

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA**

RENE ROMO, an individual, et al.,

Plaintiffs,  
vs.

CASE NO. 2012-CA-000412

KEN DETZNER, in his official capacity as  
Florida Secretary of State, et al.,

Defendants.  
\_\_\_\_\_ /

THE LEAGUE OF WOMEN VOTERS OF  
FLORIDA, et al.,

Plaintiffs,  
vs.

CASE NO. 2012-CA-000490

KEN DETZNER, in his official capacity as  
Florida Secretary of State, et al.,

Defendants.  
\_\_\_\_\_ /

**ROMO PLAINTIFFS' SUPPLEMENTAL RESPONSE TO LEGISLATIVE PARTIES'  
MOTION TO ALTER OR AMEND THE JUDGMENT**

The Romo Plaintiffs submit this Supplemental Response to Legislative Parties' Motion to Alter or Amend the Judgment for the purpose of providing additional guidance concerning the remedial process that the Court should adopt to ensure that Florida citizens are not again required to vote under an unconstitutional congressional map in 2014.

As the Romo Plaintiffs explained in their original Opposition to the Legislative Parties' Motion to Alter or Amend the Judgment ("Romo Opposition"), there are a number of ways for the Court to prevent another election under the Legislature's unconstitutional map. The Court has the authority to re-open the candidate qualifying period, reschedule the primary election, and adjust related deadlines established by state law to allow adequate time for implementing a remedial map before the 2014 election. Romo Opposition at 9-15. If the Court is concerned

about the feasibility of implementing a new map and establishing revised election deadlines in time for the general election on November 4, 2014, there is still a clear path available for conducting the election in 2014 under a lawful map.

*First*, if the Court is concerned about the November 4 general election date, it should move the general election back approximately four weeks -- to December 2 -- for all congressional districts or, alternatively, for the nine congressional districts affected by the Court's judgment that CDs 5 and 10 must be redrawn.<sup>1</sup> As described in the Romo Opposition, under 2 U.S.C. § 8, the Court has authority to move the general election in an extraordinary case like this one where the choice is between using an invalid map and postponing the election. Romo Opposition at 13-15. Moving the general election back four weeks would allow the primary to be held in mid-October which, in turn, would provide sufficient time to complete candidate qualification and certification and to mail absentee ballots within the 45 days prescribed by the MOVE Act.

*Second*, the Court should order an immediate evidentiary proceeding for the purpose of adopting a constitutional map for use in 2014. In that proceeding, the Court could consider the maps previously presented by the Romo Plaintiffs and the Coalition Plaintiffs, in addition to any maps that Legislative Defendants may choose to present. As the Coalition Plaintiffs have suggested, the Court could address the resource constraints it faces by appointing an expert to independently evaluate the proposed plans or to create a map of his or her own. Courts often appoint special masters to assist in the process of judicial redistricting, typically utilizing academic redistricting experts or other qualified individuals. *See, e.g., Guy v. Miller*, No. 11-OC-00042-1B (Nev. Aug 3, 2011) (appointing local counsel and public officials to draw

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<sup>1</sup> In the remedial map submitted with the Romo Opposition, the following nine districts are affected by the redrawing of CDs 5 and 10: 2, 3, 4, 5, 6, 7, 9, and 10.

districts); *Navajo Nation v. Ariz. Indep. Redistricting Comm'n*, 230 F. Supp. 2d 998, 1004 (D. Ariz. 2002) (appointing academic redistricting expert as special master to assist court); *Anthony v. Michigan*, 35 F. Supp. 2d 989, 1000 (E.D. Mich. 1999) (same). With the assistance of an expert, there is clearly sufficient time to adopt or create a redistricting map that could be used in 2014. See Nathaniel Persily, *When Judges Carve Democracies: A Primer on Court-Drawn Redistricting Plans*, 73 Geo. Wash. L. Rev. 1131, 1147 (2005) (“Given the current state of technology, experts can draw a redistricting plan for any statewide plan (either legislative or congressional) in about a week.”); see also *Larios v. Cox*, 314 F. Supp. 2d 1357 (N.D. Ga. 2004) (25 days from appointment of special master to approval of proposed plan).<sup>2</sup>

Finally, it is critical to emphasize that modifying the election dates, as the Romo Plaintiffs are proposing, may be the only viable path to protecting Florida voters against having to elect their congressional representatives based on an unconstitutional map before 2016. Although the Court explored the possibility of a special election that would take place after the general election on November 4, there are significant federal constitutional questions concerning the Court’s ability to order such an election. Accordingly, unless the Court issues an order modifying election dates and establishing an expedited evidentiary proceeding now that ensures that the 2014 election will not take place under the unconstitutional map, there is a significant risk that the congressional delegation elected under the Legislature’s unlawful map will remain in office through 2016.

Accordingly, the Romo Plaintiffs urge the Court to modify the election dates, including postponing the date for the general election if necessary, and to schedule an immediate

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<sup>2</sup> Within a day, Plaintiffs will submit a list of proposed experts for the Court to consider.

evidentiary proceeding for the purpose of adopting a map to use for congressional elections to be held in 2014.

Dated: July 29, 2014

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

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