

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:24-cv-21983-JB

CUBANOS PA'LANTE, *et al.*,

Plaintiffs,

v.

FLORIDA HOUSE OF
REPRESENTATIVES, *et al.*,

Defendants.

**PLAINTIFF FIU ACLU CLUB'S SUPPLEMENTAL RESPONSES TO DEFENDANT
HOUSE OF REPRESENTATIVES' THIRD SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and the Local Rules of the U.S. District Court for the Southern District of Florida, Plaintiff FIU ACLU Club ("Plaintiff" or "FIU ACLU Club"), by and through its undersigned counsel, hereby supplements its January 3, 2025 responses and objections to Defendant House of Representatives' Third Set of Interrogatories ("Requests" or "Interrogatories"), dated December 4, 2024. These Responses and Objections are made to the best of Plaintiff's present knowledge, information, and belief, and are provided without prejudice to Plaintiff's right to amend, clarify, and/or supplement these Responses and Objections at a later time for any reason.

PRELIMINARY STATEMENT

1. Plaintiff's counsel is prepared to meet and confer with the House's counsel about any disputes concerning the meaning, scope, and relevance of the House's Interrogatories or these Responses and Objections.
2. Each response below is on behalf of FIU ACLU Club and no other entity or individual.
3. The following objections are made without waiving but, instead, preserving: (a) the right to raise all questions of, and to object to, the authenticity, competence, foundation, relevancy, materiality, privilege, and/or admissibility of any information or document provided or identified in response to the Interrogatories; (b) the right to object on any ground to the use or introduction into evidence of any information or any document in any subsequent proceeding or in the trial of

this or any other action on any ground; and (c) the right to object on any ground at any time to additional discovery.

4. As of the date of this response, Plaintiff has not completed its discovery and investigation of the facts in this case, has not completed its review and production of relevant documents, and has not completed its preparation for summary judgment and, if necessary, trial. Accordingly, the Responses and Objections set forth below are based on information presently known and reasonably available to Plaintiff at this time after a diligent search and reasonable and good-faith inquiry. Plaintiff reserves the right to: (a) amend, alter, supplement, clarify, or otherwise modify these Responses and Objections; (b) make use of, or introduce at any hearing or trial, any documents, information, facts, evidence, and legal theories which are subsequently discovered or which are now known but whose relevance, significance, or applicability has not yet been ascertained; and (3) offer expert witness opinions or testimony on any relevant matter, which opinions or testimony may be at variance with these Responses and Objections or the documents and information referenced in these Responses and Objections.

5. The Responses and Objections set forth below shall not be construed as any admission that Plaintiff adopts or agrees with any definition, premise, characterization, or legal conclusion in any Interrogatories.

6. Any inadvertent disclosure of privileged or protected information or documents shall not be deemed a waiver of any privilege. The House shall notify Plaintiff of any inadvertently disclosed privileged or protected information or documents pursuant to Federal Rule of Civil Procedure 26(b)(5)(B) and/or any procedures for doing so in any orders governing discovery in this litigation. The House must not use any privileged or protected information or documents inadvertently disclosed. In addition, nothing herein is intended to be, or should be construed as, a waiver of any privilege.

7. Plaintiff objects to each of the House's Definitions, Instructions, and Requests to the extent that they seek to impose on Plaintiff any obligations not required by the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Southern District of Florida, any protocol governing the production of documents and/or information in this action, the orders of this Court, and/or any agreements of the parties with respect to document collection, search, and/or production.

SUPPLEMENTAL RESPONSES

Plaintiff responds and objects to the House of Representatives' Third Set of Interrogatories, as follows:

INTERROGATORY NO. 1: Separately for each alternative map that you have produced in this litigation, identify:

- Each individual who drew the map, in whole or in part;
- Each individual with whom the map's drawer or drawers conferred or collaborated before or during the drawing process, and each such individual's role in the preparation of the map;
- Each individual (to the extent not identified above) who reviewed, or was provided with information about, the map (or any draft of the map) before the map was produced in this litigation, and each such individual's role in the preparation of the map;
- Each organization (including consulting firms, law firms, and political-party organizations) that had any role in the preparation or analysis of the map, or that was consulted about the map before the map was produced in this litigation, and each such organization's role;
- The software application used to draw the map;
- The criteria used to draw the map;
- The objectives that you sought to achieve in drawing the map; and
- All categories of data and other information that any individual or organization identified above used either to draw or to analyze the map during or since the drawing process.

RESPONSE TO INTERROGATORY NO. 1: Plaintiff objects to this Interrogatory because it is improperly compound and contains multiple subparts. Federal Rule of Civil Procedure 33(a) permits a party to serve only 25 interrogatories, including discrete subparts, on an opposing party. The interrogatories in the House's first and second set of interrogatories, and this interrogatory, exceed that number.

Plaintiff also objects to this Interrogatory because it seeks information protected by the attorney-client privilege or attorney work product doctrine. Plaintiff will not provide such information so protected. Plaintiff further objects because it seeks information for which the time of disclosure is provided by Federal Rule of Civil Procedure 26(a)(2)(D), and which is protected by Federal Rule of Civil Procedure 26(b)(4), which expressly protects drafts of expert reports and

disclosures and certain communications between Plaintiffs' counsel and Plaintiffs' experts. Specifically, Rule 26(b)(4)(C) protects communications between Plaintiffs' counsel and each of Plaintiffs' expert witnesses except to the extent that the communications (a) relate to the expert's compensation; (b) identify facts or data that the attorney provided and that the expert considered in forming the opinions to be expressed; or (c) identify assumptions that the attorney provided and that the expert relied on in forming the opinions to be expressed.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1: Separately for each alternative map that you have produced in this litigation, identify:

- **Each individual who drew the map, in whole or in part:**
 - Dr. Cory McCartan drew each alternative map that Plaintiffs have produced in this litigation.
- **Each individual with whom the map's drawer or drawers conferred or collaborated before or during the drawing process, and each such individual's role in the preparation of the map:**
 - Patrick Jones, Gabrielle Jackson, and Andrew Frackman (O'Melveny & Myers LLP); and Nicholas Warren and Joseph Dye (ACLU Foundation of Florida, Inc.) conferred or collaborated with Dr. McCartan before or during the drawing process on the scope and terms of his assignment and retention, and the conformance of Dr. McCartan's plans to the parameters of his assignment.
 - Nicholas Warren conferred or collaborated with Dr. McCartan before or during the drawing process on the numbering of districts; identifying discontinuities, incomplete assignments, the assignment of highway median and water blocks, and divisions of political subdivisions; and the combination of portions of draft plans into final plans.
- **Each individual (to the extent not identified above) who reviewed, or was provided with information about, the map (or any draft of the map) before the map was produced in this litigation, and each such individual's role in the preparation of the map;**
 - In addition to the individuals identified above, Daniel Tilley and Caroline McNamara (ACLU Foundation of Florida, Inc.); Jorge Vasquez and Esperanza Segarra (Vasquez Segarra LLP); Brian Quinn and Emily Murphy (O'Melveny & Myers LLP); Mike Rivero, Cynthia Perez, and Marley Pulido (Cubanos Pa'lante); Rebecca Pelham and

Emani Jerome (Engage Miami Inc.); Enrique Cruz and Genesis M. Castilla Falcon (FIU ACLU Club); Cindy Polo; Luis Sorto; Diana Belbruno; and Dr. Hannah L. Walker reviewed or were provided with information about the maps produced in this litigation before they were produced. They had no role in the preparation of the maps.

- **Each organization (including consulting firms, law firms, and political-party organizations) that had any role in the preparation or analysis of the map, or that was consulted about the map before the map was produced in this litigation, and each such organization's role;**
 - Except the three law firms and three organizational plaintiffs as identified above, none.
- **The software application used to the draw the map;**
 - DRA 2020 and 2022 Florida Redistricting
- **The criteria used to draw the map;**
 - To draw the maps, Dr. McCartan used the criteria listed and described in CUBANOS-0000007083 through CUBANOS-0000007087.
- **The objectives that you sought to achieve in drawing the map; and**
 - Plaintiff's objective was to redraw the Challenged Districts to follow the traditional, race-neutral redistricting criteria expressed in Tier Two of Florida's Fair Districts Amendments, while complying with Tier One requirements when applicable, and altering surrounding districts only to the extent necessary.
- **All categories of data and other information that any individual or organization identified above used either to draw or to analyze the map during or since the drawing process.**
 - Plaintiff objects to disclosing what data or other information, if any, Plaintiff or its counsel used to analyze the maps on the grounds of work-product protection. Any such analysis by Plaintiff or its counsel, including the data used to conduct the analysis, was prepared for trial in this case. *See Culliver v. BP Expl. & Prod., Inc.*, No. 3:21-cv-4942, 2023 WL 11992401, at *3 (N.D. Fla. Oct. 24, 2023) (finding party's "work with its consultants in determining what data would be collected, how the data would be collected, or the consultants' analysis of the data is privileged"); *Ohio State Troopers Ass'n, Inc. v. Point Blank Enters., Inc.*, No. 18-63130-CIV, 2019 WL 6896299, at *2–3 (S.D. Fla. Dec. 18, 2019) (finding information gathered by party and its counsel to assist in case preparation was protected fact work product); *Bridgewater v. Carnival*

Corp., 286 F.R.D. 636, 642–43 (S.D. Fla. 2011) (finding party’s report containing “directed collection of data” about subject of litigation was protected fact work product); *S. Bell Tel. & Tel. Co. v. Deason*, 632 So. 2d 1377, 1386 (Fla. 1994) (finding statistical analysis requested by attorneys was protected work product).

- To draw and analyze the maps, Dr. McCartan used:
 - Block assignment files for the current Florida House and congressional district maps, with HDs 112–116 and 118–119, and CDs 26–28, removed
 - 2020 census total population
 - Geographic boundaries of counties, municipalities, census VTDs, and census blocks
 - DRA 2020 OpenStreetMap overlay
 - Mathematical compactness scores
 - Boundary analysis scores
- To analyze HDs 108 and 109 and CDs 20 and 24 in each map, Dr. Walker used:
 - 2020 Black voting-age population
 - 2012–20 Black voter registration
 - 2012–20 Black voter turnout
 - 2012–20 Black share of Democratic registration and turnout
 - 2012–20 Black share of turnout in statewide Democratic primary elections
 - 2012–20 statewide general and primary election results

Dated: February 10, 2025

/s/ Andrew Frackman

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CERTIFICATE OF SERVICE

I certify that, on February 10, 2025, the above Plaintiff's Supplemental Responses to Defendant's Third Set of Interrogatories was served by email on counsel for the House of Representatives.

/s/ Andrew Frackman