

**IN THE CHANCERY COURT OF TENNESSEE
FOR THE TWENTIETH JUDICIAL DISTRICT**

TELISE TURNER,)
GARY WYGANT, and)
FRANCIE HUNT,)

Plaintiffs,)

v.)

BILL LEE, Governor,)
TRE HARGETT, Secretary of State,)
MARK GOINS, Tennessee Coordinator)
of Elections; all in their official)
capacity only,)

Defendants.)

CASE NO. 22-0287-IV

THREE-JUDGE PANEL
CHANCELLOR PERKINS, CHIEF
CHANCELLOR MARONEY
CIRCUIT JUDGE SHARP

PLAINTIFFS’ NOTICE OF FILING AFFIDAVIT OF JONATHAN CERVAS

Plaintiffs hereby notify the Court of the filing of the attached Affidavit of Plaintiffs’ expert witness, Dr. Jonathan Cervas.

Without contacting counsel beforehand, Defendants filed a discovery motion on February 22, 2023, accusing Plaintiffs, and counsel, of improperly changing the evidence in the record without notifying the Parties or the Court. In short, Defendants accuse Plaintiffs of altering one of the illustrative maps Dr. Cervas created by secretly editing the map and then intentionally rerouting a web address that had been included in one of Dr. Cervas’s expert reports, such that the old web address would now pull up a new, edited map, rather than the original map.

Had Defendants taken the time and had the courtesy to contact Plaintiffs’ counsel prior to lodging allegations of impropriety, they would have learned that neither Plaintiffs’ counsel nor Dr. Cervas knew the web address in his expert report was linked to the edited version of the original map. Rather, after Defendants criticized the original map in their summary judgment papers, Dr.

Cervas created a new map on his own time, for his own edification, without the knowledge of Plaintiffs' counsel, and he saved the new map with a new file name. He did not realize when he did so that the new, edited map would be linked to the original web address included in his report. Like Plaintiffs' counsel, Dr. Cervas did not realize the issue raised by Defendants had occurred at all, and he certainly did not mean to link his new, edited map to the old web address.

Upon learning of the issue from Defendants' February 22, 2023, discovery motion, Dr. Cervas promptly rerouted the web address to the correct original map. Thus, the web address in Dr. Cervas's January 9, 2023, report now links to the map it originally linked to, not to the new, edited map. The new map that prompted Defendants to cry foul is not in the record.

Plaintiffs will ask Defendants to withdraw their motion on the basis of Dr. Cervas's affidavit. If Defendants are unwilling to do so, Plaintiffs will file a formal response to Defendants' Motion on or before Wednesday, March 1, 2023.

Dated: February 24, 2023

Respectfully submitted,

/s/ Scott P Tift

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing *Plaintiffs' Notice of Filing Affidavit of Jonathan Cervas* will be served on the following counsel for the defendants via electronic and U.S. mail on February 24, 2023.

Alexander S. Rieger
Janet M. Kleinfelter
Pablo A. Varela
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janet.kleinfelter@ag.tn.gov
pablo.varela@ag.tn.gov

I hereby certify that a true and exact copy of the foregoing *Plaintiffs' Notice of Filing Affidavit of Jonathan Cervas* will be served on the following counsel for the defendants via electronic mail on February 24, 2023.

Jacob R. Swatley
6060 Primacy Parkway, Suite 100
Memphis, TN 38119
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/s/ Scott P Tift
Scott P. Tift

7. I created this new, corrected map for my own edification, as proof to myself that the non-contiguities addressed by Defendants could easily be corrected without undermining the map itself, which scored better on all relevant redistricting metrics as compared to the Enacted House Map. Neither Plaintiffs nor their counsel asked me to do so, and I understand Plaintiffs' counsel did not learn that I had done so until receiving Defendants' Motion on February 22, 2023.

8. I regret the fact that my decision to revise Cervas House Map 13d_e inadvertently led to the issue raised by Defendants' Motion. I did not realize the web address in my January 9, 2023, report became linked to the new map, rather than remaining linked to the original Cervas House Map 13d_e. My intention was to create a new version, which would have its own unique web address. Now, having had this issue brought to my attention by Defendants' Motion, I have corrected this routing issue by reconnecting the web address from my January 9, 2023, report to the original Cervas House Map 13d_e.

9. This issue arose inadvertently, without me realizing the web address from my January 9, 2023, report had been paired with my new map. I had absolutely no intention of altering the map linked to the web address in my January 9, 2023, report, and I certainly did not make this change on purpose with an intent to deceive the Parties or the Court. To the contrary, this was an entirely inadvertent change, and I was not aware of it until Defendants raised the issue.

10. Now that I am aware of the issue, I have rerouted the web address in my January 9, 2023, report. Thus, Cervas House Map 13d_e is once again the map connected to that web address, and the issue raised by Defendants has been resolved.

[Signature on following page]

I hereby swear that the above-stated testimony is true and accurate to the best of my knowledge and memory.

Jonathan Cervas 2/24/2023
JONATHAN CERVAS DATE

STATE OF PENNSYLVANIA
COUNTY OF ALLEGHENY

Signed, sworn to, and acknowledged before me by Jonathan Cervas, this is the 24 day of February, 2023.

My Commission Expires: 06/06/2025

Commonwealth of Pennsylvania - Notary Seal
JASON MARTIN, Notary Public
Allegheny County
My Commission Expires June 6, 2025
Commission Number 1313284

Jason Martin
NOTARY PUBLIC