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

COMMON CAUSE; LEAGUE OF WOMEN VOTERS OF FLORIDA, INC.; LEAGUE OF UNITED LATIN AMERICAN CITIZENS, *Plaintiffs,* vs. RON DESANTIS, Florida Governor; CORD BYRD, Florida Secretary of State; JAMES UTHMEIER, Florida Attorney General; DANIEL PEREZ, Speaker of the Florida House; BEN ALBRITTON, President of the Florida Senate; MIKE REDONDO, Chair of the Florida House Select Committee on Congressional Redistricting; KATHLEEN PASSIDOMO, Florida Senate Committee on Rules Chair; DON GAETZ, Florida Senator; JENNA PERSONS-MULICKA, Florida Representative; the FLORIDA HOUSE; and the FLORIDA SENATE, *Defendants.*	Case No. 2026 CA 000928

PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR TEMPORARY INJUNCTION

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INTRODUCTION

This case is simple. Florida's Constitution unambiguously prohibits drawing congressional redistricting plans with partisan intent. Fla. Const. art. III, § 20. That prohibition is enshrined in Florida's Fair Districts Amendments which were proposed and passed by the people of Florida and have withstood facial constitutional challenges. It is the law of the land in Florida, and a crown jewel of good government nationwide, identified specifically by the U.S. Supreme Court as a success. *See Rucho v. Common Cause*, 588 U.S. 684, 719 (2019).

That standard prohibits *any* partisan influence in a congressional redistricting plan. In doing so, the standard seeks to banish favoritism and self-dealing from the democratic structure of Florida government, cabin discretion, and require the application of neutral, non-discriminatory redistricting principles. These are not difficult standards to comprehend. And this is not a case where they are difficult to apply.

Here, the key facts are undisputed: the 2022 congressional plan (the "Benchmark Plan") survived both state and federal legal challenges and there was no legal obligation to replace it before the release of 2030 Census data. Nonetheless, amidst an unprecedented nationwide mid-decade redistricting push, the Benchmark Plan was re-drawn, resulting in the enactment of a new plan in April 2026 (the "Challenged Plan"). In the months preceding the Challenged Plan's enactment, Republicans and Democrats across the nation sought to re-draw congressional redistricting maps for maximum partisan gain. The Challenged Plan, drawn by Governor Ron DeSantis's staff, considered partisan data and sought to eliminate four Democratic-leaning districts. Numerous legislators and members of the Governor's staff admitted the plan was constructed to benefit the Republican Party. Furthermore, when asked whether the plan complied with Florida's ban on partisan favoritism in redistricting, the Governor's staff declared their intent to violate the ban, contending the ban was not enforceable.

The challenged map is a flagrant and intentional violation of Florida law and its enactment pits lawmakers' political gain against Floridians' right to democratic self-governance and the fidelity of their elected representatives in the exercise of that governance. Florida's elected representatives not only intentionally violated the will of the people as encapsulated by the Fair Districts Amendments, but also flouted these violations. This Court must now decide whether such a blatant disregard for the will of the governed and the rule of law will stand.

Plaintiffs seek a temporary injunction based on their claim that the 2026 Congressional Plan was drawn with impermissible partisan intent that would block the Challenged Plan from being used in this year's congressional elections.

BACKGROUND

On November 2, 2010, Floridians passed two amendments to the Florida Constitution through a citizen ballot initiative known as the Fair Districts Amendments (codified at Fla. Const. art. III, §§ 20-21) (the "FDA" or "Amendments"). These Amendments aimed to codify neutral redistricting standards in order to curb the practice of gerrymandering in Congressional and state legislative district lines--a practice with a long and distasteful history in Florida redistricting. To achieve this goal, the Amendments included a prohibition on drawing any apportionment plan or individual district "with the intent to favor or disfavor a political party or an incumbent[.]" *Id.*

The Fair District Amendments are immediately tested and successfully stop partisan redistricting plans.

The day after its passage, on November 3, 2010, lawmakers immediately challenged the Amendments in federal court, arguing that the FDA violated the Elections Clause of the U.S. Constitution. The 11th Circuit Court of Appeals ultimately upheld the FDA as a constitutional restriction on the redistricting process, stating that the FDA was "entirely consistent" with the Elections Clause. *See Brown v. Sec'y of Fla.*, 668 F.3d 1271, 1285 (11th Cir. 2012).

The FDA soon had its first enforcement test. In 2012, after 2010 decennial redistricting was completed, legal challenges arose in response to the Legislature's effort to evade the FDA's requirements. Following years of litigation, the Florida Supreme Court found in favor of plaintiffs—Florida lawmakers violated the FDA and drew maps with partisan intent. Since then, Florida courts have repeatedly held that the 2012 Plan was enacted with unconstitutional partisan intent in violation of Section 20(a) of the FDA. *See League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 416 (Fla. 2015); 179 So. 3d 258, 263 (Fla. 2015).

After the 2020 Census, the redistricting cycle restarted. The Florida Legislature drafted and passed state legislative maps for the Florida House and Senate in February 2022, making compliance with the Fair Districts Amendments a top priority in the process. The state legislative plans, which are not subject to the Governor's veto, undergo a constitutional facial review process by the Florida Supreme Court. *In re Senate Joint Resolution of Legislative Apportionment 100*, 334 So. 3d 1282, 1285 (Fla. 2022). For the first time in state history, neither 2022 state legislative map were challenged by third parties, and the Supreme Court approved the plans as compliant with the Fair Districts Amendments. *Id.* at 1285, 1290. Unlike the plans for the state legislative maps, congressional plans are subject to the Governor's veto. After a congressional map passed in both the Florida House and Senate, Governor DeSantis swiftly vetoed the bill. The Governor then proposed his own map, the first in Florida's history drawn by the Governor rather than the Legislature, which ultimately became the enacted 2022 Plan. The Plan drew immediate criticism, with challengers questioning its constitutionality in its effect on Black representation. Litigation in state and federal court ensued, and the 2022 Plan was upheld in both venues. *See Common Cause Fla. v. Byrd*, 726 F. Supp. 3d 1322, 1366 (N.D. Fla. 2024); *Black Voters Matter Capacity Bldg. Inst., Inc. v. Byrd*, 415 So. 3d 180, 200 (Fla. 2025).

Politicians across the country call for mid-decade redistricting for partisan benefit before the 2026 congressional elections.

Around June 2025, in an unprecedented chain of events, President Donald Trump began to pressure Republican lawmakers to redistrict in their states to shift political power towards Republicans ahead of the 2026 congressional elections.[1] The first state to respond to this pressure was Texas, where President Trump called to "pick up five more seats."[2] By July 9, Texas Governor Greg Abbott called a special session on redistricting, citing alleged concerns from the U.S. Department of Justice about the constitutionality of majority-minority coalition districts in the state.[3] Texas ultimately passed a map that would achieve the President's five-seat goal in August 2025.[4] Despite the race-related reasons cited to justify the special session, the U.S. Supreme Court allowed the map to go into effect, characterizing it as part of an effort by "several States . . . in recent months" to redraw their congressional maps "in ways that are predicted to favor the State's dominant political party." *See Abbott v. LULAC*, 146 S. Ct. 418, 419 (2025); *see also id.* at 420 (Alito, J., concurring) ("[T]he dissent does not dispute—because it is indisputable—that the impetus for the adoption of the Texas map (like the map subsequently adopted in California) was partisan advantage pure and simple.").

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[1] J. David Goodman & Shane Goldmacher, *White House Pushes Texas to Redistrict, Hoping to Blunt Democratic Gains,* The New York Times, https://www.nytimes.com/2025/06/09/us/politics/trump-texas-redistricting.html (June 9, 2025).

[2] *"Unprecedented Power Grab": Trump & Texas Try to Create 5 More GOP House Seats with New Gerrymander*, Democracy Now, https://www.democracynow.org/2025/8/1/trumps_texas_gerrymander (Aug. 1, 2025).

[3] Proclamation, Office of the Texas Governor, https://gov.texas.gov/uploads/files/press/PROC_first_called_session_89th_legislature_FINAL_2pm_UNSIGNED_DRAFT_07-09-25.pdf (Jul. 9, 2025); Letter from Harmeet Dhillon, U.S. Dep't of Just., to Gregory Abbott, Tex. Governor, & Ken Paxton, Tex. Att'y General, https://lrl.texas.gov/scanned/archive/2025/57372.pdf (July 7, 2025).

[4] Eleanor Klibanoff, *Gov. Greg Abbott signs new Texas congressional map designed to give GOP five more seats*, Tex. Tribune (Aug. 29, 2025), https://www.texastribune.org/2025/08/29/greg-abbott-signs-texas-congressional-map-redistricting/.

Texas's actions kickstarted "partisan arms race" to redistrict mid-decade.[5] A number of states held by both parties jumped into the fray and multiple states succeeded in redrawing their congressional map to benefit their respective majority party. California politicians began contemplating a response in July 2025.[6] California Governor Gavin Newsom encouraged the Democratic-leaning state to "defend our democracy and fight fire with fire."[7] In a special statewide referendum election in November, Californian voters responded to the partisan redistricting push by approving a congressional map that would result in five new Democratic-leaning seats.[8]

Florida, too, expressed interest in joining this "partisan arms race" from its earliest days. Shortly after President Trump's June 2025 gerrymandering edict, Governor DeSantis signaled his desire to redistrict Florida.[9] Before long, by August 2025, he explicitly requested the legislature consider redistricting during its 2026 legislative session.[10]

In the meantime, other states proceeded to redistrict for partisan gain. In August, Missouri called for a special session to implement changes to their congressional maps to favor Republican

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[5]Elena Schneider, *Democratic Governors Advise Strong Counteroffensive on Redistricting*, Politico https://www.politico.com/news/2025/08/01/democratic-governors-advise-strong-counteroffensive-on-redistricting-00490344 (Aug. 1, 2025, 8:14 PM).

[6] Owen Dahlkamp, *House Democrats, California leaders weigh tit-for-tat redistricting if Texas Republicans redraw maps*, Texas Tribune https://www.texastribune.org/2025/07/03/redistricting-texas-california-democrats-retaliation-trump-newsom/ (July 3, 2025).

[7] Gavin Newsom (@GavinNewsom), Post on X, https://x.com/GavinNewsom/status/1951120472609005972 (Aug. 1, 2025, 6:27 PM).

[8] *California Election Results*, NPR, https://apps.npr.org/2025-election-results/california.html (2025); Guy Marzorati, *California voters OK new congressional lines, boosting Democrats ahead of midterms*, NPR (Nov. 4, 2025), https://www.npr.org/2025/11/04/nx-s1-5587742/election-results-california-proposition-50-redistricting.

[9] *See* Douglas Soule, *DeSantis Weighing New Florida Congressional Map in Battle for GOP House Control*, WUSF, https://www.wusf.org/politics-issues/2025-08-01/desantis-weighing-new-florida-congressional-map-battle-gop-house-control. (Aug. 1, 2025) (indicating Governor DeSantis was "seriously weighing" mid-decade redistricting); *see also* Mitch Perry, *DeSantis Says It's "Appropriate" to Redistrict Congressional Districts Before Next Election*, Fla. Phoenix, https://floridaphoenix.com/2025/07/24/desantis-says-its-appropriate-to-redistrict-congressional-

power in late 2025 at President Trump's urging.[11] On September 28, Missouri Governor Mike Kehoe signed into law a new proposed congressional map designed to gain Republicans an additional congressional seat by carving up Kansas City into multiple districts.[12] The following month, North Carolina Republicans likewise redrew their Congressional map to Republican advantage, resulting in one more Republican-leaning seat.[13] President Trump praised their efforts.[14]

Florida continued to move toward redistricting as well. Following DeSantis's initial demand that the legislature consider redistricting during their session, House Leader Daniel Perez formed a Select Committee on Congressional Redistricting (the "Select Committee") and hosted two Select Committee meetings in December in the weeks preceding session.[15] Prior to the start

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districts-before-next-election/ (July 24, 2025) (discussing Governor DeSantis assertion that mid-decade redistricting was "appropriate" in Florida.").

[10] Bruce Hamilton, *LIVE: Gov. DeSantis Holds News Conference with Attorney General in South Florida*, News4JAX, https://www.news4jax.com/news/local/2025/08/20/live-gov-desantis-holds-news-conference-with-attorney-general-in-south-florida/ (Aug. 20, 2025, 10:00 AM)

[11] Jason Rosenbaum & Larry Kaplow, *At Trump's Urging, Missouri Jumps into Redistricting Race to Help Republicans*, VPM, https://www.vpm.org/npr-news/npr-news/2025-08-29/at-trumps-urging-missouri-jumps-into-redistricting-race-to-help-republicans (Aug. 29, 2025, 5:53 PM EDT).

[12] Mitch Smith, *Missouri Governor Signs Congressional Map Redrawn to Boost Republicans*, N.Y. Times, https://www.nytimes.com/2025/09/28/us/missouri-redistricting-governor-congress.html (Sept. 28, 2025).

[13] Gary D. Robertson & Jonathan Mattise, *Judges Allow North Carolina to Use a Map Drawn in Bid to Give Republicans Another U.S. House Seat*, PBS NewsHour, https://www.pbs.org/newshour/politics/judges-allow-north-carolina-to-use-a-map-drawn-in-bid-to-give-republicans-another-u-s-house-seat (Nov. 26, 2025, 6:00 PM EDT).

[14] Rapid Response 47 (@RapidResponse47), Post on X, https://x.com/RapidResponse47/status/1979291087219896467 (Oct. 15, 2025, 9:12 AM).

[15] Florida Select Committee on Congressional Redistricting, https://www.flhouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3364&Session=2026&DocumentType=Meeting+Packets&FileName=scr+12-10-25.pdf (Dec. 8, 2025); Florida Select Committee on Congressional Redistricting, https://www.flhouse.gov/Sections/Documents/loaddoc.aspx?MeetingId=14930&PublicationType=Committees&DocumentType=Meeting%20Packets (Dec. 4, 2025).

of session, on January 7, 2026, Governor DeSantis adjusted the redistricting timeline by announcing a special session for redistricting to take place between April 20 and April 24, 2026, after the conclusion of the regular legislative session.[16] Dutifully, the legislature did not take up redistricting during the regular session and instead awaited the April special session.

While the legislature awaited the April special session, another state (Virginia) was moving closer to its own redistricting. There, legislators set out a statewide referendum vote on a new congressional map that would result in four new Democratic-leaning seats.[17] Virginia's efforts had Florida politicians' attention: During the weeks before Virginia's vote, multiple Florida Republicans weighed in for and against mid-decade redistricting there, all focused on the impact it would have on Republican performance. Some proposed caution, worried that redistricting could put Republican incumbents at risk. For example, U.S. Representative Mario Diaz-Balart warned, "You could potentially do two [new GOP seats.] I think after that, you are really, really, really, really risking a very large overreach, which I think is in the Democrats' best interest."[18] But others pointed to the efforts of states like California and Virginia, insisting that Florida must respond in kind: Florida Republican gubernatorial candidate Byron Donalds explained, "You have California and Virginia responding to Texas and we've been watching all this kind of happen in Florida. . . .

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[16]Proclamation by Executive Office of the Governor of Florida, https://flgov.com/eog/sites/default/files/shared/2026/01/AprilSpecialSessionProclamation_Filed_1.7.26.pdf (Jan. 7, 2026). The regular session ran from January 13 to March 13.

[17] Jahd Khalil & Dean Mirshahi, *General Assembly Passes Bill Containing New Congressional Map, Primary Date*, VPM, https://www.vpm.org/generalassembly/2026-02-20/hb29-redistricting-map-primary-date-vadems-kilgore-spanberger-scott (Feb. 23, 2026).

[18] Mary Anna Mancuso, *Republicans Should Think Twice Before Redrawing Florida's Congressional Maps*, Tampa Bay Times, https://www.tampabay.com/viewpoints/2026/03/31/republicans-should-think-twice-before-redrawing-floridas-congressional-maps-column/ (Mar. 31, 2026).

Because of what now has been done in Virginia, now Florida needs to respond."[19] On April 15, just days before the special session's planned April 20th start date, Governor DeSantis issued a new proclamation moving the start date to April 28.[20] This schedule change meant that the Florida legislature would not convene to decide whether to adopt its own new congressional map until after Virginia voters decided whether to adopt their own congressional map on April 21.

Ultimately, Virginians voted to approve the new congressional map designed to net Democrats an additional four congressional seats.[21] In the following days, Republicans set their eyes once again on Florida. U.S. Representative John Rutherford, for example, shared, "I don't like this redistricting in the middle of the census, but in light of what Virginia is doing, we may need to respond to that[.]"[22] Similarly, U.S. Representative Kat Cammack said, "I feel very confident that we could draw two new districts . . . three, if we're feeling particularly froggy," but also noted that she had "some concerns about five" districts.[23] U.S. House Speaker Mike Johnson expressed wanting to see Governor DeSantis[] redraw the Florida's congressional map after

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[19] Claire Heddles, *Donalds Says FL Should Counter Democrats by Redistricting. That's Illegal Here*, Miami Herald, https://www.miamiherald.com/news/politics-government/article315392027.html (Apr. 14, 2026).

[20] Proclamation, Office of the Governor of Fla., *April Special Session Proclamation*, https://flgov.com/eog/sites/default/files/pdf/AprilSpecialSessionProclamationAmendment_Filed_4.15.26.pdf (April 15, 2026).

[21] Russell Berman, *Trump's Enormous Gerrymandering Blunder*, Atlantic, https://www.theatlantic.com/politics/2026/04/virginia-gerrymandering-redistricting-election-trump/686888/ (Apr. 23, 2026).

[22] Gary Fineout & Erin Doherty, *'All Eyes Are on Ron DeSantis': Florida Could Make or Break the GOP's Redistricting Edge*, Politico, https://www.politico.com/news/2026/04/23/florida-redistricting-desantis-republicans-maps-trump-00887120 (Apr. 23, 2026).

[23] Kate Santaliz, *"I Wish None of This Had Happened": GOP's Buyer's Remorse on Redistricting*, Axios, https://www.axios.com/2026/04/23/republicans-redistricting-remorse-virginia-midterms (Apr. 23, 2026).

Virginia voters passed a referendum redrawing theirs.[24] And Governor DeSantis agreed: The Team DeSantis X account retweeted a call to "go for BROKE in Florida" following Virginia's mid-census cycle redistricting benefitting Democrats.[25] And the Florida legislature did so when the special session began.

The Challenged Plan is passed during a Special Session.

Governor DeSantis continued to drive the process once special session commenced. The Governor's office created the Challenged Map .[26] The Governor's office introduced the map to the public through the media.[27] And the Governor's office transmitted the map to the legislative branch and presented it to committees in both chambers for consideration. Ex. 19 House Select Committee Transcript at 4:5-8; Ex. 7 Senate Rules Committee Transcript 4:6-10. The sponsors for the challenged bill in the Senate and the House, Senator Don Gaetz and Representative Jenna Persons-Mulicka respectively, disclaimed any knowledge of or communications about the Challenged Map beyond what was available to the public. *See* Ex. 19 House Floor Session Transcript at 30: 5-8; *see also* Ex. 9 Senate Floor Session Transcript at 47:10-15. The map drawer testified before the legislative committee that he only discussed the map with others in the Governor's office and the Governor's counsel prior to its completion. Ex. 9, Senate Floor Session Transcript, at 83:16-23.

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[24] Cami Mondeaux, *Johnson Wants DeSantis to Gerrymander Florida After Virginia Redistricting Vote*, Wash. Examiner, https://www.washingtonexaminer.com/news/house/4538998/johnson-desantis-gerrymander-florida-virginia/ (Apr. 22, 2026).

[25] Ex. 16. Screenshot of X.com Post by Eric Daughtery, retweeted by Ron DeSantis on "BROKE" plan in Florida. The retweet has since been deleted.

[26] Office of Governor Ron DeSantis, Congressional Map Submission, https://www.flsenate.gov/PublishedContent/Offices/President/4_27_26_Combined_PDF_Congressional_Map_Submission_by_Governor_DeSantis.pdf (Apr. 27, 2026).

[27] Preston Mizell, *Ron DeSantis Unveils New Florida Congressional Map That Would Give the GOP an Extra Four* Seats, Fox News, https://www.foxnews.com/politics/ron-desantis-unveils-new-florida-congressional-map-would-give-gop-extra-four-seats (Apr. 27, 2026, 10:00 AM EDT).

The map drawer testified he considered partisan data when generating the map. While presenting before the Senate Rules Committee, Jason Poreda, the Governor's map drawer, testified repeatedly that he considered partisan data while generating the Challenged Map. *See e.g.* Ex. 7 at 55:4-16; 62:25-63:2; 85:3-8; 86:23-87:5. In one instance, he specified "I used all redistricting criteria except for race. That was the only thing that was neutral. Partisan or electoral performance data was. . . a consideration." Ex.7 at 55:10-15. The Governor's counsel did not deny unconstitutional consideration of partisanship but attempted to justify —stating that at some point in the future, Florida's constitution would be found to violate the federal constitution. Ex. 7. at 101:12-103:23 (articulating theory that because the entirety of the FDA may be unconstitutional if the United States Supreme Court finds some provisions inconsistent with Equal Protection).

LEGAL STANDARD

The purpose of a temporary injunction is to maintain the status quo pending final determination of a case. *Smith v. Hous. Auth. of City of Daytona Beach*, 3 So. 2d 880, 881 (Fla. 1941) (en banc). Movants are entitled to a temporary injunction if they demonstrate: "a substantial likelihood of success on the merits; lack of an adequate remedy at law; irreparable harm absent the entry of an injunction; and that injunctive relief will serve the public interest." *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1258 (Fla. 2017) (quoting *Reform Party of Fla. v. Black*, 885 So. 2d 303, 305 (Fla. 2004) (per curiam)), *receded from on other grounds by Planned Parenthood of Sw. & Cent. Fla. v. State*, 384 So. 3d 67 (Fla. 2024).

ARGUMENT

I. Plaintiffs have a substantial likelihood of success on the merits of their claim that the 2026 Plan was drawn with partisan intent in violation of the Florida Constitution.

Plaintiffs are likely to succeed on the merits of their Fair Districts claim because (1) they are likely to demonstrate standing, (2) both the circumstances surrounding the Challenged Plan

and the face of the Plan itself indicate that the Plan is an intentional and extreme partisan gerrymander, and (3) none of the partisan-neutral rationales advanced during the legislative process can justify the Challenged Plan. Plaintiffs first discuss the standard for showing a violation of Article III, Section 20, of the Florida Constitution's prohibition on intentional partisan gerrymandering, and then address each in turn.

A. Legal standard for Article III, Section 20

In 2010, Florida voters overwhelmingly approved an amendment to the state constitution to prohibit precisely the kind of map enacted by the Legislature here. Under that amendment, the following restrictions apply when redrawing congressional districts:

> (a) No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.
> (b) Unless compliance with the standards in this subsection conflicts with the standards in subsection (a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.
> (c) The order in which the standards within subsections (a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection.

Fla. Const. art. III, § 20. The amendment creates two "tiers" of criteria. "[S]hould a conflict in application arise" between the Tier One criteria (Section 20(a)) and Tier Two criteria (Section 20(b)), "the Legislature is obligated to adhere to" the Tier One requirements "and then comply with the considerations" in Tier Two to the extent practicable or feasible. *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 615 (Fla. 2012) ("*Apportionment I*").

The Florida Constitution prohibits drawing any "apportionment plan or district . . . with the intent to favor or disfavor a political party or an incumbent." Fla Const. art. III, § 20(a). This prohibition is absolute: "[T]here is no acceptable level of improper intent," and it applies both to "the apportionment plan as a whole and to each district individually." *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 617 (Fla. 2012) ("*Apportionment I*"). The complete prohibition on partisan intent can be violated even if there is no showing of "malevolent or evil purpose." *Id.*

The prohibition on partisan intent in an apportionment plan as a whole turns on an inquiry into the circumstances surrounding the challenged apportionment, as well as the redistricting process itself. *See Apportionment VII*, 83 So. 3d at 376-77. "[C]ircumstantial evidence is often essential" in proving improper partisan intent influenced a challenged redistricting plan as a whole— "and indeed may be the only type of evidence available." *Id.* at 378. It need not be the case that "every meeting held or every communication made was improper, illegal, or even violative of the letter of the Fair Districts Amendment" for improper partisan intent to "taint the redistricting process and the resulting map[.]" *Id.* at 378, 385. When such a whole-plan finding is made, that finding must be given "independent legal significance…when examining the challenges to individual districts." *Id.* at 393.

In order to obtain a remedy, plaintiffs must "identify some problem with the Legislature's chosen configuration" by "showing a nexus between the unconstitutional intent and the district[.]" *Apportionment VII*, 172 So. 3d at 371. This will often turn on district-specific evidence. *Id.* at 371-72. "[T]he extent to which the Legislature complies with" the Tier Two requirements "serves as an objective indicator of impermissible legislative purpose proscribed under tier one."

Apportionment I, 83 So. 3d at 685. However, courts should not "focus[] first on tier-two violations at the expense of tier-one violations[.]" *Apportionment VII*, 172 So. 3d at 399.

Once a Court finds any partisan intent in redistricting, whether in the plan, the process, or in a specific district, the burden shifts to the legislature "to justify its decisions regarding where to draw the lines" of the challenged plan. *League of Women Voters of Florida v. Detzner*, 172 So. 3d 363, 371 (Fla. 2015) ("*Apportionment VII*"). This requirement extends to each specific challenged district. *Id.* Courts should not apply "an unduly deferential standard to [their] review of the map" once they find "the existence of unconstitutional partisan intent." *Id.* at 400.

If the legislature cannot justify its decisions in permissible terms, the plan is unlawful and should be enjoined. "It is this Court's duty, given to it by the citizens of Florida, to enforce adherence to the constitutional requirements and to declare a redistricting plan that does not adhere to those standards constitutionally invalid." *Apportionment I*, 83 So. 3d at 607.

B. Plaintiffs are substantially likely to establish standing

Plaintiffs Common Cause, the League of Women Voters of Florida ("the League"), and the League of United Latin American Citizens ("LULAC"), (together, "Plaintiffs") are likely to establish associational standing to challenge Florida's 2026 redistricting plan. An organization has associational standing to challenge a statute on behalf of its members as unlawful under the Florida Constitution when "(1) its members would otherwise have standing to sue in their own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation in the lawsuit of each of the individual members." *People United for Med. Marijuana v. Fla. Dep't of Health*, No. 2017-CA-1394, 2018 Fla. Cir. LEXIS 1656, at *13-14 (Fla. Cir. Ct. May 25, 2018) (quoting *Hunt v. Washington State Apple Advert. Com'n*, 432 U.S. 333, 343 (1977)).

This standard for associational standing also applies in cases arising under the Fair Districts Amendments. *See Black Voters Matter Capacity Bldg. Inst., Inc. v. Byrd*, No. 2022-CA-666, 2023 Fla. Cir. LEXIS 4467, at *8 n. 4 (Fla. Cir. Ct. Sep. 2, 2023) (finding associational standing for organizational plaintiffs in challenge to Florida congressional districts under Fair Districts Amendments), *rev'd on other grounds, Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec'y, Fla. Dep't of State*, 415 So. 3d 180 (Fla. 2025). In fact, Plaintiffs previously brought successful challenges to congressional redistricting plans under the Fair Districts Amendments. *See League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 449 (Fla. 2015).

Plaintiffs satisfy the requirements for associational standing here. First, each of their members would have standing to sue in this matter. In redistricting cases, Florida law requires a plaintiff to demonstrate an "injury in fact" by showing they are a registered voter who resides in a district affected by the challenged plan. *Black Voters Matter Capacity Bldg. Inst., Inc. v. Byrd*, No. 2022-CA-666, 2023 Fla. Cir. LEXIS 4467, at *31 (Fla. Cir. Ct. Sep. 2, 2023) (citing *Gill v. Whitford*, 138 S. Ct. 1916, 1921 (2018)). Here, Plaintiffs have confirmed they have members who (1) are registered voters and (2) reside in the challenged districts. Common Cause, the League, and LULAC have all attested they have members residing in Districts 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 22, 23, 24, 25, and 26.[28]

Plaintiffs also satisfy the second prong of associational standing as the interests they seek to protect, the voting rights of their members under the Fair Districts Amendments, are germane to their purposes. Common Cause works to promote equal rights, opportunity, and representation for all, and to empower all Floridians to make their voices heard in the political process.[29] The

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[28] *See* Ex. 13 at ¶ 14; Ex. 14 at ¶ 13; and Ex. 15 at ¶ 13.

[29] *See* Ex. 13 at ¶¶ 5, 7-8.

League encourages informed and active participation in government.[30] And LULAC's mission is to improve the lives of Latino families throughout the United States and to protect their civil rights in all respects, including voting rights.[31] In fact, Common Cause, the League, and LULAC championed the Fair Districts Amendments, and their efforts helped lead the Amendments to their passage.[32] Enforcing the Amendments to protect their members' voting rights is thus core to each of Organizational Plaintiffs' missions.

Finally, the partisan gerrymandering claim asserted and the relief requested do not require the participation of individuals. *See Common Cause Fla. v. Byrd*, 726 F. Supp. 3d 1322, 1358-59 (N.D. Fla. 2024) (organizational plaintiffs had standing to challenge Florida's redistricting plan); *Warth v. Seldin*, 422 U.S. 490, 515, 95 S. Ct. 2197, 2213 (1975) ("If in a proper case the association seeks a declaration, injunction, or some other form of prospective relief, it can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured.").

C. Plaintiffs are substantially likely to prove that the 2026 Plan was drawn with partisan intent in violation of Article III, Section 20 of the Florida Constitution.

Every stage of the 2026 redistricting process was driven by the pursuit of partisan advantage. The map drawer admitted to the usage of impermissible partisan data while drawing. The Challenged Plan produces an obvious, unmistakable partisan advantage that is easy to see at the plan and district levels. And that partisan advantage is entirely unjustified and unjustifiable,

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[30] *See* Ex. 14 at ¶ 6.

[31] *See* Ex. 15 at ¶ 6.

[32] *See* Ex. 13 at ¶¶ 9-10; Ex. 14 at ¶¶ 8-9; Ex. 15 at ¶ 9.

both from the face of the plan and the ostensibly partisan-neutral justifications offered to explain the Plan.

Plaintiffs discuss each in turn.

1. Partisan intent was admitted before and during the legislative process.

During the process of adopting the Challenged Plan, Governor DeSantis and his office made clear that they drew the Plan with impermissible partisan intent. They made little attempt to conceal this, instead openly admitting to the use of partisan data and brazenly arguing that they could freely disregard the entirety of the Fair Districts Amendments put in place by millions of Floridian voters.

First, the alleged map drawer Jason Poreda directly admitted to using partisan considerations in drawing the Challenged Plan. When asked whether he analyzed "any partisan performance of districts before finalizing the maps[,]" Mr. Poreda replied that because he did not "hav[e] to comply with the Fair Districts Amendments," he used "the entire suite of redistricting criteria that are available to other states, . . . including partisan data, yes." *See* Ex. 7. at 37:15-20. Importantly, Mr. Poreda did not deny *using* partisan performance in drawing the Challenged Plan, going beyond simply viewing partisan data.[33] Rather, he stated that race "was the only thing that was neutral" and that he had considered partisan or electoral performance data.[34] In the face of

[33] Under the Fair Districts Amendments, partisan data may only be permissibly accessed to check adherence to the Amendments' minority vote protections. *See Apportionment I*, 83 So. 3d at 619. That was not the purpose for which partisan data was consulted, as the Governor disavowed any effort to protect minority voters in the Challenged Plan.

[34] Ex. 7 at 55:10-16. Mr. Poreda testified that his use of partisan data was not "at the exclusion" of other redistricting criteria. *Id.* But his acknowledgement that he used partisan data violated the Fair Districts Amendments because there is "no acceptable level" of improper partisan intent under the Amendments, regardless of whether other factors were also considered. *Apportionment I*, 83 So. 3d at 617.

these admissions, as well as the Plan's drastic partisan impact and patently pretextual justifications (discussed below), Mr. Poreda's admission establishes a violation of Florida law.

This admission alone is dispositive, and shifts the burden to the defenders of the Challenged Plan to affirmatively justify its configuration in FDA-compliant terms. *See Apportionment VII*, 172 So. 3d at 396-401.

But the partisan admissions go further. The Governor repeatedly admitted partisan motivations for the mid-decade redistricting that resulted in the Challenged Plan. The Governor and his office repeatedly justified the Challenged Plan in partisan terms: by framing Florida's population growth in terms of Democrats and Republicans, rather than people and places, by sending a map with partisan shading to news outlets an hour before even transmitting the proposal to the Legislature, and by sending multiple public messaging that the Plan would gain Republicans seats. *See* Exs. 16 and 17.

Defendant DeSantis and his legal counsel *at no point* disclaimed partisan intent or argued that the Plan complied with the FDA.[35] The argument instead focused on asserting that the provision prohibiting partisanship itself should be disregarded, due to the alleged inseverability of the Amendments' other provisions from the purported "unconstitutional" prohibition on discrimination against racial minorities, which the Governor claimed render the Amendments null in their entirety.

The Governor's office explicitly and repeatedly confirmed this stance during the legislative process. Counsel for the Governor's office Mo Jazil addressed the House Select Committee on Redistricting and the Senate Rules Committee on April 28, 2026, to discuss the Challenged Plan's

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[35] Ex. 5, Office of Governor Ron DeSantis, Congressional Map Submission, https://www.flsenate.gov/PublishedContent/Offices/President/4_27_26_Combined_PDF_Congressional_Map_Subm ission_by_Governor_DeSantis.pdf (Apr. 27, 2026).

legal justifications. When asked whether his explanations meant that the Governor's position was to "totally discard[] Article 3, Section 20 in drawing these maps," to the effect that the process did not "deal[] with compactness and . . . diminish[] minority voters[,]" Mr. Jazil responded that his "legal analysis . . . is you do not need to take [Article 3, Section 20(a)] into account."[36] Mr. Jazil further sharpened the point: "[O]ur legal position is that we do not need to comply with Article III, Section 20(a)."[37] Article III, Section 20(a) is, of course, the location of the Fair Districts Amendments' ban on partisan intent. Absent entirely from the presentations made by the Governor's office, both map drawer and counsel, any assertion that the Challenged Plan was drawn without consideration of partisanship; as the Fair Districts Amendments require. Rather than deny the Challenged Plan engaged in unconstitutional partisan considerations, the Governor asserted that the provision prohibiting partisanship itself should be disregarded.

D. Plan-wide evidence

When the Challenged Plain is considered as a whole, it's partisan bias is unmistakable. The Challenged Plan is an extreme partisan outlier. Compared to ten million randomly generated congressional redistricting plans in Florida, the Challenged Plan achieves significantly better performance for Republicans than *any* of the ten million plans observed in an ensemble created by data scientist Dr. Moon Duchin, a Professor of Data Science and Computer Science at the University of Chicago whose general research areas are discrete geometry and the application of mathematics and computing to the study of democratic systems, created her ensemble of ten million alternative plans using a randomly generated algorithmic process with population balance,

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[36] Ex. 8, Transcript of *Congressional Redistricting*, 62:8-17, House Select Committee, (Apr. 28, 2026).

[37] Ex. 7, Transcript of *2026D Special Session*, 97:13-15, Florida Senate Committee on Rules, (Apr. 28, 2026).

contiguity, and compactness as primary considerations; and the integrity of counties and municipalities (i.e., respect for political boundaries) also a priority. *See* Ex. 3, Decl. of Dr. Duchin. Data regarding race, ethnicity, or partisan preference of Florida residents was not used to generate the ensemble; partisan performance was analyzed only after the alternative plans were created. Dr. Duchin analyzed which political party would win each of Florida's 28 congressional districts using the election results from all 19 statewide general elections in Florida from 2014 to 2024. The median number of Republican wins in the 19 historical election environments examined for a randomly generated redistricting plan in the alternative plans ensemble was 355 out of 532 (multiplying the number of districts by the number of election environments examined). The Challenged Plan produces 411 wins for Republicans, a number *never* observed in the ten million randomly generated plans and 17 wins *higher* than any plan in the ensemble of randomly generated plans.

Figure 4: Ten million plans are shown in the gray histogram. Here, the number of Republican district-level wins is added up over the 19 statewide elections since 2014. A total of $19 \cdot 28 = 532$ wins would be the maximum number possible. An advantage more extreme than Cong2022 occurs in roughly 1.1% of random maps. An advantage as extreme as Cong2026 is simply never observed.

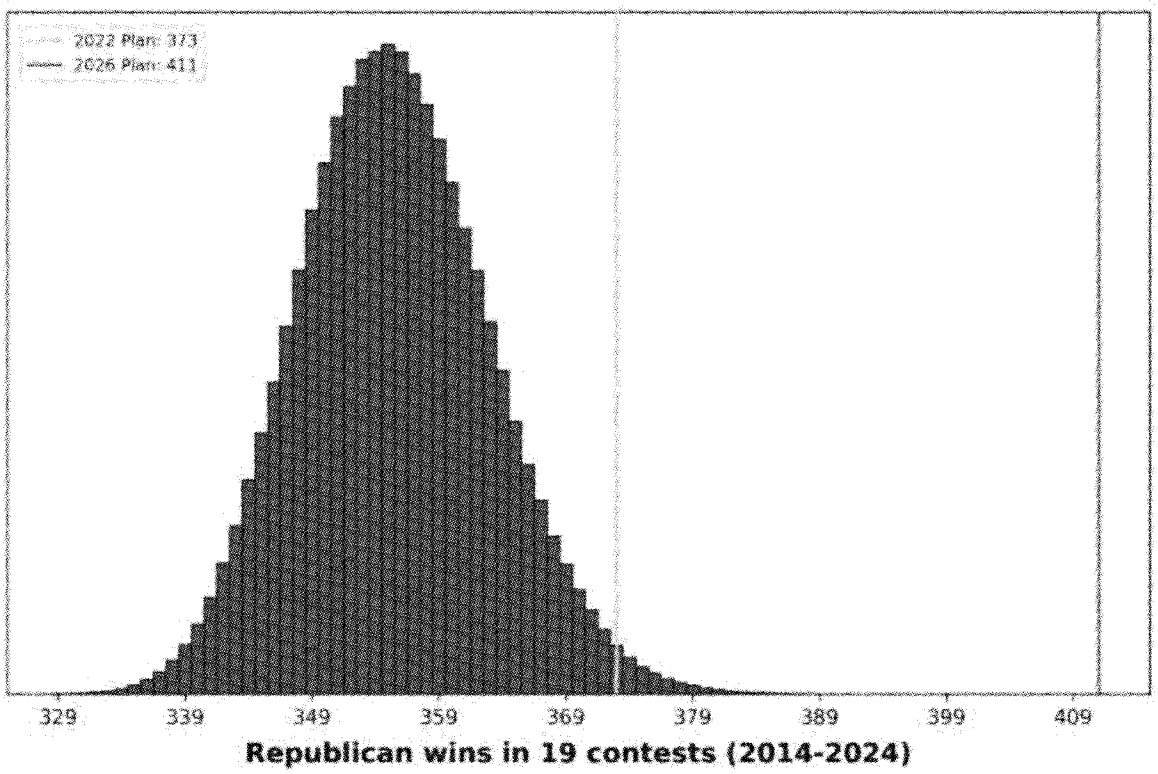

Figure 1: Ensemble Comparison: Partisanship of Ten Million Plans and the Challenged Plan[38]

This is highly indicative of intentional partisan gerrymandering. Obtaining a result that far outside anything even observed in ten million random congressional plans, all of which are programmed to follow the traditional Tier 2 redistricting criteria codified in the Fair Districts Amendments, is impossible to explain without any consideration of partisanship. It is thus not surprising that the map-drawer said he considered partisanship. *See supra* Background.

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[38] Ex. 3 at Fig. 4 (Duchin Decl.).

Nor is this level of partisan bias in the Challenged Plan explained by Florida's political geography or compactness considerations. When the ensemble is programmed to place an even higher priority on compactness in the randomly generated plans, the alternative plans' median number of Republican wins in the 19 historical elections analyzed decreases, making the Republican bias of the Plan even more of an outlier by comparison.

Figure 5: To test whether compactness could drive higher Republican wins, a second ensemble with more than 14 million distinct plans is produced (shown in blue) by placing a high emphasis on Polsby-Popper compactness. This meets and sometimes exceeds the compactness of Cong2026. However, the partisan impact is the opposite: the very compact plans are slightly more favorable to Democrats, making Cong2026 even more of a partisan outlier.

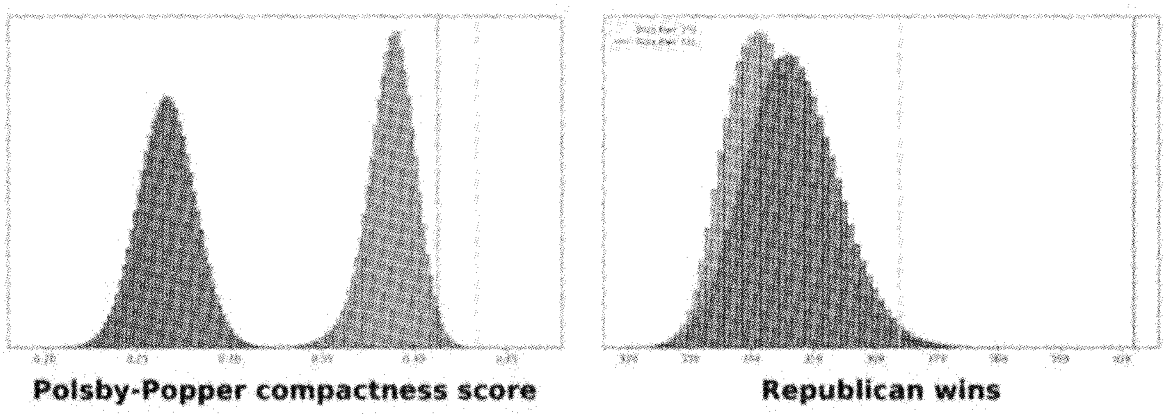

Figure 2: Ensemble Comparison: Compactness and Partisanship Results[39]

This degree of partisan bias was orchestrated by disproportionately disrupting Democratic-held districts. As compared to the Benchmark Plan, Republican-held districts have twice the degree of core retention that Democratic-held districts do. 82.73% of Floridians in Republican-held districts remain in the same district between the Benchmark and the Challenged Plans. But only half that number (41.35%) in Democratic-held districts remain in

[39] Ex. 3 at Fig. 5 (Duchin Decl.).

the same district between the Benchmark and Challenged Plans. *See* Ex. 3 Duchin Declaration at 10.

The partisan consequences of this become clear when analyzing these shifts district-by-district. Democratic leaning districts are consistently dismantled and reconfigured into new, Republican-leaning districts.

Table 5: Core retention and partisan shifts from 2022 districts to 2026 districts. Green cells show low-retention districts (those with retention under 60%). Red and blue cells show districts that changed their leading party to Republican or Democratic advantage, respectively.

District	Retention wrt 2022	Incumbent party	PRES20 (Repub)		GOV22 (Repub)		PRES24 (Repub)	
			2022	2026	2022	2026	2022	2026
1	100.00%	R	66.44	66.44	73.52	73.52	68.77	68.77
2	100.00%	R	55.56	55.56	62.04	62.04	59.17	59.17
3	100.00%	R	57.12	57.12	64.31	64.31	60.63	60.63
4	100.00%	R	53.39	53.39	61.01	61.01	55.98	55.98
5	100.00%	R	58.00	58.00	65.89	65.89	60.85	60.85
6	100.00%	R	61.94	61.94	68.51	68.51	65.15	65.15
7	100.00%	R	52.80	52.80	60.25	60.25	56.31	56.31
8	79.23%	R	58.92	55.45	65.07	62.14	61.28	58.20
9	57.79%	D	41.20	53.43	50.85	63.41	48.22	58.97
10	76.89%	D	33.92	33.34	41.52	40.85	38.49	37.86
11	84.60%	R	55.49	54.83	63.22	62.81	58.20	57.91
12	41.45%	R	64.51	52.96	69.91	60.31	67.43	57.78
13	78.83%	R	53.41	53.94	58.46	59.22	55.99	56.73
14	31.48%	D	40.31	51.44	47.43	58.07	46.12	55.31
15	36.21%	R	51.60	55.37	59.28	62.86	55.68	60.04
16	51.96%	R	54.49	52.77	61.87	59.04	57.80	56.91
17	85.35%	R	58.04	57.00	64.67	64.04	62.05	61.12
18	63.31%	R	61.51	55.11	69.54	62.96	64.82	58.55
19	80.11%	R	60.58	61.09	69.68	70.16	64.68	65.21
20	65.94%	D	23.66	25.70	30.07	31.63	30.02	31.26
21	95.45%	R	54.75	54.45	62.60	62.49	58.34	58.18
22	12.83%	D	41.14	48.55	48.41	57.61	47.19	55.30
23	0.00%	D	43.35	36.58	50.40	44.24	49.04	43.03
24	69.60%	D	25.35	21.55	31.49	26.63	34.84	30.47
25	16.27%	D	39.98	47.45	47.49	54.41	47.31	54.61
26	61.35%	R	58.97	50.59	70.49	60.02	67.58	59.25
27	98.42%	R	50.18	50.12	58.36	58.31	57.39	57.35
28	98.42%	R	53.26	53.31	63.98	64.01	62.79	62.81

Table 1: Chart Depicting Core Retention and Partisan Performance[40]

In addition to this imbalanced core retention, the Challenged Plan is worse on compliance with each of the Tier 2 criteria. Whether one examines county splits, county pieces, municipal splits, municipal pieces, and compactness measures, the result is the same: the Challenged Plan is worse than the Benchmark Plan. *See* Ex. 3, Duchin Declaration at 4-5. Not only are there no improvements anywhere – the Challenged Plan sees across-the-board decreases in Tier 2 compliance.

The existence of the 2022 Benchmark Plan is highly relevant to interpreting these shifts. The Benchmark Plan was (and remains) a viable congressional redistricting plan, which is permissible to use until the 2030 Census results in a new apportionment. The 2022 Benchmark Plan had survived legal challenges under both the U.S. and Florida constitutions, and there was no legal necessity to disturb it in any way. Unlike the typical redistricting occurring after the decennial Census where there is no preexisting map that can be used, here the Benchmark Plan had previously been passed by the Legislature, which endorsed the Benchmark Plan as legally compliant, and successfully defended its constitutionality.

While there is no prohibition under Florida law that the Legislature not re-draw their congressional redistricting plan, the Fair Districts Amendments still impose substantive limitations on the Legislature in any such re-draw. And unlike in the typical Census year, where the Legislature is working with new population figures and thus a blank slate, the Benchmark Plan was legally compliant. In other words, the Legislature had a compliant plan, and nonetheless chose to re-draw it. Here, the availability of the Benchmark Plan means that the Challenged Plan has an apples-to-apples comparator. Where the partisan bias becomes more severe, and Tier 2 compliance

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[40] Ex. 3 at Table 5 (Duchin Decl.).

gets worse, as it does from the Benchmark to the Challenged Plan, the Legislature must be able to affirmatively justify those changes, and to do so in a way that complies with Florida law. As discussed below, *see* Section II, they are not able to do so.

Further, even equivalent Tier 2 compliance would not save the plan from unconstitutionality. As the *Apportionment VII* Court found, "consistent improvement in the Republican performance of the map – even when comparing maps the Legislature itself produced and considered tier-two compliant – reveals that there are many ways to draw [tier-two] compliant districts that may have different political implications." *Apportionment VII*, 172 So. 3d at 401 (finding that even Tier 2 compliance could not fully justify the Legislature's plan, since when the trial court found impermissible partisan intent, "the burden should have been placed on the Legislature to demonstrate that its decision to choose one compact district over another compact district, or one tier-two compliant map over another tier-two compliant map, was not motivated by this improper intent."). Here the Legislature contends the Challenged Plan complies with Tier 2 criteria well enough to pass constitutional muster. This is not enough where, as here, there has been a concession of improper partisan considerations in the Challenged Plan. "Once a direct violation of the Florida Constitution's prohibition on partisan intent in redistricting was found, the burden should have shifted to the Legislature to justify its decisions in drawing the congressional district lines." *Apportionment VII*, 172 So. 3d at 371.[41]

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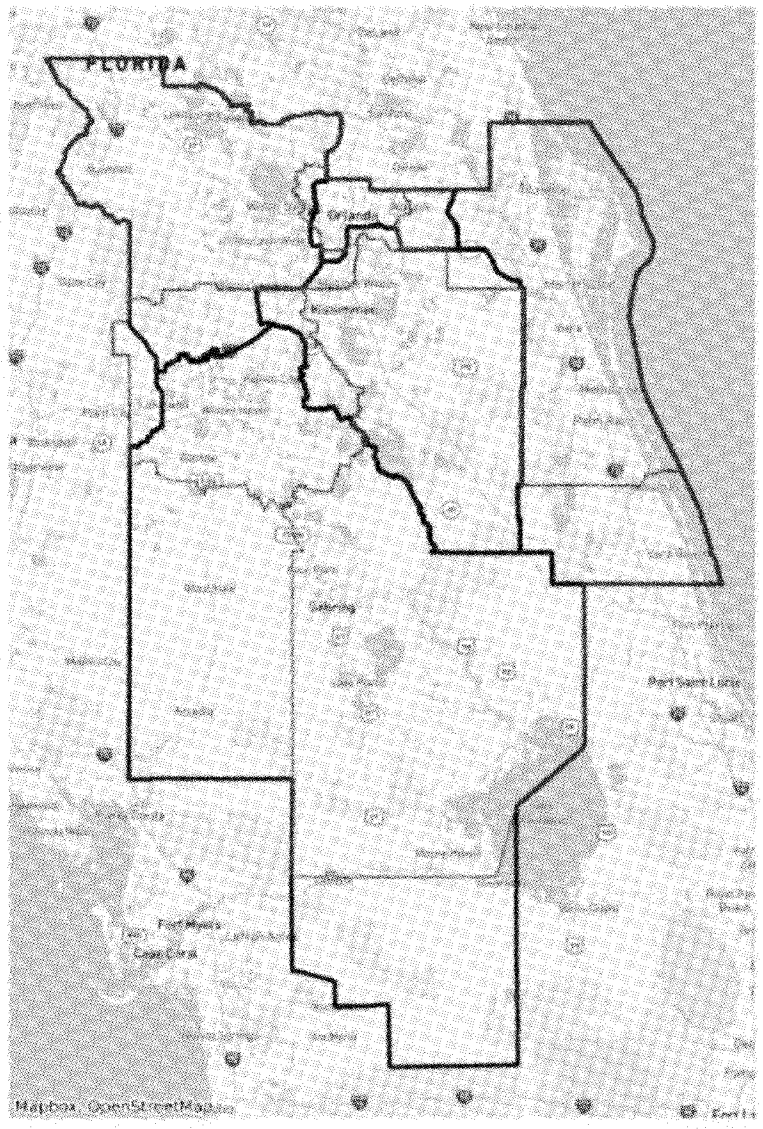
[41] "Because there are many ways in which to draw a district that complies with, for example, the constitutional requirement of compactness, which party bears the burden of establishing why a decision was made to accept or reject a particular configuration can ultimately be determinative." *Apportionment VII*, 172 So. 3d at 400.

1. District-specific evidence

E. Central Florida

The Challenged Plan alters the partisan composition of Central Florida's districts through many, often subtle changes, producing death by a thousand cuts to Benchmark CD-9.



Central Florida – CD 8, 9, 10, 11, 18

Figure 3: Comparison of Central Florida District Lines Under Benchmark Plan (Black) and Enacted Plan (Red)[42]

To start, the Challenged Plan transforms Benchmark CD-9 into a drastically different district. Benchmark CD-9 was a Democratic-leaning district containing all of Osceola County, southern Orange County, and a small portion of Polk County. The Challenged Plan not only adds a county split in Osceola, but it also now spans from southern Orange County all the way down to Glades County. In addition to this large visible alteration, the Challenged Plan also carved out Democratic-leaning precincts in the Benchmark CD-9 and split them between new CDs 11 and 18.[43] Finally, it also reduced the district's Latino population significantly, cracking the largely Puerto Rican community in Benchmark CD-9 between no less than five districts in the Challenged Plan.[44]

Orange County remains split between four districts, but the Orlando population is further divided than in the Benchmark Plan. The northwestern section of CD-9 previously ran alongside the Osceola County border, encompassing some portions of Polk County while keeping Osceola wholly intact within CD-9. The Challenged Plan cuts a jagged line inside the western border of Osceola County, seemingly not following any road and excluding the northwest section of the county from new CD-9. Where Benchmark CD-9 spanned almost the entire length of southern Orange County and into southeast Orlando, the Challenged Plan condenses central Orlando into CD-10 and now contains only a small section of southern Orange County. The southern border boasts the most drastic change, from simply following the border of Osceola County in the

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[42] Ex. 3 at Figure 7 (Duchin Decl.).

[43] *See* Matthew Isbell, Issue 284: Ron DeSantis carves up Puerto Rican voters and erases a Hispanic-Majority District, The MCIMAPS Report, https://mcimaps.substack.com/p/issue-284-ron-desantis-carves-up (May 4, 2026).

[44] *Id.*

Benchmark Plan to spanning more than 100 miles south to envelope part of Polk County and all of Okeechobee, Highlands, and Glades Counties. Similarly, where the former CD-9 followed the eastern border of the county, new CD-9 now juts out to the coast to include Vero Beach and Indian River County. In sum, CD-9 once roughly charted the bounds of Osceola County, but the Challenged Plan removed select portions of the county and included a much more sprawling geography.

Under the Challenged Plan, CD-9 retains only 57.79% of its 2022 population. *See* Ex. 3, Duchin Decl. at 10, Table 5. The consequent reshuffling of districts in this area leads to lower core retention for all districts in the region: CD-8 retains 79.23%; CD-10 retains 76.89%; CD-11 retains 84.60%, and CD-18 retains 63.31%. *Id.*

The Challenged Plan also fails to conform to the Florida Constitution's "Tier 2" criteria under Section 20(b). The Plan reconfigures CD-9 and CD-11 to be *less* compact by all measures than in the Benchmark Plan and does not meaningfully improve the compactness of the region as a whole. Ex. 3 Duchin Decl. at 5, Table 2.

Table 2[45]

	2022 Polsby-Popper	**2026 Polsby-Popper**	**2022 Reock**	**2026 Reock**
District 8	0.452	0.442	0.323	0.436
District 9	0.468	0.359	0.490	0.467
District 10	0.373	0.365	0.409	0.463
District 11	0.357	0.330	0.519	0.412

[45] Ex. 3 Duchin Decl. at 5, Table 2.

District 18	0.422	0.403	0.423	0.662

Nor does the Challenged Plan utilize existing political and geographical boundaries more efficiently than in the Benchmark Plan. Rather than keep Osceola County whole within CD-9 as in the Benchmark Plan, the Challenged Plan *adds* a split in Osceola while keeping neighboring Polk County split three ways; the same number of splits as in the Benchmark Plan.

The map drawer's explanations for the configurations of these districts do not explain these outcomes. Mr. Poreda testified that Osceola and Polk Counties are areas of high growth, and he wanted to keep a district "mostly entirely" within Polk County to account for that growth. *See* Ex. 8 House Tr. 33:21-34:11. However, rather than keep Osceola County wholly within CD-9 to similarly account for this growth, he created a new county split, stating that there are "communities that really straddle that county line there" between Polk and Osceola Counties. *See* Ex. 8 House Tr. 34:12-35:5. Mr. Poreda then explained that "[k]eeping the county whole can look very jagged, so I attempted to mitigate that where I could." *See* Ex. 7 Senate Tr. 31:20-22.

Mr. Poreda further attempted to justify the changes in CD-9 by adding four additional counties--Indian River, Highlands, Glades, and Okeechobee-- to account for CD-9's population deficit from new groupings in other parts of the Challenged Plan. *See* Ex. 7 Senate Tr. 30:17-24. He explained that Indian River County being attached to these "smaller rural counties," rather than Brevard County, gave it "a greater voice than it had previously in the district it was in before." *See* Ex. 7 Senate Tr. 31:5-9.

The effect of these changes on partisan performance makes Defendants' choices abundantly clear. Including Indian River County, giving it a more influential voice in CD-9, and

cracking Osceola County makes sense when viewing the partisan performance of each county: *See* Ex. 3 Duchin Decl. at 20, Figure 13.

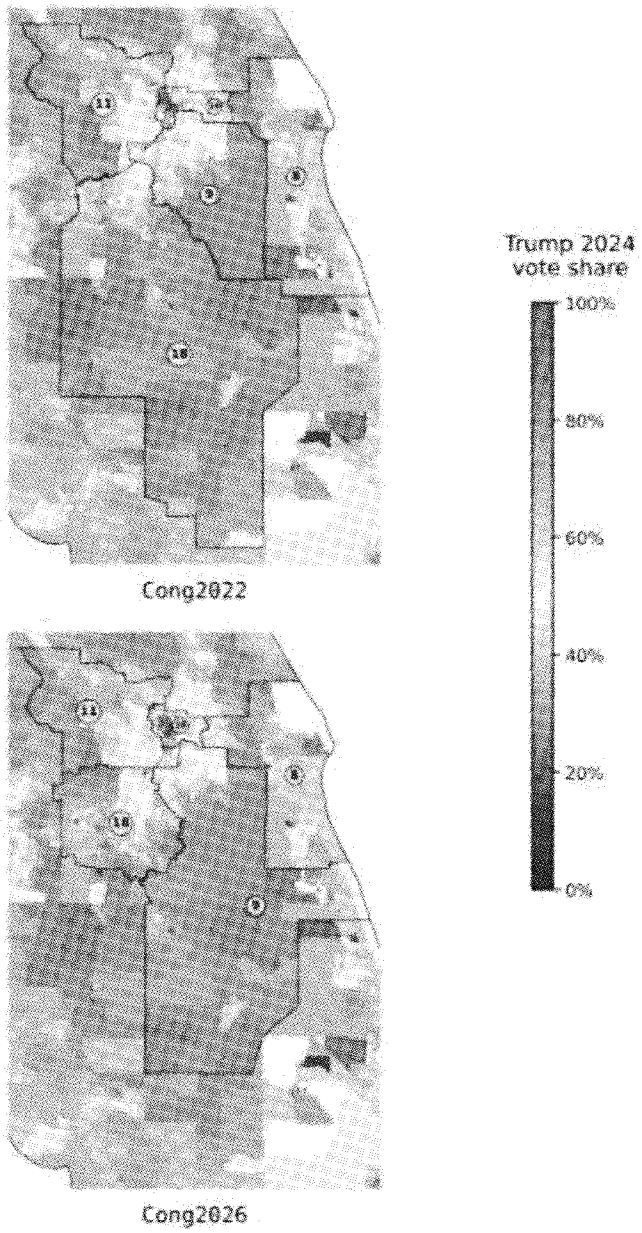

Figure 4: Benchmark and Challenged Plan Districts with Precincts Shaded by Partisan Lean[46]

[46] Ex. 3 at Fig. 13 (Duchin Decl.).

Adding Indian River County into CD-9 at the expense of keeping Osceola County whole within that district allows the Challenged Plan to accomplish two goals at once: cracking a politically evenly divided Osceola County (where 50.2% of voters supported President Trump in 2024) and importing the solidly Republican Indian River County (where 63.4% of voters supported President Trump in 2024).[47] In other words, the swing county of Osceola's voice was newly divided between two districts in the Challenged Plan, whereas solidly Republican Indian River County was given a greater voice, in the map drawer's framing, by virtue of its new inclusion in CD-9.

The result accomplishes Defendants' goal to redistrict for the benefit of the Republican party; By chipping away at the Democratic-leaning Benchmark CD-9 and spreading its parts across a much larger geography (and range of districts), the Challenged Plan eliminated a Democratic seat in favor of a Republican one. *See* Ex. 3 Duchin Decl. at 10 Table 5. What were formerly three Republican-leaning districts and two Democratic-leaning districts became four Republican-leaning districts and one Democratic-leaning district.

District	Retention wrt 2022	Incumbent party	PRES20 (Repub)		GOV22 (Repub)		PRES24 (Repub)	
			2022	2026	2022	2026	2022	2026
8	79.23%	R	58.92	55.45	65.07	62.14	61.28	58.20
9	57.79%	D	41.20	43.43	50.85	63.41	48.22	58.97
10	76.89%	D	33.92	33.34	41.52	40.85	38.49	37.86
11	84.60%	R	55.49	54.83	63.22	62.81	58.20	57.91
18	63.31%	R	61.51	55.11	69.54	62.96	64.82	58.55

Table 3: Chart Depicting Core Retention and Partisan Performance in Central Florida[48]

[47] *See November 5, 2024 General Election Results*, Fla. Dep't of State, Div. of Elections, https://results.elections.myflorida.com/DetailRpt.Asp?ELECTIONDATE=11/5/2024&RACE=PRE&PARTY=&DIST=&GRP=&DATAMODE= (last visited May 6, 2026).

[48] Excerpted from Ex. 3 at Table 5 (Duchin Decl.).

F. Tampa Bay

The Challenged Plan makes similar alterations in the Tampa Bay region, gerrymandering the area for partisan gain. The Challenged Plan dismantles Benchmark CD-14, which was a Democratic-leaning district based in Hillsborough and Pinellas counties and centered around Tampa Bay. The Challenged Plan distributes Benchmark CD-14's population across five different districts, one of which reaches as far north as Citrus County, and one as far south as DeSoto County. It also carves up the area around downtown Tampa, splitting it between three new districts (new CDs 12, 14, and 15). Ex. 3 at Fig. 7, image in text (Duchin Decl.).

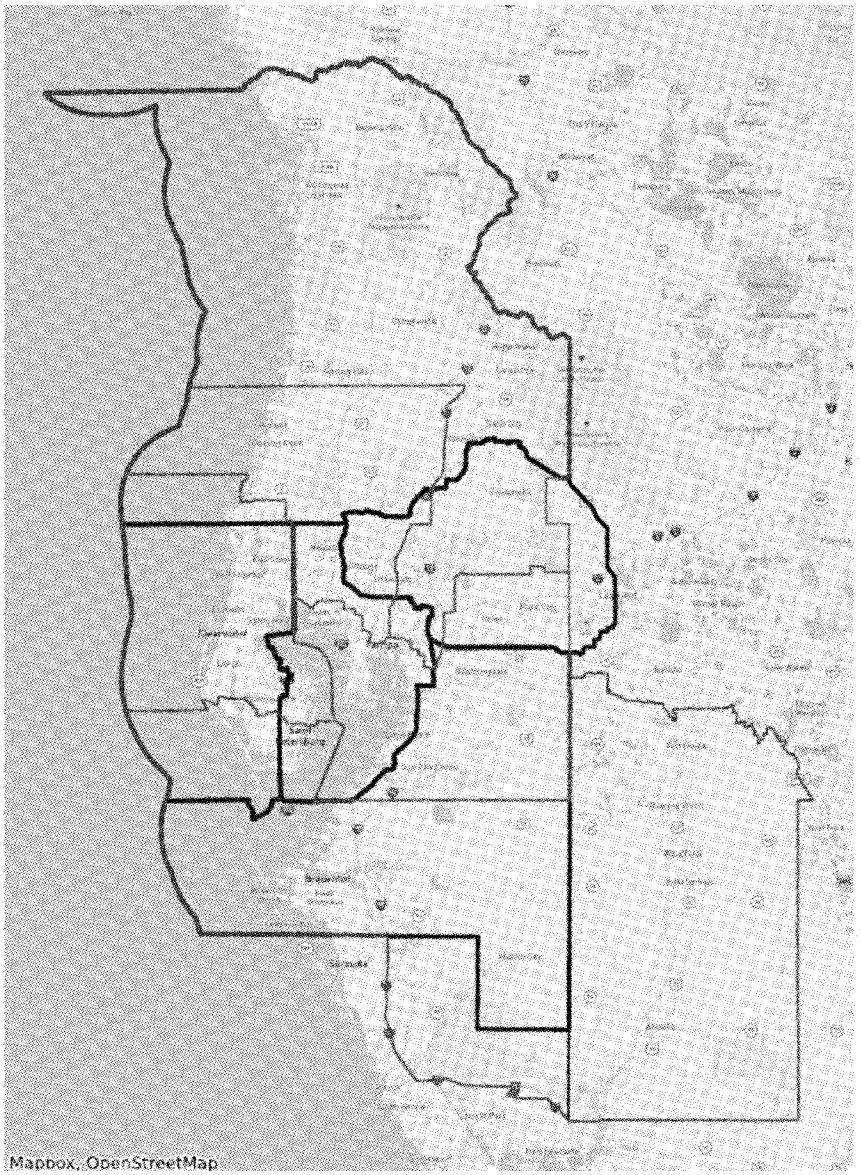

Figure 5: Comparison of Tampa Bay District Lines Under Benchmark Plan (Black) and Enacted Plan (Red)[49]

The key to the Challenged Plan's gerrymandering of this region is its treatment of Tampa and St. Petersburg. First, it completely separates Tampa from St. Petersburg. It then carves Tampa up into three separate districts, each with about a third of Tampa's population.[50] One of those districts, CD-15, reaches from parts of downtown Tampa up into the eastern end of Pasco County

[49] Ex. 3, at Fig. 7 (Duchin Decl.).

[50] Ex. 6, at 32, 34 (showing Tampa's population split between CDs 12, 14, and 15).

and then expands all the way north and west to rural Hernando and Citrus counties on the state's western coast. Another, CD-12, starts at that same downtown Tampa point and reaches up through central and western Pasco County. And CD-14 keeps the southern portion of Tampa and the remainder of the now-sliced-up Hillsborough County.[51]

Meanwhile, St. Petersburg, now kept apart from any part of Tampa, is split between CDs 13 and 16, with CD-13 taking the northern portion of the city and CD-16 taking the southern portion.[52] The boundary between these two districts reaches east-to-west across the entirety of Pinellas County, splitting the county with a jagged line that does not follow any consistent roadway or geographic boundary.[53] As a result, CD-13, which was contained wholly within Pinellas County under the Benchmark Plan, now includes a part of Pasco County to the north. And CD-16, once a compact district made up of Manatee County and parts of Hillsborough County, now forms a U-shape starting in Pinellas County, reaching down and inland through Manatee and parts of Sarasota County, all the way south to DeSoto County, and then back north through Hardee and parts of Polk County.

The dramatic changes to the district boundaries in this area resulted in similarly dramatic changes to the communities they cover. Under the Challenged Plan, District 14 retains only 31.48% of its 2022 residents, drawing the majority of its population instead from other benchmark districts. Ex. 3 at 10-11 (Duchin Decl.). Reshuffling of districts in this area leads to low core retention for most of the other districts here as well. *Id.*

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[51] Ex. 3 at Figs. 8-9 (Duchin Report) (showing maps of new CDs 12, 14, and 15); Ex. 6 at 32, 34.

[52] Ex. 3 at Figs. 8-9 (Duchin Report) (showing maps of new CDs 13 and 16); Ex. 6 at 33, 35-36 (showing St. Petersburg's population split between CDs 13 and 16).

[53] Ex. 3 at Figs. 8-9 (Duchin Report) (showing maps of new CDs 13 and 16).

This gerrymandering of the Tampa Bay region cannot be explained by the Fair Districts Amendments' Tier II criteria. The changes to the lines do not make the districts more compact. On the contrary, they decreased the districts' compactness under almost every measure. The biggest impact can be seen in the sharp decrease in compactness for CD-15, without a corresponding increase for any of the other four districts.

Table 5[54]				
	2022 Polsby-Popper	**2026 Polsby-Popper**	**2022 Reock**	**2026 Reock**
District 12	0.381	0.407	0.446	0.415
District 13	0.584	0.547	0.509	0.498
District 14	0.474	0.437	0.480	0.521
District 15	0.577	0.257	0.577	0.326
District 16	0.449	0.372	0.447	0.391

The Challenged Plan also performs worse on maintaining integrity of political boundaries. Most notably, it unnecessarily splits Tampa between three districts. It also splits Pasco County into three pieces, whereas the Benchmark Plan kept it in two larger pieces.

Nor does the map drawer's testimony before the legislature explain this reshaping of Tampa Bay. The map drawer characterized the changes in this area as geared toward creating a district entirely within Hillsborough County, due to its being a "faster growing county."[55] To

[54] Ex. 3 at Figs. 8-9 (Duchin Report) (showing maps of new CDs 13 and 16).

[55] *See* Ex. 7, Transcript of *2026D Special Session* at 32:4-33:24, Florida Senate Committee on Rules (Apr. 28, 2026).

achieve that goal, he claimed to have started from the southern end of the Hillsborough County and worked his way north.[56] He never explained why he chose that starting point rather than another approach that would, for example, keep the City of Tampa more whole. The map drawer also asserted that his decision to create a district entirely within Hillsborough County, required him to connect Pinellas County with the new CD-16 to the south.[57] But he never gave a reason not to, for example, connect southern Hillsborough County with the new CD-16, as the Benchmark Plan did, and then create a whole-Hillsborough County district that better respects Tampa's boundaries.

On Tampa, he simply asserted that it was not possible for him to keep the city more whole,[58] despite the Benchmark Map having done precisely that. And given his stated goal of creating a district entirely within Hillsborough County, as well as Tampa's population size,[59] there is no reason to believe that Tampa had to be split at all. Furthermore, in creating the boundary line between CDs 12 and 15, the map drawer claimed to be following "I-75 along with other major roadways,"[60] yet he deviated from that major highway path specifically in downtown Tampa, allowing him to divide Democratic-leaning areas between the two districts. *See* Ex. 3 at 4. Ultimately, the map drawer's descriptions fail to clearly explain why the Challenged Plan makes the choices that it does.

What explains these choices is partisan gain. Figure 6 below lays the lines for the Benchmark and Challenged Plans in this region over a color-coded map of the region's precincts.

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[56] *Id.*

[57] *Id.*

[58] *Id.* at 81:4-25.

[59] Ex. 6, District Statistical Report on 2026 Proposed Congressional Redistricting Plan.

[60] *See* Ex. 7, Transcript of *2026D Special Session* at 34:14-24, Florida Senate Committee on Rules (Apr. 28, 2026).

Id. Stronger red shading reflects a stronger Republican lean, and stronger blue shading reflects a stronger Democratic lean. As can be seen from Figure 6, the Challenged Plan carefully cracked the Democratic-leaning portions of CD-14: the St. Petersburg precincts were added to CD-16, while many of Tampa's most Democratic-leaning precincts are split between CDs 12 and 15. In each of these cases, those Democratic-leaning precincts are now combined with more Republican-leaning parts of the state.

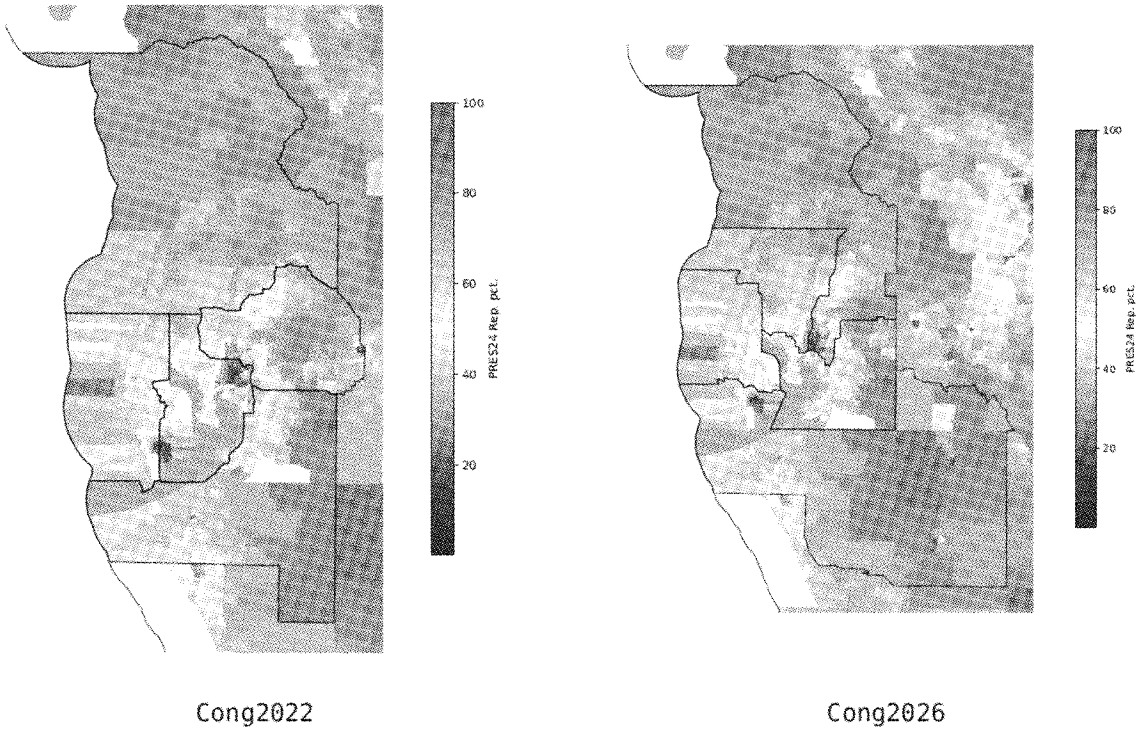

Figure 6: Benchmark and Challenged Plan Districts with Precincts Shaded by Partisan Lean[61]

By dividing the Democratic-leaning Benchmark CD-14 across these five new districts, the Challenged Plan gained a Republican seat; what were formerly four Republican-leaning districts and one Democratic-leaning district became five Republican-leaning districts, as can be seen in Table 6 below. *See* Ex. 3 at Table 5 (Duchin Decl.).

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[61] *See* Ex. 3 at Fig. 12 (Duchin Decl.).

District	Retention wrt 2022	Incumbent party	PRES20 (Repub)		GOV22 (Repub)		PRES24 (Repub)	
			2022	2026	2022	2026	2022	2026
12	41.45%	R	64.51	52.96	69.91	60.31	67.43	57.78
13	78.83%	R	53.41	53.94	58.46	59.22	55.99	56.73
14	31.48%	D	40.31	51.44	47.43	59.07	46.12	55.31
15	36.21%	R	51.60	55.37	59.28	62.86	55.68	60.04
16	51.96%	R	54.49	52.77	61.87	59.04	57.80	56.91

Table 6: Chart Depicting Core Retention and Partisan Performance in Tampa Bay[62]

These changes, unexplained by either Tier II criteria or the map drawer's description of his process, bear the hallmarks of an extreme partisan gerrymander.

G. South Florida

Turning to South Florida, the changes here, too, reflect a partisan gerrymander. The Challenged Plan reshapes the districts in this region to create two new Republican-leaning districts that are non-compact and not justified by the need to alter adjacent districts.

[62] Excerpted from Ex. 3 at Table 5 (Duchin Report).

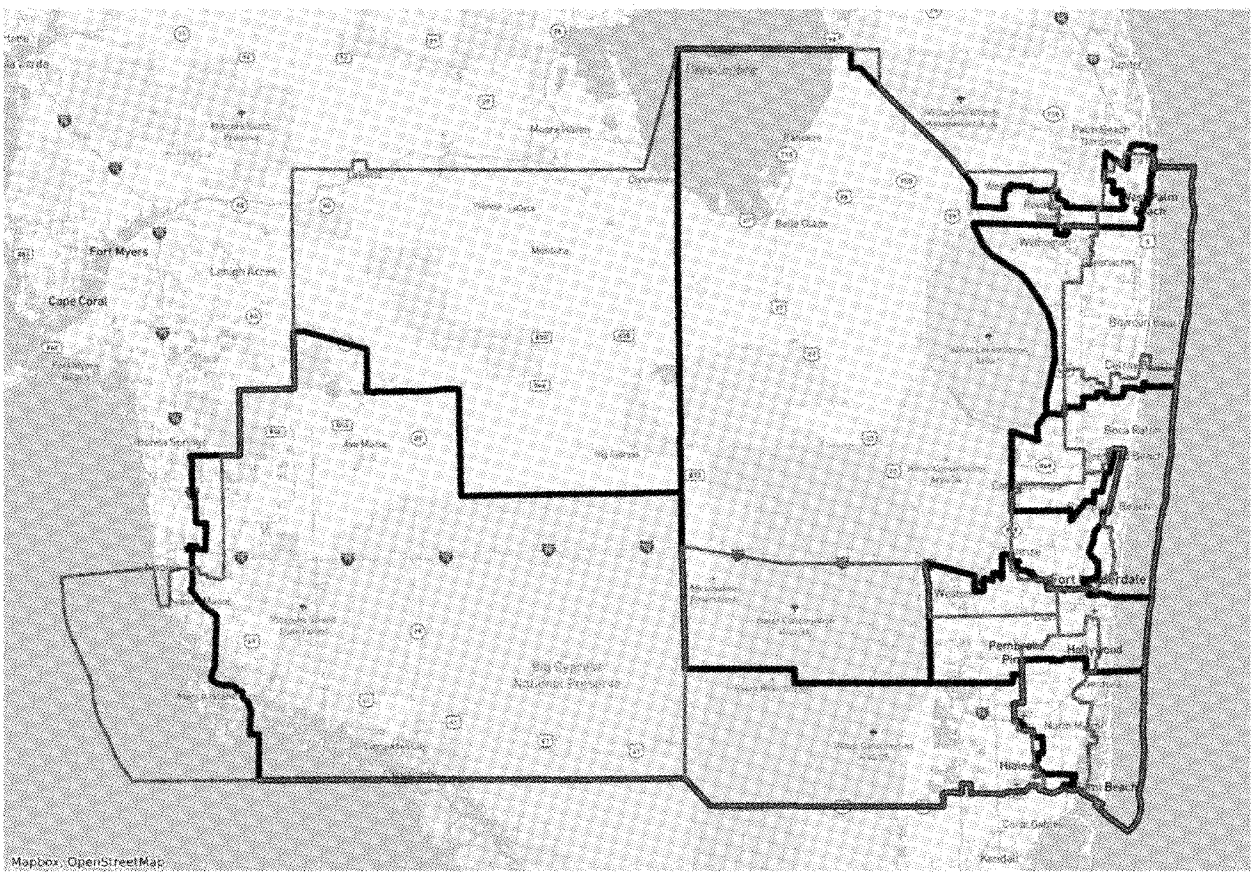

Figure 7: Comparison of South Florida District Lines Under Benchmark Plan (Black) and Enacted Plan (Red)[63]

The map drawer explained his process as flowing from the need to reconfigure what he viewed as a racial gerrymander in Benchmark CD-20. *See* Ex. 7 at 21:4-13. But even if there were a need to reconfigure Benchmark CD-20, that need did not require redrawing almost all of the South Florida districts, let alone districts in far-away Central Florida and Tampa Bay. Plaintiffs' expert William Cooper was able to create such a map in roughly 40 minutes: adjusting the boundaries of CDs 20, 22, and 23 to improve the region's compactness and respect for municipal boundaries without considering race or partisanship. *See* Ex. 4 Declaration of William S. Cooper at ¶¶ 18-22, 25, 29, 31. His illustrative plan leaves the remaining 25 congressional districts unchanged, resulting in a statewide core retention rate of 96.46%. *See* Ex. 4 at ¶¶ 34-35 (Cooper

[63] Ex. 3 at Fig. 7 (Duchin Report).

Decl.). If the Challenged Plan's goal truly was to simply adjust CD-20 into a more Tier 2 compliant district, that could have easily been accomplished with minimal changes, as Cooper demonstrates:

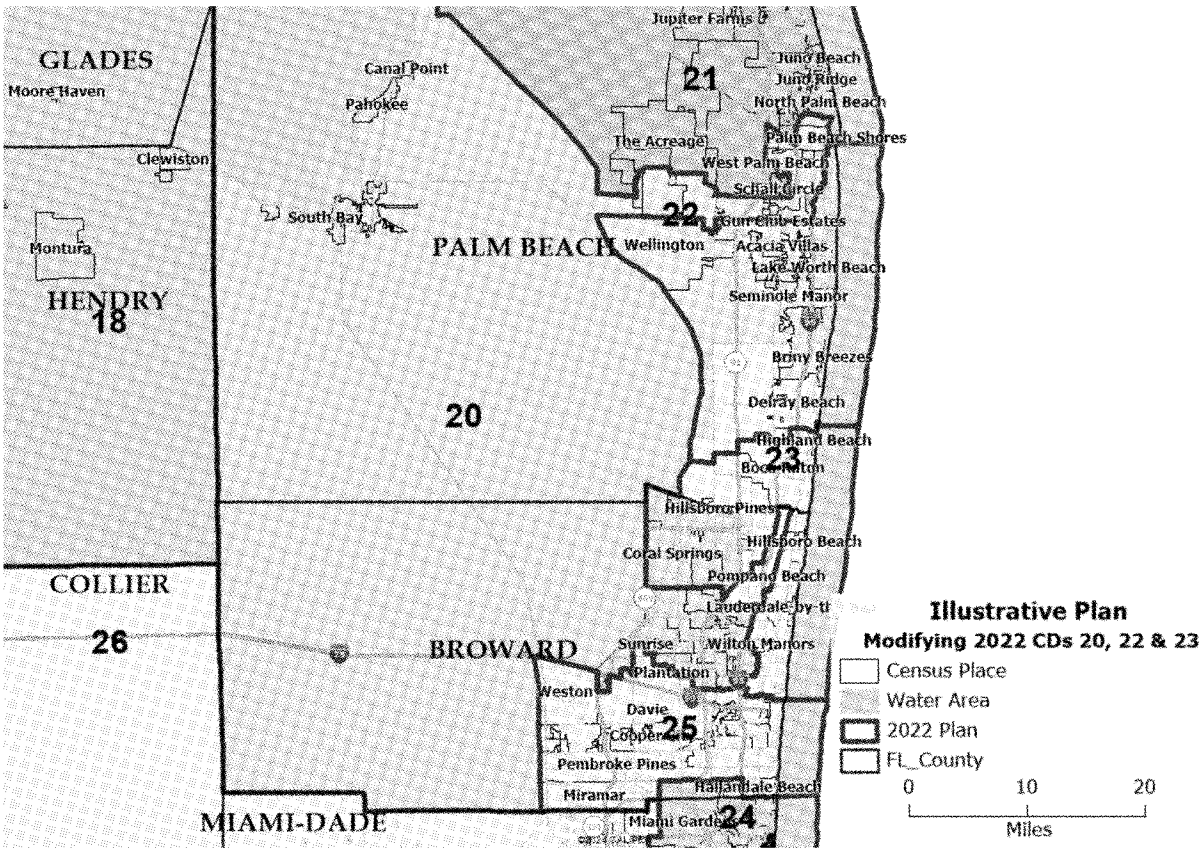

Figure 8: Cooper Illustrative Plan Modifying CDs 20, 22, and 23[64]

But this least-change approach would not have achieved the true goal of this redistricting: flipping seats for partisan advantage. So, rather than make modest changes, the map drawer instead engaged in a wholesale reshaping of Benchmark CDs 20, 22, 23, 24, 25, and 26. After making some adjustments to Benchmark CD-21, the map drawer testified that he drew the Challenged Plan's CD-23 to ensure that Palm Beach County had a district entirely contained within the

[64] Ex. 4 at Fig. 2 (Cooper Decl.).

county.[65] The Benchmark Plan already had a district entirely contained within Palm Beach County: Benchmark CD-22.[66] Yet the map drawer nonetheless drew a brand-new CD-23. The map drawer testified that he next drew from the southern tip of the state, leaving CDs 27 and 28 mostly unchanged but purportedly following municipal boundaries to construct new CDs 24 and 26. He then testified that he created an all-Broward new CD-20, again choosing to discard an already-compact, all-Broward district in Benchmark CD-25.[67]

The map drawer concluded his explanation of the South Florida districts by accounting for new CDs 25 and 22. He described new CD-25 as a district that connects coastal precincts in Palm Beach, Broward, and Miami-Dade counties that were functionally leftover after he created his other districts, which he connected in a non-compact fashion.[68] He then explained that there were also leftover communities in western Broward and Palm Beach counties, which he chose to have cross the Everglades and paired with Hendry and Collier counties in new CD-22.[69]

This reshaping of South Florida increases the number of splits in both Broward and Miami-Dade counties. Under the Benchmark Plan they were each split four times; the Challenged Plan splits them each five times. *See* Ex. 3 § 3.3 (Duchin Decl.).

The partisan impacts of this new configuration are clear. The map drawer's purported prioritization of drawing districts contained entirely within Broward and Palm Beach counties

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[65] Ex. 8, Transcript of Congressional Redistricting, 21:14-23:4, House Select Committee, (Apr. 28, 2026).

[66] Ex. 2. 2022-2032 Florida Congressional Districts.

[67] Ex. 8, Transcript of Congressional Redistricting, 23:18-27:15, House Select Committee, (Apr. 28, 2026); Ex. 2, 2022 map.

[68] Ex. 8, Transcript of Congressional Redistricting, 27:16-28:24, House Select Committee, (Apr. 28, 2026).

[69] Ex. 8, Transcript of Congressional Redistricting, 28:25-29:25, House Select Committee, (Apr. 28, 2026).

ignores the Benchmark Plan's districts that meet these criteria; instead, the Challenged Plan constructs such districts anew, using these new configurations to pack the most Democratic-leaning precincts in each county into new districts. This, when paired with some tweaks to make the Miami-based Democratic-leaning seat even more Democratic, enables the construction of two new districts that the map drawer presents as having been drawn at the very end, comprised of areas that have to go somewhere and only after Democratic voters have been packed into CDs 20, 23, and 24:

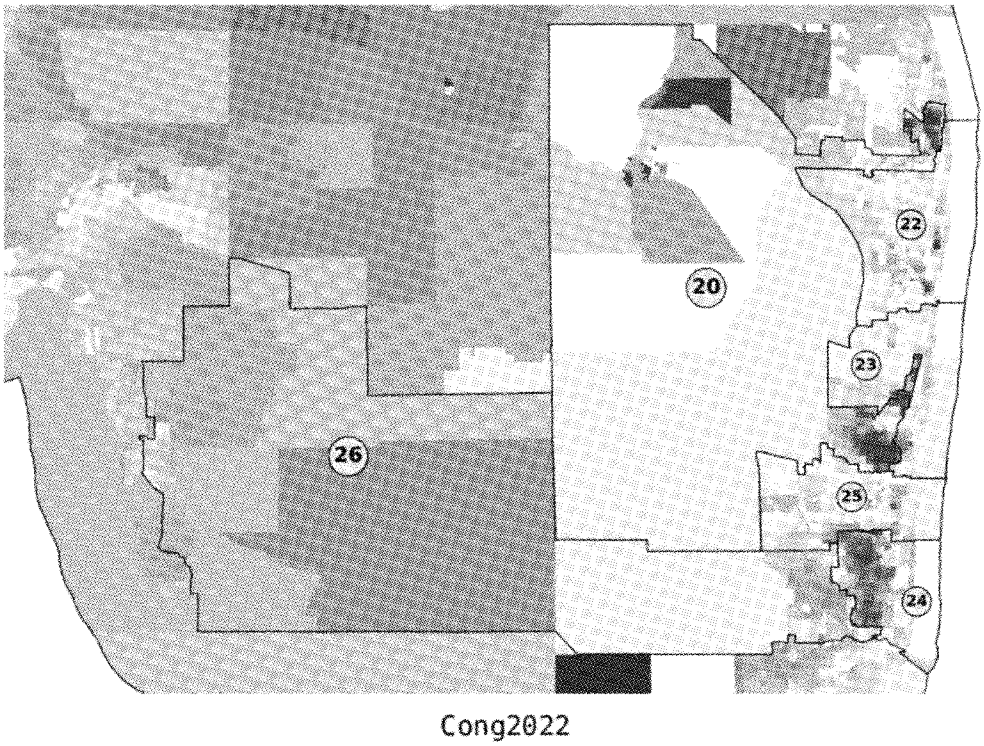

Figure 9: Benchmark Plan Districts with Precincts Shaded by Partisan Lean[70]

[70] Ex. 3 at Fig. 14 (Duchin Decl.).

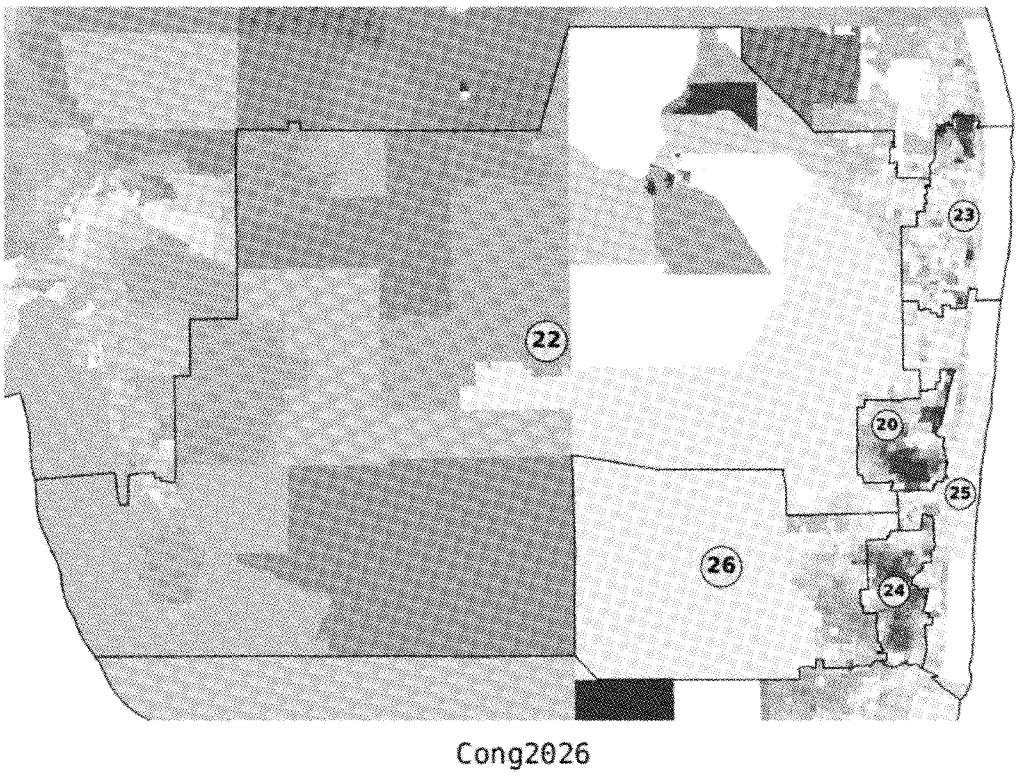

Figure 10: Challenged Plan Districts with Precincts Shaded by Partisan Lean[71]

These two "leftover" districts just so happen to be brand-new, non-compact agglomerations of the most Republican-leaning precincts that were not already in a Republican-held district in southeast Florida. New CD-25 takes the shape of a Lego brick, gathering up Republican-leaning coastal precincts from Benchmark CDs 23 and 24, as well as retaining some additional Republican-leaning precincts from Benchmark CD-25, to produce a new Republican-leaning seat. The Challenged Plan's coastal CD-25 is now the *least* compact district in either the Benchmark or Challenged Plan, and its abnormal, non-compact shape also transforms it from a Democratic-leaning district in the Benchmark Plan to a Republican-leaning district in the Challenged Plan.[72]

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[71] Ex. 3 at Fig. 14 (Duchin Decl.).

[72] Ex. 3 at Table 2 & Fig. 14 (Duchin Decl.).

In addition, the effective packing of the Challenged Plan's CDs 20, 23, and 24 allows the creation of a new CD-22 that the map drawer testified was the last district created in south Florida, and operates to unite disparate areas of Republican-leaning precincts into a Republican-leaning district.

District	Retention wrt 2022	Incumbent party	PRES20 (Repub)		GOV22 (Repub)		PRES24 (Repub)	
			2022	2026	2022	2026	2022	2026
20	65.94%	D	23.66	25.70	30.07	31.63	30.02	31.26
21	95.45%	R	54.75	54.45	62.60	62.49	58.34	58.18
22	12.83%	D	41.14	48.55	48.41	57.81	47.19	55.30
23	0.00%	D	43.35	36.58	50.40	44.54	49.04	43.03
24	69.60%	D	25.35	21.55	31.49	26.63	34.84	30.47
25	16.27%	D	39.98	47.45	47.49	54.41	47.31	54.61
26	61.35%	R	58.97	50.59	70.49	60.02	67.58	59.25

Table 7: Chart Depicting Core Retention and Partisan Performance in South Florida[73]

As the table above shows, the Challenged Plan drastically reshapes district populations to achieve its partisan goal. CDs 22 and 25 retain almost none of their 2022 populations: CD-22 retains 12.83%, and CD-25 retains 16.27%. These districts, which previously performed for Democrats, instead received an influx of Republican voters and now perform for Republicans under the 2026 Plan. CD-23 retains *none* of its 2022 population, and its new configuration makes it a more solidly Democratic district. CD-24 does retain more of its original population but still receives an influx of Democratic voters to make it more solidly Democratic. The design of the plan is clear: concentrate more Democratic voters in Districts 23 and 24, spread the rest throughout surrounding districts, and flip two formerly Democratic districts to perform for Republicans. A plan that once had five Democratic-leaning districts and two Republican-leaning ones now boasts four Republican-leaning districts and only three Democratic-leaning ones.

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[73] Ex. 3 at Table 5 (Duchin Decl.).

H. None of Defendants' proffered rationales can justify the Challenged Plan.

Governor DeSantis, his office, and the legislative proponents of the Challenged Plan cited two reasons that they contended necessitated the mid-decade passage of the Challenged Plan: "to account for the greater population growth in the suburban and exurban communities throughout the state" and "to ensure that the state has a race-neutral congressional plan."[74] The first of these, population growth, encompassed two related theories: that the Challenged Plan needed to correct for an undercount of Florida's population in the 2020 Census, and that the Challenged Plan needed to shift configuration of certain districts to better account for the population growth that had occurred at differential rates throughout the state since 2020. The second reason relied on the theory that the then-unreleased Supreme Court decision in *Louisiana v. Callais* would render all consideration of race in redistricting unconstitutional, and therefore the 2022 Benchmark Plan would need to be re-drawn in significant part to comply with this hypothetical ruling.

None of these reasons plausibly, or even semi-plausibly, explains the Challenged Plan's configuration to a degree sufficient to justify the Plan's extreme partisan favoritism, even when accepted on their own terms. Each falls apart with only the lightest scrutiny and cannot bear the Legislature's burden to justify the drastic new configurations of the Challenged Plan.

1. Census undercount

The Governor's insistence that the 2020 Census undercounted Florida residents and did not account for population change in the state fails as a legitimate explanation for the Challenged Plan.

First, complaints about the accuracy of Census data cannot furnish a reason to redistrict. Decennial Census data is used to reapportion congressional representatives among the states, and

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[74] Ex. 7, Senate Rules Tr. 5:13-18.

when states endeavor to redraw congressional districts as a result, they must use the most recent decennial Census data. *See Evenwel v. Abbott*, 578 U.S. 54, 60, 136 S. Ct. 1120, 1124 (U.S. Tex., 2016) (stating that there is "little controversy" that the population base states use for reapportionment is "as measured by the decennial census"); *Davidson v. City of Cranston*, 837 F.3d 135, 143 (C.A.1 (R.I.), 2016) (noting *Evenwel* "approved the status quo of using total population from the Census for apportionment"); *New York v. United States DOC*, 351 F. Supp.3d 502, 594 (S.D.N.Y. 2019), *aff'd in part, rev'd in part on other grounds*, 588 U.S. 752, 139 S. Ct. 2551 (U.S., 2019) ("States — including Plaintiffs here — rely on federal decennial census data to carry out their own *intra*state redistricting."); *City of San Jose v. Trump*, 497 F. Supp.3d 680, 709 (N.D.Cal., 2020) ("[S]tates 'have long relied on federal decennial census data for countless sovereign purposes,' including redistricting." (citation omitted)).

The Supreme Court also has recognized and afforded great weight to states' "settled practice" of using "total-population numbers from the [decennial] census when designing congressional and state-legislative districts," noting that it is a norm "that all 50 States and countless local jurisdictions have followed for decades, even centuries." *Evenwel v. Abbott*, 578 U.S. 54, 60, 73-74, 136 S. Ct. 1120, 1124 (U.S. Tex., 2016). And for good reason. The decennial Census is an enumeration of all U.S. residents, unlike any other potential apportionment base. The Census Bureau's American Community Survey ("ACS"), for example, is a monthly survey of a sample of U.S. residents which requires statistical analysis to interpret and contains a margin of error.[75] In *Evenwel*, the Court rejected the argument that ACS data of voter-eligible populations

[75] United States Census Bureau, *The Importance of the American Community Survey and the Decennial Census*, https://www.census.gov/programs-surveys/acs/about/acs-and-census.html (last accessed May 11, 2026); United States Census Bureau, *Statistical Testing Tool,* https://www.census.gov/programs-surveys/acs/guidance/statistical-testing-tool.html (last accessed May 11, 2026).

could serve as the basis for apportionment. 578 U.S. at 64, 136 S. Ct. 1120, 1126; *cf. New York v. United States DOC*, 351 F. Supp. 3d 502, 520 (S.D.N.Y. 2019), *aff'd in part, rev'd in part on other grounds*, 588 U.S. 752, 139 S. Ct. 2551 (U.S., 2019) ("[T]he ACS is conducted annually and not used to enumerate the population for apportionment purposes.").

Florida is not an exception to this longstanding practice. Indeed, Florida law requires the use of decennial Census data in apportionment of congressional districts. FLA. STAT. §11.031(1) (2025) ("All acts of the Florida Legislature based upon population and all constitutional apportionments shall be based upon the last federal decennial statewide census.").

While true that Florida's population was undercounted in the 2020 Census according to the Post-Enumeration Survey ("PES") results,[76] the Census Bureau cannot change or update the official decennial Census results ultimately used for redistricting.[77] And even though Florida's Attorney General James Uthmeier requested that the Census Bureau correct the 2020 apportionment,[78] the Bureau did not issue any corrections to the 2020 Census data. Nor has Florida been apportioned an additional congressional district, which *would* necessitate redrawing the plan so that it could be included. These ironclad legal principles and obvious factual realities all point in the same direction: the same 2020 Census data was used in the Challenged Plan to draw the same number of districts. The map drawer admitted this reality, testifying to the Senate Rules

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[76] Press Release, U.S. Census Bureau Releases 2020 Undercount and Overcount Rates by State and the District of Columbia, United States Census Bureau, https://www.census.gov/newsroom/press-releases/2022/pes-2020-undercount-overcount-by-state.html (May 19, 2022).

[77] America Counts Staff, 2020 Census Undercounts in Six States, Overcounts in Eight, United States Census Bureau, https://www.census.gov/library/stories/2022/05/2020-census-undercount-overcount-rates-by-state.html (May 19, 2022).

[78] Petition for Rulemaking to the Census Bureau, U.S Department of Commerce by the State of Florida, https://www.myfloridalegal.com/sites/default/files/florida-petition-for-rulemaking-to-census-bureau.pdf (last accessed May 11, 2026).

Committee that he "used the 2020 Census data exclusively" to construct the Challenged Plan.[79] This concession alone defeats the proposition that the Challenged Plan would—or even could—correct for errors in the 2020 Census data. One cannot correct for allegedly flawed apportionment data while simultaneously relying on that data to apportion districts.

In sum, the data Florida *must* and *did* employ to reapportion its districts *cannot* reflect the undercounted population in Florida. The proposition that the Challenged Plan addresses concerns with that data, while simultaneously using the same data, cannot justify *any* redistricting plan, much less the Challenged Plan.

2. Population growth

The reason most prominently cited to justify the Challenged Plan – the need to bring Florida's congressional districts into better alignment with the population growth the State has seen since the 2020 Census –fails to explain the Challenged Plan's district boundary shifts for multiple reasons. It too should be rejected as a neutral, nonpartisan explanation for the Plan's configuration.

First, population was equalized among the Challenged Plan's districts using the 2020 decennial Census data, which has *not* been updated to reflect population shifts since 2020. *See supra* Section I.E.1. Second, the map drawer disclaimed *any* use of any data source other than the 2020 Census data while drawing the Challenged Plan.[80] *See supra* Section I.E.1. Far from making an attempt to determine whether the districts were more equally apportioned using updated population data, he testified that he "did not overlay any other data over the map itself[,]"[81] as would be necessary to

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[79] Ex. 7, Senate Rules pg. 73-74.

[80] Ex. 7, Senate Rules Tr. 73-74 ("I used the 2020 census data exclusively.").

[81] *Id.*

attempt to draw districts incorporating updated population estimates. Nor did the map drawer testify that he checked updated population estimates like ACS data after he finished drawing the map to assess whether the estimated population deviations among the districts were reduced as compared to the Benchmark Plan. Instead, he disclaimed any knowledge as to whether the Challenged Plan actually accounted for those updated population figures: "the actual populations of the districts, like, might be more balanced than before, but I don't know for certain. Nobody really does[.]"[82]The failure to actually use any updated population data while drawing the districts completely undermines the pretext that the need to account for updated population data motivated the Challenged Plan.

Third, the Challenged Plan actually *exacerbates*, rather than eases, population disparities between congressional districts according to the updated population estimates upon which the map drawer claimed to rely. According to the 2018-2022 ACS data (which centered on 2020, making it closest to the decennial Census count), the Benchmark Plan had a top-to-bottom population discrepancy of 32,923.[83] And according to the most recent ACS data available (the 2020-2024 ACS), the Benchmark Plan's population deviation had risen to 65,435.[84] Far from correcting for that ACS data deviation, the Challenged Plan actually increased it to 78,876.[85] This is the opposite of what should have happened if the Challenged Plan were actually attempting to account for population growth.

While the map drawer did purport to consider these updated population estimates in determining where to re-draw districts in the Challenged Plan—even if he did not make any

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[82] Ex. 7, Senate Rules Tr. 48-49.

[83] Ex. 3 § 3.1 (Duchin Decl.).

[84] *Id.*

[85] *Id.*

attempt to actually account for that data in his drawing— this meager rationale falls apart on its own terms.

The map drawer testified that, rather than take into account any population data other than the 2020 Census while drawing, he used two sets of updated population estimates to help determine where to draw new districts in the Challenged Plan.[86] He testified that he "tried to consider where those changing populations are, based on EDR's estimate" in order to "try and account for those in the orientations of the district[s] so those populations can be accounted for in some way."[87] This accounting, however, was made at the county level—in his own telling, the map drawer simply identified counties that had seen high rates of growth since the 2020 Census and targeted these areas for redrawn districts.[88]

Simply identifying which counties have grown faster or slower cannot, standing alone, justify any decision to re-draw congressional districts. Not since before the announcement of one-person one-vote have county-level populations been a sufficient basis for congressional apportionment. *See Wesberry v. Sanders*, 376 U.S. 1 (U.S. Ga. 1964). Instead, *Wesberry* and its progeny require states to balance population at the sub-county level "as nearly as is practicable." *Id.* at 7-8. This can virtually never be done without peering beyond county-level population statistics. The map drawer's suggestion that he could simply look at county-level population growth to determine which congressional districts needed to be re-drawn falls short of the precision required in congressional apportionment. This is even more true when considered in light of the fact that many of Florida's congressional districts consist of multiple counties, or only parts of

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[86] Ex. 7, Senate Rules Tr. 15:8-17; *accord* Ex. 5 at 3, Transmittal letter (citing ACS data and EDR data).

[87] Ex. 7, Senate Rules Tr. 19:14-22

[88] Ex. 8, House Select Committee Tr. 18:6-12

counties. *See* Map and Statistics Packet for 2026 Map at 3 (showing Broward County, Orange County, and Miami-Dade County each split between five districts).[89]

And even if this imprecise methodology could somehow justify the map drawer's choice of which districts to re-draw (and which to leave unmodified), the Challenged Plan nonetheless fails to do so. This is because the Plan leaves untouched counties that have seen some of the most significant population growth in the state. For example, in the EDR population growth estimates cited by the map drawer, St. John's County in northeast Florida has grown at a rate of over 25% in the past five years.[90] This rate vastly outstrips many of the areas chosen for redrawn districts in the Challenged Plan, and even rivals the levels of absolute growth seen in much larger counties. But the Challenged Plan's configuration of St. John's County, and of the entire Jacksonville area, is identical to that of the Benchmark Plan. No attempt to account for any of this population growth is made. When asked about why the Challenged Plan makes no modifications in Northeast Florida despite this growth, the map drawer suggested that it was driven by a desire to retain as much of the previous plan as possible, and that neighboring counties had not grown enough to justify redrawing St. John's County, even though he conceded the estimates labeled it the "fastest growing county in the state."[91] Even if one sets aside the partisan manner in which the Challenged Plan retains the cores of previous districts, *see* Ex. 3, Duchin Declaration, at 9-10, this explanation is highly implausible. One county over from St. John's, Duval County saw very high population

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[89] *See* Proposed Florida Congressional Districts, Plan EOGPCRP2026, https://www.flsenate.gov/PublishedContent/Session/Congressional/11x17_mapandstats_EOGPCRP2026.pdf (last accessed May 11, 2026).

[90] Florida Population Estimates by County and Municpality, https://edr.state.fl.us/content/population-demographics/data/2025_Pop_Estimates.pdf (April 1, 2025) at 13, showing St. John's County with over 25% growth between 2020 and 2025, adding 74,911 people].

[91] Ex. 7, Senate Rules Tr. 114:15-115:15.

growth, yet it too was unmodified in the Challenged Plan.[92] And the map drawer did not let such considerations of neighboring counties' slow growth stop his re-configuration of Tampa Bay, where in order to re-draw fast-growing Hillsborough County he also re-drew Pinellas County, one of the slowest-growing counties in the state.[93] The unifying theme of these choices is not population growth, as the map drawer, suggested, but partisan advantage: there is no Democratic-held congressional seat near St. John's County, so it is not re-drawn despite significant population growth. However, there is a Democratic-held congressional seat in Pinellas County, so it is re-drawn notwithstanding its population stagnation. Thus, the Challenged Plan itself contradicts even this inadequate explanation and fails to adhere to this purported rationale.

The need to update the map to account for Florida's differential population growth does not approach serving as a valid explanation for the Challenged Plan.

3. "Race-neutral" redistricting

The final nonpartisan rationale advanced in support of the Challenged Plan is the purported need to re-draw so that the congressional plan is race-blind. Like the population-based rationalizations before it, the race-neutral rational fails when analyzed in light of the history of the 2022 Plan and what the Challenged Plan actually does.

As a threshold matter, it is far from certain that the Challenged Plan needed to be re-drawn for racial considerations at all given the exceedingly limited role race played in drawing the 2022 Plan and the Supreme Court's *Callais* decision. Despite the prognostications of Governor DeSantis about the outcome of the *Callais* decision when he called for the special legislative session, the

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[92] Florida Population Estimates by County and Municpalitiy https://edr.state.fl.us/content/population-demographics/data/2025_Pop_Estimates.pdf (April 1, 2025) at 3, showing Duval with 83,477 people of growth; see also Clay at page 2 with 20,360 growth of nearly 10%.

[93] *Id.* at 4 (Hillsborough +115,875, just under 10%), 9 (Pinellas +7,826, growth rate of under 1%)

Supreme Court did not actually hold that all usage of race in redistricting was *per se* unconstitutional; instead, it held that race could be considered in certain circumstances.[94]

With regard to consideration of race in the Challenged Plan, the map drawer testified that he wanted to ensure that the Challenged Plan was drawn without consideration of race, specifically identifying Benchmark CD-20 as a district that needed to be re-drawn for this reason.[95] He identified CD-20 as an area where "the biggest change was" as a result of the need to draw without any consideration of race, but failed to identify any other district that needed to be re-drawn as a result of the race-neutral re-draw; instead, the map drawer suggested that the need to reconfigure CD-20 had a domino effect on much of the Challenged Plan, requiring changes in other areas.[96]

First, this explanation cannot justify any re-drawn districts outside of South Florida. The Legislature and the Governor, in their enactment of the 2022 Benchmark Plan, expressly disavowed any usage of race outside of South Florida.[97] Their insistence that the 2022 Benchmark Plan had been drawn race-blind extended to both Tampa Bay and Central Florida,[98] areas that were nonetheless re-drawn in the Challenged Plan. Any need to conform to race-neutral redistricting cannot explain changes in these areas; there was nothing to change. At most, this explanation applies to the South Florida portion of the Challenged Plan, not the Challenged Plan as a whole.

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[94] While the decision did set up partisanship as a defense to racial discrimination claims under Section 2 of the Voting Rights Act, partisanship is expressly forbidden in Florida law as a redistricting criterion. *See Callais*, Nos. 24-109 & 24-110, 2026 U.S. LEXIS 1950, at *45-46 (S. Ct. Apr. 29, 2026); Fla. Const. art. III, § 20.

[95] Ex. 7, Senate Rules Tr. 19:23-20:5

[96] *Id.* at 20:6-9; *accord* Ex. 5 transmittal letter.

[97] Ex. 10, Senate Committee on Reapportionment Tr. of Audio Recordings, Alex Kelly 2022 testimony to legislature (April 19, 2022).

[98] Ex. 10, Senate Committee on Reapportionment Tr. of Audio Recordings, Alex Kelly 2022 testimony to legislature on Tampa/ Orlando (April 19, 2022).

Even in South Florida, however, this explanation fails. For starters, CD-20 was not the only South Florida district that was drawn with race consciousness in the Benchmark Plan. CDs 24, 26, 27, and 28 were all identified in the 2022 redistricting process (which resulted in the Benchmark Plan's passage) as districts whose configurations considered race in the Benchmark Plan.[99] Despite this race-consciousness, CDs 27 and 28 saw virtually no change between the 2022 Benchmark and the Challenged Plans.[100] And while CD-26 was modified in the Challenged Plan, it was only changed after multiple other districts had been modified, and was identified as one of the last districts finalized in South Florida (as opposed to CD-20, which was the starting point for the Challenged Plan in South Florida).[101] Contrary to CD-20, none of these districts were a identified as a race-conscious district by the map-drawer, and no suggestion was made that any of them needed to change, as would be the case were the true purpose of the Challenged Plan race neutrality. Instead, CD-20 is singled out.

And even if one looks past the omission of CDs 26, 27, and 28, there is no reason to think that re-drawing CD-20 to be race-neutral required anywhere near the magnitude of changes in the Challenged Plan. It is extremely simple to draw a race-neutral version of CD-20 in South Florida that significantly improves the district's Tier 2 performance, such as compactness and respect for political subdivisions, while making only minimal changes to the rest of the plan.[102] This is possible with modifications to only three districts from the Benchmark Plan, even while maintaining the map drawer's stated goal of having at least one district entirely contained within

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[99] Ex 11, Deposition of Jason Poreda 205:6-19 (identifying CDs 24, 26, 27, and 28 as additional minority protected districts under the Fair Districts Amendments).

[100] Ex. 2, Compare 2022 Plan to Ex. 1, 2026 Plan.

[101] *See* Ex. 8, Transcript of *Congressional Redistricting* at 26:7-27:2, House Select Committee, (Apr. 28, 2026).

[102] *See* Ex. 4, Declaration of Dr William S. Cooper at ¶¶ 35.

Palm Beach and Broward counties.[103] That the Challenged Plan goes far beyond such changes to render a wholescale re-draw of South Florida is powerful evidence that a race-neutral CD-20 does not explain even the South Florida configuration. *See supra* Section I.

None of these explanations comes near providing a neutral, nonpartisan rationale that can outweigh the overwhelming evidence of partisan favoritism in the Challenged Plan, both in the process that led to the enactment of the Challenged Plan and on the face of the Challenged Plan itself. The balance of the evidence is clear: because it is infected by impermissible partisan intent and unable to be justified on any neutral, nonpartisan ground, the Challenged Plan violates the Fair Districts Amendments' prohibition on partisan gerrymandering.

I. Defendants' arguments that the Fair Districts Amendments no longer apply are fundamentally flawed.

Defendants have wrongly argued that they are free to disregard the Fair District Amendments' ban on partisan gerrymandering because the U.S. Supreme Court would soon hold that race cannot be considered in redistricting. They have asserted that the FDA's minority voter protections render every other provision in the Amendments no longer binding, because these other provisions supposedly cannot be severed from the Amendments' minority voter protections.

Defendants' argument fails on multiple grounds. First, no court has held that the Amendments' minority voting rights protections are facially unconstitutional. The Florida Supreme Court construed those provisions just last year, and held that they were not unconstitutional when construed properly. *See Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec'y, Fla. Dep't of State*, 415 So. 3d 180, 200 (Fla.,2025). And contrary to Defendant DeSantis' expectations, the U.S. Supreme Court's decision in *Louisiana v. Callais* did not hold Section 2 of

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[103] *Id.*; *See* Ex. 8, Transcript of *Congressional Redistricting* at 22:19-23:4, 27:3-9, House Select Committee (Apr 28, 2026).

the Voting Rights Act—upon which much of the minority voting provision's language was modeled, *Apportionment I*, 83 So. 3d at 619—unconstitutional. Nos. 24-109 & 24-110, 2026 U.S. LEXIS 1950, at 11–12 (S. Ct. Apr. 29, 2026). Instead, it held that the Voting Rights Act, when interpreted consistently with the Equal Protection Clause, *can* "provide a compelling reason for race-based redistricting." *Id.* at 11. And the U.S. Supreme Court has not held that any consideration of race in redistricting is *per se* impermissible. For example, race may be used to remediate past discrimination. *Id.* at 29. In other words, while *Callais* may shape how the Fair Districts Amendments' minority vote protections may be applied, it does not render them unconstitutional in all possible applications. Because the minority provision is not facially unconstitutional, Defendants' arguments as to the supposed inseverability of the ban on partisan gerrymandering are beside the point. There is no need to sever a provision that is not facially unconstitutional.

Even if there were any conflict between the Fair Districts Amendments' antidiscrimination protections and the Equal Protection Clause, the proper course would be to follow the U.S. Supreme Court's lead and read those protections in a manner consistent with the federal constitution. *See id.* at 11–12; *see also Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec'y, Fla. Dep't of State*, 415 So. 3d 180, 197 (Fla., 2025) (requiring plaintiffs raising non-diminishment claims to show that the relief they seek does not violate the federal Equal Protection Clause). And adhering to principles of judicial restraint, such an interpretation should be saved for a case raising claims under the minority vote protections. *Id.* at 200 ("That issue can wait for another day.").

At any rate, even if the minority vote protections were deemed facially unconstitutional, those protections *are* severable from the remainder of the Fair Districts Amendments. The doctrine of severability "obligat[es]" courts "to uphold the constitutionality of legislative enactments where it is possible to strike only the unconstitutional portions." *Ray v. Mortham*, 742 So.2d 1276, 1280

(Fla.,1999). This preference for severability applies equally to citizen initiatives. "[T]he initiative power of fully informed citizens to amend the Constitution must be respected as an important aspect of the democratic process." *Id.* Therefore, "just as [courts] view the severability of laws with deference to the legislative prerogative," the Court "must afford no less deference to constitutional amendments initiated by our citizens and uphold the amendment if, after striking the invalid provisions, the purpose of the amendment can still be accomplished." *Id.*

To determine whether a provision is severable, Florida courts apply the following test:

> When a part of a statute is declared unconstitutional the remainder of the act will be permitted to stand provided: (1) the unconstitutional provisions can be separated from the remaining valid provisions, (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void, (3) the good and the bad features are not so inseparable in substance that it can be said that the Legislature would have passed the one without the other and, (4) an act complete in itself remains after the invalid provisions are stricken.

Cramp v. Bd. of Pub. Instruction, 137 So.2d 828, 830 (Fla. 1962). The "key" of the inquiry is "whether the overall legislative intent is still accomplished without the invalid provision." *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1196 (Fla., 2017). The burden to establish that these protections cannot be severed is on the party challenging the amendment—here, Defendants. *Ray*, 742 So. 2d at 1281. Defendants cannot meet that burden.

First, the allegedly unconstitutional provisions within the Amendments "can be separated from the remaining valid provisions." *Cramp*, 137 So. 2d at 830. If the minority vote protection language was removed, the remainder would read as follows:

> (a) No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent; . . . and districts shall consist of contiguous territory.
>
> (b) Unless compliance with the standards in this subsection conflicts with the standards in subsection (a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.
>
> (c) The order in which the standards within subsections (a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection.
>
> Fla. Const. art. III, § 20.

Second, "the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void." *Cramp*, 137 So. 2d at 830. Here, the Amendments' ban on partisan gerrymandering and incumbent protection, requirement for contiguity, and Tier II criteria could all still be applied even without the minority vote protections. The partisan gerrymandering and incumbent protection provisions still limit the legislature's ability to manipulate district lines. The contiguity requirement still limits the legislature's ability to join far-flung communities in one district. And the Tier II criteria continue to limit legislative discretion in shaping districts in line with the public's goals of compactness, adherence to political and geographical boundaries, and equal population size. In other words, just as the "overall purpose" of limiting political officers' terms could still be accomplished even without those limits applying to members of Congress, *Ray*, 742 So. 2d at 1283, so too could the Fair Districts Amendments' purpose of "establishing additional guidelines for the Legislature to apply when it redistricts" still be applied without the minority vote protections. *See Advisory Op. to Att'y Gen. re Standards for Establishing Legislative Dist. Boundaries*, 2 So.3d 175, 181 (Fla., 2009) (plurality opinion); *see also Cramp*, 137 So. 2d at 830 (loyalty oath could still serve its purpose even without reference to communism).

Third, the constitutional and allegedly unconstitutional features of the Amendments "are not so inseparable in substance that it can be said that the Legislature would have passed the one without the other." *Cramp*, 137 So. 2d at 830; *see also Ray*, 742 So. 2d at 1283 ("As to appellants' argument that the amendment must be stricken because it is impossible to be certain that the voters would have adopted the amendment had it not contained provisions limiting the terms of federal legislators, this argument misplaces the burden of proof, which is properly on the challenging party.").

Far from being inseparable, the minority vote protections and the Amendments' other provisions each serve as different constraints on the legislature's redistricting power. Partisan gerrymandering claims and race-based redistricting claims have long been treated as separate doctrines, governed by separate standards. *Compare, e.g.*, *Rucho v. Common Cause*, 588 U.S. 684 (U.S.N.C., 2019), *Vieth v. Jubelirer*, 541 U.S. 267 (U.S.Pa.,2004) (plurality op.), *Davis v. Bandemer*, 478 U.S. 109 (U.S.Ind., 1986) (plurality op.), *and Gaffney v. Cummings*, 412 U.S. 735 (U.S.Conn., 1973), *with Callais*, 2026 U.S. LEXIS 1950, *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1 (U.S.S.C., 2024), *and Thornburg v. Gingles*, 478 U.S. 30 (U.S.N.C., 1986). Differentiating between these two separate lines of doctrine has long been important in each body of law, to the point where failure to do so could be fatal to a party's claim. *See, e.g.*, *Alexander*, 602 U.S. at 9–10; *Hunt v. Cromartie*, 526 U.S. 541, 551 (U.S.N.C., 1999); *Shaw v. Reno*, 509 U.S. 630, 650 (U.S.N.C., 1993) ("[N]othing in our case law compels the conclusion that racial and political gerrymanders are subject to precisely the same constitutional scrutiny.").

This doctrinal distinction predates the Fair Districts Amendments by decades. Because of it, the Fair District Amendments' partisan gerrymandering provisions were designed to go beyond federal law, "expressly prohibit[ing] what the United States Supreme Court has in the past termed

a proper, and inevitable, consideration in the apportionment process." *See Apportionment I*, 83 So. 3d at 617. The minority vote protections, by contrast, were modeled on the federal Voting Rights Act, building into the state constitution protections that already existed federally. *See id.* at 619–20. This distinction further supports severability, showing both that the Amendments' partisan gerrymandering provisions are not inseparable from the minority vote protections and also that the partisan gerrymandering provisions can still serve their purpose even absent the minority vote protections.

This distinction was also present in the public campaign for the Fair Districts Amendments. Notably, much of the emphasis in passing the Fair Districts Amendments was on their partisan gerrymandering provisions, rather than the minority vote protections. For example, Fair Districts Coalition Leader Ellen Freidin described the purpose of the Amendments as "stop[ping] legislators from drawing districts that are strictly for the purpose of keeping their party and themselves in office."[104] Indeed, in federal litigation over several 2022 Florida Senate districts, Defendant Byrd's expert witness concluded that "prohibiting redistricting based on political partisanship or incumbency[] was understood by the proponents, opponents, and voting public as the primary purpose of the Fair Districts amendments."[105] By contrast, Defendant Byrd's expert witness determined that the minority vote protections were a "feature" of the Amendments but not their "primary driving force, either in proponent communications or by the news information provided to the public." *Id.* at 56–57. Having staked out that position already, Defendant Byrd cannot now

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[104] Mike Kiniry, *Florida's Fair Districts Amendments: Past & Future*, WGCU, https://www.wgcu.org/show/gulf-coast-life/2021-08-17/floridas-fair-districts-amendments-past-future (Aug. 17, 2021, 12:18 p.m.); *see also, e.g.*, Tony Fransetta, *Why Retirees Should Support Amendments 5 and 6*, Gainesville Sun, https://www.gainesville.com/story/news/2010/10/13/tony-fransetta-why-retirees-should-support-amendments-5-and-6/31778206007/ (Oct. 13, 2010).

[105] Ex.12, Expert Report of Mary E. Adkins, at 3.

seriously suggest, let alone prove, that the partisan gerrymandering provisions would not have been adopted unless the minority vote protections were adopted as well. And even now, Floridians continue to oppose partisan gerrymandering and support restrictions on the drawing of district lines to benefit a political party, as they expressed during this latest redistricting process. Defendants cannot meet the high burden required to show that the minority vote protections were the voters' true purpose in passing the Fair Districts Amendments and that they "would not have approved" the Amendments absent that language. *See Ray*, 742 So. 2d at 1284.

Finally, "an act complete in itself [would] remain[]" if the minority vote protections were stricken. *Cramp*, 137 So. 2d at 830. As can be seen from the revised language above, removal of the minority vote protections "would leave intact a valid, coherent, workable" amendment. *Id.* at 831. The Amendments' tiered structure would still work, too: The remaining Tier I criteria would be applied as normal, and the Tier II criteria would be applied unless that compliance "conflicts with" Tier I.

Defendants' arguments that the language is not severable run headlong against controlling precedent. Defendants point to the absence of a severability clause within the Fair Districts Amendments, but courts' "ability to sever the unconstitutional portion of a statute does not depend on the enactment containing a severability clause." *Searcy, Denney, Scarola, Barnhart & Shipley v. State*, 209 So. 3d 1181, 1196 (Fla., 2017); S*ee also Fla. Hosp. Waterman, Inc. v. Buster*, 984 So. 2d 478, 493 (Fla., 2008) (same); *Weaver v. Myers*, 229 So. 3d 1118, 1141 (Fla., 2017) ("Although the 2013 act that amended the statutes did not include a severance clause, this presents no barrier.");); . Defendants also make much of the Amendments having been "sold as a package" that satisfied the single-subject rule applicable to all citizen initiatives. *See, e.g.*, Ex. 19, House Comm. Tr. at 10:14-21; *see also Advisory Op. to Att'y Gen. re Standards for Establishing*

Legislative Dist. Boundaries, 2 So. 3d at 181 (plurality opinion) (explaining that the single-subject rule for ballot initiatives requires that "the proposal may be logically viewed as having a natural relation and connection as component parts or aspects of a single dominant plan or scheme") (quotation omitted)). But as the Florida Supreme Court has already held, "simply because an amendment satisfies the single-subject requirement does not mean that the provisions of the amendment are so mutually dependent on one another that the overall purpose of the amendment cannot be accomplished absent the invalid provisions." *Ray*, 742 So. 2d at 1282 (explaining that the single-subject rule asks a different question than severability analysis). Were it otherwise, the courts would be required to invalidate the entirety of *every* citizen initiative if a portion were unconstitutional, running roughshod over the requirement that citizen initiatives be treated with the same deference as legislative enactments. *Id.* at 1281–82. When they enacted the Fair Districts Amendments, Floridians expressed a desire to end partisan gerrymandering and constrain the legislature's discretion in redistricting. It would be "a grave disservice" to the people of Florida to strike the entire FDA simply because a single clause is alleged (not even found) to be unconstitutional. *Searcy*, 209 So. 3d at 1196.

II. Plaintiffs have no adequate remedy at law.

Plaintiffs have no adequate remedy at law if the 2026 Plan is used in the upcoming congressional elections. Where, as here, the challenged law is "likely unconstitutional, there is no adequate legal remedy at law for the improper enforcement" of that law. *Gainesville Woman Care*, 210 So. 3d at 1263–64 (relying on precedent from both Florida courts and federal courts). This is especially true in the voting rights context due to the "one-shot nature of elections." *League of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d 1205, 1223–24 (N.D. Fla. 2018) ("[T]his isn't golf: there are no mulligans." (quoting *Fla. Democratic Party v. Scott*, 215 F. Supp. 3d 1250, 1258

(N.D. Fla. 2016))); *Liza Danielle, Inc. v. Jamko, Inc.*, 408 So. 2d 735, 738 (Fla. 3d DCA 1982) (explaining that the requirements to show irreparable harm and lack of an adequate remedy at law are "interrelated").

III. Plaintiffs will suffer irreparable harm absent a temporary injunction.

If the Challenged Plan is used in the upcoming congressional elections, Plaintiffs will suffer irreparable harm from the resulting violation of their fundamental voting rights. "Irreparable injury" means "an injury of such a nature that it cannot be redressed in a court of law or, as the rule has been otherwise stated, the injury must be of a peculiar nature, so that compensation in money cannot atone for it." *Liza Danielle, Inc.*, 408 So. 2d at 738 (citation omitted). Florida courts have held that the threatened or actual loss of constitutional rights, even temporarily, constitutes a per se irreparable harm. *See, e.g.*, *Gainesville Woman Care*, 210 So. 3d at 1263–64 (explaining that Florida courts "have presumed irreparable harm where certain fundamental rights are violated" and ultimately holding that, because a law violated the state constitution, it "would lead to irreparable harm" absent a temporary injunction); *see also Bd. of Cnty. Comm'rs v. Home Builders Ass'n of W. Fla., Inc.*, 325 So. 3d 981, 985 (Fla. 1st DCA 2021) ("The law recognizes that a continuing constitutional violation, in and of itself, constitutes irreparable harm."). And "[c]ourts routinely deem restrictions on fundamental voting rights irreparable injury" because "once the election occurs, there can be no do-over and no redress." *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *see also League of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d at 1223–24 (explaining that "irreparable injury is presumed" when voting rights are violated).

The Challenged Plan denies Plaintiffs the right guaranteed by Article III, Section 20 to vote in congressional districts drawn without any partisan intent. Because Plaintiffs' injury results from a constitutional violation, they will suffer irreparable harm absent a temporary injunction.

IV. Injunctive relief will serve the public interest.

In addition to preventing irreparable harm to Plaintiffs, a temporary injunction prohibiting the use of the Challenged Plan during the upcoming congressional elections would also serve the public interest. Florida courts have repeatedly imposed or upheld temporary injunctions once a plaintiff has established that a law is likely to violate constitutional rights. *See, e.g.*, *Gainesville Woman Care*, 210 So. 3d at 1264 (finding that it "would be specious to require . . . that the trial court make additional factual findings" that enjoining an unconstitutional law "would also be in the public interest"); *Green v. Alachua Cnty.*, 323 So. 3d 246, 254 (Fla. 1st DCA 2021) (reversing denial of temporary injunction when the law at issue infringed upon a constitutional right, observing that "enjoining the enforcement of a law encroaching a fundamental constitutional right would serve the public interest" (citing *Gainesville Woman Care*, 210 So. 3d at 1263–64)).

"[T]here can hardly be a more compelling public interest than the public interest in ensuring that the Legislature does not engage in unconstitutional partisan political gerrymandering." *Apportionment VII*, 172 So. 3d at 416 (*citing Apportionment IV*, 132 So. 3d at 147-48). The public interest is particularly pressing here, where the constitutional provisions that have been violated were themselves proposed and enacted by Floridian voters through the initiative petition process. "[T]he right to elect representatives—and the process by which we do so—is the very bedrock of our democracy." *Apportionment I*, 83 So. 3d at 600. In passing the Fair Districts Amendments, Floridians "expressed their will" as to how districts should be drawn, "requiring the Legislature to 'redistrict in a manner that prohibits favoritism or discrimination, while respecting geographic considerations.'" *Apportionment I*, 83 So. 3d at 684 (quoting *Standards for Establishing Legislative Dist. Boundaries*, 2 So. 3d at 181, 187–88 (plurality op.)). Having established that the Challenged Plan violates the restrictions Floridian voters imposed, it is in the

public interest to enjoin use of that Plan in the upcoming elections and therefore avoid irreparably frustrating the public will that animated the Fair Districts Amendments in the first place.

The novelty of the inseverability theory also weighs in favor of the injunction here. Given the brazenness with which Defendants have violated those Amendments, a temporary injunction would also avoid endorsing Defendants' legal theory that the Amendments are no longer binding—to deny an injunction here is to effectively wipe out these citizen-driven Amendments in their entirety, in a preliminary posture, on no more than an untested and sweeping legal theory.

Further, there is no public interest weighing against an injunction here. Rather than requiring the Legislature to draw a new plan, enjoining the Challenged Plan would merely "resurrect" the 2022 Congressional Plan, which has already survived two court challenges, been used in two prior elections, and with which voters, candidates, and elections officials are already familiar. *League of Women Voters of N.C.*, 769 F.3d at 248.

V. A temporary injunction reinstating the Benchmark Plan is within this Court's power.

The temporary injunction Plaintiffs seek here is within this Court's ability to grant, consistent with the recent decision of the First District Court of Appeals in *Byrd v. Black Voters Matter Capacity Building Institute*, 339 So. 3d 1070 (Fla. 1st DCA 2022). There, the First District Court of Appeal held that a temporary injunction may only "maintain the status quo" and may only do so if "maintaining the status quo would be constitutionally permissible." *Id.* at 1073, 1081. In the redistricting context, this meant that a temporary injunction could "reinstate the former congressional map" but could not "put in place a map that did not exist before the present controversy began." *Id.* at 1079. "In any constitutional challenge to a newly enacted law, the status quo will be...the circumstances *prior* to the challenged law becoming effective." *Id.* Where no constitutionally valid prior map was available, as a result of the intervening decennial Census, the temporary injunction had to be denied. *Id.* at 1081.

Here, the core *Byrd* problem is nonexistent. Plaintiffs seek a temporary injunction "reinstat[ing]" the 2022 Congressional Plan that was in effect prior to the enactment of the 2026 Plan on May 4, 2026—precisely the kind of injunction *Byrd* authorizes. *Id.* at 1079. That plan is constitutionally permissible to use in the 2026 election: it is compliant with one-person one-vote based on the most recent Census data, was duly enacted by the Legislature, and has withstood legal challenges under both the state and federal constitutions with no such further challenges pending. It has been used in the last two congressional elections and there is no legal barrier to its being used again. "A temporary mandatory injunction, while rare, can be used, but only to *restore* the status quo." *Id.* It is the unusual redistricting case where the status quo can be restored without implicating separate constitutional issues, but this is such a case.

Equity further counsels in favor of granting a temporary mandatory injunction here. The passage of the Challenged Plan does not axiomatically obliterate the availability of the status quo simply by virtue of its passage. "[E]quity will not permit a wrongdoer to shelter himself behind a suddenly and secretly changed status, although he succeeded in making the change before the hand of the chancellor had actually reached him." *Bowling v. National Convoy & Trucking Co.*, 101 Fla. 634, 639 (1931). The court has the power to restore the status quo, even by mandatory temporary injunction. "[W]here, before the granting of the injunction, the defendant has thus changed the condition of things, the court may not only restrain further action by him, but may also, by preliminary mandatory injunction, compel him to restore the subject-matter of the suit to its former condition." *Id.* Nor does entering such an injunction impermissibly decide the merits of the case,

for in entering such an injunction "the court acts without any regard to the ultimate merits of the controversy." *Id.*[106]

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant a temporary injunction enjoining the Challenged Plan from being used in any election, including the 2026 elections, until the final determination of this matter on the merits.

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[106] *Contra Byrd*, 339 So. 3d at 1081 ("the circuit court's conviction that the challenged law is unconstitutional does not give it the authority to devise some interim remedy in place of the status quo"). No such judicial derivation is required here, where the 2022 plan exists as a legally available status quo.

Dated: May 11, 2026

Respectfully Submitted,

/s/ Jennifer Thelusma

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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2026, I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to counsel in the Service List below. I further certify that I have caused to be served, via Process Server, the foregoing on Defendants who have not yet made an appearance in this case.

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