

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 RESPONSES TO DEFENDANT HOUSE OF
REPRESENTATIVES' FIFTH 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"), by and through its undersigned counsel, hereby responds and objects to Defendant House of Representatives' Fifth Set of Interrogatories, dated February 24, 2025. 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 Plaintiff 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 Interrogatories 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, and/or the orders of this Court.

RESPONSES AND OBJECTIONS

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

INTERROGATORY NO. 1: State all material facts that support your denial of any request for admission that you denied in answer to Defendant Florida House of Representatives' First Request for Admissions to FIU ACLU Club, dated January 10, 2023.

RESPONSE TO INTERROGATORY NO. 1: Plaintiff objects to this Request as overbroad and unduly burdensome to the extent its request for “all material facts” supporting the “denial of any request for admission” calls for an exhaustive list of all relevant facts or narrative description of documents and/or court decisions that are in the public record or otherwise available to the parties. Plaintiff will state the material facts in support of its denials. The fact that the Florida Supreme Court, in its opinion in *In re Senate Joint Resolution of Legislative Apportionment 100*, 334 So. 3d 1282 (Fla. 2022), made no finding that any district complied with the compactness standard or political-and-geographic-boundaries standard in Fla. Const. Art. III, § 21(b) supports Plaintiff’s denial of Request for Admission Nos. 11–17 and 28–34.

INTERROGATORY NO. 2: Do you contend that one or more of the challenged districts do not comply with the compactness standard in article III, section 20(b) and 21(b) of the Florida Constitution? If so, identify the challenged district or districts that you contend do not comply with the compactness standard and state the material facts that support your contention.

RESPONSE TO INTERROGATORY NO. 2: Although Plaintiff does not assert a claim that any challenged district violates the Florida Constitution, and race may predominate in a district in which there is not “a conflict or inconsistency between the enacted plan and traditional redistricting criteria,” *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 190 (2017), Plaintiff does contend that CD 26 and HDs 114, 115, 116, 118, and 119 do not comply with the Florida Constitution’s compactness standard.

- CD 26 spans across the state in a stair-step shape from the Gulf of Mexico to Biscayne Bay, and consists of two distinct population centers separated by the unpopulated Everglades. Under the Reock measure, CD 26 has the third-worst score of all 28 districts in Plan 109. CD 26’s Reock score of .29 falls well below the statewide average of .47 and the statewide maximum of .74. Under the Convex Hull measure, CD 26 scores worse than the average score in Plan 109. Under the Polsby-Popper measure, CD 26 has the fifth-worst score in Plan 109. Its configuration forced CD 19 to take on a thin tail dribbling down the Gulf coast from Fort Myers.
- HDs 114, 115, 116, 118, and 119 have irregular, long, skinny shapes running north-south, and are significantly greater in their length than they are in their width. They have low compactness scores and are outliers compared to the rest of the House plan, and in

particular compared to non-protected districts. Alternative maps demonstrate that these districts could be drawn in a more compact and regular manner.

- HD 118 has the second worst Reock score of any district in Plan 8013, higher only than a district protected under Tier One for Black voters. HD 118 also has Plan 8013's second worst Boundary Analysis score. HD 118 is in the thirteenth percentile for Polsby-Popper, and the twenty-ninth percentile for Convex Hull of all the districts in Plan 8013. HD 118 runs over fourteen miles north-south from the Tamiami Trail down to SW 232nd Street, but it is just 1.7 miles at its narrowest point.
- HD 119 also stretches from the Tamiami Trail to SW 232nd Street and is over four times longer than it is wide. HD 119 has Plan 8013's seventh worst Reock score and its thirteenth worst Boundary Analysis score.
- HD 115 runs over 15.5 miles north-south from the Tamiami Trail to the Black Creek Canal south of Cutler Bay, but it is 1.8 miles at its narrowest point. HD 115 features a chimney-like appendage jutting north of Kendall Drive to the Tamiami Trail. HD 115 has Plan 8013's seventh worst Reock score, its eleventh worst Convex Hull score, and its twelfth worst Polsby-Popper score.
- HD 114 stretches from the Deering Bay Yacht & Country Club at SW 144th Street on its south end, to the Dolphin Expressway and Galloway Road in its northwest corner. As it winds north, HD 114 encompasses two separate pieces of the City of Miami—in Coconut Grove and Flagami—splitting Miami unnecessarily in the process. HD 114's scores are in the thirteenth percentile for Convex Hull, the fourteenth percentile for Reock, and the eighteenth percentile for Polsby-Popper.
- HD 116 is nestled between HDs 114 and 115 to the east, and HDs 118 and 119 to the west. Its shape is necessarily driven by the race-based configurations of its neighbors. HD 116 extends from NW 25th Street along the Sweetwater-Doral border, down to Killian Drive in Kendall. It is generally three times longer than it is wide. HD 116's Reock score is in the fourteenth percentile—tied with HD 114.

INTERROGATORY NO. 3: Do you contend that one or more of the challenged districts do not comply with the political-and-geographical-boundaries standard in article III, section 20(b) and 21(b) of the Florida Constitution? If so, identify the challenged district or districts that you

contend do not comply with the political-and-geographical-boundaries standard and state the material facts that support your contention.

RESPONSE TO INTERROGATORY NO. 3: Although Plaintiff does not assert a claim that any challenged district violates the Florida Constitution, and race may predominate in a district in which there is not “a conflict or inconsistency between the enacted plan and traditional redistricting criteria,” *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 190 (2017), Plaintiff does contend that CD 26 and HDs 112, 113, and 114 do not comply with the Florida Constitution’s political-and-geographical-boundaries standard.

- CD 26 spans across the state in a stair-step shape from the Gulf of Mexico to Biscayne Bay, and consists of two distinct population centers separated by the unpopulated Everglades. It crosses the Miami-Dade County boundary more times than necessary and unnecessarily splits the City of Miami and Collier County, the latter along local streets.
- HDs 112, 113, and 114 split the City of Miami into more parts than necessary.
- HD 112 is essentially comprised of two separate pieces. Its northern section takes in Miami Springs, Virginia Gardens, and part of Hialeah. Its southern bulge extends into the City of Miami to the Tamiami Trail and east to 17th Avenue. In between lies a largely uninhabited, 4,300-acre area encompassing Miami International Airport and the adjacent industrial zone.

INTERROGATORY NO. 4: Do you contend that legislators asked questions about the alleged race-based nature of the challenged districts or about legislative leadership’s assumptions or conclusions regarding Hispanic voting cohesion or white bloc voting? See ECF No. 58 ¶¶ 147, 200, 205. If so, identify:

- Each legislator who asked those questions;
- The dates on which each legislator asked those questions; and
- The specific questions the legislators asked.

RESPONSE TO INTERROGATORY NO. 4: Plaintiff objects to this Request as overbroad and on the basis that Plaintiff lacks personal knowledge about all statements made by any legislator from August 1, 2021 to the present and therefore is limiting its response to statements identified after a reasonable search of the public record of legislative sessions. Notwithstanding this objection and the objections listed in the preliminary statement, yes.

- On January 19, 2022, Sen. Annette Taddeo asked:
 - Senator, the current map keeps the islands around Biscayne Bay together in Congressional District 27, but the new map uses MacArthur Causeway as the dividing line, thus splitting this community. Why was this done?
 - The current map keeps the community of Fontainebleau whole, but under the proposed map this community is split. Why was this community split?
 - Why was MacArthur Causeway used as the dividing line for Congressional District 27, which now splits the community. Versus before, it was Biscayne Bay – I mean, it was the islands were kept together in Congressional District 27? Now they're separate.
- On February 1, 2022, Rep. Fentrice Driskell asked:
 - I have some questions about districts down in South Florida. Specifically, Districts 114, 115, 116, 118 and 119. In looking at the districts in 8013, these districts that I just named are all long, skinny, vertical districts, and they are significantly greater in their length than they are in their width. Do you consider each of those five districts to be compact?
 - Because it looks like for – if you look at Reock and Polsby-Popper compactness scores, it looks like these districts might be outliers with respect to the rest of the map, and they may actually have the worst kind of compactness scores. So for example, House District 118 has the second-worst Reock score in the plan. It ranks number 104 on Polsby-Popper, and it runs over 14 miles north-south. But it's just 1.7 miles at its skinniest point. So do you consider that map compact and if so, why?
 - So then looking at House District 119, the challenge there is that it's over four times longer than it is wide. So House District 119 and actually 114 are tied for the seventh-worst Reock score in the plan. Do you consider 119 compact and if so, why – 119 and 114 compact, and if so, why?
 - House District 115 runs over 15 and a half miles north-south but it's 1.8 miles at its narrowest point, and it has an appendage jutting north of Snapper Creek to the Tamiami Trail. House District 115 has the seventh-worst Reock score in the plan, it's tied with HD 119. And it ranks number 108 on the Polsby-Popper and 109 on the Area/Convex Hull. So do you consider that compact and if so, why?
 - Let's talk about House District 116 and 114. Both of those are tied for number 103 on Reock. Do you consider that compact and if so, why?

- So House District 114 ranks number 104 on the Area/Convex Hull and number 98 on Polsby Popper. Would you consider that compact and if so, why?
- I guess the challenge I have with these is that looking at the districts that we have just been talking about. Their scores are indicative that they're outliers on the map. And so, their shapes are also irregular such that indicates that it's not compact. So I'm trying to understand why, if you could explain why you consider these compact if their scores appear to be outliers and their shapes indicate that they're not compact to the eye test.
- A more general question, because I think we talked about, with respect to 115, Chair Byrd was able to help that. But just generally, would you explain why the five districts are shaped the way they are in 8013?
- I'll try to ask that another way, Chair Leek, which, was it necessary that those five districts be long and skinny and noncompact to comply with Tier One?
- Looking at those districts though, why couldn't, for example, Districts 118 and 119 just be stacked on top of each other like squares?
- Why wouldn't, for example, District 115 lose its northern appendage up to the Tamiami Trail and be more compact, taking up the southern portion of 116 and trading the appendage with 116?
- On February 1, 2022, Rep. Dotie Joseph asked:
 - Did the House's analysis involve ecological regression or inference analysis to determine the level of minority cohesion, white voting bloc, and racially polarized voting?
 - So in saying that you used your counsel to help with that, I asked about three particular categories. One of them being minority cohesion, the second being white voting bloc, and the third being racial polarized voting. Which, if any, of those were taken into account by counsel in drawing these maps?
 - So I guess – I don't want to ask and answer a question. I asked the question but I didn't get an answer to the question. And I'm not sure how to proceed. Because I have other questions I can ask. But I heard that we're getting appropriate analyses. And before that, the answer was that counsel is advising us. So – if the answer is you don't know, that's fine. I guess I just – because we're about to vote on it, to the extent that I can get clarity on just those three points.
 - So as it pertains to, you said the first part of your response was that it was performed for

some districts and not others. Can you identify for this body which districts those three kinds of analyses were performed for? And if it's, you know – however you want to answer that question.

- So just to be clear, that analysis for those three categories that I inquired about was performed, but not for all 120 districts?
- Is there some kind of record of which analysis was performed on which districts? Because you just said that analysis or some combination thereof or some variation thereof. I'm just asking about three specific kinds of analyses.
- So somebody has this information. Some of the analysis was performed. Can you share with the body who conducted that analysis and how we can access that information? Because we still don't have it and we're about to vote on it.
- What was the result of those regression inferences analyses? Even if you yourself don't have them, was that discussed with you, or anybody, or staff in some way, shape, or form by your outside counsel?
- For the protected districts, restricting it to the 30 that this analysis was performed for, did it show high, medium, or low cohesion among Latino voters or Hispanic voters?
- So my question would be, based on your answer, in 2015, the Florida Supreme Court said, the evidence before this court suggests a lack of Hispanic voting cohesion in the Miami-Dade area. Has the House's analysis confirmed that or contradicted it based on the specific ones that are in Miami-Dade County from the 30 protected ones on that page?
- Has the House considered the diversity within the Latino community when doing the functional analysis that you referred to by outside counsel in the South Florida districts? Or any district that's protected and included among the 30 that we have here?
- So for the highest language minority group being Hispanics, and the second highest language minority group in the state of Florida being Haitian Creole. In the past, the last redistricting round, that data was included and evaluated in constructing these maps. How was that same data included or not included in developing the maps this go-around?
- In response to some of the questions earlier, you had made reference to a functional analysis that was performed for the Hispanic community. Did that analysis take into account cohesion within various ethnicities within the Hispanic community based on national origin?

- So what was the cut off for identifying whether there was a possibility of creating either a Hispanic or Black district? What number was used to cut off that analysis?
- So for Hispanic minority districts to be considered it needed to be around the 60 something percent threshold before you would even look at creating a new district?
- On February 1, 2022, Rep. Susan Valdés asked:
 - Is it a requirement that the minority group vote cohesively before one starts looking at dilution?
 - Is it a requirement that the minority group vote cohesively before considering retrogression?
 - Has the committee or map drafters commissioned or relied upon any other reports, studies that were addressing the minority voting cohesion and racially polarized voting?
 - I guess more specifically, was there a report or another type of study done on how cohesively the Latino or Hispanic electorate in South Florida votes?
 - Was there a report done studying how much cohesion is present among the Black electorate anywhere in this state and what was the conclusion of the study if it was done?
- On February 2, 2022, Rep. Fentrice Driskell asked: “How do we know we did the best that we could?”
- On March 3, 2022, Rep. Dotie Joseph asked: “What analysis did you use to determine whether or not the *Gingles* factors were met and a specific population was entitled to protection before you started drawing the districts?”
- On April 19, 2022, Rep. Dotie Joseph asked:
 - Looking at your version of, I guess, CD 26, which spans from the Everglades to Collier County in Miami all the way to Hialeah, talk to us about your premise in drawing that particular map, in crossing over the way you did.
 - So when you say you were in need of population, you were specifically referring to the Latino population to create this district?
 - So your analysis basically presumes that the Latino voters vote cohesively. And you may or may not be aware of this, but in that area, you have lots of different kind of Latino groups, and I don't know if your analysis, based on what you're telling me, you did not take that into account. So my question for you is this map basically takes the same approach as the House and Legislature's previous maps for District 21, but these two Latino

electorates are separate in terms of how they tend to perform. So I guess what I'm asking is, is that thinking correct, that this map basically takes the same approach as the House and Legislature's previous maps for District 21 and District 28. And in terms of CD 26 that I'm specifically asking about, it's motivated by that same idea of Latino cohesion in terms of how they perform?

- On April 19, 2022, Sen. Gary Farmer asked:
 - During the committee process, we talked about– the committee and members, and testimony was received, that CD 26 is maybe having some Tier Two drawbacks that are necessary to maintain Tier One compliance. And let me expound on that a little to lay the predicate for the question. Some of those got a bit worse from 8017 to 8019, and now to 109. I would use, by way of example, what's been referred to as the Stairway to Immokalee, which stretches all the way to the Biscayne Bay from the Gulf of Mexico, cutting off a piece of CD 24 in Downtown Miami that's now connected to the rest of CD 24 only by a bridge. So you've got this kind of stairway-looking district. Now, 109 actually introduces an additional split of Collier County, plus it cuts the Immokalee community in half, following local streets like County Road 846, which isn't in our geographic boundary database. So I guess I'm just looking for confirmation that this map 109 concluded that those Tier Two drawbacks are necessary to maintain that Tier One compliance for CD 26.
 - Chair Rodrigues, are you familiar with a report that was issued by the Latino Policy and Politics Initiative at UCLA?
 - Do you know if staff had a chance to analyze that report?
 - Essentially, the UCLA report found that there are separate and distinct Latino voting blocs in South Florida that varies, in some cases rather significantly, by geography and ethnicity. I want you to just – I understand you're not aware. Just for purposes of this question, assume that that's true. Would that new information impact your or our analysis as to the three majority-Latino districts in South Florida?
 - Again, looking specifically at benchmark CD 26 and 27. I again, ask you to just assume this is in the UCLA report. And I wouldn't mislead you like that, I promise. The UCLA report found that the majority-Latino precincts split about 55 to 45% between Republican and Democratic candidates in recent elections. Did you or we consider such a breakdown to be evidence of political cohesion among Latino voters when drawing these new Latino-

majority districts in South Florida?

- In its 2015 *Apportionment VIII* ruling, the Florida Supreme Court held that, quote, the establishment of voting cohesion and racially polarized voting is the first step in any retrogression analysis. And federal courts interpreting both Section 2 and Section 5 of the Voting Rights Act have said the same thing. The Supreme Court went on to say that the Legislature made, quote, an unproven assumption of Hispanic voting cohesion and polarized racial bloc voting in South Florida. So I think that holding by the Supreme Court differs a little bit without your analysis. But given the court's warning just six years ago, and combine that with what the UCLA report has indicated, can we figure out whether we are adequately taking into account the actual reality of Latino voting patterns in South Florida, and not drawing maps based on the same unproven assumptions that the court struck down in 2015?
- On April 20, 2022, Rep. Carlos Guillermo Smith asked:
 - Chair Leek, are these maps 'race-neutral' as the Governor has requested?
 - So what is the distinction between which areas of the state we've decided to have race-neutral and which areas of the state are not race-neutral?
- On April 20, 2022, Rep. Daryl Campbell asked: "Yesterday, we heard from counsel yesterday about strict scrutiny and the *Gingles* test. What analysis did he use to determine whether or not the *Gingles* tests were met?"
- On April 20, 2022, Rep. Dotie Joseph asked:
 - The Latino Policy and Politics Initiative at UCLA released a report analyzing Latino voting patterns in South Florida, specifically regarding redistricting. Are you familiar with that report?
 - So the report finds that a separate -- there are separate and distinct Latino voting blocks in South Florida and throughout Florida that vary by geography and ethnicity, and that it clearly shows that Latino voters do not vote in the same way in South Florida. Continuing to draw the lines based on that faulty assumption denies all Latino voters the ability to elect candidates of their choice . . . So right now, I want to draw your attention to the maps that we have before us, specifically as regards to CD 26, which I asked a little bit about in committee yesterday. In committee, the Governor's office testified that part of their rationale in drawing that particular district, CD 26, was because they wanted to maintain

Hispanic voters there, and he had to go around and get different population. My question for you is, do you know -- so knowing what I just said about the Latino report that came out of the Latino Policy and Politics Initiative at UCLA and the denial of Latino voters of their voting rights, looking at CD 26, what would you say would be the impact of that, had the Governor's office had that information? Would we have adjusted the map, or would we just leave it the way it is?

- Just knowing that you should not lump all Latino voters together, which is the point of the report, so forget the report for a second. But if we're accepting the premise that not all Latino voters, whether they're coming from Cuba, other parts of Central and South America, they may not vote the same way. Would it be appropriate to lump them all into one congressional district such as CD 26, which is before us?
- Would you acknowledge that not all Hispanic voters vote consistently Republican or consistently Democrat in the state of Florida?
- Now, in terms of -- our counsel, the House counsel, it's my understanding, asked the Florida Supreme Court to overturn the requirement that minority groups be politically cohesive in order to be protected from diminishment. And it's my understanding that the Supreme Court declined to accept the House lawyer's invitation to overturn that precedent. Is that correct? Did I understand that correctly?
- So going back to CD 26, let's focus on the Tier 2 analysis and some of the drawbacks that we see it because we identified some drawbacks in the prior maps that the House had drawn for CD 26, which we addressed in committee, and I think staff made an attempt to address. But now, in the Governor's map, we still have some Tier 2 deficiencies. So looking at the map, I see that there is an additional split of Collier, and it cuts the Immokalee community in half following local streets like County Road 846, which isn't our geographic boundaries database. So considering those infirmities with the current map that we have as it relates to CD 26, have you or anybody concluded that those Tier 2 drawbacks are necessary to maintain Tier 1 compliance to keep that Hispanic voting group together?
- Because I just identified the deficiencies, and I don't see anything to make sure that they're equal because it looks like it's clearly deficient under Tier 2, not even Tier 1 criteria.
- Like, what is the basis for the preference of Tier 2 over Tier 1 to the extent it even is a preference?

- On April 20, 2022, Rep. Ben Diamond asked:
 - I just wanted to follow up on Representative Joseph's questions, specifically with regard to CD 26. I want to further understand this issue of establishing voter cohesion because my understanding from the case law is that that's the first step in any retrogression analysis. And, specifically, the question is relating to Hispanic voting cohesion in the South Florida. Given what the Florida Supreme Court has said about that issue, are we taking into account, in this map, particularly around CD 26, how those Latinos -- the voting cohesion of those Latino voters in that part of the state?
 - So, I mean, the *Gingles* test, that is the law of the Supreme Court, right, the United States Supreme Court. So, I mean, we have to look at that and make certain that we are meeting that test in producing this map. Do we not?
 - I mean, But I guess I'm as I understand these cases, and you've studied them far more than I have, Mr. Chairman, but we have to -- if we're going to draw these districts in -- for instance, like CD 26, where we're making these assumptions about Latino voting populations. Let me ask it this way. Has there been any analysis done on CD 26, with regard to the Latino voting population, that there will be sort of a cohesiveness necessary in that voting population in order to defend that district under that test?
 - And do you know if the drafter has performed that analysis? You've said earlier that the drafter was in the Governor's office.

INTERROGATORY NO. 5: Did any legislators or legislative staff members—or any other person who spoke during a legislative proceeding—state or suggest that the second and third *Gingles* factors are prerequisites to the application of the Florida Constitution's non-diminishment standard, or that the non-diminishment standard does not apply to one or more of the challenged districts? If so, then, separately for each such statement or suggestion, identify:

- The person who made it;
- The verbatim statement or suggestion the person made; and
- The date on which the person made the statement or suggestion.

RESPONSE TO INTERROGATORY NO. 5: Plaintiff objects to this Request as overbroad and on the basis that Plaintiff lacks personal knowledge about all statements made by any legislator from August 1, 2021 to the present and therefore limits its response to statements

identified after a reasonable search of the public record of legislative sessions. Plaintiff further objects to this Request as vague because of its use of the words “suggest” and “suggestion”. Plaintiff interprets this word to mean “imply”. Notwithstanding these objections and the objections listed in the preliminary statement, yes.

- On November 17, 2021, Jay Ferrin stated: “Yes, so Senator Gibson, there is a number of factors that go into a functional analysis, and it is not just based on the voting age population alone. So we -- the voting age population is considered within that analysis, but we are also looking at whether or not the minority population is registered, you know, consistently and cohesively, so whether or not there is in that particular district you would be looking at is there a high percentage of registrants that are Black and Democrat? Does the district perform for Democrats and does the Black population in the district, Black voters turn out at a high enough rate to control the primary within the Democrat, control the Democrat primary?”
- On February 1, 2022, Rep. Dotie Joseph stated:
 - Did the House’s analysis involve ecological regression or inference analysis to determine the level of minority cohesion, white voting bloc, and racially polarized voting?
 - So in saying that you used your counsel to help with that, I asked about three particular categories. One of them being minority cohesion, the second being white voting bloc, and the third being racial polarized voting. Which, if any, of those were taken into account by counsel in drawing these maps?
 - So just to be clear, that analysis for those three categories that I inquired about was performed, but not for all 120 districts?
 - Is there some kind of record of which analysis was performed on which districts? Because you just said that analysis or some combination thereof or some variation thereof. I’m just asking about three specific kinds of analyses.
 - For the protected districts, restricting it to the 30 that this analysis was performed for, did it show high, medium, or low cohesion among Latino voters or Hispanic voters?
 - So my question would be, based on your answer, in 2015, the Florida Supreme Court said, the evidence before this court suggests a lack of Hispanic voting cohesion in the Miami-Dade area. Has the House’s analysis confirmed that or contradicted it based on the specific ones that are in Miami-Dade County from the 30 protected ones on that page?
 - Has the House considered the diversity within the Latino community when doing the

functional analysis that you referred to by outside counsel in the South Florida districts? Or any district that's protected and included among the 30 that we have here?

- So for the highest language minority group being Hispanics, and the second highest language minority group in the state of Florida being Haitian Creole. In the past, the last redistricting round, that data was included and evaluated in constructing these maps. How was that same data included or not included in developing the maps this go-around?
- In response to some of the questions earlier, you had made reference to a functional analysis that was performed for the Hispanic community. Did that analysis take into account cohesion within various ethnicities within the Hispanic community based on national origin?
- So what was the cut off for identifying whether there was a possibility of creating either a Hispanic or Black district? What number was used to cut off that analysis?
- So for Hispanic minority districts to be considered it needed to be around the 60 something percent threshold before you would even look at creating a new district?
- On February 1, 2022, Rep. Susan Valdés stated:
 - Is it a requirement that the minority group vote cohesively before considering retrogression?
 - Has the committee or map drafters commissioned or relied upon any other reports, studies that were addressing the minority voting cohesion and racially polarized voting?
 - I guess more specifically, was there a report or another type of study done on how cohesively the Latino or Hispanic electorate in South Florida votes?
 - Was there a report done studying how much cohesion is present among the Black electorate anywhere in this state and what was the conclusion of the study if it was done?
- On February 1, 2022, Rep. Tom Leek stated:
 - Yeah, the problem is the question, right. Because that type of analysis is not done on every district. And so if you want to ask for a specific district then we can answer that question.
 - That analysis or some variation of that analysis, in combination of that analysis, is performed, but not for every district.
 - No, and the analysis would not be performed on anything other than protected districts.
 - You know, cohesion is one of the factors in determining what is a protected district. And cohesion changes district by district, ethnicity by ethnicity. So it is difficult to answer the

question as if it's being asked broadly for the whole map. What I could tell you is that in some instances, you may have the African American protected districts, Black districts are – they may be cohesive and able to elect the candidate of their choice with, you know, a 29% – excuse me Black voting-age population. Hispanics on the other hand, if you look across the maps, usually you won't see that type of performance occur until you get to about the 65% or 70% Hispanic voting-age population.

- You don't know the answer to any of those until you perform the functional analysis, right. And so cohesion is part of a functional analysis. You know, just because the majority-minority district is predominantly Hispanic doesn't mean that every Hispanic votes in the same way. So that may not be cohesive. It nonetheless may perform, right. So that's one of the factors, but not the only factor.
- On February 2, 2022, Rep. Dotie Joseph stated: “Before even getting to a functional analysis, part of the questions we were directing to yesterday was that you need to do a threshold analysis on a couple of things, and I'll just posit three: racially polarized voting, racial bloc voting, and minority voter cohesion. That's where you know where the analysis needs to be done. By all accounts, outside of the benchmark districts from 2010, that additional analysis may or may not have been done. If it was done, it was not shared with us, and that was the decision that was made. If it was not done, then that's problematic in and of itself.”
- On March 3, 2022, Rep. Dotie Joseph stated: “What analysis did you use to determine whether or not the *Gingles* factors were met and a specific population was entitled to protection before you started drawing the districts?”
- On April 19, 2022, Rep. Dotie Joseph stated:
 - So your analysis basically presumes that the Latino voters vote cohesively. And you may or may not be aware of this, but in that area, you have lots of different kind of Latino groups, and I don't know if your analysis, based on what you're telling me, you did not take that into account. So my question for you is this map basically takes the same approach as the House and Legislature's previous maps for District 21, but these two Latino electorates are separate in terms of how they tend to perform. So I guess what I'm asking is, is that thinking correct, that this map basically takes the same approach as the House and Legislature's previous maps for District 21 and District 28. And in terms of CD 26 that I'm specifically asking about, it's motivated by that same idea of Latino cohesion in terms

of how they perform?

- On April 19, 2022, Sen. Gary Farmer stated:
 - Essentially, the UCLA report found that there are separate and distinct Latino voting blocs in South Florida that varies, in some cases rather significantly, by geography and ethnicity. I want you to just – I understand you’re not aware. Just for purposes of this question, assume that that’s true. Would that new information impact your or our analysis as to the three majority-Latino districts in South Florida?
 - Again, looking specifically at benchmark CD 26 and 27. I again, ask you to just assume this is in the UCLA report. And I wouldn’t mislead you like that, I promise. The UCLA report found that the majority-Latino precincts split about 55 to 45% between Republican and Democratic candidates in recent elections. Did you or we consider such a breakdown to be evidence of political cohesion among Latino voters when drawing these new Latino-majority districts in South Florida?
 - In its 2015 *Apportionment VIII* ruling, the Florida Supreme Court held that, quote, the establishment of voting cohesion and racially polarized voting is the first step in any retrogression analysis. And federal courts interpreting both Section 2 and Section 5 of the Voting Rights Act have said the same thing. The Supreme Court went on to say that the Legislature made, quote, an unproven assumption of Hispanic voting cohesion and polarized racial bloc voting in South Florida. So I think that holding by the Supreme Court differs a little bit without your analysis. But given the court’s warning just six years ago, and combine that with what the UCLA report has indicated, can we figure out whether we are adequately taking into account the actual reality of Latino voting patterns in South Florida, and not drawing maps based on the same unproven assumptions that the court struck down in 2015?
- On April 19, 2022, Sen. Ray Rodrigues stated: “So I believe, using the criteria that at every step of the way, we were using the more conservative of criteria, that the answer to that is yes, we believe these lines were constitutional in terms of protecting minority-majority status in those districts.”
- On April 20, 2022, Rep. Daryl Campbell stated: “Yesterday, we heard from counsel yesterday about strict scrutiny and the *Gingles* test. What analysis did he use to determine whether or not the *Gingles* tests were met?”

- On April 20, 2022, Rep. Dotie Joseph stated:
 - So the report finds that a separate -- there are separate and distinct Latino voting blocks in South Florida and throughout Florida that vary by geography and ethnicity, and that it clearly shows that Latino voters do not vote in the same way in South Florida. Continuing to draw the lines based on that faulty assumption denies all Latino voters the ability to elect candidates of their choice . . . So right now, I want to draw your attention to the maps that we have before us, specifically as regards to CD 26, which I asked a little bit about in committee yesterday. In committee, the Governor's office testified that part of their rationale in drawing that particular district, CD 26, was because they wanted to maintain Hispanic voters there, and he had to go around and get different population. My question for you is, do you know -- so knowing what I just said about the Latino report that came out of the Latino Policy and Politics Initiative at UCLA and the denial of Latino voters of their voting rights, looking at CD 26, what would you say would be the impact of that, had the Governor's office had that information? Would we have adjusted the map, or would we just leave it the way it is?
 - Just knowing that you should not lump all Latino voters together, which is the point of the report, so forget the report for a second. But if we're accepting the premise that not all Latino voters, whether they're coming from Cuba, other parts of Central and South America, they may not vote the same way. Would it be appropriate to lump them all into one congressional district such as CD 26, which is before us?
 - Would you acknowledge that not all Hispanic voters vote consistently Republican or consistently Democrat in the state of Florida?
 - Now, in terms of -- our counsel, the House counsel, it's my understanding, asked the Florida Supreme Court to overturn the requirement that minority groups be politically cohesive in order to be protected from diminishment. And it's my understanding that the Supreme Court declined to accept the House lawyer's invitation to overturn that precedent. Is that correct? Did I understand that correctly?
- On April 20, 2022, Rep. Ben Diamond stated:
 - I just wanted to follow up on Representative Joseph's questions, specifically with regard to CD 26. I want to further understand this issue of establishing voter cohesion because my understanding from the case law is that that's the first step in any retrogression analysis.

And, specifically, the question is relating to Hispanic voting cohesion in the South Florida. Given what the Florida Supreme Court has said about that issue, are we taking into account, in this map, particularly around CD 26, how those Latinos -- the voting cohesion of those Latino voters in that part of the state?

- So, I mean, the *Gingles* test, that is the law of the Supreme Court, right, the United States Supreme Court. So, I mean, we have to look at that and make certain that we are meeting that test in producing this map. Do we not?
- I mean, But I guess I'm as I understand these cases, and you've studied them far more than I have, Mr. Chairman, but we have to -- if we're going to draw these districts in -- for instance, like CD 26, where we're making these assumptions about Latino voting populations. Let me ask it this way. Has there been any analysis done on CD 26, with regard to the Latino voting population, that there will be sort of a cohesiveness necessary in that voting population in order to defend that district under that test?
- And do you know if the drafter has performed that analysis? You've said earlier that the drafter was in the Governor's office.
- On April 20, 2022, Sen. Lorraine Ausley stated: "While this body has not provided us with partisan performance data, the publicly available data shows that in the current version of the 5th District this cohesive community of Black urban and rural voters makes up a Democratic primary that is 70 percent Black."
- On February 19, 2022, Chris Spowls and Andy Bardos stated: "Footnote 11 of this Court's opinion in *League of Women Voters of Florida v. Detzner*, 179 So. 3d 258 (Fla. 2015), could be read to suggest that the non-diminishment standard incorporates the elements of a section 2 claim—i.e., the *Gingles* prerequisites. The Supreme Court has never even implied that the *Gingles* prerequisites govern the retrogression standard under section 5. This reading conflicts with *Reno* and muddies—or eliminates—the line between vote dilution (section 2) and non-diminishment (section 5). *See supra* p. 17. While some of the same evidence might, as a *factual* matter, be relevant to both analyses, this Court should make clear that footnote 11 did not rewrite the non-diminishment standard set forth in *Apportionment I* and import the elements of a section 2 claim into the non-diminishment standard."

Dated: March 26, 2025

/s/ Nicholas L.V. Warren

Nicholas L.V. Warren (FBN 1019018)
Daniel B. Tilley (FBN 102882)
Caroline A. McNamara (FBN 1038312)
ACLU Foundation of Florida, Inc.
4343 West Flagler Street, Suite 400
Miami, FL 33134
(786) 363-1769
nwarren@aclufl.org
dtilley@aclufl.org
cmcnamara@aclufl.org

Andrew Frackman*
O'Melveny & Myers LLP
1301 Avenue of the Americas
17th Floor
New York, NY 10019
(212) 326-2000
afrackman@omm.com

**Admitted pro hac vice*

Jorge L. Vasquez, Jr.*
Vasquez Attorneys at Law, PC
141 Parkway Road, Suite 14
Bronxville, NY 10708
(212) 752-8408
jorge@vasquezpc.com

Brian P. Quinn*
Patrick J. Jones*
Emily Murphy*
Gabrielle S. Jackson*
Andrea Ojeda*
O'Melveny & Myers LLP
1625 Eye Street NW
Washington, DC 20006
(202) 383-5300
bquinn@omm.com
pjones@omm.com
emurphy@omm.com
gjackson@omm.com
aojeda@omm.com

Counsel for Plaintiffs

VERIFICATION

I have read the foregoing Responses to Defendant House of Representatives' Fifth Set of Interrogatories and know its contents. While I have relied on others to compile and prepare these responses, I am informed and believe that the matters stated therein are true and correct, and on that basis verify the responses, reserving the right to, in the event new, additional, or different information is discovered, revise or supplement the responses as appropriate.

I declare under penalty of perjury that the foregoing is true and correct.

Enrique Cruz

Enrique Cruz

Dated: **03/26/2025**

CERTIFICATE OF SERVICE

I certify that I served the foregoing document on counsel for all parties by email on June 25, 2025.

/s/ Nicholas L.V. Warren

Nicholas L.V. Warren

Counsel for Plaintiffs