composition of voters statewide.” *Apportionment I*, 83 So. 3d at 643. The Supreme Court instead held that “[t]he Florida Constitution does not require the affirmative creation of a fair plan, but rather a neutral one in which no improper intent was involved.” *Id.* at 643. Nevertheless, the Supreme Court has made it clear that Plaintiffs’ “alternative maps are not on trial themselves, as is the Legislature’s map,” and merely “provide relevant proof that the Legislature’s apportionment plans consist of district configurations that are not explained other than by the Legislature considering impermissible factors, such as intentionally favoring a political party or an incumbent.” *Apportionment VII*, 172 So. 3d at 401 n.11.¹¹³

¹¹⁰ S. Exs. 53, 112, 169, 190, 199, 200, 229, 251, 253, 254, and 255.

¹¹¹ Coalition’s Initial Brief in *Apportionment I*, Case No. SC12-1, at 23-24, available at http://www.floridasupremecourt.org/pub_info/redistricting2012/02-17-2012/Bried_02-17-2012_Brief_League_Women_Voters.pdf.

¹¹² *Id.* at 24.

¹¹³ This Court understood that concept so long as the Senate Map 1 was viable, in whole or in part, but since there was the possibility of it not being viable, then it seemed that under those circumstances the Plaintiffs should have to, at least, minimally demonstrate the methodology and the type of data –

54. Plaintiffs' reliance on partisan data to prepare their 2011 alternative plans was not relevant in the proceedings in which those plans were submitted. Ordinarily, Plaintiffs' reliance on partisan data, even if it happened, would not be relevant in proceedings involving alternative plans because the alternative plans in an "as applied" challenge are used as a tool to demonstrate how the Legislative plan is not in compliance with Florida's constitution. However, where the Legislative Plan is out in its entirety, and the Plaintiffs seek to substitute their map, then Plaintiffs' reliance on partisan data is a valid issue for consideration by a trial court where that issue is raised by the opposing party.

Expert Testimony

55. The Senate offered the testimony of Professor Liu to challenge certain minority districts in Plaintiffs' remedial plans: (a) District 31, an African-American district, identical in all of Plaintiffs' plans; (b) District 35, a Hispanic district, identical in all of Plaintiffs' plans; and (c) Districts 36 and 38, two Hispanic districts, in CPS-3a and 4a.¹¹⁴

56. District 31 in Plaintiffs' proposed plans has a Black Voting Age Population ("BVAP") of 47.0%.¹¹⁵ Analog District 35 in Senate Map 1 has BVAP of 50.1%, and analog District 29 in the 2002 Benchmark Plan had a BVAP of 60.7%.¹¹⁶

Dr. Liu on Plaintiffs' District 31 – Broward County (Senate Map 1's analog District 35)

57. The Senate offered testimony from Dr. Baodong Liu, an expert on racial voting

including all political performance data - that was used in constructing their proposed redistricting map for Florida's Senate districts. Therefore the Court allowed the Senate great latitude on this issue so the record would be clear, complete and preserved for appellate review and for review by others who wished to obtain a full understanding of each side's view of the case.

¹¹⁴ J. Stipulation Regarding Minority Districts dated December 13, 2015.

¹¹⁵ J. Ex. 2 at 2; J. Ex. 3 at 2; J. Ex. 4 at 2; J. Ex. 5 at 2.

¹¹⁶ J. Ex. 1 at 2; J. Ex. 8 at 2.

patterns.¹¹⁷ Dr. Liu analyzed the benchmark plan, Senate Map 1, and Plaintiffs' plans to assess the ability of minorities to elect candidates of their choice.¹¹⁸ Dr. Liu used an advanced statistical technique called ecological inference to analyze 26 elections and to determine whether racially polarized voting existed among white, black, and Hispanic voters in Florida.¹¹⁹ Using this technique, Dr. Liu could determine whether majority voting blocs could defeat minority candidates of choice.¹²⁰ Dr. Liu also analyzed the voting age population threshold at which a minority population would be expected to elect their candidates of choice on a consistent basis.¹²¹ Professor Liu testified that District 31 in Plaintiffs' plans diminishes the ability of African Americans to elect candidates of their choice. Professor Liu opined that racially polarized voting may lead to the defeat of black candidates generally and that African-American voters tend to turn out at a higher rate in majority-minority districts generally.¹²² Professor Liu, however, failed to specify how these general considerations deprive African Americans of their ability to elect candidates of choice in Plaintiffs' proposed District 31.

58. Using his statistical analysis, Dr. Liu found that blacks are cohesive throughout Florida, but that their candidates of choice were subject to defeat by majority voting blocs including white voters and, at times, Hispanic voters.¹²³ Dr. Liu also found that a black voting age population of 50 percent was critical both to ensure that blacks could elect their candidates of choice and to ensure that blacks participate in the voting process at levels commensurate with their share of the voting age population.¹²⁴ In assessing whether racially polarized voting and

¹¹⁷ Rem. Tr. Vol. 3. 286-87.

¹¹⁸ Rem. Tr. Vol. 3. 305-06.

¹¹⁹ Rem. Tr. Vol. 3. 291-295.

¹²⁰ Rem. Tr. Vol. 3. 291.

¹²¹ *Id.*

¹²² Rem. Tr. Vol. 3 at 295:24-296:19, 309:10-310:23.

¹²³ Rem. Tr. Vol. 3. 295-96.

¹²⁴ Rem. Tr. Vol. 3. 305-06, 308-11.

voter participation would actually diminish the ability of African Americans to elect candidates of their choice, Professor Liu analyzed only six elections that are not statewide that were provided to him.¹²⁵ He was provided the elections he was to utilize and he did not verify any election that he analyzed.¹²⁶ Of those elections, only one took place in South Florida, and it was a non-partisan judicial race in Broward County, where the African American candidate lost in a district with a BVAP of 25.5%.¹²⁷ Of the remaining five elections he analyzed, all took place in Central Florida¹²⁸ districts with BVAPs ranging from about 10% to 36.9%, and African American candidates actually won in three out of the five races.¹²⁹ None of the five elections took place in South Florida, where Plaintiffs' District 31 is located;¹³⁰ the two African American candidates who lost were running in districts with less than 12% BVAP;¹³¹ and one of those two candidates (Val Demings) only lost by a narrow margin in a district with a BVAP of 11.1%.¹³²

**Dr. Lichtman on Plaintiffs' District 31 – Broward County
(Senate Map 1's analog District 35)**

59. Plaintiffs' expert witness, Dr. Lichtman, testified that District 31 in Plaintiffs' plans provides African Americans with the ability to elect candidates of choice, notwithstanding the reduction in BVAP in District 31, as compared to the analog districts in Senate Map 1 or the

¹²⁵ Rem. Tr. Vol. 3 at 296:20-297:1, 332:25-333:4; S. Ex. 2.

¹²⁶ Rem. Tr. Vol. 3. 347:4-6

¹²⁷ Rem. Tr. Vol. 3 at 296:20-297:1, 332:22-333:15, 341:20-342:2, 343:5-19; S. Ex. 2.

¹²⁸ Rem. Tr. Vol. 3 at 333:5-15; S. Ex. 2.

¹²⁹ See S. Ex. 2; Rem. Tr. Vol. 3 at 333:24-335:17 (agreeing that African-American Geraldine Thompson won Orlando-based Senate District 12 in 2014 with 36.9% BVAP); Rem. Tr. Vol. 3 at 338:10-339:13 (agreeing that an African-American candidate Blue lost in Central-Florida based Senate District 15 with 11.9% BVAP); Rem. Tr. Vol. 3 at 345:4-348:7 (admitting error in analysis and agreeing that African-American Tiffany Moore Russell won the race for Orange County Clerk of Court with 20.2% BVAP); Rem. Tr. Vol. 3 348:17-349:11 (agreeing that African-American Jerry Demings won the race for Orange County Sheriff with 20.2% BVAP).

¹³⁰ Rem. Tr. Vol. 3 at 333:5-334:4.

¹³¹ Rem. Tr. Vol. 3 at 351:6-9.

¹³² Rem. Tr. Vol. 3 at 349:25-351:5.

2002 Benchmark Plan. To reach that conclusion, Dr. Lichtman performed a district-specific functional analysis of District 31 that involved an analysis of, among other things, key district-specific metrics such as voting age population, voter registration and turnout, and election history and voting patterns.¹³³ As Dr. Lichtman explained, in Plaintiffs' proposed District 31, the BVAP is 47%;¹³⁴ the district is heavily Democratic-performing with an average of 81% of the vote for Democratic candidates in the most recent 2012 and 2014 elections and 78% for Democratic candidates in the 13 general elections from 2006 to 2012 that are reported in the parties' joint trial exhibits;¹³⁵ African Americans were a decisive majority of proposed District 31's turnout in the 2010, 2012, and 2014 Democratic primary elections, with an average of almost 60%;¹³⁶ African American candidates have easily won in statewide elections in proposed District 31;¹³⁷ and, in all manner of circumstances, African American candidates consistently won in legislative districts with BVAPs as low as about 30%.¹³⁸

60. Dr. Lichtman explained that the higher BVAP (60.7%) in the 2002 Benchmark Plan's analog district (District 29) did not affect his analysis because proposed District 31 is "more than sufficient" to perform for African American candidates of choice.¹³⁹ He concluded that he had no concerns about retrogression as compared with the benchmark district because District 31 is "such an effective performing district that there can't be any retrogression, and 60

¹³³ Rem. Tr. Vol. 7 at 806:21-811:23.

¹³⁴ Rem. Tr. Vol. 7 at 812:8-11; *e.g.*, J. Ex. 4 at 2.

¹³⁵ Rem. Tr. Vol. 7 at 814:2-816:6; P. Ex. 22; *e.g.*, J. Ex. 4 at 7.

¹³⁶ Rem. Tr. Vol. 7 at 816:15-817:24; P. Ex. 23.

¹³⁷ Rem. Tr. Vol. 7 at 818:6-819:10; P. Ex. 24; *e.g.*, J. Ex. 4 at 7 (reflecting that in Plaintiffs' proposed District 31, Kendrick Meek won by a margin of almost 20 percentage points above his nearest competitor for U.S. Senate in 2010, and President Obama won with 80.5% of the vote in 2008 and 81.9% of the vote in 2012).

¹³⁸ Rem. Tr. Vol. 7 at 819:15-823:23; P. Ex. 25-28.

¹³⁹ Rem. Tr. Vol. 7 at 812:16-814:4.

percent [BVAP in the benchmark district] is way too high.”¹⁴⁰

**Conclusion as to Plaintiffs’ District 31 – Broward County
(Senate Map 1’s analog District 35)**

61. The Court finds that Professor Liu’s opinion as to District 31 in Plaintiffs’ plans is not persuasive, and fails to meet the Senate’s burden of showing that it is necessary to maintain the analog District 35 in Senate Map 1 at 50.1% BVAP to avoid minority retrogression and vote dilution. The Court instead accepts the opinion and analysis of Dr. Lichtman, and finds that Plaintiffs’ proposed District 31 effectively performs for African American candidates of choice without retrogression.

**Dr. Liu on Plaintiffs’ District 35, 36 & 38 – Miami-Dade and Monroe Counties
(Plaintiffs’ 3a and 4a Plans)**

62. Professor Liu further testified that racially polarized voting may lead to the defeat of Hispanic candidates generally,¹⁴¹ and that Hispanics need a high threshold of voting age population of at least 75%-80% to control a district generally.¹⁴² Because District 35 in all of Plaintiffs’ plans and Districts 36 and 38 in CPS-3a and 4a (the “Challenged Hispanic Districts”) each have Hispanic Voting Age Population (“HVAP”) of less than 75%-80% using 2010 data (72%, 74.6%, and 67.2%, respectively), Professor Liu concluded that he could not verify that the Challenged Hispanic Districts are effectively performing Hispanic districts.¹⁴³

63. The Court does not accept Professor Liu’s testimony that 75%-80% HVAP is necessary to perform effectively for Hispanics. As an initial matter, this threshold is inconsistent with positions taken by the Senate in this action and in the congressional action. As the Court noted at trial, one of the Senate’s proposed Hispanic-performing districts in Senate Map 1

¹⁴⁰ Rem. Tr. Vol. 7 at 828:23-829:5.

¹⁴¹ Rem. Tr. Vol. 3 at 299:21-300:11.

¹⁴² Rem. Tr. Vol. 3 at 303:1-23, 304:16-17.

¹⁴³ Rem. Tr. Vol. 3 at 304:11-17; 312:6-313:10.

(District 37) fails to meet Professor Liu's threshold.¹⁴⁴ Moreover, several of the Hispanic-performing districts in the staff-drawn base maps had HVAPs below 75%, and the testimony was undisputed that staff, Senate leadership, and their counsel all agreed that those districts were Hispanic-performing districts.¹⁴⁵ And, as discussed above, legislative staff, legislative in-house and outside counsel, Professor Moreno (an expert for the House), and Senator Galvano all took the position during the special session that District 37 in Plan 9079 did not retrogress at an HVAP of 72.1% after a careful analysis of the district.¹⁴⁶ In the congressional action, the Senate represented to the Florida Supreme Court that District 26 in the 2012 and 2014 enacted congressional plans performed for Hispanic candidates with a 68.9% HVAP.¹⁴⁷ In the end, the Florida Supreme Court upheld Judge Lewis's finding that Professor Liu's opinions at the congressional trial were "not particularly helpful" and approved as constitutionally compliant a Miami-Dade-based Congressional District 26 in CP-1 with an HVAP of 68.3%. *Apportionment VIII*, 2015 WL 7753054 (Fla. Dec. 2015).

64. Professor Liu's analysis of Hispanic elections in South Florida was more limited than his African American election analysis – down to only five races instead of six.¹⁴⁸ And, once again, of those elections, the Hispanic candidate or Hispanic candidate of choice won each election in districts with HVAPs as low as about 25%, except for a non-partisan judicial race in

¹⁴⁴ Rem. Tr. Vol. 3 at 322:4-323:3; S. Ex. 7.

¹⁴⁵ Rem. Tr. Vol. 1 at 115:24-116:20.

¹⁴⁶ Rem. Tr. Vol. 5 at 498:21-502:15; Rem. Tr. Vol. 1 at 130:9-135:25.

¹⁴⁷ See Leg. Answer Brief and Initial Brief on Cross-Appeal at 114 in *Apportionment VII*, Case No. SC14-1905, available at http://www.floridasupremecourt.org/pub_info/summaries/briefs/14/14-1905/Filed_12-19-2014_Legislative_Parties'_Answer_Brief.pdf ("Enacted District 26 [in the 2012 and 2014 plans] is a competitive district that enables Hispanic voters to coalesce around a Hispanic candidate of either political party. No party contends that it diminishes the ability to elect."); Rem Tr. Vol. 3, 383:22-384:4; P. Ex. 16.

¹⁴⁸ Rem. Tr. Vol. 3 at 380:3-7; S. Ex. 3.

which a young Hispanic lawyer lost to a sitting judge in a district with a 66.4% HVAP.¹⁴⁹ After conceding that he could not cite a single instance where a district with an HVAP in excess of 67% failed to elect a Hispanic candidate of choice, Professor Liu attempted to clarify that of the four Challenged Hispanic Districts, District 36 in Plaintiffs' CPS-3a and CPS-4a was really his "main concern" and opined that "there is very great likelihood" that District 36 would not perform with an HVAP of 74.6% due to the district's Democratic performance in races involving non-Hispanic candidates.¹⁵⁰

**Dr. Lichtman on Plaintiffs' District 35, 36 & 38 – Miami-Dade and Monroe Counties
(Plaintiffs' 3a and 4a Plans)**

65. Dr. Lichtman, in contrast, testified that the Challenged Hispanic Districts each provide Hispanics with the ability to elect candidates of their choice. To reach that conclusion, he performed a district-specific functional analysis of each of the Challenged Hispanic Districts that included an analysis of, among other things, key district specific metrics such as voting age population, voter registration and turnout, and election history and voting patterns. As Dr. Lichtman explained, Hispanics, unlike African Americans, do not unite behind a single party, but are divided among Democrats, Republicans, and Independents.¹⁵¹ Instead, Hispanics unite and, therefore, remain cohesive in supporting Hispanic candidates versus candidates of other ethnicities; in other words, Hispanics tend to vote ethnicity over party in multi-racial elections.¹⁵² Accordingly, Dr. Lichtman did an extensive, five-level analysis of the Challenged Hispanic Districts to confirm they performed and did not regress. The Defendant's complain that Dr.

¹⁴⁹ Rem. Tr. Vol. 3 at 380:3-21, 381:18-384:7; S. Ex. 3.

¹⁵⁰ Rem. Tr. Vol. 3 at 374:18-380:2.

¹⁵¹ Rem. Tr. Vol. 7 at 831:10-23; *see, e.g.*, J. Ex. 4 at 8 (showing that, in Plaintiffs' District 36 in CPS-4a, for example, Hispanic registered voters in 2014 were about 28% Democratic, 38% Republican, and 34% Independent).

¹⁵² Rem. Tr. Vol. 7 at 831:24-833:12.

Lichtman purported to perform a functional analysis of Plaintiffs' minority districts, but he did not compare Plaintiffs' districts to the benchmark Senate districts as required.¹⁵³ Instead, Dr. Lichtman compared Plaintiffs' districts to benchmark *congressional* districts in Miami-Dade County, regardless of whether those districts overlapped geographically.¹⁵⁴ Further, Defendants complain Dr. Lichtman used an older statistical technique called ecological regression to analyze one election – the 2010 Senate election, involving three highly-visible candidates including Marco Rubio, Charlie Crist, and Kendrick Meek – which he then used to evaluate the political performance of Plaintiffs' districts.¹⁵⁵ Defendants maintain that on the basis of this single election, Dr. Lichtman concluded that Plaintiffs' Districts 35, 36, and 38 would perform for Hispanics.¹⁵⁶

66. However, as Dr. Lichtman's multi-leveled analysis showed, the Challenged Hispanic Districts are all districts in which Hispanics have over a two-thirds majority of the voting age population, are an outright majority of registered voters, and are an overwhelming majority of registered Republicans.¹⁵⁷ At the same time, Hispanics are a significant and growing segment, ranging from 43.1% to 49.9% in 2012, of registered Democrats in the Challenged Hispanic Districts.¹⁵⁸ Dr. Lichtman demonstrated how the Challenged Hispanic Districts have closely comparable or stronger Hispanic metrics than analogous congressional districts that have consistently performed for Hispanics.¹⁵⁹ Dr. Lichtman then performed an ecological regression for each proposed Challenged Hispanic District, establishing that Hispanics cohered behind a

¹⁵³ Rem. Tr. Vol. 7. 807.

¹⁵⁴ Rem. Tr. Vol. 7. 840-41.

¹⁵⁵ Rem. Tr. Vol. 7. 805; T3. 294.

¹⁵⁶ Rem. Tr. Vol. 7. 844-85, 851-52, 890-91.

¹⁵⁷ P. Ex. 6, 10, 13.

¹⁵⁸ Rem. Tr. Vol. 7 at 849:5-851:2; P. Ex. 7 (showing growth in Hispanic registration); P. Exs. 6, 10 and 13 (showing Hispanic democratic registration).

¹⁵⁹ Rem. Tr. Vol. 7 at 840:23-851:25.

Hispanic candidate in a key election against candidates of other ethnicities;¹⁶⁰ he analyzed the electoral history of Hispanic districts, which revealed that Hispanics candidates won 40 of 43 partisan legislative elections in districts with 67% or higher HVAP;¹⁶¹ and he then showed, through ecological regression, how the Hispanic candidate of choice won the remaining legislative elections, such that the Hispanic candidate of choice actually won 43 out of 43 elections (100%) in such districts.¹⁶² Dr. Lichtman analyzed the voting behavior of Hispanics in primary elections and opined that Democrats have a strong incentive to nominate Hispanic candidates and, in fact, have nominated Hispanic candidates 100% of the time in Hispanic districts with 67% or higher HVAP, as a Hispanic Republican will otherwise win in light of Hispanics' tendency to vote ethnicity over party in multi-racial elections.¹⁶³ The Defendant's complain Dr. Lichtman purports to confirm his results by analyzing election results with similar Hispanic voting age populations as in Plaintiffs' districts.¹⁶⁴ Defendants further complain that Dr. Lichtman could not identify, however, which of these elections involved candidates of different races; indeed, he did not even know which elections were actually contested.¹⁶⁵ Dr. Liu testified that uni-racial and uncontested elections were of no value in determining the presence of racial bloc voting.¹⁶⁶ Defendants argue that Dr. Lichtman did not conduct a racially-polarized voting analysis to determine whether a particular candidate was the Hispanic candidate of choice, except in two elections where Dr. Lichtman found that a white candidate was the Hispanic candidate of choice.¹⁶⁷ In one of those elections, Hispanic candidates received more votes than

¹⁶⁰ See, e.g., Rem. Tr. Vol. 7 at 852:1-853:18; P. Exs. 9, 12 and 15.

¹⁶¹ See, e.g., Rem. Tr. Vol. 7 at 853:19-856:15; P. Exs. 16, 17, 18, and 19.

¹⁶² See, e.g., Rem. Tr. Vol. 7 at 856:17-858:5; P. Exs. 20 and 21.

¹⁶³ Rem. Tr. Vol. 7 at 858:6-860:14, 874:9-875:13.

¹⁶⁴ Rem. Tr. Vol. 7. 884.

¹⁶⁵ See e.g., T7. 939-40, 942-45, 948.

¹⁶⁶ Rem. Tr. Vol. 3. 295.

¹⁶⁷ Rem. Tr. Vol. 7. 857.

the white candidate, but Dr. Lichtman nonetheless found that the white candidate was the Hispanic candidate of choice.¹⁶⁸

67. As with District 31, Dr. Lichtman explained that the higher HVAPs in the three “packed” benchmark Hispanic districts do not cause concern because Plaintiffs’ proposed districts continue to provide Hispanics with the ability to elect candidates of choice, regardless of lower metrics.¹⁶⁹ Dr. Lichtman testified that the additional Hispanic population in the benchmark districts is much higher than necessary “to provide the ability to elect and create[s] wasted voters.”¹⁷⁰ Further, Dr. Lichtman noted that CPS-4a and 3a, far from diminishing minority voting opportunities, actually expand opportunities and the ability to elect for South Florida Hispanics by creating four, rather than three, performing Hispanic districts.¹⁷¹ As Dr. Lichtman explained, by being packed into only three districts, Hispanics are effectively deprived of representation roughly proportional to their percentage of Florida’s electorate, in that they are 15% of registered voters in Florida, but have only three performing Hispanic districts out of 40 Senate districts (*i.e.*, 7%).¹⁷² Thus, under Plaintiffs’ Plans CPS-3a and 4a, Hispanic representation would increase by one-third – going from three to four ability-to-elect districts. According to Dr. Lichtman, under CPS-4a and 3a, Hispanics have a very high probability of electing four, rather than three, candidates of choice.¹⁷³ And as Dr. Lichtman further explained, even if an election in one of Plaintiffs’ proposed districts is somehow lost and only three Hispanic-preferred candidates are elected, Hispanics are certainly no worse off than under the 2002 Benchmark Plan or Senate Map 1, which have only three performing districts in South

¹⁶⁸ Rem. Tr. Vol. 7, 946-47.

¹⁶⁹ Rem. Tr. Vol. 7 at 836:14-837:7, 879:6-15, 889:4-14.

¹⁷⁰ Rem. Tr. Vol. 7 at 909:23-910:11.

¹⁷¹ Rem. Tr. Vol. 7 at 837:8-840:20.

¹⁷² Rem. Tr. Vol. 7 at 797:3-798:9.

¹⁷³ Rem. Tr. Vol. 7 at 837:8-840:20.

Florida.¹⁷⁴ At the same time, there is a real opportunity to elect a fourth Hispanic-preferred candidate in Plaintiffs' plans that does not exist in either the 2002 Benchmark Plan or Senate Map 1.¹⁷⁵

Conclusions on Plaintiffs' District 35, 36 & 38 – Miami-Dade and Monroe Counties

68. This Court finds that the testimony of Professor Liu was not particularly helpful and that the data he used in forming his opinions was limited and therefore, not probative or persuasive, and it falls short of meeting the Senate's burden of showing that the Challenged Hispanic Districts would diminish the ability of Hispanics to elect candidates of their choice. Defendants point out that Dr. Lichtman testified that he did not retain his output files showing the results of his analysis.¹⁷⁶ The Defendants complain that Dr. Lichtman's systematic destruction of these records troubling, particularly in light of Dr. Liu's testimony that there is no way to verify the results of Dr. Lichtman's work without the output files.¹⁷⁷ However, Dr. Lichtman testified that the program he used is available everywhere and ". . . anyone who thought I had a problem with any of my results could absolutely directly replicate my ecological regressions."¹⁷⁸ Further, Dr. Lichtman testified that "In fact, Dr. Liu indicated he also performed ecological regressions."¹⁷⁹ Thus, while it would have been best to retain the output files, no complaint was made to the Court prior to trial regarding the issue and it appears the ecological regressions of Dr. Lichtman are duplicable. Dr. Liu's testimony failed to provide this Court with reliable evidence of whether particular districts would perform for a minority group's candidate of choice. Instead, the Court accepts Dr. Lichtman's opinions and finds that the Challenged

¹⁷⁴ Rem. Tr. Vol. 7 at 837:8-840:20.

¹⁷⁵ Rem. Tr. Vol. 7 at 837:8-840:20.

¹⁷⁶ Rem. Tr. Vol. 7. 959.

¹⁷⁷ Rem. Tr. Vol. 3. 315.

¹⁷⁸ Rem Tr. Vol.7 at 959:24-960:1.

¹⁷⁹ Rem Tr. Vol.7 at 960:1-2.

Hispanic Districts provide Hispanics with the ability to elect candidates of choice without retrogression, and finds that a fourth Hispanic-performing district not only can, but should, be drawn in South Florida, as reflected in CPS-4a or CPS-3a.

69. This Court is also convinced that the Senate has failed to carry its burden of demonstrating that Senate Map 1 does not result in vote dilution. Specifically, the Senate, in presenting the testimony of Professor Liu, has failed to meet its burden of showing that it is necessary to confine Hispanics in South Florida into three districts of 75% or greater HVAP.¹⁸⁰ And, as Dr. Liu agreed, Section 2 of the Voting Rights Act (“VRA”) applies to the Hispanic districts in South Florida and that creating additional performing Hispanic districts is desirable, but he (Dr. Liu) did not think “. . . that’s possible in plaintiffs’ plan.”¹⁸¹ The Court finds that Plaintiffs’ plans CPS-4a and 3a demonstrate that it is indeed possible to draw four majority-minority districts in South Florida in which Hispanic candidates are much more likely than not to be able to elect candidates of their choice.

CONCLUSIONS OF LAW

Standard of Review and Burden of Proof

70. Article III, Section 21 of the Florida Constitution requires all state legislative redistricting plans to comply with two “tiers” of legal requirements. Tier one provides:

No apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.

FLA. CONST., art. III, § 21(a). Tier two provides:

¹⁸⁰ The Senate elected not to call at trial its other disclosed expert (Mr. Watson).

¹⁸¹ Rem. Tr. Vol. 3 at 384:16-385:7, 386:22-387:13.

Unless compliance with the standards in this subsection conflicts with the standards in [tier one] or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.

FLA. CONST., art. III, § 21(b).

71. Absent a conflict between these tiers, legislative districts must be drawn to “comport with all of the requirements enumerated in Florida’s constitution.” *Apportionment I*, 83 So. 3d at 615. While tier-two requirements “are subordinate and shall give way where compliance” would conflict with tier one or federal law, districts may deviate from tier-two criteria “only to the extent necessary” to avoid a conflict. *Id.* at 639-40; *see also id.* at 667 (holding that “the Legislature is permitted to violate compactness only when necessary to avoid conflict with tier-one standards”); *id.* at 669 (striking down Senate district because it could have been “drawn much more compactly and remain a minority-opportunity district”).

72. If the Legislature departs from tier-two requirements in drawing a district and cannot identify a “valid justification” for doing so, then the Legislature’s departure is “indicative of intent to favor incumbents and a political party.” *Id.* at 669. Although tier-two deviations are not needed to find improper partisan intent, they appropriately create an inference of partisan intent. *See id.* at 640 (“[A] disregard for the constitutional requirements set forth in tier two is indicative of improper intent, which Florida prohibits by absolute terms.”).

73. The burden of establishing compliance with Article III, Section 21 and the degree of scrutiny fundamentally change after there is a finding – or, in this case, an admission – of partisan intent in a redistricting plan as a whole. As the Florida Supreme Court explained:

Once the trial court found unconstitutional intent, there was no longer any basis to apply a deferential standard of review; instead, the trial court should have shifted the burden to the Legislature to justify its decisions in drawing the congressional district lines.

Apportionment VII, 172 So. 3d at 396-97.

74. The Supreme Court further explained how the burden shift upon a finding or admission of improper intent works, and can be determinative, in practice:

Because there are many ways in which to draw a district that complies with, for example, the constitutional requirement of compactness, which party bears the burden of establishing why a decision was made to accept or reject a particular configuration can ultimately be determinative. This can be seen in reviewing the seven maps initially released to the public by the House.

All of these maps were considered by the Legislature to be maps that complied with the tier-two constitutional standards. But, in one of the maps, designated as H000C9001, there were as few as 14 Republican districts based on 2008 presidential election data and 15 Republican districts based on 2012 presidential data. In the map chosen by the House to move forward in the process, designated as H000C9011, there were 16 Republican districts under both the 2012 and 2008 presidential results. And, after additional revisions, the Legislature's enacted map performed with 17 Republican districts under the 2008 data and 16 using the 2012 data – actually more favorable to Republicans than the performance of the admittedly gerrymandered 2002 districts under the same data. This consistent improvement in the Republican performance of the map – even when comparing maps the Legislature itself produced and considered two-tier compliant – reveals that there are many ways to draw constitutionally compliant districts that may have different political implications.

Since the trial court found that the Legislature's intent was to draw a plan that benefitted the Republican Party, the burden should have been placed on the Legislature to demonstrate that its decision to choose one compact district over another compact district, or one tier-two compliant map over another tier-two compliant map, was not motivated by this improper intent. This is particularly true where the challengers presented evidence that the Legislature's choices ultimately benefitted the Republican Party and also showed alternative maps that performed more fairly.

Id. at 400-01 (footnotes omitted).

75. Because the Legislature has failed to enact a remedial plan, it falls to this Court to judicially adopt a plan. Presented with a similar situation in the congressional case, the Florida Supreme Court held that the trial court should approve the remedial plan that “best fulfills . . . all constitutional requirements.” *Apportionment VIII*, 2015 WL 7753054, at *7. Accordingly, the question is no longer whether a plan is merely constitutionally compliant, but whether it *best* complies with the constitutional requirements among the options presented to the Court.

76. Despite the absence of an enacted plan, “the burden remains on the . . . Senate to justify [its] chosen district configurations.” *Id.* If the rule were otherwise, the Legislature could lessen its burden and escape the consequences of the Senate’s admission of improper intent in the Stipulation and Consent Judgment by merely declining to enact a remedial plan.

The Parties’ Whole Plan Challenges

77. Article III, Section 21(a) provides that “[n]o apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent.” In that regard, “[t]he prohibition on improper partisan intent in redistricting applies, by its express terms, to both the apportionment plan as a whole and to each district individually.” *Apportionment VII*, 172 So. 3d at 375. Under Article III, Section 21(a), “there is no acceptable level of improper intent” in a redistricting plan, and there is no need to “show[] malevolent or evil purpose.” *Id.*

78. In evaluating the Legislature’s intent, “the focus of the analysis must be on both direct and circumstantial evidence of intent.” *Apportionment I*, 83 So. 3d at 617. “[O]bjective indicators . . . can be discerned from the Legislature’s level of compliance with . . . tier-two requirements,” and a “disregard for these principles can serve as indicia of improper intent.” *Id.* at 618. The Court must “evaluate the shapes of districts together with . . . objective data, such as the relevant voter registration and elections data, incumbents’ addresses, and demographics.” *Id.* Because this is an as-applied challenge, this Court must also consider “fact-intensive claims” of improper intent in addition to objective indicators. *Apportionment III*, 118 So. 3d at 201.

79. Although the constitutional language focuses on intent rather than result, the Court may consider “the effects of the plan” in determining whether there is improper intent, *Apportionment I*, 83 So. 3d at 617, and should not “disregard obvious conclusions from the undisputed facts,” *id.* at 619. After a finding or admission of unconstitutional intent, the partisan consequences of the Legislature’s choices necessarily assume a more prominent role in the

analysis. *See Apportionment VII*, 172 So. 3d at 401 (holding that it is “particularly true” that the Legislature must justify its “decision to choose one compact district over another compact district, or one tier-two compliant map over another tier-two compliant map” when “the challengers present[] evidence that the Legislature’s choices ultimately benefited the Republican Party and also show[] alternative maps that performed more fairly”). For example, in rejecting the Legislature’s remedial proposal for Congressional Districts 26 and 27, the Florida Supreme Court emphasized that the redrawn configuration was “even more favorable to the Republican Party than the enacted district, which was invalidated partly for being drawn with the intent to favor the Republican Party.” *Apportionment VIII*, 2015 WL 7753054, at *21.

80. Senate Map 1 contains numerous indicators of partisan intent. It was chosen as part of a process that generated progressively increasing benefits for the Republican Party and incumbents. The sole individual involved in creating and selecting Senate Map 1 was Senator Galvano. Although the Legislature pointed to reliance on staff as a sort of gold standard for tier-one compliance, the Senate expressly rejected staff’s work product by amending Plan 9078/9090 during the special session, and Senate leadership disregarded more tier-two compliant, staff-drawn alternatives when Senate Map 1 was created so that it performed better for the Republican Party and incumbents than any other option prepared by staff.

81. The Senate attempts to explain away its progressive elimination of Republican incumbent pairings from the base maps to Plan 9078/9090 to Senate Map 1 by claiming that incumbent pairings do not really matter because incumbents can move from district to district.¹⁸² But the Florida Supreme Court has repeatedly stated that the presence or absence of incumbent pairings is an important consideration under Article III, Section 21(a). In *Apportionment I*, the

¹⁸² *See, e.g., Rem. Tr. Vol. 5* at 528:22-537:3, 563:25-565:9.

Supreme Court held that courts should consider “the shape of the district in relation to the incumbent’s legal residence” and maneuvers that “avoid pitting incumbents against one another in new districts.” *Apportionment I*, 83 So. 3d at 618-19. The Supreme Court noted that one indicium of improper intent in the 2012 Initial Plan was that it did “not pit incumbents against each other.” *Id.* at 654. In *Apportionment VIII*, by contrast, the Supreme Court found it indicative of a *lack* of partisan intent that Plaintiffs’ proposed congressional plan, CP-1, paired two Democratic incumbents in the same district. *See Apportionment VIII*, 2015 WL 7753054, at *2. Legislative staff and Senator Galvano testified that they did not have access to incumbent addresses, but “the fact that the Senate or House or their staff may or may not have had the incumbents’ addresses is not determinative of intent or lack of intent.” *Apportionment I*, 83 So. 3d at 619. In sum, the Supreme Court has rejected any notion that incumbent pairings should be ignored or discounted simply because incumbents have the ability to move residences.

82. In the face of more tier-two compliant options that perform more fairly than Senate Map 1, the Court cannot disregard that the Senate has advanced a plan that protects incumbents and matches the Republican performance of the admittedly unconstitutional 2012 Enacted Plan. *Cf. Apportionment VIII*, 2015 WL 7753054, at *21 (holding that Legislature failed to carry its burden in congressional remedial proceedings where “the Legislature’s proposed configuration of Districts 26 and 27 was even more favorable to the Republican Party than the enacted district” and “the redrawn Districts 26 and 27 are less compact and split more cities than the alternative maps submitted at trial”). The Court finds that the Senate has failed to carry its burden of demonstrating that Senate Map 1 was not drawn with unconstitutional intent.

83. Even apart from considerations of improper intent, Senate Map 1 is invalid in its entirety because it needlessly deviates from the constitutional requirement of equal population. As the Florida Supreme Court has explained: “Because obtaining equal population ‘if

practicable' is an explicit and important constitutional mandate under the Florida Constitution, any deviation from that goal of mathematical precision must be based upon compliance with other constitutional standards." *Apportionment I*, 83 So. 3d at 630. The Legislature simply set an arbitrary limit of 4% total deviation and never made a serious effort to determine whether it could lessen the 3.1% total deviation in Senate Map 1, which increased the total deviation as compared with the unconstitutional 2012 Initial and Enacted Plans by more than 50%. As it stands, Plaintiffs have shown that deviation can be reduced by more than 50% while actually *improving* compliance with the other tier-two requirements. Accordingly, the Legislature has not carried its burden of showing that its increased deviation from the goal of mathematical precision in Senate Map 1 is based upon compliance with other constitutional standards. Indeed, Senate Map 1 lags behind Plaintiffs' alternative plans on virtually every tier-two metric.

84. The Court further rejects the Senate's argument that the Court should decline to adopt Plaintiffs' plans because they are alleged to have been drawn with partisan intent. The Florida Supreme Court has recently held that the intent of challengers is not relevant in remedial proceedings:

[T]he Legislature's and Justice Polston's argument that the trial court should have considered the intent of the drafters of CP-1 fundamentally misunderstands the trial court's role and this Court's role in the current proceeding *Apportionment VII* did not forbid a citizen affiliated with a particular party from drawing a map, nor was our affirmance of the trial court's finding of unconstitutional intent based solely on the fact that political consultants aligned with the Republican Party had drawn maps. Instead, this Court's decision rested largely on the Legislature's own claims that it had conducted an open and transparent redistricting process, while it was being manipulated into a violation of its constitutional duty. . . . The reason that improper partisan intent was found in the drawing of the map was not because of the intent of a particular map drawer or partisan operative.

* * *

Simply put, as this Court's directive in *Apportionment VII* made clear . . . the alternative maps are not on trial themselves, as is the Legislature's map. . . .

Rather, in this case, the alternative plans . . . serve to demonstrate that the . . . districts could have been drawn to be more tier-two compliant.

Apportionment VIII, 2015 WL 7753054 at *17-*19.

85. Regardless, this Court finds that Plaintiffs did not draw their alternative plans with improper partisan intent for the following reasons. Plaintiffs' intentions are obvious, they have submitted alternative maps to demonstrate what they believe were the constitutional infirmities in Senate Map 1 and to present to the Court what they believed was a more constitutionally compliant map based on every measurable metric. It could be argued that Plaintiffs merely seek to benefit an opposing political party by challenging the Senate's proposed redistricting map, but it appears to me that Plaintiffs intention in submitting the alternative maps and in specifically promoting CPS-4(a) is to provide the Court a map that objectively demonstrates that a map or several maps can be drawn that significantly improve the constitutional measures set forth in the Fair District Amendment. Plaintiffs' plans are more tier-two compliant by every constitutionally recognized measure, and O'Neill credibly testified that he did not use partisan data except as necessary to draw minority districts, did not have access to incumbent data, and did not draw Plaintiffs' plans with partisan intent. Notably, Plaintiffs' plans contain features that disfavor Democrats and Republicans alike – for example, by pairing both Democratic and Republican incumbents together. *Cf. id.* at *18 (holding that the record “belies [partisan] motive” because “[a]lthough Democrats complained that the redrawn map pitted two Democratic incumbents against one another, and even though the Romo Plaintiffs championed a vertical configuration before the trial court, the Coalition Plaintiffs maintained their advocacy for a ‘stacked’ configuration of Districts 21 and 22 that substantially improves tier-two compliance”). Finally, Plaintiffs' maps politically perform in a reasonably expected way district by district and statewide. Plaintiff's Plan CPS-4a, does an excellent job of demonstrating the point the Court is trying

to make regarding the evaluation of political performance data. When historical political performance data is applied to its proposed structure it reveals what the results it would have produced in 2008, 2010, and 2012, using the 2008 and 2012 presidential election results and the 2010 gubernatorial election results.¹⁸³

	<u>2008</u>	<u>2010</u>	<u>2012</u>
Dems	20	18	21
Reps	20	22	19

Plaintiff's in this case suggest this outcome for each of the three election cycles is reasonable based on an overall understanding of election data in Florida and it constitutes evidence that their plan was not drawn with the intent to favor or disfavor a political party. That certainly seems reasonable. Plaintiff's presented this election data as evidence that their map performs within reasonable bounds of expectation and the historical political performance data lends credence to the finding that CPS-4a does not ". . . favor or disfavor a political party."

Individual Districts

Panhandle – Districts 1, 2, and 3¹⁸⁴

86. Senate Map 1 maintains Districts 1 and 2 in the same configuration as the 2012 Enacted Plan. Plaintiffs propose a different configuration that is identical as between all of their proposed remedial plans. All of the parties' proposed remedial plans contain the same configuration of District 3, and no party challenges that configuration.

¹⁸³ Plaintiffs Demonstrative Exhibit 52

¹⁸⁴ The Senate's and Plaintiffs' proposed remedial plans contain different district numbering. The discussion of individual challenges in this Final Judgment follows the Senate's numbering system and notes where Plaintiffs use different numbering.

87. Plaintiffs challenge Districts 1 and 2 in Senate Map 1 on tier-one and tier-two grounds. Plaintiffs contend that Districts 1 and 2 can be drawn more compactly while still following major roadways and the municipal boundary of Crestview, as reflected in CPS-3a, 3b, 4a, and 4b. Plaintiffs further contend that the Legislature has rejected this more compact configuration because it would pair Senator Evers and Representative Gaetz, an announced candidate for the Senate seat that his term-limited father, Senator Don Gaetz, will soon vacate.

88. Plaintiffs' configuration of Districts 1 and 2 is significantly more compact using recognized compactness metrics than the competing configuration in Senate Map 1. Further, Plaintiffs keep overpopulation in Districts 1 and 2 under 1%, while District 1 in Senate Map 1 is overpopulated by more than 1%. The below figure reflects these tier-two differences:¹⁸⁵

Senate Map 1				CPS-3a&b, CPS-4a&b			
SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull
1	5885	0.45	0.79	1	4299	0.46	0.78
2	2326	0.43	0.80	2	3912	0.58	0.84
Avg.		0.44	0.79	Avg.		0.52	0.81

89. The Senate did not challenge Plaintiffs' Districts 1 and 2 in its pretrial disclosure of district challenges, as required by the Amended Scheduling Order.¹⁸⁶ Accordingly, the Court declines to consider the Senate's untimely challenges to Plaintiffs' Districts 1 and 2.

90. Even if this Court were to consider the Senate's untimely claim that Districts 1 and 2 in Plaintiffs' proposed plans are visually non-compact, it would reject that claim. Contrary to the Senate's claim that the Florida Supreme Court has prioritized visual compactness over metric compactness, both are equally important measures of compactness. *See Apportionment I*, 83 So. 3d at 634-35. The Supreme Court and all parties, including the Senate, have routinely

¹⁸⁵ J. Ex. 1 at 2; J. Ex. 2 at 2; J. Ex. 3 at 2; J. Ex. 4 at 2; J. Ex. 5 at 2.

¹⁸⁶ *See* Amended Scheduling Order dated November 12, 2015 at 2; Senate's Objections to Plaintiffs' Proposed Remedial Plans dated November 25, 2015.

used Reock and Convex Hull scores to establish that districts are more or less compact. Nevertheless, the Court perceives no meaningful difference in visual compactness as between Plaintiffs' and the Senate's proposed configurations of Districts 1 and 2.

91. Districts 1 and 2 in the Senate Map 1 would keep Senator Evers and Representative Gaetz in different districts, while they are paired together in CPS-3a, 3b, 4a, and 4b. Because the Senate has not justified its rejection of a more tier-two compliant configuration of Districts 1 and 2, the Court finds that the Senate has maintained the configuration in the 2012 Enacted Plan with the intent to benefit the Republican Party and incumbents.

92. The Senate has failed to carry its burden of justifying a configuration of Districts 1 and 2 that is less tier-two compliant than the alternative offered by Plaintiffs. Accordingly, the Court adopts Districts 1, 2, and 3 as reflected in all of Plaintiffs' proposed plans.

Northwest Florida (Districts 4, 5, and 7)

93. Senate Map 1 contains a configuration of Districts 4, 5, and 7 that divides Alachua County and Gainesville. Population from Alachua County is then paired with Bradford and Clay Counties. The 2012 Enacted Plan also paired Alachua, Bradford, and Clay Counties using a configuration prepared by the partisan operatives referenced in *Apportionment VII*.¹⁸⁷

94. Plaintiffs' proposed plans contain two variations of Districts 4, 5, and 7 that do not split Alachua County or Gainesville. CPS-3a and 3b contain a rainbow-shaped District 5 as part of overall plans that divide only 15 counties. CPS-4a and 4b contain an alternative District 5 that is more compact, while matching the number of split counties (16) in Senate Map 1.

95. Plaintiffs object to Districts 4, 5, and 7 in Senate Map 1 on the basis that they deviate from the requirements of compactness, respect for political boundaries, and equal

¹⁸⁷ J. Stipulation Regarding Certain Publicly Submitted Senate Maps dated December 9, 2015; *compare* J. Ex. 6 with P. Ex. 153 (SPUBS0143).

population to enhance Republican performance. The Senate objects to Plaintiffs' configurations by claiming that they render District 5 visually non-compact. In support of its claim, the Senate submitted alternate configurations of these districts after the November 18, 2015 deadline for submitting proposed plans established by this Court's Amended Scheduling Order.¹⁸⁸

96. Districts 4, 5, and 7 in Senate Map 1 were derived from Plan 9078. Plan 9078 was the only base map that split Alachua County and Gainesville and paired population from Alachua County with Bradford and Clay Counties. The result was to keep Districts 4, 5, and 7 Republican-performing based on the 2012 presidential election, the 2010 gubernatorial election, and the 2008 presidential election, as was the case in the 2012 Enacted Plan.¹⁸⁹ As reflected below, District 4 in all of the other base maps is competitive or leans Democratic in those elections, while District 4 remained solidly Republican in Plan 9078 and Senate Map 1.¹⁹⁰

Analogous District 4 Configurations – Democratic Performance (%)						
Elections	S9070-SD4	S9072-SD4	S9074-SD4	S9076-SD4	S9078-SD4	S9080-SD4
2008 Pres.	47.05%	47.05%	47.05%	47.59%	35.93%	47.05%
2010 Gov.	50.35%	50.35%	50.35%	50.08%	38.57%	50.35%
2012 Pres.	45.11%	45.11%	45.11%	45.52%	33.93%	45.11%

97. Plaintiffs' proposed plans demonstrate that Districts 4, 5, and 7 can be drawn more compactly on average than Senate Map 1 without splitting Alachua County or Gainesville and while keeping population deviation under 1%. The following is a comparison between Districts 4, 5, and 7 in Senate Map 1 and their analogs in Plaintiffs' proposed plans:¹⁹¹

Plans	S9078 / Senate Map 1				CPS-3 a and b				CPS-4 a and b			
Analog	SD4	SD5	SD7	Avg	SD5	SD7	SD8	Avg	SD5	SD7	SD8	Avg

¹⁸⁸ S. Exs. 17 and 18.

¹⁸⁹ See J. Ex. 1 at 7; J. Ex. 6 at 8; J. Ex. 73 at 7; J. Ex. 74 at 7; J. Ex. 75 at 7; J. Ex. 76 at 7; J. Ex. 77 at 7; J. Ex. 78 at 7.

¹⁹⁰ J. Exs. 73-78 at 2.

¹⁹¹ J. Exs. 1-5 and 77 at 2.

Districts												
Reock	.47	.31	.51	.43	.41	.64	.42	.49	.58	.55	.51	.54
Convex Hull	.73	.71	.79	.74	.62	.82	.77	.74	.71	.82	.72	.75
Highest Deviation	7695 (SD7)				-3497 (SD8)				3,698 (SD8)			
Lowest Deviation	-1511 (SD5)				740 (SD5)				672 (SD5)			
Split Cities	Gainesville				None				None			

98. In each of Plaintiffs' proposed plans, District 7 (analog to District 5 in Senate Map 1) is a Democratic-leaning district in the 2012 presidential, 2010 gubernatorial, and 2008 presidential elections.¹⁹²

99. Although Districts 5, 7, and 8 in CPS-3a, 3b, 4a, and 4b are all more compact on average than their counterparts in Senate Map 1, the Senate has submitted alternate configurations that are more compact than Districts 5 and 7 in CPS-3a, 3b, 4a, and 4b.¹⁹³ Both of the Senate's alternatives, however, split Alachua County.

100. As O'Neill explained, compactness can often be increased by breaking political boundaries, but the benefit differs based on the particular splits that are introduced.¹⁹⁴ O'Neill testified that he was able to improve compactness substantially across a whole region (*i.e.*, by .04 Reock on average across fifteen districts) by splitting Lake and Charlotte Counties and keeping Manatee County whole (for a net increase in one county split) in CPS-4a and 4b.¹⁹⁵ Splitting Alachua County, by contrast, results in compactness gains in only two districts, as is evidenced by the Senate's alternative configurations.¹⁹⁶ In that regard, legislative staff, like O'Neill, did not

¹⁹² J. Ex. 2 at 7; J. Ex. 3 at 7; J. Ex. 4 at 7; J. Ex. 5 at 7.

¹⁹³ S. Exs. 17 and 18.

¹⁹⁴ Rem. Tr. Vol. 6 at 622:7-623:4, 654:17-656:21, 763:10-765:20; P. Dem. 46 and 58.

¹⁹⁵ Rem. Tr. Vol. 6 at 763:10-765:15; *see also*, P. Dem. 58.

¹⁹⁶ S. Dem. 8.

appear to attribute significant value to splitting Alachua County, considering that five of the six base maps kept Alachua County and Gainesville whole.

101. The Senate's claim that a county should be divided for minor gains in compactness is also inconsistent with its position in the *Apportionment VIII* appeal. In *Apportionment VIII*, the Senate urged the Florida Supreme Court to adopt one of its proposed congressional remedial maps, Plan 9066, because it split one fewer county than the other proposed plans, albeit at the expense of compactness. On October 16, 2015, just days before the special session and after legislative staff had already drawn the base maps, the Senate made the following representations in its supplemental brief filed with the Supreme Court:

[T]his Court should again reject [Judge Lewis'] recommendation and adopt Plan 9066, which keeps more counties whole than any other map offered in this case (or ever). . . . In [*Apportionment I*], this Court lauded the House's emphasis on keeping counties whole. The Court noted that "[t]he House also considered municipal boundaries and geographical features, but decided that county lines were usually preferable to other boundaries." The Court quoted the House's brief with approval: "County boundaries are substantially less likely to change than municipal boundaries, and—unlike municipalities—all counties are contiguous. Moreover, although all Floridians have a home county, millions live outside any incorporated area. Additionally, by using a strategy of keeping counties whole, the House Map necessarily keeps many municipalities whole within districts. And importantly, numerous Floridians advocated an emphasis on county boundaries at the twenty-six public meetings during the summer of 2011." Meanwhile, this Court also stated that "[t]he Florida Constitution does not mandate, and no party urges, that districts within a redistricting plan achieve the highest mathematical compactness scores;" and that "lower compactness measurements may result from the Legislature's desire to follow political or geographical boundaries or to keep municipalities wholly intact." . . . Thus, **"if an oddly shaped district is a result of this state's 'irregular geometry' and the need to keep counties and municipalities whole, these explanations may serve to justify the shape of the district in a logical and constitutionally permissible way."** . . . Therefore, **keeping counties whole is even more important than keeping cities whole or maintaining the highest possible compactness scores.**¹⁹⁷(e.s.)

¹⁹⁷ S. Supp. Br. dated October 16, 2015 at 22-24 in *Apportionment VIII*, Case No. SC14-1905 (emphasis added and citations omitted), available at http://www.floridasupremecourt.org/pub_info/summaries/briefs/14/14-1905/Filed_10-16-2015_Senate_Supplemental_Brief.pdf.

102. The Senate went on to object that Judge Lewis should not have approved the House configuration of certain districts that increased compactness by dividing an additional county, arguing that “marginal differences in compactness” should not “carry more weight than Plan 9066’s ability to keep 50 counties intact.”¹⁹⁸ Yet the compactness differences in *Apportionment VIII* were similar to and in some cases, lower than those achieved by dividing Alachua County in the Senate’s alternate configurations.¹⁹⁹

103. The Senate reiterated substantially the same position in its supplemental reply brief, filed after Senator Galvano selected Plan 9078 for submission to the Committee on Reapportionment and after he directed the creation of Senate Map 1.²⁰⁰

104. In contrast to its position before the Florida Supreme Court during the special session, the Senate now claims that a county should be divided for relatively minor compactness gains in two districts, and the Senate relies on novel metrics such as the “Pol/Geo” index, while claiming that county boundaries are a mere “proxy” for constitutional compliance.

105. The Senate has failed to carry its burden of justifying Districts 4, 5, and 7 in Senate Map 1. By deviating from the tier-two mandates of compactness, respect for political boundaries, and equal population for the benefit of the Republican Party, Senate Map 1 violates tiers one and two of Article III, Section 21. The Senate’s belated attempt to offer an alternate configuration that draws districts in a way that is inconsistent with the Senate’s positions before the Florida Supreme Court only bolsters this conclusion.

106. Although CPS-3a, 3b, 4a, and 4b all improve upon Senate Map 1, the Court finds that Districts 5, 7, and 8 in CPS-4a and 4b best fulfill the constitutional requirements set forth in

¹⁹⁸ *Id.* at 25.

¹⁹⁹ Compare S. Dem. 8 with *Apportionment VIII*, 2015 WL 7753054, at *47.

²⁰⁰ S. Supp. Rep. Br. dated October 30, 2015 at 13-15 in *Apportionment VIII*, Case No. SC14-1905, available at http://www.floridasupremecourt.org/pub_info/summaries/briefs/14/14-1905/Filed_10-30-2015_Senate_Response.pdf.

Article III, Section 21. The versions of Districts 5, 7, and 8 in CPS-4a and 4b improve visual and metric compactness over their counterparts in CPS-3a and 3b and represent a careful decision to split a county only for significant compactness gains. Although the Senate has shown that minor compactness gains can be achieved by dividing Alachua County, Article III, Section 21 does not require that counties be divided for small compactness gains. *See Apportionment I*, 83 So. 3d at 636 (“[I]f an oddly shaped district is a result of this state’s ‘irregular geometry’ and the need to keep counties and municipalities whole, these explanations may serve to justify the shape of the district in a logical and constitutionally permissible way.”); *Apportionment VII*, 172 So. 3d at 408 (“[A]s this Court has recognized, following county lines may result in a reduction in compactness scores.”). Accordingly, the Court approves Districts 5, 7, and 8 in CPS-4a and 4b as the most constitutionally compliant configuration.

Districts 6 and 8 (Northeast Florida)

107. Plaintiffs object to Districts 6 and 8 in Senate Map 1 because they deviate from the constitutional requirement of compactness. The Senate did not object to Plaintiffs’ analog Districts 4 and 9, which are identical in all of Plaintiffs’ plans, in its pre-trial district challenges and raised no objection to these districts at trial. In fact, Plaintiffs’ configuration of Districts 4 and 9 was derived from Plan 9079, the plan passed by the House, which Plaintiffs saw as improving the compactness of these two Northeast Florida districts.²⁰¹ The parties have stipulated that none of the proposed versions of these districts would result in minority retrogression.²⁰²

108. Plaintiffs’ analog Districts 4 and 9 are more compact than Districts 6 and 8 in

²⁰¹ Rem. Tr. Vol. 6 at 630:25-632:11.

²⁰² J. Stipulation Regarding Minority Districts dated December 13, 2015.

Senate Map 1, while keeping population deviation under 1%:²⁰³

Senate Map 1				CPS-3a&b, CPS-4a&b			
SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull
6	-1387	0.50	0.71	4	-3046	0.52	0.74
8	-1102	0.44	0.73	9	557	0.59	0.83
Avg.				Avg.			
0.47				0.56			
0.72				0.79			

109. The Senate has not carried its burden of justifying its less compact configuration of Districts 6 and 8 in Senate Map 1. Accordingly, the Court approves Districts 4 and 9 in CPS-3a, 3b, 4a, and 4b as the most constitutionally compliant districts.

Districts 9, 11, 13, and 18 (East Coast)

110. Plaintiffs object to Districts 9, 11, 13, and 18 in Senate Map 1 because they deviate from the requirements of compactness and equal population. The Senate did not object to Plaintiffs' analog Districts 6, 10, 13, and 16, which are identical in all of Plaintiffs' plans, in its pre-trial district challenges and raised no objection to these districts at trial.

111. Plaintiffs' Districts 6, 10, 13, and 16 are more compact than Districts 9, 11, 13, and 18 in Senate Map 1, while keeping population deviation under 1%:²⁰⁴

Senate Map 1				CPS-3a&b, CPS-4a&b			
SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull
9	-14	0.35	0.75	6	1158	0.35	0.75
11	-5994	0.45	0.80	10	-1343	0.48	0.85
13	4891	0.38	0.78	13	3444	0.41	0.79
18	5435	0.45	0.86	16	1059	0.47	0.89
Avg.				Avg.			
4084				1751			
0.41				0.43			
0.80				0.82			

112. The Senate has not carried its burden of justifying less compact versions of Districts 9, 11, 13, and 18 that deviate more than 1% in three of the four districts, while Plaintiffs' configuration avoids such unnecessary populations in every instance and achieves

²⁰³ J. Exs. 1-5 at 2.

²⁰⁴ J. Exs. 1-5 at 2.

greater compliance with tier-two requirements. Accordingly, the Court approves Districts 6, 10, 13, and 16 in CPS-3a, 3b, 4a, and 4b as the most constitutionally compliant districts.

Districts 10, 12, 17, 19, 20, 21, 22, 23, 24, and 26 (Tampa Bay/West Central)

113. Plaintiffs object to Districts 10, 12, 17, 19, 20 through 24, and 26 in Senate Map 1 on the basis that they deviate from the constitutional requirements of compactness, respect for political boundaries, and equal population to benefit the Republican Party and incumbents. The Senate did not object to Plaintiffs' configurations of analog Districts 11, 15, 17 through 20, 22, 24, 26, and 28, which are different as between CPS-3a/b and CPS-4a/b, in its pre-trial district challenges and raised no objection to these districts at trial. The parties have stipulated that none of the proposed versions of these districts would result in minority retrogression.²⁰⁵

114. Five base maps paired Republican incumbents, including future Senate Presidents Negron, Simpson, and Galvano, in the Tampa Bay/West Central districts.²⁰⁶ Senator Galvano selected the only base map, Plan 9078, that paired no incumbents in the region and then used that plan as the basis for Senate Map 1.

115. Senate Map 1 avoids pairing incumbents by, among other things, continuing a strategy that the 2012 Enacted Plan derived from a map submitted by the partisan operatives referenced in *Apportionment VII*.²⁰⁷ Plaintiffs asserted in their initial district challenges that District 17 in the 2012 Enacted Plan encroached into southern Pasco County from Hillsborough County to separate then-Senator Jim Norman from then-candidate Simpson.²⁰⁸ In a similar fashion, Senator Galvano selected a configuration of District 20 in Senate Map 1 that encroached

²⁰⁵ J. Stipulation Regarding Minority Districts dated December 13, 2015.

²⁰⁶ J. Ex. 416 at 2.

²⁰⁷ J. Stipulation Regarding Certain Publicly Submitted Senate Maps dated December 9, 2015; *compare* J. Ex. 6 with P. Ex. 154 (SPUBS0147).

²⁰⁸ Pltf. Disclosure of District Challenges dated May 8, 2015 at 7.

from Hillsborough County into Pasco County, leaving Senator Simpson in his own district.²⁰⁹ At the same time, Senator Galvano rejected alternatives that kept the analogs to District 20 wholly within Hillsborough County that would have paired Senators Simpson and Legg or other senators.²¹⁰

116. These maneuvers came at the expense of tier-two compliance. The alternative in CPS-3a/b is more compact on balance, keeps an additional county (Lake County) whole, and keeps population deviation under 1%. The alternative in CPS-4a/b is still more compact and keeps population deviation under 1%, while maintaining the same number of split counties as Senate Map 1. The following chart demonstrates these tier-two improvements:²¹¹

Senate Map 1				CPS-3a & CPS-3b				CPS-4a & CPS-4b			
SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull
10	-6670	0.55	0.89	11	3312	0.60	0.87	11	-1377	0.60	0.81
12	6078	0.31	0.76	15	4700	0.57	0.77	15	-1094	0.45	0.71
20	-5961	0.36	0.73	17	453	0.44	0.83	17	453	0.44	0.83
21	-6295	0.46	0.82	18	4592	0.41	0.70	18	2855	0.71	0.87
19	-6934	0.25	0.64	19	3035	0.41	0.68	19	3035	0.41	0.68
17	-4726	0.45	0.87	20	2973	0.49	0.91	20	2973	0.49	0.91
22	-6369	0.55	0.77	22	4385	0.58	0.77	22	4385	0.58	0.77
23	6946	0.49	0.95	24	2671	0.37	0.71	24	1638	0.46	0.74
24	7454	0.54	0.81	26	4700	0.50	0.76	26	-380	0.67	0.90
26	2133	0.32	0.74	28	4501	0.53	0.91	28	2375	0.40	0.89
Avg.	5957	0.43	0.80	Avg.	3532	0.49	0.79	Avg.	2057	0.52	0.81

117. As the Senate deviated from tier-two requirements, it improved Republican performance. As reflected below, Senator Galvano selected a less compact configuration of District 20 that encroaches into Pasco County and is Republican-performing, as compared to alternative, Democratic-performing configurations that remain wholly within Hillsborough

²⁰⁹ J. Ex. 416; see J. Ex. 1 and 77.

²¹⁰ J. Ex. 416; see J. Exs. 73, 74, 75, and 78.

²¹¹ J. Exs. 1-5 at 2.

County such as in Base Map 9080 and in Plaintiffs' more compact remedial plan configurations:²¹²

Elections	Analogues to District 20 – Democratic Performance (%)		
	Plan 9078 District 19 Senate Map 1 District 20	Plan 9080 District 22	CPS-3a/3b District 17 CPS-4a/4b District 17
2008 Pres.	48.5%	50.6%	51.3%
2010 Gov.	48.3%	50.3%	50.9%
2012 Pres.	47.0%	49.8%	50.6%

118. The Senate has not carried its burden of justifying Districts 10, 12, 17, 19, 20 through 24, and 26 in Senate Map 1. By deviating from the tier-two mandates of compactness, respect for political boundaries, and equal population for the benefit of the Republican Party and incumbents, Senate Map 1 violates tiers one and two of Article III, Section 21.

119. Although the versions of these districts in CPS-3a/b and CPS-4a/b both improve upon Senate Map 1, Districts 11, 15, 17 through 20, 22, 24, 26, and 28 in CPS-4a/b substantially improve compactness and contain lower average population deviation compared with their counterparts in CPS-3a/b. Accordingly, the Court approves Districts 11, 15, 17 through 20, 22, 24, 26, and 28 in CPS-4a/b as the most constitutionally compliant districts.

Districts 14, 15, and 16 (Central Florida)

120. Plaintiffs object to Districts 14, 15, and 16 in Senate Map 1 because they deviate from the constitutional requirement of compactness. The Senate did not object to Plaintiffs' analog Districts 12, 14, and 21, which are identical in all of Plaintiffs' plans, in its pre-trial district challenges and raised no objection to these districts at trial.

121. Plaintiffs' Districts 12, 14, and 21 are more compact than Districts 14, 15, and 16 in Senate Map 1, while keeping population deviation under 1%.²¹³

²¹² J. Exs. 1-5 at 7; J. Exs. 77-78 at 7.

²¹³ J. Exs. 1-5 at 2.

Senate Map 1				CPS-3a&b, CPS-4a&b			
SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull
14	1361	0.47	0.79	12	1052	0.51	0.77
15	1852	0.34	0.87	14	796	0.37	0.90
16	1329	0.42	0.86	21	2694	0.43	0.87
Avg.	1514	0.41	0.84	Avg.	1514	0.44	0.85

122. The Senate has failed to carry its burden of justifying its less compact versions of Districts 14, 15, and 16. Accordingly, the Court approves Districts 12, 14, and 21 in CPS-3a, 3b, 4a, and 4b as the most constitutionally compliant districts.

Districts 27 and 29 (Southwest Florida)

123. Plaintiffs object to Districts 27 and 29 in Senate Map 1 because they deviate from the requirements of compactness. The Senate did not object to Plaintiffs' analog Districts 23 and 30, which are slightly different as between CPS-3a/b and CPS-4a/b, in its pre-trial district challenges and raised no objection to these districts at trial.

124. Plaintiffs' Districts 23 and 30 are more compact than Districts 27 and 29 in Senate Map 1, while keeping population deviation under 1%:²¹⁴

Senate Map 1				CPS-3a & CPS-3b				CPS-4a & CPS-4b			
SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull
27	-897	0.52	0.91	30	67	0.57	0.91	30	4168	0.57	0.90
29	1105	0.42	0.79	23	141	0.46	0.81	23	4158	0.52	0.89
Avg.	0.47	0.85		Avg.	0.52	0.86		Avg.	0.55	0.90	

125. The Senate has not carried its burden of justifying less compact versions of Districts 27 and 29. Although the versions in CPS-3a/b and CPS-4a/b both improve upon Senate Map 1, Districts 23 and 30 in CPS-4a and 4b are more compact than in CPS-3a and 3b.

²¹⁴ J. Exs. 1-5 at 2.

Accordingly, the Court approves Districts 23 and 30 in CPS-4a and 4b as the most constitutionally compliant districts.

Districts 25, 28, and 30 through 40 (South Florida)

126. Plaintiffs object to Districts 25, 28, and 30 through 40 in Senate Map 1 in Senate Map 1 on the basis that they deviate from the constitutional requirements of compactness, respect for political boundaries, and equal population to benefit the Republican Party and incumbents. The Senate objects to (a) District 31 in all of Plaintiffs' plans because its BVAP is less than 50%, (b) District 35 in all of Plaintiffs' plans because of alleged retrogression, (c) District 36 in CPS-3a and 4a on compactness grounds because it extends between Districts 36 and 37 to increase the HVAP of the district, and (d) Districts 36 and 38 in CPS-3a and 4a because of alleged retrogression. The Senate does not object to District 37 in any of Plaintiffs' plans or Districts 36 and 38 in CPS-3b and 4b on retrogression grounds, and Plaintiffs do not claim that any districts in Senate Map 1 would result in minority retrogression.²¹⁵

127. Plaintiffs' plans CPS-3a and 4a include an identical configuration of South Florida that includes four Hispanic-performing districts. CPS-3b and 4b include an identical configuration of South Florida that includes three Hispanic-performing districts.

128. By selecting Plan 9080's South Florida districts for inclusion in Senate Map 1, Senator Galvano targeted the only configuration of South Florida in any base map that avoids pairing two Republican incumbents together.²¹⁶ Thus, Senator Galvano blended the most Republican-favorable configuration of North and Central Florida (Plan 9078/9090) with the most Republican-favorable configuration of South Florida (Plan 9080) to create a map that favors the Republican Party and incumbents more than any staff-drawn base map. Senate Map 1 also

²¹⁵ J. Stipulation Regarding Minority Districts dated December 13, 2015.

²¹⁶ J. Ex. 416 at 2.

constrains Hispanics to three districts with very high HVAP that all perform for Republicans.²¹⁷

129. The benefits to the Republican Party and incumbents in Senate Map 1 come at the expense of tier-two compliance. As reflected in the charts below, both of Plaintiffs' configurations of the South Florida districts improve compactness, while splitting two fewer cities than Senate Map 1 and keeping population deviation under 1%.²¹⁸

Senate Map 1				CPS-3a & CPS-4a				CPS-3b & CPS-4b			
SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull	SD#	Pop. Dev. #	Reock	Convex Hull
25	-5930	0.43	0.90	32	-4248	0.57	0.85	32	-4248	0.57	0.85
28	2368	0.53	0.89	34	-2081	0.42	0.78	34	-2081	0.42	0.78
30	-1052	0.52	0.83	25	-3488	0.64	0.88	25	-3488	0.64	0.88
31	-5657	0.43	0.85	29	-3878	0.55	0.93	29	-4700	0.55	0.93
32	-27	0.27	0.72	40	-4368	0.38	0.73	40	-4368	0.38	0.73
33	-887	0.35	0.85	27	-2443	0.67	0.87	27	-2443	0.67	0.87
34	3429	0.52	0.78	33	-3928	0.40	0.70	33	-4677	0.40	0.70
35	-5348	0.38	0.72	31	-4366	0.56	0.76	31	-4366	0.56	0.76
36	-970	0.57	0.89	37	-4415	0.73	0.92	37	-4673	0.73	0.92
37	-2776	0.61	0.79	35	-4617	0.65	0.85	35	-2731	0.64	0.85
38	2965	0.38	0.71	39	-3378	0.58	0.88	39	-1778	0.58	0.88
39	4836	0.19	0.48	38	-3379	0.19	0.48	38	-4581	0.19	0.48
40	448	0.57	0.90	36	-4008	0.66	0.94	36	-2806	0.76	0.94
Avg.		0.44	0.79	Avg.		0.54	0.81	Avg.		0.55	0.81
Split Cities				Split Cities				Split Cities			
8				6				6			

130. As the chart below demonstrates, by improving tier-two compliance and increasing the number of Hispanic-performing districts, CPS-3a and 4a naturally pair together more incumbents, including Democratic incumbents and create two Hispanic majority-minority districts that perform for Republican candidates and two Hispanic majority-minority districts in which Hispanics of either party can elect candidates of their choice. Senate Map 1, in contrast, creates only three Hispanic seats – all Republican-performing – and results in a net increase of at

²¹⁷ J. Ex. 1 at 2 and 7.

²¹⁸ J. Exs. 1-5 at 2.

least two Republican seats in the map as a whole:²¹⁹

Senate Map 1				CPS-3a & CPS-4a			
Hispanic Districts	2008 Obama	2010 Sink	2012 Obama	Hispanic Districts	2008 Obama	2010 Sink	2012 Obama
36	43.3%	39.8%	49.8%	37	45.7%	42.2%	52.0%
37	48.7%	48.5%	53.0%	35	49.6%	49.8%	53.6%
N/A				38	47.9%	46.0%	52.6%
40	41.0%	41.3%	47.0%	36	51.3%	52.4%	54.8%
Total Republican Seats	22	24	23	Total Republican Seats	20	22	19

131. The Senate offers no justification for its overall lower compactness and higher population deviation in the South Florida districts. Instead, the Senate offers specific challenges to minority districts in Plaintiffs’ plans without justifying its remaining districts.

132. Tier one of Article III, Section 21 requires that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice.” FLA. CONST., art. III, § 21(a). The minority protection provision in Article III, Section 21(a) tracks the language of Sections 2 and 5 of the VRA. *See Apportionment I*, 83 So. 3d at 619-20. Thus, in interpreting this provision of the Florida Constitution, the Court should be “guided by prevailing United States Supreme Court precedent” interpreting the VRA. *Id.* at 620.

133. Under the minority protection provision of Article III, Section 21, “the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Id.* at 625. The Florida Supreme Court has held that “a slight change in percentage of the minority group’s population in a given district does not necessarily have a

²¹⁹ J. Ex. 416 at 1; J. Ex. 1 at 7; J. Ex. 2 at 7; J. Ex. 4 at 7.

cognizable effect on a minority group's ability to elect its preferred candidate of choice. This is because a minority group's ability to elect a candidate of choice depends upon more than just population figures." *Id.*; *see also id.* at 626-27 ("Because a minority group's ability to elect a candidate of choice depends upon more than just population figures, we reject any argument that the minority population percentage in each district as of 2002 is somehow fixed to an absolute number under Florida's minority protection provision."). "[T]o determine whether a district is likely to perform for minority candidates of choice, the Court's analysis . . . will involve the review of the following statistical data: (1) voting-age populations; (2) voting-registration data; (3) voting registration of actual voters; and (4) election results history." *Id.* at 627 (footnote omitted).

134. In *Apportionment VII*, the Supreme Court reiterated that it is "the ability to elect a preferred candidate of choice, not a particular numerical minority percentage, that is the pertinent point of reference" in a proper retrogression analysis. 172 So. 3d at 405 (quoting *Ala. Legis. Black Caucus v. Alabama*, 135 S. Ct. 1257, 1272 (2015)). Accordingly, the non-retrogression requirement in Article III, Section 21(a) "is satisfied if minority voters retain the ability to elect their preferred candidates," regardless of whether the applicable minority voting age population is lower when compared with the benchmark district. *Id.* Stated another way, the non-retrogression requirement "prohibits only those diminutions of a minority group's proportionate strength that *strip* the group within a district of its existing ability to elect its candidate of choice." *Ala. Legis. Black Caucus*, 135 S. Ct. at 1272-73 (emphasis added).

135. As to District 31 in Plaintiffs' plans (analog to District 35 in Senate Map 1), the Senate claims that it would be unconstitutional to reduce the BVAP of the district below 50%. Staff drew District 35 in Senate Map 1 based on an interpretation the vote dilution requirements in Article III, Section 21 and Section 2 of the VRA under which they considered it absolutely

necessary to maintain majority-minority districts without regard to whether a reduction in minority VAP below 50% would actually deprive minorities of their ability to elect. This *per se* rule regarding the preservation of majority-minority districts is inconsistent with *Apportionment I* and U.S. Supreme Court authority interpreting Section 2 of the VRA.

136. A majority-minority district must be created under Article III, Section 21 and Section 2 of the VRA when the three *Gingles* preconditions are present: “(1) a minority population is sufficiently large and geographically compact to constitute a majority within a single-member district; (2) the minority population is politically cohesive; and (3) the majority population votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Apportionment I*, 83 So. 3d at 622 (quoting *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986)). If these requirements are satisfied, “courts must then assess the totality of the circumstances to determine . . . if minority voters’ political power is truly diluted.” *Id.*

137. Critically, Section 2 of the VRA is not meant “to entrench majority-minority districts by statutory command.” *Bartlett v. Strickland*, 556 U.S. 1, 23 (2009). If a minority population can elect candidates of their choice without a majority voting age population, the third *Gingles* factor is not present because bloc voting is inadequate to usually defeat the minority’s preferred candidate, and there is no need to maintain or create a majority-minority district. See *Baca v. Berry*, ___ F.3d ___, 2015 WL 7732641, at *9 (10th Cir. Dec. 1, 2015) (“Consider a case where racially polarized voting exists, but a minority is nevertheless electing candidates of its choice. In that case, the requirement that the white majority votes as a bloc to defeat the minority’s preferred candidate would be unsatisfied.”); *Page v. Bartels*, 144 F. Supp. 2d 346, 364-65 (D.N.J. 2001) (holding that third *Gingles* factor was not present where the “reduction of the African-American voting age population in District 27 from 53% under the [benchmark] plan to 27% will not impair or prevent minorities from electing their preferred

candidates”). For that reason, the Florida Supreme Court held that Article III, Section 21 only prohibits “eliminat[ing] majority-minority districts . . . where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Apportionment I*, 83 So. 3d at 625.

138. During the map-drawing process itself, legislative staff reduced compactness and broke additional city boundaries in District 35 in Senate Map 1 so that the district would remain majority-minority based on an absolute rule that did not account for African American’s ability to elect preferred candidates without a majority of the voting age population of the district. In doing so, the Senate deviated from tier-two requirements without a constitutional justification.

139. At trial, the Senate offered an after-the-fact claim from Professor Liu that dropping below a majority BVAP would result in diminishment because of racially polarized voting and because African Americans tend to turn out in lower numbers when a district is not majority-minority. The Senate cannot meet its burden of proof under *Apportionment VII* and the Stipulation and Consent Judgment through *post hoc* rationalizations that were not actually relied upon by the map drawers. *See Apportionment VIII*, 2015 WL 7753054, at *24.

140. Nevertheless, the Court rejects Professor Liu’s opinion as unpersuasive. Professor Liu merely offered generalized factors that might conceivably impact the ability to elect without providing any fact-based explanation of how racially polarized voting or lower turnout would deprive African Americans of their ability to elect in District 31 in Plaintiffs’ proposed plans. *See Daniels v. State*, 4 So. 3d 745, 748 (Fla. 2d DCA 2009) (recognizing that expert testimony cannot be “based on speculation and conjecture, not supported by the facts, or not arrived at by a recognized methodology”) (internal alteration omitted); *Div. of Admin., State Dep’t of Transp. v. Samter*, 393 So. 2d 1142, 1145 (Fla. 3d DCA 1981) (“[N]o weight may be accorded an expert opinion which is totally conclusory in nature and is unsupported by any discernible, factually-based chain of underlying reasoning.”). Further, Professor Liu did not

have “sufficient facts or data” to support his opinion, FLA. STAT. § 90.702(1), because he relied on only a few elections that were generally outside the relevant geographic area, did not involve comparable concentrations of African-American population, and sometimes suffered from factual errors (including as to the prevailing candidate).

141. The Senate has also failed to carry its burden of justifying District 35 on vote dilution grounds because it has not shown that District 35 can be drawn as a majority-minority district when citizenship is considered. African American voter registration, which is a fair proxy for citizenship, has lagged below 50% in the Senate’s District 35.²²⁰ Because “[i]n order to vote or to register to vote, one must be a citizen,” a proper vote dilution analysis should take into account citizenship. *Negron v. City of Miami Beach*, 113 F.3d 1563, 1568-69 (11th Cir. 1997); *see also Perez v. Pasadena Indep. Sch. Dist.*, 165 F.3d 368, 372 (5th Cir. 1999); *Barnett v. City of Chicago*, 141 F.3d 699, 704 (7th Cir. 1998). In *League of United Latin Am. Citizens v. Perry*, the U.S. Supreme Court observed that using citizenship data “fits the language of § 2 because only eligible voters affect a group’s opportunity to elect candidates,” while a district in which minorities have a “bare majority of the voting-age population” might create a majority-minority district “only in a hollow sense.” 548 U.S. 399, 429 (2006). Thus, the Supreme Court criticized a state legislature for drawing a district “to have a nominal Latino voting-age majority (without a citizen voting-age majority) for political reasons . . . to create the facade of a Latino district.” *Id.* at 441.

142. The Senate’s failure to carry its burden of justifying its District 35 is, without more, sufficient reason to adopt Plaintiffs’ analog District 31 as a more tier-two compliant version of Senate District 35.

²²⁰ J. Ex. 1 at 4 (reflecting African American registration of 45.1% and 47.1% in 2010 and 2012, respectively); Rem. Tr. Vol. 7 at 834:24-835:25 (reflecting Dr. Lichtman’s opinion that registration is an excellent proxy for citizenship).

143. Nevertheless, although Plaintiffs were not required to show that their proposed version of District 31 does not result in retrogression, the Court agrees with the reasons set forth in the testimony of Dr. Lichtman that Plaintiffs' District 31 provides African Americans with the ability to elect candidates of their choice and thus does not create retrogression concerns.

144. The Senate next claims that the Challenged Hispanic Districts – *i.e.*, Districts 35 in all of Plaintiffs' plans and Districts 36 and 38 in CPS-3a and 4a – would violate the minority protection provision of Article III, Section 21(a) by creating retrogression as compared with the 2002 Benchmark Plan, which contained only three Hispanic districts.

145. At the outset, the Senate has failed to carry its burden of showing that Senate Map 1 would not result in vote dilution by aggregating Hispanics into only three performing districts. The Senate's own expert testified that the *Gingles* preconditions are present in South Florida, meaning that the Senate should have maximized, rather than minimized, the number of performing Hispanic majority districts. The Senate did the opposite and limited Hispanics to three performing districts with extremely high HVAPs (88.8% in District 36, 74.9% in District 37, and 85.6% in District 40).²²¹ The Senate never seriously investigated the possibility of creating a fourth performing majority-minority Hispanic district, even after Plaintiffs submitted a proposed map during the special session showing that it would be possible to do so.²²² Instead, the Senate retained its version of District 39 with an HVAP of 53.3%.²²³ The low voter registration among Hispanics in District 39 indicates that Hispanics are not a voting age majority of the district when citizenship is taken into account,²²⁴ and no party contends that Hispanics have the ability to elect candidates of choice in District 39 in Senate Map 1.

²²¹ J. Ex. 1 at 2.

²²² P. Ex. 5.

²²³ J. Ex. 1 at 2.

²²⁴ J. Ex. 1 at 5.

146. The Senate has further failed to carry its burden of showing that its proposed South Florida districts are necessary to avoid retrogression in the face of the more tier-two compliant configurations of South Florida offered by Plaintiffs.

147. During the special session itself, legislative staff, counsel, an outside expert, and Senator Galvano took the position that a district virtually identical to Plaintiffs' District 35 in House-proposed Plan 9079 would not result in retrogression.²²⁵ Legislative staff and counsel also took the position that proposed districts in the base maps with HVAPs as low as 70.4% complied with the minority protection requirements of Article III, Section 21(a).²²⁶

148. At trial, the Senate offered another *post hoc* claim through Professor Liu that Hispanic districts must have HVAPs in excess of 75%-80% to perform. The Court finds Professor Liu did not have "sufficient facts or data" to support his opinion that HVAPs over 75%-80% are necessary to avoid retrogression, FLA. STAT. § 90.702(1), because he relied on an inadequate number of elections, and the elections he relied on actually showed that Hispanics could prevail with HVAPs as low as roughly 25%. The only instance in which the Hispanic candidate lost was a non-partisan judicial race in which a sitting judge defeated a young lawyer, and Professor Liu could point to no instance in which a Hispanic-preferred candidate lost with an HVAP over 67%.

149. The Senate's failure to carry its burden of justifying its three Hispanic districts and establishing that the Challenged Hispanic Districts would result in retrogression is, without more, sufficient reason to adopt alternatives that expand Hispanic voting opportunities while improving tier-two compliance throughout the South Florida districts.

150. Nevertheless, although Plaintiffs were not required to show that the Challenged

²²⁵ Rem. Tr. Vol. 5 at 494:8-502:15; P. Dem. 25.

²²⁶ Rem. Tr. Vol. 1 at 115:24-116:20; P. Dem. Ex. 7.

Hispanic Districts do not result in retrogression, the Court accepts the better reasoned opinion of Dr. Lichtman that the Challenged Hispanic Districts provide Hispanics with the ability to elect candidates of their choice and thus do not create retrogression concerns.

151. Even apart from the formal requirements for a vote dilution claim under Section 2 of the VRA, the demonstrated ability to create four Hispanic-performing districts would lead the Court to approve the South Florida configuration in CPS-3a and 4a. In *Apportionment I*, the Florida Supreme Court “[did] not rule out the potential that a violation of the Florida minority voting protection provision could be established by a pattern of overpacking minorities into districts where other coalition or influence districts could be created.” *Apportionment I*, 83 So. 3d at 645. However, the Court was “unable to make such a determination on this record” as to the House plan because “[t]he challengers have failed to establish that another majority-minority district for either black or Hispanic voters potentially could have been created.” *Id.* Similarly, the Court found no overall minority protection violation in the initial Senate plan because the challengers’ alternative plans did “not demonstrate that an additional majority-minority district can be created.” *Id.* Here, by contrast, Plaintiffs have shown the viability of a fourth Hispanic-performing majority-minority district, and the Senate has offered no plausible justification for failing to create such a district when it is also feasible to improve tier-two compliance in the South Florida districts on the whole compared with Senate Map 1.

152. The Court has considered the Senate’s claim that District 38 in CPS-3a and 4a is non-compact because it contains an appendage. District 38, however, has a Reock score of 0.19 and a Convex Hull score of 0.48 – the same scores as analog District 39 in Senate Map 1.²²⁷ Based on a visual review of the district, the Court finds that District 38 in CPS-3a and 4b is not

²²⁷ Compare J. Ex. 2 at 2 & J. Ex. 4 at 2 with J. Ex. 1 at 2.

rendered materially non-compact by the appendage, and the surrounding districts are on the whole more compact in CPS-3a and 4a than in Senate Map 1. In any event, the Court finds that the appendage is a necessary byproduct of creating a new performing Hispanic district and is a reasonable tradeoff for maximizing Hispanics' opportunities to elect candidates of choice.

153. In sum, the Court finds that the Senate has not carried its burden of justifying Districts 25, 28, and 30 through 40 in Senate Map 1. By aggregating Hispanics into only three performing districts and deviating from the tier-two mandates of compactness, respect for political boundaries, and equal population for the benefit of the Republican Party and incumbents, Senate Map 1 violates tiers one and two of Article III, Section 21. Accordingly, the Court approves Districts 25, 27, 29, and 31 through 40 in CPS-3a and 4a as the most constitutionally compliant districts.

CONCLUSION

154. For the foregoing reasons, the Court finds that the Senate has not met its burden of justifying Senate Map 1 as a whole or the individual districts in Senate Map 1. The Court has identified the proposed district configurations that best comply with Article III, Section 21, and all of those configurations are reflected in CPS-4a. CPS-4a is the most compact plan proposed by any party, matches the number of split counties in Senate Map 1, splits three fewer cities than Senate Map 1, and contains significantly lower population deviation than Senate Map 1, while expanding the number of Hispanic-performing districts. Although CPS-4a contains one more split county than CPS-3a, the Court finds that the widespread compactness improvements in CPS-4a render it a preferable map. *See Apportionment I*, 83 So. 3d at 636 ("Unlike the mandate of compactness, [the] requirement [of respecting political and geographical boundaries] is modified by the phrase 'where feasible,' suggesting that in balancing this criterion with compactness, more flexibility is permitted."). Accordingly, the Court adopts CPS-4a as the

proposed remedial plan that best complies with the requirements of Article III, Section 21.

155. If the Court did not adopt CPS-4a, it would adopt one of Plaintiffs' other alternative maps because they all represent material improvements over Senate Map 1. In particular, the Court would adopt CPS-3a as the next best alternative to CPS-4a because it is more compact than Senate Map 1, splits one fewer county and four fewer cities than Senate Map 1, and contains significantly lower population deviation than Senate Map 1, while adding a fourth Hispanic-performing district. If the Court were to adopt a remedial map with only three Hispanic-performing districts, it would select CPS-4b as the most constitutionally compliant proposal, followed by CPS-3b as the next most constitutionally compliant proposal.

156. This Court would respectfully request that the Supreme Court provide additional guidance about the use of political performance data²²⁸ by members of the Legislature after a map has been drafted or submitted for consideration. It was this Court's perception that since "the motives behind the plan"²²⁹ are the issue rather the effect of the plan as in a minority district evaluation, the Legislature feels it cannot discuss the relative political performance of a proposed plan as it would be used against them as evidence of partisan intent. Yet, the moment it is passed by the legislature, opponents of the redistricting plan naturally point to its political performance as evidence of improper partisan intent.

157. It appears everyone uses political performance data to evaluate the efficacy of a proposed plan except the Legislature. The Court inquired as to the source of this perceived restriction and it appears to flow from an understanding of *Apportionment I*. I am unable to find in the Fair Districts Amendment or in the Supreme Court opinions such a strict interpretation. As Judge Lewis noted in his Final Judgment in the Congressional case:

²²⁸ Access to political data discussed only in the context of a minority district. *Apportionment I* at 619.

²²⁹ *Apportionment IV* at 152.

Consideration of political performance is not the same as intending to favor or disfavor a political party or incumbent, and an open process would assist in evaluating which was in play in a particular situation. (at page 28)

158. It appears that the Legislature took extraordinary steps to guard against the perception of improper partisan influence in the drawing of its base maps and in recording the process of discussions and amendments for public scrutiny. The Legislature, in response to complaints in the Congressional case, recorded the actual drawing of the base map by the Legislative map drawers. The record reveals the map drawers faithfully complied, not only with recording their map drawing sessions together, but also as to communications made to them from legislative members. They were under strict orders not to consider political performance data in drawing the maps. In my opinion, the perceived prohibition on the use of political performance data in the drawing and evaluation of maps seems to have caused a good deal of the problem and the criticism faced by the Legislature. That Senator Galvano, or any other Senator would be unaware of the political performance of the senate base maps is perplexing. Why shouldn't he know this important metric when recommending a map to his colleagues? It appeared to me that the Legislature does not feel it is allowed to talk about the very issue everyone else is evaluating -- performance data. Why not? Maybe the Legislature fears that discussions about "political performance" is nothing but "grist for the mill" for the opponents of any proposed legislative plan and their silence on the subject might be intentional, but either way, the legislative record of discussion or the lack thereof can be examined and weighed accordingly.

159. Interestingly, the complaints regarding the tier two compliance of a proposed non-minority district are most prevalent when the political performance of a district is affected.²³⁰

²³⁰ Look at the issues of tier two compliance issue masking the political performance issue when it came to the evaluation of district 5 & 7 (keeping Alachua County whole or not) in this Final Judgment at paragraphs 93-100.

There is a great deal of discussion about how one version of a district is more tier two compliant by just small amounts than another version. Does it really matter that a district is .02 higher or lower on a Reock or Convex-Hull scale? Maybe, but this Court would suggest the concern over adjustments to a district based on tier two criteria is sometimes just a sophisticated way of manipulating the political performance of a district. Why are we, in many instances, masking political performance objections of a non-minority district in the guise of failure to comply with tier two compliance? Political performance is the ultimate measure of the matter in a minority district, so why is not also an equally valid consideration in a non-minority district?²³¹

160. Putting political performance data on the table, making it part of the debate, and subjecting it to judicial scrutiny is, in this Court's opinion, the best way to insure that a map is not only tier two compliant but also does not run afoul of tier one prohibitions. If a map performs in a way that is not within the bounds of reasonable expectations based on an evaluation of all election data then there will be a legislative record that will either support a valid reason for the imbalance or support the conclusion that the imbalance is the product of improper partisan political intent. The experts in election data are clearly qualified to demonstrate how a map performs outside the bounds of reasonable expectation. Election projections are a sophisticated business with election modeling that rivals financial modeling.²³² I suspect that every little change in a map is understood and ultimately evaluated in terms of how it affects performance by one partisan party over another.

161. This Court suggests more harm is caused by having the Legislature believe they cannot openly and honestly discuss political performance data in evaluating various proposed

²³¹ In *Apportionment I* at p. 140-141, the Supreme Court seemed to suggest that political data could be looked at when reviewing individual districts.

²³² Insurance companies in Florida use modeling to project the amount of damage they might anticipate from a hurricane and they have the ability to move the model one or two streets over and change the projected damage calculation. Election modeling does the same thing.

redistricting maps than would be caused if it was known to the Legislature that such discussions were acceptable, and not, in and of themselves, evidence of partisan intent. This would be especially freeing to open public discussion of the subject in the very forum that the Constitution provides for it to be done. If the Legislature understood that the recording of discussions and the preservation of e-mails was an expected practice in a politically sensitive event such as redistricting then maybe the map makers could come out of the “sterile” environment and the members of the Legislature could openly discuss the “elephant in the room.” If the Legislature cannot openly discuss political performance, but their plan is evaluated and criticized by opponents based on its political performance then consideration should be given to the thought that they are being asked to draw and vote in the dark. This is no way to run the State’s business on such an important and fundamental matter.

162. Regardless, if map drawers are not to have knowledge of or use political performance data in drawing non-minority districts, then it needs to be clearly stated. If members of the Legislature cannot discuss in an open forum political performance data, then it needs to be clearly stated. Redistricting is complex and since “motives” are under examination rather than “effects”²³³ it is apparent to this Court that the Legislature and ultimately the citizens of Florida would benefit from further guidance on this complex issue.

163. The appellate review of this Final Judgment should be the last in a series of redistricting cases until the State is required to re-address redistricting in 2022. Again, I would respectfully suggest that the Legislature and the people of Florida would benefit greatly in future

²³³ In *Apportionment I* the word “effect” is used in several contexts which adds to the difficulty in understanding how redistricting is analyzed. “. . . Florida’s constitutional provision prohibits intent not *effect*, and applies to both the apportionment plan as a whole and to each district individually.” at 617; “while we agree that the standard does not prohibit political *effect*, the *effects* of the plan, the shape of the district lines, and the demographics of an area are all factors that serve as objective indicators of intent.” at 617; “Here, although *effect* can be an objective indicator of intent, mere *effect* will not necessarily invalidate a plan.” at 642.

redistricting cases if it was understood that the open, honest and recorded discussion of political performance data by members and staff of the Legislature was not, in and of itself, evidence of partisan intent, but rather the type of discussion that would be expected when considering such a complicated matter.


164. The Court hereby orders as follows:

a. Within three days of the date of this Final Judgment, the Legislature shall randomly renumber the districts in CPS-4a according to the methodology used in *Apportionment II* and serve and file the renumbered plan in .doj format. Plaintiffs shall have three days to serve and file any objection to the renumbering of the districts in CPS-4a.

b. If no objections are filed or after the resolution of any objections, the randomly renumbered version of CPS-4a shall be utilized in the 2016 Florida state senatorial elections and in Florida state senatorial elections thereafter until the next decennial redistricting.

165. The Court reserves jurisdiction to determine entitlement to and the recoverable amount of attorneys' fees and costs and to enter any orders necessary or appropriate to enforce this Final Judgment.

DONE AND ORDERED in Chambers, Tallahassee, Florida, this 30th day of December, 2015.


George S. Reynolds, III
Circuit Judge

Copies to all counsel of record

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

THE LEAGUE OF WOMEN VOTERS OF FLORIDA;
COMMON CAUSE; JOAN ERWIN; ROLAND
SANCHEZ-MEDINA, JR.; J. STEELE OLMSTEAD
CHARLES PETERS; OLIVER D. FINNIGAN;
SERENA CATHERINA BALDACCHINO; AND
DUDLEY BATES,

PLAINTIFFS,

v.

KENNETH W. DETZNER, in his official
capacity as Florida Secretary of State; THE
FLORIDA SENATE; ANDY GARDINER,
in his official capacity as President of the
Florida Senate; THE FLORIDA HOUSE OF
REPRESENTATIVES; and STEVE CRISAFULLI, in
his official capacity as Speaker of the Florida
House of Representatives, and PAM BONDI, in
her official capacity as Attorney General of the
State of Florida,

DEFENDANTS.

CASE No.: 2012-CA-2842

JOINT STIPULATION REGARDING MINORITY DISTRICTS

The League of Women Voters of Florida, Common Cause, Joan Erwin, Roland Sanchez-Medina, Jr., J. Steele Olmstead, Charles Peters, Oliver D. Finnigan, Serena Catherina Baldacchino, and Dudley Bates (collectively “Plaintiffs”) and The Florida Senate and Andy Gardiner, in his official capacity as President of the Florida Senate (collectively the “Senate”), hereby enter into the following joint stipulation regarding minority districts, as follows:

WHEREAS, Plaintiffs and the Senate are working cooperatively to streamline issues for trial regarding minority districts, while still ensuring the development of a complete record;

NOW THEREFORE, Plaintiffs and the Senate accordingly stipulate as follows with regard to the minority districts:

1. The Senate stipulates and agrees that the only minority districts in Plaintiffs' proposed remedial maps that the Senate claims violate the prohibition on retrogression in Article III, Section 21(a) are:

- District 31 in CPS-3a, 3b corrected, 4a, and 4b
- District 35 in CPS-3a, 3b corrected, 4a, and 4b
- District 36 in CPS-3a and 4a; and
- District 38 in CPS-3a and 4a.

2. Plaintiffs stipulate and agree that they will not claim that the Senate's minority districts proposed in Senate Map 1 violate the prohibition on retrogression in Article III, Section 21(a).

Dated this 13th day of December, 2015.

/s/ Thomas A. Zehnder

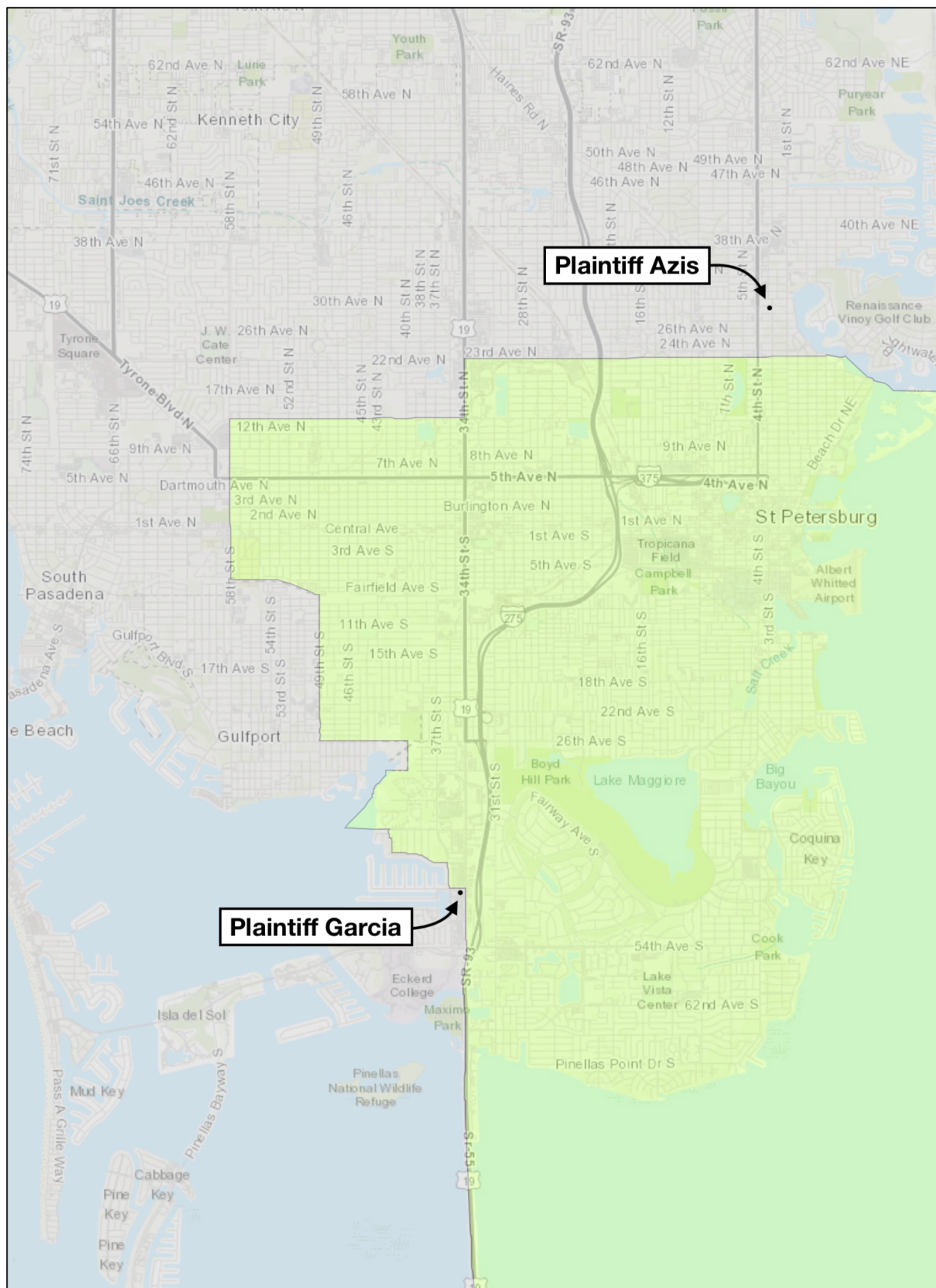
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JENNIFER GARCIA
HODGES V. PASSIDOMO

November 20, 2024

1

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

KETO NORD HODGES, ET AL.,)
)
 Plaintiffs,) CASE NO.
) 8:24-cv-879
 vs.)
)
 KATHLEEN PASSIDOMO, ET AL.,)
)
 Defendants.)
 _____)

VIDEOCONFERENCE DEPOSITION OF
JENNIFER GARCIA

November 20, 2024

3:34 p.m.

Saint Petersburg, Florida

Jake Coppola
Digital Reporter
Commission No. HH 240208

JENNIFER GARCIA
HODGES V. PASSIDOMO

November 20, 2024

2

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JENNIFER GARCIA
HODGES V. PASSIDOMO

November 20, 2024

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JENNIFER GARCIA
HODGES V. PASSIDOMO

November 20, 2024

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(Exhibits 1 through 3 were attached to the original transcript.)

JENNIFER GARCIA
HODGES V. PASSIDOMO

November 20, 2024

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1 THE REPORTER: All right. We're now on the
2 record at 3:34 p.m. on November 20th, 2024, to take the
3 deposition of Jennifer Garcia, in the case of Keto Nord
4 Hodges, et al., versus Kathleen Passidomo, et al. My
5 name is Eric Stumpf, notary public and digital reporter
6 for Esquire Deposition Solutions in the state of
7 Florida. Pursuant to the general laws of the state of
8 Florida, I'll be capturing the verbatim record of
9 today's proceeding using electronic audio equipment, a
10 computer, and specialized recording software which is
11 not a form of stenography.

12 The witness is currently located in St.
13 Petersburg, Florida, and has confirmed their identity
14 with a Florida driver's license.

15 Could Counsel please identify yourself for the
16 record and state who you represent.

17 MR. WARREN: Nicholas Warren with the ACLU of
18 Florida representing the plaintiffs, including Ms.
19 Garcia. And we will object to the manner of taking the
20 deposition as different than the manner specified in the
21 Notice.

22 MR. SHAW: James Michael Shaw, Jr., Butler
23 Weihmuller Katz Craig, for the plaintiffs. And I -- I'm
24 sorry. And with me as my associate, Naomi Robertson.
25 Observing is Zeina Hasbini.

JENNIFER GARCIA
HODGES V. PASSIDOMO

November 20, 2024

6

1 MS. HARLE: And Denise Harle of Shutts & Bowen
2 on behalf of Senate President Ben Albritton in his
3 official capacity as the President of the Florida
4 Senate. With me is my associate, Leila Oberschall.

5 THE REPORTER: Perfect. Thank you. I think
6 that's everyone.

7 And absent any objection at this point,
8 Counsel and the Witness agree to my remote
9 administration of the oath and that the final transcript
10 may be used for all purposes allowed by the general laws
11 of the state of Florida.

12 MR. WARREN: Yes.

13 THE WITNESS: Yes.

14 THE REPORTER: And, Counsel, are we okay to
15 move forward if -- if they're objecting?

16 MS. HARLE: Yes.

17 THE REPORTER: All right. Thank you.

18 And, Ms. Garcia, could you please raise your
19 right hand?

20 JENNIFER GARCIA,
21 having first been duly sworn, testified as follows:

22 THE REPORTER: All right. You may proceed,
23 Counsel.

24 DIRECT EXAMINATION

25 BY MS. HARLE:

JENNIFER GARCIA
HODGES V. PASSIDOMO

November 20, 2024

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1 Q. Good afternoon, Ms. Garcia.

2 A. Hi.

3 Q. My name is Denise Harle, I will be taking your
4 deposition today. Could you please just state and spell
5 your name for the record?

6 A. Yes, my name is Jennifer Garcia. That's
7 spelled, J-E-N-N-I-F-E-R, G-A-R-C-I-A.

8 Q. And do you understand that you are being
9 deposed today under oath, under penalty of perjury?

10 A. Yes.

11 Q. Have you ever been de before?

12 A. No.

13 Q. Okay. I see your attorney is there with you.
14 Is there anyone else in the room with you?

15 A. No.

16 Q. Okay. Do you have any other programs open on
17 your computer besides Zoom?

18 A. No.

19 Q. Okay. Do you have your cell phone nearby?

20 A. Yes.

21 Q. I would just ask you not to communicate or --
22 or receive any communications during this deposition on
23 your cell phone; is that okay?

24 A. Yes.

25 Q. -- or receive any communication. Is there

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1 anything preventing you from giving your best truthful
2 testimony today? For example, a medical condition or
3 have you taken any medication or other drugs?

4 A. No.

5 Q. I'm going to just go over some ground rules
6 for depositions. So it sounds like this is your first
7 time. And I -- I will at the end just ask you if you
8 have any questions about them or if you are okay with
9 the rules; is that okay?

10 A. Yes.

11 Q. Great. So because this deposition is being
12 transcribed by our court reporter, I need to make sure
13 that you give verbal responses for the record. Things
14 like nods and uh-huhs do not translate very well. We
15 also need to be careful not to interrupt or to talk over
16 one another, if possible. And if you do answer a
17 question, we will assume that you understood the
18 question. So if I ask you something that's confusing or
19 unclear, please just ask me to clarify because once you
20 give the answer, we will assume you knew what was being
21 asked. Also, you don't need to guess at anything today.
22 However, I am entitled to your best estimate if there is
23 a question that you can give a rough estimate to. Do
24 you understand the difference between a guess and an
25 estimate?

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1 A. Yes.

2 Q. Okay. If at any point seeing a document would
3 refresh your recollection, just let me know and we'll do
4 our best to get it in front of you. As I may be
5 introducing exhibits later on, what -- what I'll plan to
6 do is ask Leila to share her screen with you. But if
7 for some reason that's not workable, we can either drop
8 a PDF in the chat or do something else that you'll have
9 access to what you need.

10 Please be sure to give complete answers to the
11 question. Also, please answer the question even if your
12 attorney objects. Unless your attorney instructs you
13 not to answer, you do need to answer the whole question.
14 And I think that's the list -- the -- it's the list of
15 my standard ground rules. Does that all make sense to
16 you?

17 A. Yes.

18 Q. Okay. Great. Will you please state your
19 address -- your current address?

20 A. My current address is 3680 46th Avenue South,
21 Unit 219, St. Petersburg, Florida 33711.

22 Q. And when did you move there?

23 A. In March of 2023.

24 Q. Is that an apartment?

25 A. Yes.

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1 Q. And do you own it or do you rent?

2 A. Rent.

3 Q. What was your most recent prior address?

4 A. My most recent prior address was 2317 37th
5 Street South, St. Pete, Florida 33711.

6 Q. And do you remember what month and year you
7 moved there?

8 A. I believe it was November 2018.

9 Q. Is there any chance you're aware of that you
10 might be moving in the next year or two?

11 A. Possibly in two years, but I'm not sure.

12 Q. And where would you be going in two years?

13 A. I'm not sure where I would go in two years.

14 Q. Okay. And what makes you think you might move
15 in two years?

16 A. Just because I would want to or because that
17 would be a decision that I would make for my family.

18 Q. But nothing currently that you're considering
19 in terms of moving?

20 A. No.

21 Q. Who is your current employer?

22 A. My current employer is Common Cause.

23 Q. And what is Common Cause?

24 A. Common Cause is a nonprofit democracy
25 organization.

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1 Q. What do you do there?

2 A. I am the regional communication strategist for
3 the south.

4 Q. How long have you worked at Common Cause?

5 A. Since January of 2024.

6 Q. And before that who was your employer?

7 A. The ACLU of Florida.

8 Q. And what did you do at the ACLU of Florida?

9 A. The ACLU of Florida I was the media strategist
10 there.

11 Q. And when you worked at the ACLU of Florida,
12 did you know your current attorneys in this lawsuit, Mr.
13 Warren and Mr. Tillian (phonetic)? I -- I don't have a
14 whole list, but did you know your current attorneys when
15 you were working at the ACLU of Florida?

16 A. I did.

17 Q. And did you work -- did you work with your
18 current attorneys when you were working at ACLU of
19 Florida?

20 A. I did.

21 Q. What's your educational background?

22 A. Can you be more specific?

23 Q. Oh, sure. Can you tell me about your -- just
24 tell me about your education since high school?

25 A. After high school I went to the University of

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1 South Florida St. Petersburg for my bachelor's degree.

2 Q. Did you receive your bachelor's?

3 A. Yes.

4 Q. In what major?

5 A. Journalism and media studies.

6 Q. Did you do any advanced degrees or
7 certificates after your bachelor's?

8 A. No.

9 Q. Was there anything else that comes to mind
10 when I ask about your educational backgrounds?

11 A. Nothing else comes to mind.

12 Q. Okay. Have you worked for a political
13 organization?

14 A. Can you define what a political organization
15 would constitute as?

16 Q. Yeah, I guess what -- do you consider a Common
17 Cause a political organization?

18 A. They're a nonpartisan organization, but they
19 do work in politics.

20 Q. Okay. Do you consider Common Cause a civil
21 rights organization?

22 A. I would consider them more of a voting rights
23 organization.

24 Q. Well, my next question, so thank you. How did
25 you get connected to Common Cause?

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1 A. I applied for their job -- their listing. I
2 knew of their listing online.

3 Q. Had you heard of Common Cause before finding
4 their job opening?

5 A. Yes.

6 Q. Had you done any collaboration or crossover
7 work with Common Cause when you were at the ACLU of
8 Florida?

9 A. I believe so, but I can't recollect when. I
10 know that there's been times that there -- there would
11 be moments of that nature, yes.

12 Q. At the ACLU of Florida, did any of your work
13 involve voting rights?

14 A. Yes.

15 Q. And besides Common Cause and ACLU of Florida,
16 have you worked at any other voting rights
17 organizations?

18 A. No.

19 Q. Have you volunteered in any capacity on voting
20 rights issues?

21 A. Yes.

22 Q. Can you tell me about that?

23 A. Excuse me. Can you be more specific with your
24 question?

25 Q. Sure. Just -- just tell me about any work

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1 that you've done in a volunteer capacity on the issue of
2 voting rights?

3 A. I've worked with several voting rights voting.
4 I'm not sure if you'd want to know any specifics about
5 that.

6 Q. Sure. Like, did you -- did you canvas, did
7 you do phone banks? What were the organizations? Were
8 they -- were they political parties, were they
9 grassroots groups? Just in -- in your own words.

10 A. Okay. I have phone-banked and I have
11 canvassed. I have phone-banked with MoveOn and I phone-
12 banked for the Warnock campaign and then I also
13 canvassed for the Elizabeth Warren campaign.

14 Q. Have you ever done any election canvasing?

15 A. Yes.

16 Q. When and where was that?

17 A. I don't remember. I can't recall the years.

18 Q. Do you recall if it -- if it was for a certain
19 candidate?

20 A. I did canvas for Elizabeth Warren.

21 Q. Any other candidates you've canvased for or
22 phone-banked for?

23 A. Just the ones I've previously stated.

24 Q. And in your voting rights work, what would you
25 say are the main issues that you advocate for?

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1 A. Can you be specific to which job you're
2 talking about?

3 Q. Sure. I mean, I was -- really umbrella for
4 all of them. But -- but what are the main issues or
5 goals that you've -- that you've worked to advance in
6 your volunteer and employed capacity on voting rights?

7 A. My -- the voting rights issues I try to
8 amplify relate to the protection of democracy.

9 Q. And in your view, what does the protection of
10 democracy entail?

11 A. Equal rights for all Americans.

12 Q. Anything else besides equal rights for all
13 Americans that you advocate for in your -- your voting
14 rights advocacy?

15 A. Fair and equal access to the ballot box.

16 Q. Anything else?

17 A. Not that I can think of right now.

18 Q. Besides this lawsuit, have you ever been the
19 party to a -- a civil lawsuit?

20 A. No.

21 Q. Have you ever been convicted of a crime?

22 A. No.

23 Q. Have you ever pled no contest to a crime?

24 A. No.

25 Q. Just tell me in your own words why you're

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1 bringing this lawsuit?

2 A. I believe residents in my community should
3 have fair representation in our democracy.

4 Q. And how do you define your community?

5 A. The St. Petersburg community, Black residents
6 here, residents from diverse backgrounds in St.
7 Petersburg.

8 Q. And do you think that the residents in your
9 community currently do not have fair representation?

10 A. That is correct.

11 Q. And why is that?

12 A. Because of the maps that are drawn to dilute
13 their voices and their voting power.

14 Q. What is it about the map that you believe
15 dilutes the voices of the residents in your community?

16 A. The current maps pack residents into a smaller
17 district and they also combine St. Petersburg residents
18 with Tampa residents.

19 Q. And in terms of your community, is -- is your
20 community the former or the latter? You feel like your
21 community is packed or is -- is combined with the wrong
22 people, or -- I mean, I want you to say it in your
23 words, but what's the problem as to your community?

24 A. I feel like my community is split.

25 Q. And does everyone in the community still have

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1 the ability to vote?

2 A. Yes.

3 Q. And what is it about your community as you
4 define it being split that makes the representation
5 unfair?

6 A. I believe it's the way the maps are split that
7 doesn't allow for voters to vote for representatives of
8 their choice and to have their influence heard.

9 Q. And to explore that more, I think we may get
10 to the Complaint. Do you happen to have a copy of the
11 Complaint with you?

12 A. Not on my screen right now, no.

13 Q. Okay. We'll pull that up for you in a little
14 bit. How did you become to be a plaintiff in this
15 lawsuit?

16 A. Nicholas Warren contacted me.

17 Q. Do you remember what month and year that
18 happened when Mr. Warren contacted you about becoming a
19 plaintiff?

20 A. I can't remember specifics, but it was around
21 March or April before the Complaint was filed.

22 Q. So it was after -- was it after you were no
23 longer working at the ACLU of Florida?

24 A. I believe so, yes, yes.

25 Q. Other than your attorneys who have you spoken

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1 with about this lawsuit?

2 A. Friends and family.

3 Q. Have you -- you don't -- I don't need to know
4 the substance of what you said, but have you spoken with
5 any of the other plaintiffs at any point?

6 A. No.

7 Q. Anyone else besides friends and family?

8 A. Just my friends and family.

9 Q. Okay. And during the redistricting process at
10 issue in this case, the one underlying the map that
11 you're challenging, did you communicate with any members
12 or staff of the Florida Legislature?

13 A. No.

14 Q. Were you aware of the redistricting process at
15 the time that it was going on?

16 A. No.

17 Q. After the redistricting was done, have you
18 communicated with any members or staff of the Florida
19 Legislature regarding the map?

20 A. No.

21 Q. Have you communicated -- other than with your
22 attorneys in this lawsuit, have you communicated with
23 anyone else at the ACLU of Florida either during or
24 after the redistricting process at issue?

25 A. Can you be more specific with that question?

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1 Q. Yeah. So I guess I'll -- let me -- let me
2 break that apart. So if I understand correctly, you
3 weren't aware of the redistricting process when it was
4 happening so if I asked you did you communicate with
5 anyone at the ACLU of Florida during the redistricting
6 process, I would -- I think the answer is no?

7 A. Correct.

8 Q. Okay. And then after the redistricting
9 process Mr. Warren reached out to you regarding becoming
10 a plaintiff in this lawsuit; is that right?

11 A. I believe so.

12 Q. Okay. When you were working at the ACLU of
13 Florida, did you do any kind of work or advocacy
14 relating to the map that you're challenging now?

15 A. No.

16 Q. Have you made any verbal or written statements
17 to any reporters regarding this lawsuit?

18 A. No.

19 Q. Have you made any verbal or written statements
20 to any community organizations or civics group regarding
21 this lawsuit?

22 A. No.

23 Q. Have you made any verbal or written statements
24 on social media regarding the lawsuit?

25 A. No.

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1 Q. Which social media apps or accounts do you
2 have? If you don't mind, try to list off the ones you
3 can think of?

4 A. I have an X account, I have a Twitter -- or I
5 have an Instagram account, and I have a Facebook
6 account, and I --

7 Q. All right.

8 A. -- also have a TikTok account.

9 Q. TikTok?

10 A. Yes.

11 Q. Do you have LinkedIn?

12 A. Yes, I do.

13 Q. Do you have Signal?

14 A. Yes.

15 Q. Do you have GroupMe?

16 A. No.

17 Q. Are you currently a registered voter?

18 A. Yes.

19 Q. Have you voted in every state Senate election
20 since you turned 18?

21 A. No.

22 Q. Do you recall -- or which Senate -- state
23 Senate elections have you voted in if you recall the
24 year?

25 A. I can't recall the year.

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1 Q. Okay.

2 A. I don't know.

3 Q. Let's look now at -- oh, I forgot to say
4 earlier, and hopefully this won't be relevant, but if
5 you do need a break at any time, just let me know. I'm
6 happy to stop whenever you need.

7 MS. HARLE: Leila, can you please pull up
8 the -- the Answers to the Interrogatories, potential
9 Exhibit 2 and share it on your screen.

10 BY MS. HARLE:

11 Q. And do you remember providing interrogatory
12 responses in this lawsuit?

13 A. I would have to see a document to know what
14 you're talking --

15 Q. Sure. Okay. And I know this is a little
16 unwieldy, but we're happy to scroll up and down and Zoom
17 in or -- or whatever you need as we go through this.

18 A. I saw this document, yes.

19 Q. Okay. Great. And do you remember if you
20 reviewed all of the information and -- and signed off
21 before your attorney submitted it?

22 A. I did, but I noticed that there was a typo.

23 Q. Okay. Is this --

24 A. I realized there was -- go ahead.

25 Q. Is there still a typo in there?

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1 A. Yes.

2 Q. Okay. What is it? Anything important?

3 A. My March 2023 address is 2317 37th Street
4 South.

5 Q. Okay. Thank you. Well, let me just ask a few
6 general questions before we get into the specifics.

7 Have you seen what District 18 looks like in the enacted
8 map that you're challenging?

9 A. Yes.

10 Q. And what facts do you have regarding the
11 racial motivations of the Florida Legislature in drawing
12 the districts in the map?

13 A. Can you be more specific about your question,
14 please?

15 Q. Sure. So in your lawsuit at several points
16 you allege that the Florida Legislature had an
17 overriding and impermissible racial motivation in -- in
18 drawing the lines of the districts. Are you aware of
19 those allegations?

20 A. Yes.

21 Q. Okay. So I was just asking what facts do you
22 have regarding the racial motivations of the Florida
23 Legislature?

24 A. While I can't speak to the racial motivations
25 of the Florida Legislature, I can share that my

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1 neighborhood and the neighborhood that has been
2 sectioned off is primarily Black community and -- yeah.

3 Q. Do you have any other facts that you're aware
4 of that would indicate that the districts were drawn by
5 the Legislature with a racial motivation?

6 A. Other than majority Black residents are
7 grouped into one specific area, no.

8 Q. And which specific area do you believe the
9 Black residents are -- are grouped into?

10 A. If you were able to pull up a map, I can show
11 you --

12 Q. Okay.

13 A. -- or I can explain it to you.

14 Q. Yeah. Is there -- can you describe the areas
15 of -- of the counties or the cities that you're
16 referring to?

17 A. I would say east of 34th Street -- east and
18 southeast of 34th Street.

19 Q. And -- and those residents are part of
20 District 18 that you live in?

21 A. I'm not sure. I'd have to look at the map.

22 Q. Is there a certain percentage of Black voting-
23 age population that you think should be in District 16?

24 A. I don't have a specific percentage in mind. I
25 would just want equal representation for the residents

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1 of St. Petersburg.

2 Q. Do you know how the current percentage of
3 Black voting-age population in District 16 compares to
4 the percentage of Black voting-age population before the
5 most recent redistricting?

6 A. Not off the top of my head, no.

7 Q. Do you personally know any facts indicating
8 that Legislature's central consideration in drawing the
9 map was race?

10 A. Can you be more specific in that question?

11 Q. Sure. Do you personally know any facts
12 indicating that the Florida Legislature's central
13 consideration in drawing the map that you're challenging
14 was race?

15 A. I feel like -- I'd need you to break down that
16 question for me.

17 Q. Okay. And -- and maybe what you answered
18 before, I just want to make sure that I'm not missing
19 any facts or information that you have that the Florida
20 Legislature used race as the main purpose or motivation
21 behind the map. So any information or facts you have on
22 that point, I just want to make sure I'm pulling that
23 out.

24 A. I don't have any facts other than what I've
25 stated and what I can think of for right now.

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1 Q. Are you familiar with the historical district
2 boundaries between -- of Hillsborough and Pinellas in
3 terms of, like, prior maps and earlier redistricting?

4 A. I have not looked at prior maps, no.

5 Q. Are you aware that the communities that are
6 combined that you've spoken about earlier, part of
7 Saint -- East St. Pete and -- and Tampa, are you aware
8 that those communities have been combined as part of the
9 same district since the early 1990s?

10 A. I did not know that.

11 Q. Do you know how many counties are split by
12 district lines across the state of Florida?

13 A. No.

14 Q. Did you read the Complaint in full before it
15 was filed?

16 A. Yes, I've reviewed the Complaint.

17 Q. Did you approve of all the allegations in the
18 Complaint before it was filed?

19 A. Yes.

20 Q. Okay.

21 MS. HARLE: Sorry to switch gears, Leila, but
22 can you put the Complaint up, please.

23 And, Eric, I was -- I just was super sloppy on
24 that. You can -- that can be Exhibit 1. If we wanted
25 to make it Garcia 1 maybe. And then the Complaint will

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1 be Garcia 2. And we'll email these to you right
2 afterwards.

3 (Garcia Exhibits 1-2 were marked for
4 identification.)

5 MS. HARLE: Okay. If -- if you can scroll
6 down to Paragraph 11.

7 BY MS. HARLE:

8 Q. All right. So there it says, this plan
9 sacrificed genuine communities of interest. What facts
10 were you relying on in making that allegation that the
11 Legislature sacrificed genuine communities of interest?

12 A. Can you repeat the question?

13 Q. Yes. When you made that allegation that the
14 Legislature sacrificed genuine community of interests,
15 what facts were you relying on?

16 A. I was relying on the fact that communities are
17 split and the concerns of St. Petersburg residents on
18 the east side of 34th is not the same as the interests
19 or the concerns of residents in Temple Terrace or in
20 northern parts of Tampa.

21 Q. And what are the interests of the residents of
22 east St. Pete's?

23 A. I believe our concerns and our situations are
24 different than those in a different county and so
25 they're going to be unique to the area. But I can just

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1 say that they're different than that of Tampa.

2 Q. And -- and how are they different?

3 A. I feel like the community needs different
4 things. And so to group two different communities under
5 the same representation without giving them a say in
6 what happens to all of St. Pete seems like an upper --
7 underrepresented space for Black voters in this area.

8 Q. So do the -- does the community in St. Pete's
9 share the same interests with -- I'm sorry. Does the
10 community in East St. Pete's that we're talking about
11 share the same interests with all of the other residents
12 of the other parts of St. Pete?

13 MR. WARREN: Object to form.

14 THE WITNESS: I'm not sure the question you're
15 trying to ask.

16 BY MS. HARLE:

17 Q. What -- what do you understand community of
18 interest to mean -- or genuine community of interest?
19 Just to use your words.

20 A. I take that to mean what -- what concerns the
21 community members in that area. And that will be
22 specific to the residents of St. Pete. I can't provide
23 a list, I can't think of certain things right now in
24 this moment, but I can guarantee you that they are
25 different than that of the concerns and the interests of

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1 those in Tampa who live in a completely different
2 region.

3 Q. Is a genuine community of interest based on
4 neighborhood?

5 A. There are several different neighborhoods in
6 St. Petersburg. I -- that's my take on it.

7 Q. And -- and do the several different
8 neighborhoods of St. Petersburg share the same
9 interests?

10 A. Possibly. I -- I can't really speak to that
11 particular point.

12 Q. It -- does a genuine community of interest, is
13 that based on race?

14 A. It depends on who you talk to in St. Pete.

15 Q. Okay. Well -- well, talking to you as the
16 plaintiff where -- where you're saying that genuine
17 communities of interest are sacrificed, are you -- are
18 you envisioning a community of interest as -- as based
19 on the race of the residents?

20 A. I would say that the needs of and the voices
21 of Black voters in this area and the voting power of
22 Black voters in this area are -- are diminished because
23 of that, because of the way the maps are designed.

24 Q. So are -- in your view are Black voters a
25 genuine community of interest?

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1 A. Yes.

2 Q. Is -- is genuine community of interest, can
3 that mean religion?

4 A. I'm predominantly talking about the Black
5 areas in St. Petersburg where voters are -- voters'
6 voices are diminished.

7 Q. And in your view, do Black voters have the
8 same concerns as each other?

9 A. Can you be more specific about that question?

10 Q. Sure. So if you've identified that a
11 community of interest, you're referring to Black voters
12 and I'm asking in your perspective then do Black voters
13 share the same concerns as voters as other Black voters?

14 MR. WARREN: Object to form.

15 THE WITNESS: I'm not sure I understand what
16 you're trying to ask. And I don't know if there's
17 another way to say it or to hear it. I'm just -- can
18 you --

19 BY MS. HARLE:

20 Q. I'm -- I'm trying to still get an
21 understanding of what the communities of interests are
22 that you're saying were sacrificed. And I thought we
23 narrowed it down to you are primarily talking about
24 Black voters; is that correct?

25 A. Correct.

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1 Q. Okay. So in your view do Black voters then
2 share -- typically share the same concerns as voters?

3 A. I mean --

4 Q. As opposed to non-Black voters? Have -- most
5 have -- have -- do they have different concerns?

6 A. I feel like the concerns is one thing, but
7 it's also who they choose to represent their district or
8 they choose to represent in leadership. And so it --
9 it's not necessarily dependent on a specific thing. I
10 feel like it's -- it's more so just the fact that Black
11 voices are underrepresented and -- and just diminished
12 in -- in our democracy. And so I can't necessarily
13 pinpoint a specific thing, but I do feel like Black
14 voters' voices are -- they -- with these gerrymandered
15 maps, they -- they carry less voting power.

16 Q. And is that based on a -- a particular fact
17 that you're aware of?

18 A. The fact of geographical location and the
19 demographics of the maps that were -- that are being
20 presented. Yes, that's what I'm -- that's what I'm
21 seeing. And I've shared that the location of where
22 Black residents reside is also -- is -- is a reason that
23 I can think of.

24 Q. And in terms of outcomes, is there -- is there
25 something particular in the outcomes of representation

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1 that you're identifying as a -- as a racial problem in
2 terms of who is representing District 16 and District
3 18?

4 A. I feel that regardless of who -- who is
5 chosen, that -- like, in terms of outcomes, Black voters
6 don't necessarily get a fair say in that -- in those
7 elections or those opportunities to vote. And so I feel
8 like that's -- that's my reasoning for that.

9 Q. Did you just say Black voters don't have a
10 fair opportunity to vote?

11 A. No. I meant to say that they don't have a
12 fair representation in who they want to see represented.

13 Q. And -- and you -- in your view do Black voters
14 all have the same preferences in terms of who they want
15 to represent them?

16 A. No.

17 Q. Do you think a -- a genuine community of
18 interest might be based on socioeconomic status?

19 MR. WARREN: Object to form.

20 THE WITNESS: Can you be more specific in the
21 question?

22 BY MS. HARLE:

23 Q. Try to be more specific. I'll try to
24 rephrase. And you've worked a lot in the voting rights
25 space so you may have different ways you describe this.

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1 But when you think of voting interest groups, right,
2 you've -- you've talked about Black voters, do you see
3 certain socioeconomic classes as potentially being a
4 legitimate voting interest group?

5 A. I think it would depend, but I don't --
6 I've -- in my voting rights work it's been more
7 dependent on marginalized communities.

8 Q. Okay. Well, that's helpful. Can you list for
9 me the types of marginalized communities that you think,
10 you know, comprise voting interest groups?

11 A. I think for the basis of this case, the Black
12 voting community is the marginalized community that we
13 are discussing.

14 Q. And are you aware there's a number of
15 different reasons why district lines can be drawn in
16 different ways?

17 A. Yes, I'm aware.

18 Q. So are there any other marginalized voting
19 interest groups that you're aware of that you could tell
20 me?

21 A. I -- I don't necessarily know the process of
22 how maps are drawn and so I wouldn't necessarily be able
23 to share what's the deciding factor in those areas.
24 I -- that's my answer to this question.

25 Q. Do you understand political parties to be

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1 voting interest groups?

2 A. Yes.

3 Q. And do you understand the -- the sexes to be
4 voting interest groups?

5 A. Yes.

6 Q. Would you have done your voting rights work --
7 well, let's just start with the Common Cause. Which
8 voting rights are -- which types of voters are you
9 reaching out to with Common Cause?

10 A. All voters.

11 Q. All voters? So how do you get the contact
12 info?

13 A. I'm not responsible for getting the contact
14 info.

15 Q. Do you recall -- and I'm trying to remember
16 what you said. You said you discussed with them
17 protecting democracy; is that right?

18 A. Protecting democracy I believe was my
19 definition to why I participate in voting rights or what
20 my -- what voting rights means to me.

21 Q. And so I think -- I think you said you're the
22 senior communications strategist? Or what was your
23 title?

24 A. Regional communications strategist for the
25 south.

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1 Q. All right. So are you -- in that capacity are
2 you drafting written communications?

3 A. Yes.

4 Q. Okay. And it would that include emails?

5 A. No.

6 Q. Social media?

7 A. Not often, but sometimes.

8 Q. Okay. Articles?

9 A. Press releases, yes.

10 Q. Those fliers?

11 A. I'm not sure what you mean by sliders.

12 Q. Oh, I said fliers. Sorry.

13 A. I have --

14 Q. -- like, pamphlets?

15 A. I have drawn -- I've done one or two fliers in
16 my time there.

17 Q. Okay. What am I missing? So basically press
18 releases and what else are you writing?

19 A. Earned media strategy.

20 Q. And your target audience there is -- is it all
21 voters or is it something else?

22 A. It's all voters.

23 Q. And what are you trying to encourage them to
24 do?

25 A. Make their voices heard at the ballot box.

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1 Q. So vote?

2 A. Yes.

3 Q. Does it -- does it matter to you who they vote
4 for?

5 A. No.

6 Q. Does it matter to you which community of
7 interest they're a part of?

8 A. No.

9 Q. Looking there at -- back to the screen on
10 Paragraph 13 it says that -- Floridians third line
11 there, Floridians, including individual legislators,
12 called out and questioned the Legislature's
13 unconstitutional actions. Which Floridians are you
14 aware of who called out or questioned the Legislature
15 regarding the redistricting process?

16 A. I -- I can recall that voting rights
17 organizations have -- have called out Legislature's
18 unconstitutional actions. I can't recall other than my
19 lawyers on this call if anyone has spoken out
20 specifically on this map -- on these maps in question.

21 Q. Okay. So -- okay. So then I get -- do you
22 know how the Legislature responded? This -- it says,
23 their concerns were dismissed by the legislature as a
24 whole. Are you aware when -- of -- of anything the
25 legislature said in response to those questions?

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1 A. Not specifically, no.

2 Q. Let's look down at Paragraph 20. We've talked
3 about this a little bit. If this says, the enacted plan
4 harms plaintiffs because, among other reasons, it splits
5 up their communities along racial lines and groups their
6 communities with dissimilar ones simply because of their
7 race. So my question is when you make the allegation
8 that the plan grouped your community with dissimilar
9 ones simply because of your race, which dissimilar
10 communities are you referring to there?

11 A. Can you repeat the question please?

12 Q. Sure. When -- when you made the allegation
13 that the plan grouped your community with dissimilar
14 ones unnecessarily simply because of their race, which
15 dissimilar communities are you referring to there that
16 you said your -- your community was grouped with?

17 A. I believe that the lines of these maps are
18 grouping someone like me as an Afro-Latina in other
19 majority white districts that don't allow for -- it --
20 it really honestly doesn't allow for me to vote for a
21 representative that is similar to that of maybe somebody
22 in a -- a community or a group that I would seem as
23 similar.

24 Q. And so in terms of the dissimilarity, just
25 trying to drill down on that, is that primarily race --

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1 A. Yes.

2 Q. -- or something else?

3 A. Yes.

4 Q. All right. Okay. Is it -- is the
5 dissimilarity anything else besides race in your mind?

6 A. I believe it's also socioeconomic status.

7 Q. And what socioeconomic status do you identify
8 yourself with?

9 A. Middle class.

10 Q. And are you grouped with other socioeconomic
11 classes in District 18?

12 A. I believe my socioeconomic status in this
13 entire district could be -- I -- I'm not exactly sure
14 what the socioeconomic status is. I can tell from my
15 nearby communities that there may be more than upper
16 middle class.

17 Q. Do you tend -- tend to believe you vote
18 differently than folks who are not middle class?

19 A. Can you repeat the question?

20 Q. Yeah. Do you -- do you tend to vote -- do --
21 you in your view, do you tend to vote differently
22 because you're in middle class?

23 A. I vote based on the issues that are important
24 to me in my community. And my community can look like
25 anything.

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1 Q. So your community is more than just race; is
2 that right?

3 A. I don't -- I don't really know if that's true,
4 but race plays a big role in my community.

5 Q. Did you vote in the last state Senate
6 election?

7 A. No.

8 Q. If we can look down at Paragraph 97.

9 A. Actually, I'd --

10 Q. Did you --

11 A. -- like to correct. So sorry. I would like
12 to --

13 Q. Yes, please do that. Anytime. Yeah.

14 A. Yeah. I would like to correct what I last
15 said. I believe I did vote in the last state Senate
16 election. I just didn't vote in the primaries --

17 Q. Okay.

18 A. -- but I did this year's election.

19 Q. Well, I think there's a way to confirm that,
20 so --

21 A. Okay.

22 Q. -- we'll do that. Do you remember what issues
23 you voted on in that -- in that -- when you were voting
24 in the last state Senate election, do you remember which
25 issues you had front of mind?

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1 A. I can't recall. It was so long ago.

2 Q. Do you remember what year was the last date
3 Senate election for your district?

4 A. I couldn't tell you off the top of my head.

5 Q. Okay. Here we are. Paragraph 97. Not trying
6 to be a dead horse, but I just want to make sure I, you
7 know, hear everything you had in mind when you made
8 these allegations. So this says, this refers to the
9 direct evidence of racial predominance. So my first
10 question is what is your direct evidence that race
11 predominates the drawing of the lines for District 16
12 and 18?

13 A. Based on the geographical locations of the
14 Black residents that are contained in the districts
15 outlined.

16 Q. And in your mind that shows that race is the
17 predominant factor in where the line is?

18 A. In my mind, yes. Based on what I can think of
19 right now.

20 Q. Actually, let's go up to the Paragraph 95.
21 Okay. This one says, these race-based decisions
22 resulted in a map that splits neighborhoods and ignores
23 traditional redistricting criteria. So I'm wondering
24 what criteria do you understand to be appropriate
25 criteria for the Legislature to use in redistricting?

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1 A. I think -- I think the Legislature should
2 consider grouping communities that are within the same
3 county. I also think they should consider St.
4 Petersburg as a whole which has a diverse group of
5 opinions and thoughts but that would equally represent
6 Black voices, Black voters.

7 Q. Any other traditional redistricting criteria
8 that you're aware of that the Legislature can use --

9 A. Not that I can think of.

10 Q. -- should have used? Okay. Okay. So I wrote
11 down the county lines and city lines. Did I miss
12 anything?

13 A. Not that I can think of, no.

14 Q. And let's see. Do you know if it's
15 appropriate for the Legislature to -- to give deference
16 to where lines have previously been drawn in -- in prior
17 maps maybe that have already been upheld in court?

18 A. Can you break down that question for me?

19 Q. Yeah. Do you know whether one of the criteria
20 the Legislature can use is where district lines have
21 traditionally been drawn in the past?

22 A. I --

23 Q. Do you know if that holds any weight in the
24 analysis of -- of where they draw lines?

25 A. I do not.

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1 Q. And -- okay. We're good. We're making great
2 time.

3 MS. HARLE: Let's go to Paragraph 131, please.

4 BY MS. HARLE:

5 Q. This one says, the legislature lacked good
6 reasons to believe that the enacted plan was necessary
7 to achieve Tier 1 compliance. So my question is, do you
8 know what Tier 1 compliance means?

9 A. No.

10 MR. WARREN: Could we zoom out on the
11 document? It's -- it's covered up by the --

12 MS. HARLE: Oh, yes.

13 MR. WARREN: Thank you.

14 MS. HARLE: Thank you, Leila.

15 BY MS. HARLE:

16 Q. Did you remember seeing the phrase, "Tier 1"
17 in your Complaint?

18 A. I do remember reviewing it, but it was so long
19 ago that I reviewed it, so I don't recall.

20 Q. So do you recall any facts you were relying on
21 when you made the allegation that the Legislature did
22 not have good reasons that the plan was required for
23 Tier 1 compliance?

24 A. Can you break down that question again,
25 please?

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1 Q. Yeah. So I -- I know -- I know you said
2 you -- you don't remember what Tier 1 compliance means,
3 right?

4 A. Yes.

5 Q. Okay. So I just want to make sure. You can't
6 think of any facts that you had in mind when you made
7 that particular allegation?

8 A. I cannot.

9 Q. Okay. I don't -- definitely don't tell me
10 anything you said to your attorney, but did -- you when
11 you reviewed the Complaint, did you -- do you remember
12 if you asked your attorney any questions about the
13 substance that was in there at all, anywhere in the
14 Complaint?

15 A. Can I check with my lawyer if this is a
16 question of privilege?

17 Q. He would object I assure you. Just yes or no.
18 Did you -- you know, did you -- did you ask your lawyer
19 any questions about the Complaint before it was filed?
20 Just yes or no?

21 MR. WARREN: You can answer.

22 THE WITNESS: No, I did not ask any questions
23 about the Complaint.

24 BY MS. HARLE:

25 Q. Okay. Let's see. Okay.

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1 MS. HARLE: Leila, my bad. I just wrote down
2 a page number for this one. But on Page -- it's Page 13
3 and 14 where Plan 42 is. You may have to zoom out. Oh,
4 there it is.

5 BY MS. HARLE:

6 Q. Okay. Are you able to see that, Jennifer -- I
7 mean, Ms. Garcia?

8 A. Yes.

9 Q. Okay. Have you -- do you know have you seen
10 this map of -- this map 42 before?

11 A. I've reviewed it in the Complaint, yes.

12 Q. Are you able to tell me, just in your own
13 words, why is plan 42 better than the enacted map that
14 you're challenging?

15 MR. WARREN: Object to form.

16 THE WITNESS: I would say that this map shown
17 in front of me groups together all St. Pete residents
18 giving more voting access and more voter power and
19 influence to -- to Black voters who want their voice
20 heard.

21 BY MS. HARLE:

22 Q. And under this map, which Black voters are you
23 saying would have more power? Like, located where?

24 A. In District 24 specifically listed.

25 Q. Any particular part of that district?

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1 A. The ones that are currently -- the community
2 that's currently split on the current map. So I -- I
3 would have to see the other map to show you what I mean.

4 Q. Do you notice any other areas on there where
5 you think the Black vote would be diluted?

6 A. I feel like this splits communities evenly and
7 gives equal representation.

8 Q. Okay. Your Complaint also mentions the Isbel
9 (phonetic) map. Do you remember if you've seen a map
10 called the is Isbel map?

11 A. Can you show it to me?

12 Q. Yes, I think so.

13 THE WITNESS: Also, while you're looking for
14 that, would it be okay to call for a break in five
15 minutes?

16 MS. HARLE: Yeah. Why don't we take a break
17 now and then I can find the map and then we'll hop back
18 on in -- maybe at 4:45? Okay. Thanks.

19 THE REPORTER: Okay. Off the record at 4:36.

20 (A recess was taken.)

21 THE REPORTER: All right. We're back on the
22 record 4:44.

23 BY MS. HARLE:

24 Q. Okay. Go ahead, Ms. Garcia.

25 A. Yes. I -- I recently filed for divorce and so

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1 I didn't know if that can -- that was considered, like,
2 a civil -- earlier you had asked me if I was in any
3 other lawsuits. Does that -- would that count towards
4 that as well?

5 Q. Thank you. It might. And I'm -- I'm sorry to
6 hear that, but thank you for -- for clarifying that.

7 A. Okay.

8 Q. Hopefully that will not result in any
9 depositions.

10 A. Yes, it has not. It's -- it's been -- the
11 case has been settled.

12 Q. Okay. Okay. So let's pull up -- you -- you
13 keep asking me and I'm -- I'm finally going to do this
14 for you. And let's pull up Figure 3 of your Complaint
15 which is the challenge map.

16 MS. HARLE: Leila, if you can share your
17 screen. That's on Page 20.

18 BY MS. HARLE:

19 Q. I just wanted to give you a chance to -- to
20 say anything else about the problems on this map that
21 you're challenging that you haven't been able to
22 articulate earlier today?

23 A. Is this the map that you were referring to
24 before the break?

25 Q. No, this is the map that you're challenging in

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1 your lawsuit. But I will -- I will pull up that other
2 map too and ask you about it.

3 A. Okay.

4 Q. So this is the existing map that you're suing
5 over?

6 A. Yes, I understand that.

7 Q. Okay.

8 A. And can you repeat the question on that? Is
9 there --

10 Q. Yes. And so is there anything else about this
11 map that you think is problematic that we haven't
12 already talked about today?

13 A. No.

14 Q. Okay. Sometimes I thought the visual might
15 help if -- you know, if there was anything else you
16 wanted to share. Okay. So the other map I was asking
17 about is on is Figure 5 of your Complaint. I think Page
18 26 under -- there it is, there it is. The is Isbel
19 plan. This is referenced in your Complaint as a viable
20 alternative map. And so I was just curious, in your
21 words, why this map is a viable alternative or a better
22 alternative --

23 MR. WARREN: Object to --

24 BY MS. HARLE:

25 Q. -- than the challenge map?

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1 MR. WARREN: Object to form.

2 THE WITNESS: This map from what I'm seeing
3 now in front of me will group St. Petersburg residents
4 together and keep them within the same district.

5 BY MS. HARLE:

6 Q. And the St. Petersburg voters you think
7 typically vote like one another?

8 A. I believe St. Petersburg voters based on their
9 community and based on the issues pertaining to their
10 concerns.

11 Q. Do you know the partisan composition of St.
12 Petersburg in terms of Democrat, Republican,
13 Independent?

14 A. I do not.

15 Q. Do you know the racial composition of St.
16 Petersburg?

17 A. I do not.

18 Q. This is -- just yes or no. Have you seen any
19 of the expert witness reports that have been filed in
20 this case yet?

21 A. I have reviewed what's in front of me and the
22 Complaint. I have not seen any specific things from
23 other plaintiffs in this case.

24 Q. Okay. How -- do you know if you've seen
25 anything from expert witnesses?

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1 A. I have not.

2 Q. Okay. Between the two alternative maps that
3 we've talked about today, is there -- is there one that
4 you think is preferable in your view?

5 A. I prefer the map that gives equal
6 representation to Black voters.

7 Q. Okay. And is that -- is that a particular map
8 you have in mind or just is there a particular map that
9 you think does that?

10 A. Based on these two maps if both of them offer
11 equal representation to Black voters, then I am for both
12 maps.

13 Q. Okay. And when you're saying equal
14 representation of -- of -- to Black voters, can you --
15 can you further define what you mean by that?

16 A. I mean, maps that don't split communities and
17 map lines that group all of St. Petersburg together so
18 that Black voters have more influence than they
19 currently have.

20 MS. HARLE: Okay. I think this will be our
21 last exhibit. Pull up the Initial Disclosures.

22 (Garcia Exhibit 3 was marked for
23 identification.)

24 MS. HARLE: And could you zoom out on this one
25 a little bit, too? Thank you.

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1 BY MS. HARLE:

2 Q. Does this document look familiar to you, Ms.
3 Garcia?

4 A. I believe so.

5 Q. You want us to scroll down?

6 MS. HARLE: Leila, maybe can you scroll to
7 the --

8 BY MS. HARLE:

9 Q. The date on that was May 31st. That would've
10 been late -- late spring, almost summer. Does that --
11 does it look familiar now that you've seen it?

12 A. Possibly. I -- it's been, again, a very long
13 time. So I've -- I've looked at these documents, but
14 I -- I -- I've seen a lot of documents.

15 Q. Understood. So can -- can you recall whether
16 you've previously reviewed the information in here?

17 A. I believe I -- I looked over documents from --
18 for the case. But again like I stated, I can't recall
19 if this was a specific document that comes to mind.

20 Q. Okay. And so just for context, these are
21 called Rule 16 Initial Disclosures. And the general
22 idea is parties in the lawsuit exchange information with
23 each other. I don't file this with the Court. It just
24 shares who we think might have relevant information in
25 the case. So for example, you can see there at 1A,

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1 there's your name and the other -- the plaintiffs and it
2 says, that you're likely -- you have information
3 showing -- intending to show that the challenged
4 districts cause harm to themselves and to other
5 residents. So what harm do you allege that the
6 challenged district lines cause you?

7 A. Particularly as a voter I can't vote with
8 residents across the street from me -- across 34th
9 Street. I can't vote in the same district as they are
10 in.

11 Q. But you understand that districts do have to
12 have lines, correct? They have to have boundaries at
13 some point, right?

14 A. Absolutely.

15 Q. So there will always be people who live one
16 block from boundary lines, correct?

17 A. Correct.

18 Q. And what harm do you -- do the challenged
19 district lines cause to other residents, in your view?

20 A. In my view and as stated in this case, I
21 believe that these lines that are drawn as is currently
22 diminish the voting influence of Black voters in St.
23 Petersburg and in this area.

24 Q. And let's look at 1D, which is Page 4 of the
25 documents. This is a list of third-parties, some --

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1 some media folks.

2 MS. HARLE: Leila, can you scroll down just a
3 little bit?

4 BY MS. HARLE:

5 Q. Do you have knowledge of any members of the
6 media who might have information about whether the
7 district lines for your district were drawn based on
8 race?

9 A. I believe members of the media have covered
10 issues of gerrymandering in this county and in the Tampa
11 Bay area.

12 Q. Are there any in particular that you are aware
13 of?

14 A. Not that comes to mind, but you would have to
15 check with the people listed on this list.

16 MS. HARLE: Okay. That's the end of my
17 questions.

18 MR. WARREN: I just have a -- a couple
19 questions.

20 CROSS-EXAMINATION

21 BY MR. WARREN:

22 Q. Ms. Garcia, Ms. Harle had asked you about if
23 you had voted in different elections. Did you vote in
24 the 2024 general election that just happened two weeks
25 ago?

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1 A. Yes.

2 Q. Do you remember if there was a state Senate
3 race on that ballot?

4 A. I can't remember --

5 Q. Okay.

6 A. -- but yeah.

7 Q. Okay. Did you vote in the 2022 general
8 election two years ago?

9 A. I believe so, yes.

10 Q. That was when Ron DeSantis was at the top of
11 the ticket I think?

12 A. I believe so, yes.

13 Q. Do you remember if there was a state Senate
14 race on that ballot?

15 A. I can't remember what the ballot said.

16 Q. Okay. Do you remember if you voted in the
17 2020 general election?

18 A. Yes.

19 Q. Do you remember if there was a state Senate
20 race on that ballot?

21 A. I cannot remember what was on that ballot.

22 Q. Do you remember if you voted in the 2018
23 general election?

24 A. I can't remember if I voted in that election.

25 Q. I believe that was when Andrew Gillum and Ron

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1 DeSantis and the original Amendment 4 were on the
2 ballot?

3 A. Yes, I believe so. I remember those.

4 Q. And you remember voting in that election?

5 A. Yes.

6 Q. Do you remember if there was a state Senate
7 race on that ballot?

8 A. I can't recall.

9 Q. And just one last one. Do you remember if you
10 voted in the 2016 general election?

11 A. Yes, I did.

12 Q. And do you remember if there was a state
13 Senate race on that ballot?

14 A. I cannot recall.

15 MR. WARREN: Okay. That's all I have.

16 MS. HARLE: Okay. I think we're done then.

17 MR. WARREN: And we will read.

18 THE REPORTER: Any orders before we get off?

19 MS. HARLE: Yes, Eric. Thanks. We'd like a
20 copy. Shutts & Bowen order one.

21 MR. WARREN: We won't order, but we will read.
22 Thank you, Eric.

23 THE REPORTER: No problem. We -- so we're off
24 the record then at 4:55.

25 (Deposition concluded at 4:55 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, the undersigned authority, certify that
JENNIFER GARCIA personally appeared before me and was
duly sworn on this 20th day of November, 2024.

WITNESS my hand and official seal this 26th day of
November, 2024.



Jake Coppola

Notary Commission Florida No.: HH 240208

Commission Expires: March 14, 2026

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1 CERTIFICATE OF REPORTER

2
3 I, JAKE COPPOLA, a Digital Reporter and
4 Notary Public within and for the State of Florida do
5 hereby certify:

6
7 That the foregoing witness whose examination
8 is hereinbefore set forth was duly sworn and that said
9 testimony was accurately captured with annotations by me
10 during the proceeding.

11
12 I further certify that I am not related to
13 any of the parties to this action by blood or marriage
14 and that I am in no way interested in the outcome of
15 this matter.

16
17 IN WITNESS THEREOF, I have hereunto set my
18 hand this 26th day of November, 2024.

19
20 

21 JAKE COPPOLA

22 Notary Commission Florida No. HH 240208

23 Commission Expires: March 14, 2026
24
25

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1 CERTIFICATE OF TRANSCRIPTIONIST

2
3
4 I, SANDRA REDAVID, located in the State of Florida do
5 hereby certify:
6

7 That the foregoing is a complete and
8 accurate transcript of the digital audio recording of
9 the testimony and proceedings captured in the
10 above-entitled matter, all to the best of my skills
11 and ability.
12

13 I further certify that I am not related to
14 any of the parties to this action by blood or marriage
15 and that I am in no way interested in the outcome of
16 this matter.
17

18 IN WITNESS THEREOF, I have hereunto set my
19 hand this 26th of November, 2024.
20

21 **SANDRA REDAVID**
22 _____

23 SANDRA REDAVID
24
25