

**IN THE DISTRICT COURT OF APPEAL
FOR THE FIRST DISTRICT, STATE OF FLORIDA**

SENATOR RAY RODRIGUES, ET AL.,

Non-Parties-Appellants,

v.

BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., ET AL.,

Plaintiffs-Appellees.

**SUPPLEMENTAL APPENDIX TO APPELLANTS' RESPONSE TO
APPELLEES' MOTION TO DISMISS FOR
LACK OF JURISDICTION**

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Mat Bahl, Leda Kelly, and Jason
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Rodrigues, Senator Aaron Bean,
Senator Jennifer Bradley, Jay
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Respectfully submitted this twenty-fifth day of January 2023.

/s/ Andy Bardos

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Senator Jennifer Bradley, Jay

Ferrin, and Thomas Justin

Eichermuller

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 25, 2023, a copy of the foregoing was filed via electronic means through the Florida Courts E-Filing portal and was served via electronic mail on all counsel identified on the Service List that follows.

/s/ Andy Bardos
Andy Bardos (FBN 822671)

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*Attorneys for Defendant, Secretary of
State*

Tab A

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

11:07a

JK65

1/20/23

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Wilton Simpson, Plaza Level 10, The Capitol, 400 S. Monroe St.
Tallahassee, Florida 32399

(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

N/a

Place: Stearns Weaver Miller
106 East College Avenue, Suite 700
Tallahassee, Florida 32301

Date and Time:

02/22/2023 10:00 am

The deposition will be recorded by this method: Stenography, audio, and video

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/19/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Common Cause Florida, et al.

, who issues or requests this subpoena, are:

Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows:

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; and
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Tab B

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State*Defendant*

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Chris Sprowls, Buchanan Ingersoll & Rooney PC, 401 E. Jackson Street, Suite 2400
Tampa, FL 33602-5236*(Name of person to whom this subpoena is directed)*

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

N/a

Place: Stearns Weaver Miller
106 East College Avenue, Suite 700
Tallahassee, Florida 32301

Date and Time:
02/22/2023 10:00 am

The deposition will be recorded by this method: Stenography, audio, and video

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/19/2023

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Common Cause Florida, et al.

, who issues or requests this subpoena, are:
Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

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- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

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- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
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- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
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(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

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(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

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Tab C

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

1:30pm
JCL65
1/19/2023

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Rep. Randy Fine, Florida House of Representatives, 402 House Office Building
402 S. Monroe Street, Tallahassee, FL 32399
(Name of person to whom this subpoena is directed)

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

N/a

Place: Stearns Weaver Miller
106 East College Avenue, Suite 700
Tallahassee, Florida 32301

Date and Time:
02/21/2023 10:00 am

The deposition will be recorded by this method: Stenography, audio, and video

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Date: 01/19/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)
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Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

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My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

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Printed name and title

Server's address

Additional information regarding attempted service, etc.: _____

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(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

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- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Tab D

UNITED STATES DISTRICT COURT

for the
Northern District of Florida

1:32 pm
SK65
1/19/2023

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Rep. Tom Leek, Florida House of Representatives, 402 House Office Building
402 S. Monroe Street, Tallahassee, FL 32399
(Name of person to whom this subpoena is directed)

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

N/a

Place: Stearns Weaver Miller
106 East College Avenue, Suite 700
Tallahassee, Florida 32301

Date and Time:
02/22/2023 10:00 am

The deposition will be recorded by this method: Stenography, audio, and video

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/19/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)
Common Cause Florida, et al., who issues or requests this subpoena, are:
Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____

☐ I served the subpoena by delivering a copy to the named individual as follows:

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law; in the amount of
\$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.: _____

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
 - (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
 - (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
 - (iv) subjects a person to undue burden.
- (B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Tab E

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

1/19/2023

1:11 am
JMS

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

B.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Rep. Tyler Sirois, Florida House of Representatives, 402 House Office Building
402 S. Monroe Street, Tallahassee, FL 32399
(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

N/a

Place: Stearns Weaver Miller
106 East College Avenue, Suite 700
Tallahassee, Florida 32301

Date and Time:
02/21/2023 10:00 am

The deposition will be recorded by this method: Stenography, audio, and video

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g); relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/19/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Common Cause Florida, et al.

, who issues or requests this subpoena, are:

Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*

on *(date)*

☐ I served the subpoena by delivering a copy to the named individual as follows:

on *(date)* ; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$

My fees are \$ for travel and \$ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Tab F

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

1/19/23

JKL

1:15 pm

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Rep. Kaylee Tuck, Florida House of Representatives, 402 House Office Building
402 S. Monroe Street, Tallahassee, FL 32399
(Name of person to whom this subpoena is directed)



Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

N/a

Place: Stearns Weaver Miller
106 East College Avenue, Suite 700
Tallahassee, Florida 32301

Date and Time:

02/21/2023 10:00 am

The deposition will be recorded by this method: Stenography, audio, and video

- ☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/19/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Common Cause Florida, et al.

, who issues or requests this subpoena, are:

Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*
on *(date)*

☐ I served the subpoena by delivering a copy to the named individual as follows:

on *(date)* ; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$

My fees are \$ for travel and \$ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
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(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

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(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Tab G

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Commissioner Wilton Simpson, Florida Department of Agriculture and Consumer Services, Plaza Level 10, The
Capitol, 400 S. Monroe St., Tallahassee, Florida 32399

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: FloridaRedistricting@pbwt.com
Catherine Djang, Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas, New York, NY 10036

Date and Time:

01/23/2023 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Common Cause Florida, et al. _____, who issues or requests this subpoena, are:

Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

App. 33

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- A. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.
- B. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.
- C. The following terms shall have the meanings indicated below:
 - (1) The terms “you,” and “your” shall mean Wilton Simpson as well as his present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on his behalf.
 - (2) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
 - (3) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Congressional Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and their respective members and staff.
 - (4) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.

- (5) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- (6) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (7) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (8) The term “Plan H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- (9) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if the Plan H000C8019 was found unconstitutional.
- (10) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature following the 2020 Census, as well as any drafts or precursors of those plans or subsequent amendments thereof, including any amendments, advice, or input offered as to any Plan that was not primarily drawn by you or your office.
- (11) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services or participated in an official or unofficial capacity.
- (12) The term “mapping software” means any and all digital programs that may be used to assist in drawing congressional districts.

- (13) The term “functional analysis” means all documents relating to voting patterns in Florida elections with respect to race, ethnicity, or language minority status, including but not limited to any calculations, reports, audits, estimates, projections, information related to racially polarized voting or other analyses.
- (14) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- (15) The term “document” is used in the broadest possible sense and shall mean, without limitation, any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, text messages, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents, whether sent or received or neither.

- (16) The term “communication” shall mean the transmission of any verbal or nonverbal, written or non-written message, information, sign, symbol, or behavior, and shall include the process by which such transmission occurs.
 - (17) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- D. Notwithstanding any of the provisions below, Respondents should not produce any documents or communications that are currently publicly available on the Legislature’s or the Governor’s official websites.
- E. Unless otherwise specified, the time period for all documents or communications requested is January 27, 2021 to the present day.
- F. The following rules of construction apply to all requests for production:
- (1) The terms “all” and “any” shall each be construed as encompassing any and all;
 - (2) All uses of the word “each” include “every” (and vice versa);
 - (3) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information, documents, and communications is achieved;
 - (4) The term “including” shall be construed without limitation;
 - (5) The use of a verb in any tense encompasses the use of the verb in all tenses;
 - (6) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors,

associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- (7) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
 - (8) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.
- G. Each request for documents or communications shall be construed according to its most inclusive meaning so that if information, a document, or a communication is responsive to any reasonable interpretation of the request, the information, document, or communication is responsive.
- H. If you deem any request for documents or communications to call for the production of privileged or otherwise non-disclosable materials and you assert such claim, furnish a list at the time of production identifying each document or communication so withheld together with the following information:
- (1) the reason for withholding each such document, communication, or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
 - (2) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
 - (3) a brief description of each such document, communication, or other material, including:
 - a. the type of document or communication;
 - b. the date of the document or communication;
 - c. the name of its author(s) or preparer(s) and an identification by employment
 - d. and title of each such person(s);

- e. the name of each person to whom the document, communication, or other material was sent or who has had access to, or custody of, the document, communication, or other material, together with an identification of each such person(s);
 - f. the subject matter of the document or communication;
 - g. the paragraph of this request to which the document, communication, or other material is responsive; and
 - h. in the case of any document, communication, or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.
- I. You are required to produce all requested documents or communications, wherever located, that are in your possession, custody, or control, including documents or communications that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).
- J. With respect to each request, Plaintiffs request that you identify and produce all documents or communications that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents or communications in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your employees, agents, representatives or other persons acting on your behalf or under your control.
- K. Plaintiffs request that, if you have no documents or communications responsive to a request, then you shall so state.
- L. If you assert that any requested document or communication has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information:
 - (1) the date of loss, destruction, or discarding;

- (2) the circumstances of the loss, destruction, or discarding; and
 - (3) if destroyed or discarded:
 - a. the manner of destruction or discarding;
 - b. the reason for destruction or discarding;
 - c. the identity of the person authorizing the destruction or discarding; and
 - d. the identity of the person who destroyed or discarded the document or communication.
- M. Plaintiffs request that you produce all responsive documents, communications, or other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document, communication, other material, the file in which the document, communication, or other material was maintained, the person to whom such file belongs, and the specific request to which the document, communication, or other material is responsive.
- N. These requests shall be deemed to be continuing so as to require further and supplemental production if you receive or discover additional documents, communications, or other material between the time of original production and the time of any hearing, trial, or other presentation of evidence in this matter.
- O. All documents or communications are to be produced in electronic form. Documents or communications produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents or communications, to the extent documents or communications can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document or communication shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where

information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents or communications that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents or communications not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

- P. For documents or communications produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document or communications (that is, the custodian from whom the document or communication was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents or communications, the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.
- Q. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.
- R. Produce any password-protected documents or communications with any applicable passwords.

RECORDS TO BE PRODUCED

- (1) All documents and communications exchanged between you and Governor Ron DeSantis and/or the Executive Office of Governor Ron DeSantis related to the 2022 congressional redistricting process, including those concerning:
 - (a) any Proposed Plan, including all drafts and underlying data or analysis;
 - (b) any factors that were considered in the creation, consideration, and/or submission of any Proposed Plan;
 - (c) any functional analysis performed on proposed redistricting plans.
- (2) All documents and communications related to congressional redistricting from June 1, 2021 to present, including all documents or communications relating to legislative meetings—both formal and informal—related to the drawing of congressional maps, including, without limitation, testimony, meeting minutes, data sets, maps, notes, and plans submitted to, created by, or otherwise considered by you, any member of the Legislature or their staff; minutes, agendas, or presentations from legislative hearings or meetings; and any related communications, including, but not limited to, those with any member of the Legislature (or representatives thereof);
- (3) All documents, policies, and communications related to the legislative process with respect to redistricting;
- (4) All documents and communications related to the April 11, 2022 joint memorandum issued by you and House Speaker Chris Sprowls, announcing that the Legislative reapportionment staff was not drafting or producing a map for introduction during the special session.
- (5) All documents relating to payment for services, agreements of representation, consultation, employment, services, confidentiality, or common interest; or any other type of contract related to redistricting for the Florida House, the Florida Senate, or the Florida delegation to the U.S. House of Representatives, including but not limited the identity of any individual retained or contracted under

such an agreement, the terms of that agreement, and the scope of the work conducted under such agreement.

Tab H

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Chris Sprowls, Buchanan Ingersoll & Rooney PC
401 E. Jackson Street, Suite 2400, Tampa, FL 33602-5236

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: FloridaRedistricting@pbwt.com
Catherine Djang, Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas, New York, NY 10036

Date and Time:

01/23/2023 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

Common Cause Florida, et al. _____, who issues or requests this subpoena, are:

Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

App. 47

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

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(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

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(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- A. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.
- B. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.
- C. The following terms shall have the meanings indicated below:
 - (1) The terms “you,” and “your” shall mean Chris Sprowls as well as his present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on his behalf.
 - (2) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
 - (3) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Congressional Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and their respective members and staff.
 - (4) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.

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- (13) The term “functional analysis” means all documents relating to voting patterns in Florida elections with respect to race, ethnicity, or language minority status, including but not limited to any calculations, reports, audits, estimates, projections, information related to racially polarized voting or other analyses.
- (14) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- (15) The term “document” is used in the broadest possible sense and shall mean, without limitation, any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, text messages, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents, whether sent or received or neither.

- (16) The term “communication” shall mean the transmission of any verbal or nonverbal, written or non-written message, information, sign, symbol, or behavior, and shall include the process by which such transmission occurs.
 - (17) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- D. Notwithstanding any of the provisions below, Respondents should not produce any documents or communications that are currently publicly available on the Legislature’s or the Governor’s official websites.
- E. Unless otherwise specified, the time period for all documents or communications requested is January 1, 2021 to the present day.
- F. The following rules of construction apply to all requests for production:
- (1) The terms “all” and “any” shall each be construed as encompassing any and all;
 - (2) All uses of the word “each” include “every” (and vice versa);
 - (3) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information, documents, and communications is achieved;
 - (4) The term “including” shall be construed without limitation;
 - (5) The use of a verb in any tense encompasses the use of the verb in all tenses;
 - (6) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors,

associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- (7) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
 - (8) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.
- G. Each request for documents or communications shall be construed according to its most inclusive meaning so that if information, a document, or a communication is responsive to any reasonable interpretation of the request, the information, document, or communication is responsive.
- H. If you deem any request for documents or communications to call for the production of privileged or otherwise non-disclosable materials and you assert such claim, furnish a list at the time of production identifying each document or communication so withheld together with the following information:
- (1) the reason for withholding each such document, communication, or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
 - (2) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
 - (3) a brief description of each such document, communication, or other material, including:
 - a. the type of document or communication;
 - b. the date of the document or communication;
 - c. the name of its author(s) or preparer(s) and an identification by employment
 - d. and title of each such person(s);

- e. the name of each person to whom the document, communication, or other material was sent or who has had access to, or custody of, the document, communication, or other material, together with an identification of each such person(s);
 - f. the subject matter of the document or communication;
 - g. the paragraph of this request to which the document, communication, or other material is responsive; and
 - h. in the case of any document, communication, or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.
- I. You are required to produce all requested documents or communications, wherever located, that are in your possession, custody, or control, including documents or communications that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).
- J. With respect to each request, Plaintiffs request that you identify and produce all documents or communications that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents or communications in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your employees, agents, representatives or other persons acting on your behalf or under your control.
- K. Plaintiffs request that, if you have no documents or communications responsive to a request, then you shall so state.
- L. If you assert that any requested document or communication has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information:
 - (1) the date of loss, destruction, or discarding;

- (2) the circumstances of the loss, destruction, or discarding; and
- (3) if destroyed or discarded:
 - a. the manner of destruction or discarding;
 - b. the reason for destruction or discarding;
 - c. the identity of the person authorizing the destruction or discarding; and
 - d. the identity of the person who destroyed or discarded the document or communication.
- M. Plaintiffs request that you produce all responsive documents, communications, or other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document, communication, other material, the file in which the document, communication, or other material was maintained, the person to whom such file belongs, and the specific request to which the document, communication, or other material is responsive.
- N. These requests shall be deemed to be continuing so as to require further and supplemental production if you receive or discover additional documents, communications, or other material between the time of original production and the time of any hearing, trial, or other presentation of evidence in this matter.
- O. All documents or communications are to be produced in electronic form. Documents or communications produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents or communications, to the extent documents or communications can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document or communication shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where

information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents or communications that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents or communications not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

- P. For documents or communications produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document or communications (that is, the custodian from whom the document or communication was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents or communications, the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.
- Q. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.
- R. Produce any password-protected documents or communications with any applicable passwords.

RECORDS TO BE PRODUCED

- (1) All documents and communications exchanged between you and Governor Ron DeSantis and/or the Executive Office of Governor Ron DeSantis related to the 2022 congressional redistricting process, including those concerning:
 - (a) any Proposed Plan, including all drafts and underlying data or analysis;
 - (b) any factors that were considered in the creation, consideration, and/or submission of any Proposed Plan;
 - (c) any functional analysis performed on proposed redistricting plans.
- (2) All documents and communications related to congressional redistricting from June 1, 2021 to present, including all documents or communications relating to legislative meetings—both formal and informal—related to the drawing of congressional maps, including, without limitation, testimony, meeting minutes, data sets, maps, notes, and plans submitted to, created by, or otherwise considered by you, any member of the Legislature or their staff; minutes, agendas, or presentations from legislative hearings or meetings; and any related communications, including, but not limited to, those with any member of the Legislature (or representatives thereof);
- (3) All documents, policies, and communications related to the legislative process with respect to redistricting;
- (4) All documents and communications related to the April 11, 2022 joint memorandum issued by you and House President Wilton Simpson, announcing that the Legislative reapportionment staff was not drafting or producing a map for introduction during the special session.
- (5) All documents containing analysis of the legislature's proposed maps to determine compliance with the Fair Districts Amendments, Voting Rights Act, or federal constitution.
- (6) All documents relating to payment for services, agreements of

representation, consultation, employment, services, confidentiality, or common interest; or any other type of contract related to redistricting for the Florida House, the Florida Senate, or the Florida delegation to the U.S. House of Representatives, including but not limited the identity of any individual retained or contracted under such an agreement, the terms of that agreement, and the scope of the work conducted under such agreement.

Tab I

UNITED STATES DISTRICT COURT

for the
Northern District of Florida

Wk 249
1/18/23
K. D. Webb
10:45a

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Rep. Randy Fine, Florida House of Representatives, 402 House Office Building, 402 S. Monroe Street,
Tallahassee, FL 32399

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: FloridaRedistricting@pbwt.com
Catherine Djang, Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas, New York, NY 10036

Date and Time:
01/23/2023 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)
Common Cause Florida, et al., who issues or requests this subpoena, are:
Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

App. 61

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*

on *(date)*

☐ I served the subpoena by delivering a copy to the named person as follows:

on *(date)*

; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$

My fees are \$ for travel and \$ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
 - (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
 - (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
 - (iv) subjects a person to undue burden.
- (B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:
- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

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(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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 - (2) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
 - (3) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Congressional Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and their respective members and staff.
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- (13) The term “functional analysis” means all documents relating to voting patterns in Florida elections with respect to race, ethnicity, or language minority status, including but not limited to any calculations, reports, audits, estimates, projections, information related to racially polarized voting or other analyses.
- (14) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- (15) The term “document” is used in the broadest possible sense and shall mean, without limitation, any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, text messages, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents, whether sent or received or neither.

- (16) The term “communication” shall mean the transmission of any verbal or nonverbal, written or non-written message, information, sign, symbol, or behavior, and shall include the process by which such transmission occurs.
 - (17) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- D. Notwithstanding any of the provisions below, Respondents should not produce any documents or communications that are currently publicly available on the Legislature’s or the Governor’s official websites.
- E. Unless otherwise specified, the time period for all documents or communications requested is January 27, 2021 to the present day.
- F. The following rules of construction apply to all requests for production:
- (1) The terms “all” and “any” shall each be construed as encompassing any and all;
 - (2) All uses of the word “each” include “every” (and vice versa);
 - (3) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information, documents, and communications is achieved;
 - (4) The term “including” shall be construed without limitation;
 - (5) The use of a verb in any tense encompasses the use of the verb in all tenses;
 - (6) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors,

associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- (7) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
- (8) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.

G. Each request for documents or communications shall be construed according to its most inclusive meaning so that if information, a document, or a communication is responsive to any reasonable interpretation of the request, the information, document, or communication is responsive.

H. If you deem any request for documents or communications to call for the production of privileged or otherwise non-disclosable materials and you assert such claim, furnish a list at the time of production identifying each document or communication so withheld together with the following information:

- (1) the reason for withholding each such document, communication, or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
- (2) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
- (3) a brief description of each such document, communication, or other material, including:
 - a. the type of document or communication;
 - b. the date of the document or communication;
 - c. the name of its author(s) or preparer(s) and an identification by employment
 - d. and title of each such person(s);

- e. the name of each person to whom the document, communication, or other material was sent or who has had access to, or custody of, the document, communication, or other material, together with an identification of each such person(s);
 - f. the subject matter of the document or communication;
 - g. the paragraph of this request to which the document, communication, or other material is responsive; and
 - h. in the case of any document, communication, or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.
- I. You are required to produce all requested documents or communications, wherever located, that are in your possession, custody, or control, including documents or communications that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).
- J. With respect to each request, Plaintiffs request that you identify and produce all documents or communications that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents or communications in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your employees, agents, representatives or other persons acting on your behalf or under your control.
- K. Plaintiffs request that, if you have no documents or communications responsive to a request, then you shall so state.
- L. If you assert that any requested document or communication has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information:
- (1) the date of loss, destruction, or discarding;

- (2) the circumstances of the loss, destruction, or discarding; and
- (3) if destroyed or discarded:
 - a. the manner of destruction or discarding;
 - b. the reason for destruction or discarding;
 - c. the identity of the person authorizing the destruction or discarding; and
 - d. the identity of the person who destroyed or discarded the document or communication.

- M. Plaintiffs request that you produce all responsive documents, communications, or other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document, communication, other material, the file in which the document, communication, or other material was maintained, the person to whom such file belongs, and the specific request to which the document, communication, or other material is responsive.
- N. These requests shall be deemed to be continuing so as to require further and supplemental production if you receive or discover additional documents, communications, or other material between the time of original production and the time of any hearing, trial, or other presentation of evidence in this matter.
- O. All documents or communications are to be produced in electronic form. Documents or communications produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents or communications, to the extent documents or communications can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document or communication shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where

information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents or communications that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents or communications not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

- P. For documents or communications produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document or communications (that is, the custodian from whom the document or communication was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents or communications, the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.
- Q. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.
- R. Produce any password-protected documents or communications with any applicable passwords.

RECORDS TO BE PRODUCED

- (1) All documents and communications exchanged between you and Governor Ron DeSantis and/or the Executive Office of Governor Ron DeSantis related to the 2022 congressional redistricting process, including those concerning:
 - (a) any Proposed Plan, including all drafts and underlying data or analysis;
 - (b) any factors that were considered in the creation, consideration, and/or submission of any Proposed Plan;
 - (c) any functional analysis performed on any Proposed Plan.
- (2) All documents and communications related to congressional redistricting from June 1, 2021 to present, including all documents or communications relating to legislative meetings—both formal and informal—related to the drawing of congressional maps, including, without limitation, testimony, meeting minutes, data sets, maps, notes, and plans submitted to, created by, or otherwise considered by you, any member of the Legislature or their staff; minutes, agendas, or presentations from legislative hearings or meetings; and any related communications, including, but not limited to, those with any member of the Legislature (or representatives thereof).
- (3) All documents relating to payment for services, agreements of representation, consultation, employment, services, confidentiality, or common interest; or any other type of contract related to redistricting for the Florida House, the Florida Senate, or the Florida delegation to the U.S. House of Representatives, including but not limited the identity of any individual retained or contracted under such an agreement, the terms of that agreement, and the scope of the work conducted under such agreement.

Tab J

UNITED STATES DISTRICT COURT

for the
Northern District of Florida

UK 249
1/18/23
10:45a

Common Cause Florida, et al.)
Plaintiff)
v.) Civil Action No. 4:22-cv-109-AW/MAF
Cord Byrd, in his official capacity as Florida Secretary)
of State)
Defendant)

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Rep. Tom Leek, Florida House of Representatives, 402 House Office Building, 402 S. Monroe Street
Tallahassee, FL 32399

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: FloridaRedistricting@pbwt.com
Catherine Djang, Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas, New York, NY 10036

Date and Time:
01/23/2023 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)
Common Cause Florida, et al., who issues or requests this subpoena, are:
Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*
on *(date)*

☐ I served the subpoena by delivering a copy to the named person as follows:

on *(date)* ; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$

My fees are \$ for travel and \$ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- A. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.
- B. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.
- C. The following terms shall have the meanings indicated below:
 - (1) The terms “you,” and “your” shall mean Tom Leek as well as his present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on his behalf.
 - (2) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
 - (3) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Congressional Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and their respective members and staff.
 - (4) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.

- (5) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- (6) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (7) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (8) The term “Plan H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- (9) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if the Plan H000C8019 was found unconstitutional.
- (10) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature following the 2020 Census, as well as any drafts or precursors of those plans or subsequent amendments thereof, including any amendments, advice, or input offered as to any Plan that was not primarily drawn by you or your office.
- (11) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services or participated in an official or unofficial capacity.
- (12) The term “mapping software” means any and all digital programs that may be used to assist in drawing congressional districts.

- (13) The term “functional analysis” means all documents relating to voting patterns in Florida elections with respect to race, ethnicity, or language minority status, including but not limited to any calculations, reports, audits, estimates, projections, information related to racially polarized voting or other analyses.
- (14) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- (15) The term “document” is used in the broadest possible sense and shall mean, without limitation, any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, text messages, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents, whether sent or received or neither.

- (16) The term “communication” shall mean the transmission of any verbal or nonverbal, written or non-written message, information, sign, symbol, or behavior, and shall include the process by which such transmission occurs.
 - (17) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- D. Notwithstanding any of the provisions below, Respondents should not produce any documents or communications that are currently publicly available on the Legislature’s or the Governor’s official websites.
- E. Unless otherwise specified, the time period for all documents or communications requested is January 1, 2021 to the present day.
- F. The following rules of construction apply to all requests for production:
- (1) The terms “all” and “any” shall each be construed as encompassing any and all;
 - (2) All uses of the word “each” include “every” (and vice versa);
 - (3) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information, documents, and communications is achieved;
 - (4) The term “including” shall be construed without limitation;
 - (5) The use of a verb in any tense encompasses the use of the verb in all tenses;
 - (6) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors,

associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- (7) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
 - (8) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.
- G. Each request for documents or communications shall be construed according to its most inclusive meaning so that if information, a document, or a communication is responsive to any reasonable interpretation of the request, the information, document, or communication is responsive.
- H. If you deem any request for documents or communications to call for the production of privileged or otherwise non-disclosable materials and you assert such claim, furnish a list at the time of production identifying each document or communication so withheld together with the following information:
- (1) the reason for withholding each such document, communication, or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
 - (2) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
 - (3) a brief description of each such document, communication, or other material, including:
 - a. the type of document or communication;
 - b. the date of the document or communication;
 - c. the name of its author(s) or preparer(s) and an identification by employment
 - d. and title of each such person(s);

- e. the name of each person to whom the document, communication, or other material was sent or who has had access to, or custody of, the document, communication, or other material, together with an identification of each such person(s);
 - f. the subject matter of the document or communication;
 - g. the paragraph of this request to which the document, communication, or other material is responsive; and
 - h. in the case of any document, communication, or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.
- I. You are required to produce all requested documents or communications, wherever located, that are in your possession, custody, or control, including documents or communications that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).
- J. With respect to each request, Plaintiffs request that you identify and produce all documents or communications that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents or communications in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your employees, agents, representatives or other persons acting on your behalf or under your control.
- K. Plaintiffs request that, if you have no documents or communications responsive to a request, then you shall so state.
- L. If you assert that any requested document or communication has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information:
- (1) the date of loss, destruction, or discarding;

- (2) the circumstances of the loss, destruction, or discarding; and
- (3) if destroyed or discarded:
 - a. the manner of destruction or discarding;
 - b. the reason for destruction or discarding;
 - c. the identity of the person authorizing the destruction or discarding; and
 - d. the identity of the person who destroyed or discarded the document or communication.

- M. Plaintiffs request that you produce all responsive documents, communications, or other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document, communication, other material, the file in which the document, communication, or other material was maintained, the person to whom such file belongs, and the specific request to which the document, communication, or other material is responsive.
- N. These requests shall be deemed to be continuing so as to require further and supplemental production if you receive or discover additional documents, communications, or other material between the time of original production and the time of any hearing, trial, or other presentation of evidence in this matter.
- O. All documents or communications are to be produced in electronic form. Documents or communications produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents or communications, to the extent documents or communications can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document or communication shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where

information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents or communications that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents or communications not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

- P. For documents or communications produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document or communications (that is, the custodian from whom the document or communication was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents or communications, the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.
- Q. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.
- R. Produce any password-protected documents or communications with any applicable passwords.

RECORDS TO BE PRODUCED

- (1) All documents and communications exchanged between you and Governor Ron DeSantis and/or the Executive Office of Governor Ron DeSantis related to the 2022 congressional redistricting process, including those concerning:
 - (a) any Proposed Plan, including all drafts and underlying data or analysis;
 - (b) any factors that were considered in the creation, consideration, and/or submission of any Proposed Plan;
 - (c) any functional analysis performed on any Proposed Plan.
- (2) All documents and communications related to congressional redistricting from June 1, 2021 to present, including all documents or communications relating to legislative meetings—both formal and informal—related to the drawing of congressional maps, including, without limitation, testimony, meeting minutes, data sets, maps, notes, and plans submitted to, created by, or otherwise considered by you, any member of the Legislature or their staff; minutes, agendas, or presentations from legislative hearings or meetings; and any related communications, including, but not limited to, those with any member of the Legislature (or representatives thereof).
- (3) All documents relating to payment for services, agreements of representation, consultation, employment, services, confidentiality, or common interest; or any other type of contract related to redistricting for the Florida House, the Florida Senate, or the Florida delegation to the U.S. House of Representatives, including but not limited the identity of any individual retained or contracted under such an agreement, the terms of that agreement, and the scope of the work conducted under such agreement.

Tab K

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Ray Rodrigues, Chancellor, State University System of Florida, 200 West College Avenue, Suite 210, Tallahassee,
FL 32301

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: FloridaRedistricting@pbwt.com
Catherine Djang, Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas, New York, NY 10036

Date and Time:

01/23/2023 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

Common Cause Florida, et al., who issues or requests this subpoena, are:

Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

App. 87

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- A. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.
- B. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.
- C. The following terms shall have the meanings indicated below:
 - (1) The terms “you,” and “your” shall mean Ray Rodrigues as well as his present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on his behalf.
 - (2) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
 - (3) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Congressional Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and their respective members and staff.
 - (4) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.

- (5) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- (6) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (7) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (8) The term “Plan H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- (9) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if the Plan H000C8019 was found unconstitutional.
- (10) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature following the 2020 Census, as well as any drafts or precursors of those plans or subsequent amendments thereof, including any amendments, advice, or input offered as to any Plan that was not primarily drawn by you or your office.
- (11) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services or participated in an official or unofficial capacity.
- (12) The term “mapping software” means any and all digital programs that may be used to assist in drawing congressional districts.

- (13) The term “functional analysis” means all documents relating to voting patterns in Florida elections with respect to race, ethnicity, or language minority status, including but not limited to any calculations, reports, audits, estimates, projections, information related to racially polarized voting or other analyses.
- (14) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- (15) The term “document” is used in the broadest possible sense and shall mean, without limitation, any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, text messages, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents, whether sent or received or neither.

- (16) The term “communication” shall mean the transmission of any verbal or nonverbal, written or non-written message, information, sign, symbol, or behavior, and shall include the process by which such transmission occurs.
- (17) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- D. Notwithstanding any of the provisions below, Respondents should not produce any documents or communications that are currently publicly available on the Legislature’s or the Governor’s official websites.
- E. Unless otherwise specified, the time period for all documents or communications requested is January 27, 2021 to the present day.
- F. The following rules of construction apply to all requests for production:
- (1) The terms “all” and “any” shall each be construed as encompassing any and all;
 - (2) All uses of the word “each” include “every” (and vice versa);
 - (3) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information, documents, and communications is achieved;
 - (4) The term “including” shall be construed without limitation;
 - (5) The use of a verb in any tense encompasses the use of the verb in all tenses;
 - (6) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors,

associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- (7) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
 - (8) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.
- G. Each request for documents or communications shall be construed according to its most inclusive meaning so that if information, a document, or a communication is responsive to any reasonable interpretation of the request, the information, document, or communication is responsive.
- H. If you deem any request for documents or communications to call for the production of privileged or otherwise non-disclosable materials and you assert such claim, furnish a list at the time of production identifying each document or communication so withheld together with the following information:
- (1) the reason for withholding each such document, communication, or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
 - (2) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
 - (3) a brief description of each such document, communication, or other material, including:
 - a. the type of document or communication;
 - b. the date of the document or communication;
 - c. the name of its author(s) or preparer(s) and an identification by employment
 - d. and title of each such person(s);

- e. the name of each person to whom the document, communication, or other material was sent or who has had access to, or custody of, the document, communication, or other material, together with an identification of each such person(s);
 - f. the subject matter of the document or communication;
 - g. the paragraph of this request to which the document, communication, or other material is responsive; and
 - h. in the case of any document, communication, or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.
- I. You are required to produce all requested documents or communications, wherever located, that are in your possession, custody, or control, including documents or communications that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).
- J. With respect to each request, Plaintiffs request that you identify and produce all documents or communications that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents or communications in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your employees, agents, representatives or other persons acting on your behalf or under your control.
- K. Plaintiffs request that, if you have no documents or communications responsive to a request, then you shall so state.
- L. If you assert that any requested document or communication has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information:
 - (1) the date of loss, destruction, or discarding;

- (2) the circumstances of the loss, destruction, or discarding; and
- (3) if destroyed or discarded:
 - a. the manner of destruction or discarding;
 - b. the reason for destruction or discarding;
 - c. the identity of the person authorizing the destruction or discarding; and
 - d. the identity of the person who destroyed or discarded the document or communication.
- M. Plaintiffs request that you produce all responsive documents, communications, or other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document, communication, other material, the file in which the document, communication, or other material was maintained, the person to whom such file belongs, and the specific request to which the document, communication, or other material is responsive.
- N. These requests shall be deemed to be continuing so as to require further and supplemental production if you receive or discover additional documents, communications, or other material between the time of original production and the time of any hearing, trial, or other presentation of evidence in this matter.
- O. All documents or communications are to be produced in electronic form. Documents or communications produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents or communications, to the extent documents or communications can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document or communication shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where

information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents or communications that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents or communications not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

- P. For documents or communications produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document or communications (that is, the custodian from whom the document or communication was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents or communications, the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.
- Q. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.
- R. Produce any password-protected documents or communications with any applicable passwords.

RECORDS TO BE PRODUCED

- (1) All documents and communications exchanged between you and Governor Ron DeSantis and/or the Executive Office of Governor Ron DeSantis related to the 2022 congressional redistricting process, including those concerning:
 - (a) any Proposed Plan, including all drafts and underlying data or analysis;
 - (b) any factors that were considered in the creation, consideration, and/or submission of any Proposed Plan;
 - (c) any functional analysis performed on any Proposed Plan.
- (2) All documents and communications related to congressional redistricting from June 1, 2021 to present, including all documents or communications relating to legislative meetings—both formal and informal—related to the drawing of congressional maps, including, without limitation, testimony, meeting minutes, data sets, maps, notes, and plans submitted to, created by, or otherwise considered by you, any member of the Legislature or their staff; minutes, agendas, or presentations from legislative hearings or meetings; and any related communications, including, but not limited to, those with any member of the Legislature (or representatives thereof).
- (3) All drafts created in connection with the development or revision of any Proposed Plan, including but not limited to shapefiles, files, or datasets used in mapping software, demographic data (including but not limited to Citizen Voting Age Population, Hispanic Citizen Voting Age Population, Black Citizen Voting Age Population, AAPI Citizen Voting Age Population, Voting Age Population, Hispanic Voting Age Population, Black Voting Age Population, and AAPI Voting Age Population), election data (including but not limited to reconstituted election analyses), and files related to precinct names, precinct lines, split precincts, partisan indexes, population shifts, population deviations, voter registration, voter affiliation citizenship, changing census geography, or any other measure used to evaluate the redistricting proposal.

- (4) Any documents containing analysis of the legislature's proposed maps to determine compliance with the Fair Districts Amendments, Voting Rights Act, or federal constitution.
- (5) All documents relating to payment for services, agreements of representation, consultation, employment, services, confidentiality, or common interest; or any other type of contract related to redistricting for the Florida House, the Florida Senate, or the Florida delegation to the U.S. House of Representatives, including but not limited the identity of any individual retained or contracted under such an agreement, the terms of that agreement, and the scope of the work conducted under such agreement.

Tab L

luk 24
11/13/23
10:45am

UNITED STATES DISTRICT COURT

for the
Northern District of Florida

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Rep. Tyler Sirois, Florida House of Representatives, 402 House Office Building, 402 S. Monroe Street
Tallahassee, FL 32399

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: FloridaRedistricting@pbwt.com
Catherine Djang, Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas, New York, NY 10036

Date and Time:
01/23/2023 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)
Common Cause Florida, et al., who issues or requests this subpoena, are:
Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

App. 101

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- A. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.
- B. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.
- C. The following terms shall have the meanings indicated below:
 - (1) The terms “you,” and “your” shall mean Tyler Sirois as well as his present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on his behalf.
 - (2) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
 - (3) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Congressional Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and their respective members and staff.
 - (4) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.

- (5) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- (6) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (7) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (8) The term “Plan H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- (9) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if the Plan H000C8019 was found unconstitutional.
- (10) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature following the 2020 Census, as well as any drafts or precursors of those plans or subsequent amendments thereof, including any amendments, advice, or input offered as to any Plan that was not primarily drawn by you or your office.
- (11) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services or participated in an official or unofficial capacity.
- (12) The term “mapping software” means any and all digital programs that may be used to assist in drawing congressional districts.

- (13) The term “functional analysis” means all documents relating to voting patterns in Florida elections with respect to race, ethnicity, or language minority status, including but not limited to any calculations, reports, audits, estimates, projections, information related to racially polarized voting or other analyses.
- (14) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- (15) The term “document” is used in the broadest possible sense and shall mean, without limitation, any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, text messages, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents, whether sent or received or neither.

- (16) The term “communication” shall mean the transmission of any verbal or nonverbal, written or non-written message, information, sign, symbol, or behavior, and shall include the process by which such transmission occurs.
- (17) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- D. Notwithstanding any of the provisions below, Respondents should not produce any documents or communications that are currently publicly available on the Legislature’s or the Governor’s official websites.
- E. Unless otherwise specified, the time period for all documents or communications requested is January 27, 2021 to the present day.
- F. The following rules of construction apply to all requests for production:
- (1) The terms “all” and “any” shall each be construed as encompassing any and all;
 - (2) All uses of the word “each” include “every” (and vice versa);
 - (3) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information, documents, and communications is achieved;
 - (4) The term “including” shall be construed without limitation;
 - (5) The use of a verb in any tense encompasses the use of the verb in all tenses;
 - (6) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors,

associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- (7) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
 - (8) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.
- G. Each request for documents or communications shall be construed according to its most inclusive meaning so that if information, a document, or a communication is responsive to any reasonable interpretation of the request, the information, document, or communication is responsive.
- H. If you deem any request for documents or communications to call for the production of privileged or otherwise non-disclosable materials and you assert such claim, furnish a list at the time of production identifying each document or communication so withheld together with the following information:
- (1) the reason for withholding each such document, communication, or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
 - (2) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
 - (3) a brief description of each such document, communication, or other material, including:
 - a. the type of document or communication;
 - b. the date of the document or communication;
 - c. the name of its author(s) or preparer(s) and an identification by employment
 - d. and title of each such person(s);

- e. the name of each person to whom the document, communication, or other material was sent or who has had access to, or custody of, the document, communication, or other material, together with an identification of each such person(s);
 - f. the subject matter of the document or communication;
 - g. the paragraph of this request to which the document, communication, or other material is responsive; and
 - h. in the case of any document, communication, or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.
- I. You are required to produce all requested documents or communications, wherever located, that are in your possession, custody, or control, including documents or communications that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).
- J. With respect to each request, Plaintiffs request that you identify and produce all documents or communications that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents or communications in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your employees, agents, representatives or other persons acting on your behalf or under your control.
- K. Plaintiffs request that, if you have no documents or communications responsive to a request, then you shall so state.
- L. If you assert that any requested document or communication has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information:
 - (1) the date of loss, destruction, or discarding;

- (2) the circumstances of the loss, destruction, or discarding; and
- (3) if destroyed or discarded:
 - a. the manner of destruction or discarding;
 - b. the reason for destruction or discarding;
 - c. the identity of the person authorizing the destruction or discarding; and
 - d. the identity of the person who destroyed or discarded the document or communication.

M. Plaintiffs request that you produce all responsive documents, communications, or other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document, communication, other material, the file in which the document, communication, or other material was maintained, the person to whom such file belongs, and the specific request to which the document, communication, or other material is responsive.

N. These requests shall be deemed to be continuing so as to require further and supplemental production if you receive or discover additional documents, communications, or other material between the time of original production and the time of any hearing, trial, or other presentation of evidence in this matter.

O. All documents or communications are to be produced in electronic form. Documents or communications produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents or communications, to the extent documents or communications can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document or communication shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where

information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents or communications that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents or communications not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

- P. For documents or communications produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document or communications (that is, the custodian from whom the document or communication was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents or communications, the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.
- Q. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.
- R. Produce any password-protected documents or communications with any applicable passwords.

RECORDS TO BE PRODUCED

- (1) All documents and communications exchanged between you and Governor Ron DeSantis and/or the Executive Office of Governor Ron DeSantis related to the 2022 congressional redistricting process, including those concerning:
 - (a) any Proposed Plan, including all drafts and underlying data or analysis;
 - (b) any factors that were considered in the creation, consideration, and/or submission of any Proposed Plan;
 - (c) any functional analysis performed on proposed redistricting plans.
- (2) All documents and communications related to congressional redistricting from June 1, 2021 to present, including all documents or communications relating to legislative meetings—both formal and informal—related to the drawing of congressional maps, including, without limitation, testimony, meeting minutes, data sets, maps, notes, and plans submitted to, created by, or otherwise considered by you, any member of the Legislature or their staff; minutes, agendas, or presentations from legislative hearings or meetings; and any related communications, including, but not limited to, those with any member of the Legislature (or representatives thereof).
- (3) Any documents containing analysis of the legislature’s proposed maps to determine compliance with the Fair Districts Amendments, Voting Rights Act, or federal constitution.
- (4) All documents relating to payment for services, agreements of representation, consultation, employment, services, confidentiality, or common interest; or any other type of contract related to redistricting for the Florida House, the Florida Senate, or the Florida delegation to the U.S. House of Representatives, including but not limited the identity of any individual retained or contracted under such an agreement, the terms of that agreement, and the scope of the work conducted under such agreement.

Tab M

UNITED STATES DISTRICT COURT

for the
Northern District of Florida

W/249
1/18/23
10:45a

Common Cause Florida, et al.

Plaintiff

v.

Cord Byrd, in his official capacity as Florida Secretary
of State

Defendant

Civil Action No. 4:22-cv-109-AW/MAF

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Rep. Kaylee Tuck, Florida House of Representatives
402 House Office Building, 402 S. Monroe Street, Tallahassee, FL 32399

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment.

Place: FloridaRedistricting@pbwt.com
Catherine Djang, Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas, New York, NY 10036

Date and Time:
01/23/2023 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)
Common Cause Florida, et al., who issues or requests this subpoena, are:
Catherine Djang, 1133 Avenue of the Americas, New York, NY 10036; FloridaRedistricting@pbwt.com; 212-336-2817

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

App. 114

Civil Action No. 4:22-cv-109-AW/MAF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*

on *(date)*

☐ I served the subpoena by delivering a copy to the named person as follows:

on *(date)*

; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

\$

My fees are \$ for travel and \$ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- A. Notwithstanding any definition set forth below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.
- B. Words or terms not specifically defined herein have the meaning commonly understood, and no definition is intended as exclusive.
- C. The following terms shall have the meanings indicated below:
 - (1) The terms “you,” and “your” shall mean Kaylee Tuck as well as her present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on her behalf.
 - (2) The terms “Governor Ron DeSantis” and “Executive Office of Governor Ron DeSantis” shall mean Governor Ron DeSantis, in his capacity as an individual and as Governor of Florida, and covers the Executive Office of Governor Ron DeSantis as well as present and former agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, representatives, attorneys, and other persons or entities acting or purporting to act on behalf of Governor Ron DeSantis or the Executive Office of Governor Ron DeSantis.
 - (3) The term “Legislature” shall mean the Florida Legislature, including but not limited to the Florida House of Representatives, the Florida Senate, the Florida Senate Committee on Reapportionment, the Florida Senate Select Subcommittee on Congressional Reapportionment, the Florida Senate Select Subcommittee on Legislative Reapportionment, the Florida House Congressional Redistricting Committee, the Florida House Congressional Redistricting Subcommittee, the Florida House State Legislative Redistricting Subcommittee, and their respective members and staff.
 - (4) The term “Fair Districts Amendments” shall mean Article III, Sections 20 and 21 of the Florida Constitution.

- (5) The term “Enacted Plan” shall mean the congressional district plan passed by the Legislature on April 21, 2022, or any drafts or precursors thereof.
- (6) The term “Plan P000C0079” shall mean the congressional district plan submitted to the Legislature on January 16, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (7) The term “Plan P000C0094” shall mean the congressional district plan submitted to the Legislature on February 14, 2022 by Ryan Newman, Counsel to the Governor, or any drafts or precursors thereof.
- (8) The term “Plan H000C8019” shall mean the congressional district plan approved by the Legislature on March 4, 2022, or any drafts or precursors thereof.
- (9) The term “Plan H000C8015” shall mean the congressional district plan approved by the Legislature on March 4, 2022, with the recommendation that the plan take effect if the Plan H000C8019 was found unconstitutional.
- (10) The term “Proposed Plans” shall mean all congressional redistricting plans drawn, considered, reviewed, proposed, or adopted by you or the Legislature following the 2020 Census, as well as any drafts or precursors of those plans or subsequent amendments thereof, including any amendments, advice, or input offered as to any Plan that was not primarily drawn by you or your office.
- (11) The term “map drawer” shall mean anyone who assisted, advised, or provided input or feedback in the creation of any Proposed Plan, regardless of whether or not they were compensated for their services or participated in an official or unofficial capacity.
- (12) The term “mapping software” means any and all digital programs that may be used to assist in drawing congressional districts.

- (13) The term “functional analysis” means all documents relating to voting patterns in Florida elections with respect to race, ethnicity, or language minority status, including but not limited to any calculations, reports, audits, estimates, projections, information related to racially polarized voting or other analyses.
- (14) The term “person” shall mean and include natural persons, governmental entities, proprietorships, corporations, partnerships, joint ventures, and each other form of organization, entity or association.
- (15) The term “document” is used in the broadest possible sense and shall mean, without limitation, any tangible thing on or in which data are preserved by any means or in any form, including, without limiting the generality of its meaning, electronically stored information (ESI) or recorded material of any kind such as email or other electronic correspondence, including any electronic or computerized record from which information can be obtained or translated, correspondence, letters, envelopes, telegrams, facsimiles, telexes, text messages, minutes, notes or memoranda of personal or telephone conversations or conferences, telephone logs, memoranda, handwritten or stenographic notes, diaries, calendars, contracts, purchase orders, invoices, accounts, ledgers, evaluations, analyses, forecasts, statistics, estimates, reviews, working papers, reports, studies, books, magazines, newspapers, booklets, brochures, catalogs, pamphlets, instructions, circulars, bulletins, trade letters, press releases, charts, maps, geological or geophysical logs, diagrams, designs, specifications, blueprints, sketches, drawings, pictures, photographs, motion pictures, negatives, undeveloped film, video or audio tapes, belts or discs, voice recordings, transcripts or transcriptions, computer printouts, magnetically encoded cards or tapes, punched cards or tapes, microfilms, microfiches, and any other data compilations from which words, numbers, images or other information can be obtained (translated, if necessary, through appropriate devices into reasonably useable form), whether or not privileged, that is in your possession, custody or control, and shall include all originals, drafts and non-identical copies of such documents, whether sent or received or neither.

- (16) The term “communication” shall mean the transmission of any verbal or nonverbal, written or non-written message, information, sign, symbol, or behavior, and shall include the process by which such transmission occurs.
 - (17) The terms “relating to” and “concerning” shall mean referring to, related to, regarding, consisting of, pertaining to, reflecting, evidencing, describing, constituting, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic, without limitation, unless otherwise specified in the Request.
- D. Notwithstanding any of the provisions below, Respondents should not produce any documents or communications that are currently publicly available on the Legislature’s or the Governor’s official websites.
- E. Unless otherwise specified, the time period for all documents or communications requested is January 27, 2021 to the present day.
- F. The following rules of construction apply to all requests for production:
- (1) The terms “all” and “any” shall each be construed as encompassing any and all;
 - (2) All uses of the word “each” include “every” (and vice versa);
 - (3) The connective terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests all responses that might otherwise be construed to be outside of its scope, so that the fullest disclosure of information, documents, and communications is achieved;
 - (4) The term “including” shall be construed without limitation;
 - (5) The use of a verb in any tense encompasses the use of the verb in all tenses;
 - (6) References to agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf include both current and former agents, assigns, employees, partners, successors, predecessors,

associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on your behalf; and

- (7) References to any entity include all of that entity's agents, assigns, employees, partners, successors, predecessors, associates, personnel, staff, officers, agents, representatives, attorneys, and other persons or entities acting or purporting to act on that entities' behalf.
 - (8) The singular number and masculine gender shall include, and be applied as, the plural or the feminine gender or neuter, and vice-versa, as the circumstances of the particular requests may make appropriate.
- G. Each request for documents or communications shall be construed according to its most inclusive meaning so that if information, a document, or a communication is responsive to any reasonable interpretation of the request, the information, document, or communication is responsive.
- H. If you deem any request for documents or communications to call for the production of privileged or otherwise non-disclosable materials and you assert such claim, furnish a list at the time of production identifying each document or communication so withheld together with the following information:
- (1) the reason for withholding each such document, communication, or material, stated with sufficient particularity so as to permit the Court to adjudicate the validity of the claimed privilege;
 - (2) a statement of the facts constituting the basis for any claim of privilege or other ground of non-disclosure; and
 - (3) a brief description of each such document, communication, or other material, including:
 - a. the type of document or communication;
 - b. the date of the document or communication;
 - c. the name of its author(s) or preparer(s) and an identification by employment
 - d. and title of each such person(s);

- e. the name of each person to whom the document, communication, or other material was sent or who has had access to, or custody of, the document, communication, or other material, together with an identification of each such person(s);
 - f. the subject matter of the document or communication;
 - g. the paragraph of this request to which the document, communication, or other material is responsive; and
 - h. in the case of any document, communication, or other material that relates in any way to a meeting or conversation, identification of such meeting or conversation and the persons attending or participating in such meeting or conversation.
- I. You are required to produce all requested documents or communications, wherever located, that are in your possession, custody, or control, including documents or communications that you have a right to obtain, or to compel the production of, from any third party (including, but not limited to, any financial institution and telephone carrier).
- J. With respect to each request, Plaintiffs request that you identify and produce all documents or communications that are known to you or that you can locate or discover that are in your possession, custody or control, from whatever source derived, which, directly or indirectly, relate, refer or pertain to the subject matter of the request made, including, without limitation, all such documents or communications in the files (whether they be denominated personal, business or any other files) in the possession, custody or control of you or, as applicable, of your employees, agents, representatives or other persons acting on your behalf or under your control.
- K. Plaintiffs request that, if you have no documents or communications responsive to a request, then you shall so state.
- L. If you assert that any requested document or communication has been lost, destroyed, or discarded, please identify each such document as completely as possible, and provide the following information:
- (1) the date of loss, destruction, or discarding;

- (2) the circumstances of the loss, destruction, or discarding; and
- (3) if destroyed or discarded:
 - a. the manner of destruction or discarding;
 - b. the reason for destruction or discarding;
 - c. the identity of the person authorizing the destruction or discarding; and
 - d. the identity of the person who destroyed or discarded the document or communication.

- M. Plaintiffs request that you produce all responsive documents, communications, or other materials in an orderly manner (and with appropriate markings or other identification) so that Plaintiffs will be able to identify the source of the document, communication, other material, the file in which the document, communication, or other material was maintained, the person to whom such file belongs, and the specific request to which the document, communication, or other material is responsive.
- N. These requests shall be deemed to be continuing so as to require further and supplemental production if you receive or discover additional documents, communications, or other material between the time of original production and the time of any hearing, trial, or other presentation of evidence in this matter.
- O. All documents or communications are to be produced in electronic form. Documents or communications produced electronically should be produced in native format with all metadata intact. For any election or voter data file, please produce in CSV format if available. If this is not available, please produce in PDF format. For other documents or communications, to the extent documents or communications can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document or communication shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where

information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents or communications that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents or communications not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

- P. For documents or communications produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document or communications (that is, the custodian from whom the document or communication was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents or communications, the data load files shall also include the following metadata: sent date; sent time; received date; received time; “to” name(s) and address(es); “from” name and address; “cc” name(s) and address(es); “bcc” name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.
- Q. If a responsive communication, document, or tangible thing has been prepared in copies that are not identical, or if additional copies have been made that are no longer identical, or if original identical copies are no longer identical by reason of subsequent notations on the front or back of pages thereto, each non-identical copy is a separate communication, document, or tangible thing and shall be produced.
- R. Produce any password-protected documents or communications with any applicable passwords.

RECORDS TO BE PRODUCED

- (1) All documents and communications exchanged between you and Governor Ron DeSantis and/or the Executive Office of Governor Ron DeSantis related to the 2022 congressional redistricting process, including those concerning:
 - (a) any Proposed Plan, including all drafts and underlying data or analysis;
 - (b) any factors that were considered in the creation, consideration, and/or submission of any Proposed Plan;
 - (c) any functional analysis performed on any Proposed Plan.
- (2) All documents and communications related to congressional redistricting from June 1, 2021 to present, including all documents or communications relating to legislative meetings—both formal and informal—related to the drawing of congressional maps, including, without limitation, testimony, meeting minutes, data sets, maps, notes, and plans submitted to, created by, or otherwise considered by you, any member of the Legislature or their staff; minutes, agendas, or presentations from legislative hearings or meetings; and any related communications, including, but not limited to, those with any member of the Legislature (or representatives thereof).
- (3) All documents relating to payment for services, agreements of representation, consultation, employment, services, confidentiality, or common interest; or any other type of contract related to redistricting for the Florida House, the Florida Senate, or the Florida delegation to the U.S. House of Representatives, including but not limited the identity of any individual retained or contracted under such an agreement, the terms of that agreement, and the scope of the work conducted under such agreement.