

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC14-1905

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

Appellants,

L.T. Case No. 1D14-3953

vs.

KEN DETZNER, *et al.*,

Appellees.

**THE FLORIDA SENATE'S RESPONSE TO
THE FLORIDA HOUSE OF REPRESENTATIVES' MOTION FOR
FURTHER RELINQUISHMENT OF JURISDICTION**

Appellee, the Florida Senate, files this response to the Florida House of Representatives' Motion for Further Relinquishment of Jurisdiction and states as follows:

1. The Florida House asks this Court to relinquish jurisdiction to the trial court for a period of 60 days to develop a factual record and recommend for adoption by this Court a provisional congressional redistricting plan for the State of Florida (mot. at 1). The Florida House states that “[b]ecause the Legislature did not enact a remedial plan, the trial court cannot fulfill the purpose of this Court’s relinquishment, and, without a further relinquishment by this Court, has no authority to undertake any additional remedial proceedings” (mot. at 2).

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2. The Florida Senate disagrees with the Florida House's position that the trial court lacks authority to undertake any additional remedial proceedings. In its July 9 opinion, this Court relinquished jurisdiction to the trial court for a period of 100 days. *League of Women Voters of Fla. v. Detzner*, 40 Fla. L. Weekly S432 (Fla. July 9, 2015). Thus, the trial court has jurisdiction until October 17, 2015 to conduct remedial proceedings on any plan passed by the Legislature and to review any alternative plans submitted by the parties.

3. While the scheduling order in the trial court proceedings, attached hereto as Exhibit A, states that “[t]he Legislative Parties anticipate that the Legislature will enact the Remedial Plan by August 25, 2015,” the order also “recognizes that unanticipated contingencies may arise in any legislative process.” Agreed Scheduling Order at 2. Accordingly, the order directs the Legislative Parties “to provide prompt notice to the Court” if the Legislative Parties “have reason to believe that the Remedial Plan will not be enacted by August 25, 2015.”

4. The failure of the Florida Senate and the Florida House to agree on a remedial congressional plan by the date set forth in the scheduling order does not deprive the trial court of the jurisdiction granted by this Court. The trial court has the authority to modify the deadlines in its scheduling order and, indeed, it has scheduled a case management conference on August 25. Meanwhile, the Senate remains open to further negotiations with the House and is ready, willing, and able

to reconvene in special session to fulfill the Legislature's obligations to draw new congressional districts.

5. The order accompanying this Court's July 9 opinion also supports the continuing jurisdiction of the trial court over the remedial proceedings. That order contemplates the submission and review of alternative plans. Thus, as part of its jurisdiction to evaluate remedial plans, the trial court has the inherent authority to allow "discovery relative to any proposed remedial plans," to permit briefing, and to hold an "evidentiary hearing at which the parties may present evidence and argument for or against any proposed remedial plans" (mot. at 4). Although the order specifically refers to "alternative plans submitted by the Appellants/Cross-Appellees," it does not preclude other parties from offering alternative plans. Thus, no additional order is necessary to allow the trial court to conduct the proceedings contemplated by the Florida House's motion.

6. To the extent, however, that this Court finds that an additional order is necessary to extend the trial court's jurisdiction, the Florida Senate requests that this Court further relinquish jurisdiction to allow the trial court to recommend approval or disapproval of any remedial plan passed by the Legislature. The Florida Senate believes that an initial impasse should not deprive the trial court of jurisdiction to review any plan that the Legislature passes at a later date.

WHEREFORE, the Florida Senate respectfully requests that this Court deny the Florida House's motion on the grounds that the trial court continues to have jurisdiction over the remedial proceedings. Alternatively, the Florida Senate requests that this Court further relinquish jurisdiction to allow the trial court to review any remedial plan passed by the Legislature.

Respectfully submitted,

/s/ Raoul G. Cantero

Raoul G. Cantero

Florida Bar No. 552356

Jason N. Zakia

Florida Bar No. 698121

Jesse L. Green

Florida Bar No. 95591

White & Case LLP

Southeast Financial Center

200 S. Biscayne Blvd., Suite 4900

Miami, Florida 33131-2352

Telephone: (305) 371-2700

Facsimile: (305) 358-5744

E-mail: rcantero@whitecase.com

E-mail: jzakia@whitecase.com

E-mail: jgreen@whitecase.com

George T. Levesque
Florida Bar No. 555541
General Counsel, The Florida Senate
305 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100
Telephone: (850) 487-5237
E-mail: levesque.george@flsenate.gov

Attorneys for Appellees, Florida Senate and President Andy Gardiner

CERTIFICATE OF SERVICE

I certify that on August 25, 2015, a copy of the foregoing was served by e-mail to all counsel on the attached service list.

By: /s/ Raoul G. Cantero
Raoul G. Cantero

SERVICE LIST

Abha Khanna
Kevin J. Hamilton
Ryan Spear
Perkins Coie, LLP
1201 Third Avenue, Ste. 4800
Seattle, WA 98101-3099
Telephone: (206) 359-8000
Facsimile: (206) 359-9000
E-mail: AKhanna@perkinscoie.com
E-mail: KHamilton@perkinscoie.com
E-mail: RSpear@perkinscoie.com

John M. Devaney
Mark Erik Elias
Elisabeth C. Frost
Perkins Coie, LLP
700 Thirteenth Street, NW, Ste. 700
Washington, DC 20005
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
E-mail: JDevaney@perkinscoie.com
E-mail: MElias@perkinscoie.com
E-mail: efrost@perkinscoie.com

Mark Herron
Robert Telfer
Messer Caparello & Self, P.A.
Post Office Box 1876
Tallahassee, FL 32302-1876
Telephone: 850-222-0720
E-mail: mherron@lawfla.com
E-mail: rtelfer@lawfla.com
secondary: clowell@lawfla.com
secondary:
statecourtpleadings@lawfla.com

*Counsel for Appellants, Rene Romo, Benjamin Weaver, William Everett
Warinner, Jessica Barrett, June Keener, Richard Quinn Boylan and Bonita Agan*

John S. Mills
Andrew D. Manko
Courtney Brewer
The Mills Firm PA
203 North Gadsden Street, Suite 1A
Tallahassee, FL 32301
Telephone: (850) 765-0897
Facsimile: (850) 270-2474
E-mail: jmills@mills-appeals.com
E-mail: amanko@mills-appeals.com
E-mail: cbrewer@mills-appeals.com
secondary: service@mills-appeals.com

Ronald Meyer
Lynn Hearn
Meyer Brooks Demma and Blohm PA
131 North Gadsden Street
Tallahassee, FL 32301
Telephone: (850) 878-5212
Facsimile: (850) 656-6750
E-mail: rmeyer@meyerbrookslaw.com
E-mail: Lhearn@meyerbrookslaw.com

J. Gerald Hebert
191 Somerville Street, #405
Alexandria, VA 22304
Telephone: (703) 628-4673
E-mail: Hebert@voterlaw.com

David B. King
Thomas A. Zehnder
Frederick S. Wermuth
Vincent Falcone III
King Blackwell Zehnder Wermuth
P.O. Box 1631
Orlando, FL 32802-1631
Telephone: (407) 422-2472
E-mail: dking@kbzwlaw.com
E-mail: tzehnder@kbzwlaw.com
E-mail: fwermuth@kbzwlaw.com
E-mail: vfalcone@kbzwlaw.com

Gerald E. Greenberg
Adam M. Schachter
Gelber Schachter & Greenberg PA
1441 Brickell Avenue, Suite 1420
Miami, FL 33131
Telephone: (305) 728-0950
Facsimile: (305) 728-0951
E-mail: ggreenberg@gsgpa.com
E-mail: aschachter@gsgpa.com

Jessica Ring Amunson
Paul Smith
Michael B. DeSanctis
Jenner & Block LLP
1099 New York Ave, N.W., Ste. 900
Washington, DC 20001-4412
Telephone: (202) 639-6023
Facsimile: (202) 661-4993
E-mail: JAmunson@jenner.com
E-mail: psmith@jenner.com
E-mail: mdesanctis@jenner.com

Counsel for Appellants, The League of Women Voters of Florida, The National Council of La Raza, Common Cause Florida; Robert Allen Schaeffer, Brenda Ann Holt, Roland Sanchez-Medina, Jr., and John Steele Olmstead

J. Andrew Atkinson
Ashley Davis
Florida Department Of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, FL 32399
Telephone: (850) 245-6536
E-mail:
JAndrew.Atkinson@dos.myflorida.com
E-mail: Ashley.Davis@dos.myflorida.com

*Attorneys for Appellee, Ken Detzner,
in his Official Capacity as Florida
Secretary of State*

Blaine H. Winship
Office Of Attorney General
Capitol, Pl-01
Tallahassee, FL 32399-1050
Telephone: (850) 414-3300
Facsimile: (850) 401-1630
E-Mail:
Blaine.winship@myfloridalegal.com

*Counsel for Appellee, Pam Bondi, in her
capacity as Florida Attorney General*

Michael A. Carvin
Louis K. Fisher
Jones Day
51 Louisiana Avenue, N.W.
Washington, DC 20001
Telephone: (202) 879-7643
Facsimile: (202) 626-1700
E-mail: macarvin@jonesday.com
E-mail: lkfisher@jonesday.com

*Attorneys for Appellees, the Florida
Senate and President Andy Gardiner*

Victor L. Goode
Dorcas R. Gilmore
NAACP
4805 Mt. Hope Drive
Baltimore, MD 21215-3297
Telephone: (410) 580-5790
Facsimile: (410) 358-9350
E-mail: vgoode@naacpnet.org
E-mail: dgilmore@naacpnet.org

Allison J. Riggs
Anita S. Earls
Southern Coalition For Social Justice
1415 West Highway 54, Ste. 101
Durham, NC 27707
Telephone: (919) 323-3380
Facsimile: (919) 323-3942
E-mail: allison@southerncoalition.org
E-mail: anita@southerncoalition.org

Benjamin James Stevenson
**American Civil Liberties Union
of Florida Foundation**
Post Office Box 12723
Pensacola, FL 32591-2723
Telephone: (786) 363-2738
Facsimile: (786) 363-1985
E-mail: bstevenson@aclufl.org

Counsel for Appellee, the Florida State Conference of NAACP Branches

Charles T. Wells
George N. Meros, Jr.
Jason L. Unger
Andy Bardos
GrayRobinson, P.A.
Post Office Box 11189
Tallahassee, Florida 32302
Telephone: (850) 577-9090
E-mail: Charles.Wells@gray-robinson.com
E-mail: George.Meros@gray-robinson.com
E-mail: Jason.Unger@gray-robinson.com
E-mail: Andy.Bardos@gray-robinson.com

Matthew J. Carson
**General Counsel, The Florida
House of Representatives**
422 The Capitol
402 South Monroe Street
Tallahassee, Florida 32399-1300
Telephone: 850-717-5500
E-mail: matthew.carson@
myfloridahouse.gov

*Attorneys for Appellees, the Florida House of Representatives and Speaker Steve
Crisafulli*

EXHIBIT A

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

RENE ROMO, an individual, *et al.*,

Plaintiffs,

v.

Case No. 2012-CA-000412

KEN DETZNER, in his official capacity
as Florida Secretary of State, and PAMELA
JO BONDI, in her official capacity as
Attorney General,

Defendants.

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

Plaintiffs,

v.

Case No. 2012-CA-000490

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

Defendants.

AGREED SCHEDULING ORDER

On July 9, 2015, the Florida Supreme Court relinquished jurisdiction to this Court for a period of 100 days with directions to require the Florida Legislature to redraw, on an expedited basis, Congressional Districts 5, 13, 14, 21, 22, 25, 26, and 27, and all other districts affected by the redrawing, pursuant to the guidelines set forth in the Supreme Court's opinion of that date. *See League of Women Voters of Fla. v. Detzner*, --- So. 3d ----, 2015 WL 4130852 (Fla. July 9, 2015). The Supreme Court also directed this Court to hold a hearing at which all parties may

present arguments and any evidence for or against the remedial congressional redistricting plan to be enacted by the Legislature (the “Remedial Plan”) and to enter an order that recommends approval or disapproval of the Remedial Plan. On the same date, the Supreme Court entered a separate Order that specifies the parameters of the relinquishment (the “Relinquishment Order”).

On July 15, 2015, this Court entered an Order on Case Management and Notice of Hearing that directed the parties to confer and, if possible, submit to the Court an agreed scheduling order. The parties having conferred and submitted an agreed scheduling order, and the Court, having reviewed and approved the parties’ proposal, enters this Order.

1. The Legislative Parties anticipate that the Legislature will enact the Remedial Plan by August 25, 2015. The Court recognizes that unanticipated contingencies may arise in any legislative process and directs the Legislative Parties, if they have reason to believe that the Remedial Plan will not be enacted by August 25, 2015, to provide prompt notice to the Court.

2. Within **one (1) day** after enactment of the Remedial Plan,¹ the Legislative Parties shall make all submissions required of them by the Relinquishment Order.

3. Within **ten (10) days** after enactment of the Remedial Plan (or **twelve (12) days** if the Remedial Plan is enacted on or before August 21, 2015), Plaintiffs shall:

- a. File their response to the Remedial Plan, which, at a minimum, and subject to ongoing discovery, shall identify (i) any districts in the Remedial Plan that Plaintiffs challenge; (ii) each constitutional standard that each challenged district allegedly violates; and (iii) the factual bases of each alleged violation;

¹ For purposes of this Order, the Remedial Plan is deemed enacted when passed by the Legislature, even if the Remedial Plan is presented to the Governor at a later date.

- b. Submit any alternative maps that Plaintiffs wish to introduce in support of their claims in this proceeding, in the manner set forth in the Relinquishment Order; and
- c. Serve any expert disclosures, which shall include the identities and qualifications of all experts on whose opinions Plaintiffs intend to rely, as well as a complete statement of their opinions and the production of all materials on which the experts relied in forming their opinions.

4. Within **ten (10) days** after Plaintiffs make all disclosures required by Paragraph 3 of this Order (or **twelve (12) days** if the Remedial Plan is enacted on or before August 21, 2015), the Legislative Parties shall:

- a. File their reply to Plaintiffs' response to the Remedial Plan, which, at a minimum, and subject to ongoing discovery, shall reply to each challenge identified in Plaintiffs' response; and
- b. Serve any expert disclosures, which shall include the identities and qualifications of all experts on whose opinions the Legislative Parties intend to rely, as well as a complete statement of their opinions and the production of all materials on which the experts relied in forming their opinions.

5. On or before the dates specified in this Paragraph 5, each party shall serve upon all other parties a list of all witnesses, including known impeachment and rebuttal witnesses, whom the party might call at the evidentiary hearing, and of all exhibits that the party might offer to introduce, subject to ongoing discovery. The witness list shall contain the name, address, and telephone number of each witness and segregate all witnesses into three groups: (a) witnesses whom the party in good faith intends to call; (b) witnesses whom the party might or might not

call, depending upon what witnesses the opposing parties call or other unanticipated matters; and (c) witnesses whom the party does not intend to call, but who are listed from an abundance of caution in light of their knowledge of the facts or the issues in dispute. The exhibit list shall enumerate all documents identified as those the party intends to present at the evidentiary hearing referenced in Paragraph 8 below.

- a. Plaintiffs' witness and exhibit disclosure deadline: **September 16, 2015.**
- b. The Legislative Parties' witness and exhibit disclosure deadline: **September 17, 2015.**

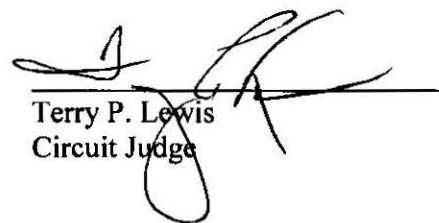
To the extent that a party identifies any witnesses or exhibits after service of the party's witness and exhibit disclosures, the witnesses or exhibits so identified shall be disclosed by **noon on September 21, 2015**, in a supplemental witness and exhibit disclosure that conforms to the requirements of this Paragraph 5.

6. Discovery shall conclude by **September 18, 2015**. The Court anticipates that the parties will serve and respond to requests for discovery in good faith and as promptly as circumstances permit. The parties may take discovery after the discovery deadline only by agreement of all parties or by leave of court granted upon a showing of good cause.

7. Any Defendant other than the Legislative Parties that wishes to present argument or evidence at the evidentiary hearing referenced in Paragraph 8 below shall comply with the disclosure requirements set forth in Paragraphs 4 and 5 above.

8. The evidentiary hearing shall begin at 9:00 a.m. on **September 24, 2015**, in Courtroom 3A. The hearing shall continue from day to day as necessary, but conclude no later than **September 28, 2015**.

DONE AND ORDERED this 30th day of July, 2015.


Terry P. Lewis
Circuit Judge

Copies to all counsel of record