

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

EQUAL GROUND EDUCATION FUND,  
INC., *et al.*,

Plaintiffs,

v.

CORD BYRD, in his official capacity as  
Florida Secretary of State, the FLORIDA  
SENATE, and the FLORIDA HOUSE OF  
REPRESENTATIVES,

Defendants.

Case No. 2026 CA 000914

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

## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	iii
INTRODUCTION .....	1
BACKGROUND .....	2
I. The Florida Constitution prohibits partisan intent in redistricting, requires compact districts and respect for existing boundaries, and empowers courts to enforce these constraints. ....	2
II. The Legislature and Governor created and have vigorously defended the 2022 Plan. ....	4
III. Florida’s 2026 Plan was designed to be the last puzzle piece in a nationwide mid-decade redistricting blitz for partisan advantage. ....	7
IV. The Governor and Legislature openly flouted the Florida Constitution in releasing, considering, and enacting the 2026 Plan. ....	8
V. The 2026 Plan is an extreme and intentional partisan gerrymander. ....	11
A. The 2026 Plan radically reshapes Florida’s congressional district lines, carving up the State to the benefit of the Republican Party and at the expense of traditional redistricting criteria. ....	13
1. Tampa Bay .....	14
2. Orlando Metro.....	18
3. South Florida.....	20
B. The 2026 Plan’s extreme partisan results cannot be explained by a race-neutral plan, by adherence to traditional redistricting criteria, or by Florida’s political geography. ....	24
C. The 2026 Plan favors the Republican Party at historically extreme levels. ....	26
VI. The 2026 Plan harms Plaintiffs.....	27
LEGAL STANDARD.....	27
ARGUMENT .....	28
I. Plaintiffs are substantially likely to succeed on the merits of their claims that the 2026 Plan violates both Tier I and Tier II of the Florida Constitution. ....	28

A.	The 2026 Plan was drawn with intent to favor the Republican Party and disfavor the Democratic Party (Count I).....	28
1.	Direct Evidence of Partisan Intent .....	29
2.	Circumstantial Evidence of Partisan Intent.....	30
B.	The 2026 Plan violates the Florida Constitution’s Tier II requirements (Counts III and IV).....	38
1.	The 2026 Plan violates the constitutional compactness mandate. ....	38
2.	The 2026 Plan violates the constitutional requirement to utilize existing political and geographic boundaries where feasible. ....	44
C.	The Court has no basis to refuse to enforce the Florida Constitution’s redistricting mandates. ....	46
II.	Plaintiffs are entitled to a temporary injunction to maintain the status quo: the 2022 Plan. ....	51
A.	This Court has authority to preserve the status quo by ordering the State to conduct the 2026 elections using the 2022 Plan. ....	51
B.	Plaintiffs satisfy the other temporary injunction criteria. ....	52
1.	Plaintiffs have no adequate remedy at law. ....	52
2.	Plaintiffs and other Florida voters will suffer irreparable harm absent a temporary injunction. ....	53
3.	Injunctive relief will serve the public interest.....	54
	CONCLUSION.....	55

## TABLE OF AUTHORITIES

Cases	Page(s)
<i>Adams v. DeWine</i> , 195 N.E.3d 74 (Ohio 2022) .....	35
<i>Advisory Op. to Att’y Gen. re Standards for Legis. to Follow in Cong. Redistricting</i> , 2 So. 3d 175 (Fla. 2009).....	2
<i>Bd. of Cnty. Comm’rs v. Home Builders Ass’n of W. Fla., Inc.</i> , 325 So. 3d 981 (Fla. 1st DCA 2021) .....	53
<i>Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec’y</i> , 415 So. 3d 180 (Fla. 2025).....	7
<i>Byrd v. Black Voters Matter Capacity Bldg. Inst., Inc.</i> , 339 So. 3d 1070 (Fla. 1st DCA 2022) .....	51
<i>Common Cause Fla. v. Byrd</i> , 726 F. Supp. 3d 1322 (N.D. Fla. 2024).....	7
<i>Common Cause v. Lewis</i> , No. 18-CVS-014001, 2019 WL 4569584 (N.C. Super. Sep. 3, 2019) .....	12
<i>Emerson v. Hillsborough Cnty.</i> , 312 So. 3d 451 (Fla. 2021).....	48
<i>Gainesville Woman Care, LLC v. State</i> , 210 So. 3d 1243 (Fla. 2017).....	52, 53
<i>Green v. Alachua Cnty.</i> , 323 So. 3d 246 (Fla. 1st DCA 2021) .....	54
<i>Harkenrider v. Hochul</i> , 204 A.D.3d 1366 (N.Y. 2022) .....	29
<i>In re Senate Joint Resol. of Legis. Apportionment 1176</i> , 83 So. 3d 597, 607 (Fla. 2012).....	<i>passim</i>
<i>Larios v. Cox</i> , 305 F. Supp. 2d 1335 (N.D. Ga. 2004) .....	53
<i>League of Women Voters of Fla. v. Browning</i> , 863 F. Supp. 2d 1155 (N.D. Fla. 2012).....	54
<i>League of Women Voters of Fla. v. Detzner</i> , 172 So. 3d 363 (Fla. 2015).....	<i>passim</i>

<i>League of Women Voters of Fla. v. Detzner</i> , 314 F. Supp. 3d 1205 (N.D. Fla. 2018).....	52, 53
<i>League of Women Voters of N.C. v. North Carolina</i> , 769 F.3d 224 (4th Cir. 2014) .....	53
<i>League of Women Voters of Ohio v. Ohio Redistricting Comm’n</i> , 192 N.E.3d 379 (Ohio 2022) .....	31
<i>League of Women Voters of Utah v. Utah State Legis.</i> , No. 220901712, 2025 WL 3145894 (Utah Dist. Ct. Nov. 10, 2025).....	12
<i>League of Women Voters v. Commonwealth</i> , 178 A.3d 737 (Pa. 2018) .....	12, 35
<i>Louisiana v. Callais</i> , No. 24–109, 2026 WL 1153054 (U.S. Apr. 29, 2026) .....	46
<i>Madera v. Detzner</i> , 325 F. Supp. 3d 1269 (N.D. Fla. 2018).....	53
<i>Ohio A. Philip Randolph Inst. v. Householder</i> , 373 F. Supp. 3d 978 (S.D. Ohio 2019) .....	13
<i>Planned Parenthood of Greater Orlando, Inc. v. MMB Props.</i> , 211 So. 3d 918 (Fla. 2017).....	51
<i>Planned Parenthood of Sw. &amp; Cent. Fla. v. State</i> , 384 So. 3d 67 (Fla. 2024).....	28
<i>Ray v. Mortham</i> , 742 So. 2d 1276 (Fla. 1999).....	47
<i>Rucho v. Common Cause</i> , 588 U.S. 684 (2019).....	4

## **Statutes and Constitutional Provisions**

Ariz. Const. art. 4, pt. 2, § 1(14).....	48
Fla. Const. art. III, § 20 .....	<i>passim</i>
Mich. Const. art. IV, § 6(13).....	48
Haw. Rev. Stat. § 25-2(b) .....	48
Idaho Code § 72-1506.....	48

Mont. Code Ann. § 5-1-115(2) .....	48
Wash. Rev. Code § 44.05.090.....	48

## INTRODUCTION

Florida’s 2026 congressional redistricting plan (the “2026 Plan”) was not drawn to serve Florida’s voters or the Florida Constitution. It was drawn to serve the Republican Party. Developed entirely in secret by the Governor’s Office, the map was released exclusively to Fox News—24 districts shaded red and 4 shaded blue—before a single Florida lawmaker had seen it. The map drawer admitted on the public record that the districts were drawn with partisan data and without regard for the constraints imposed by the Fair Districts Amendment. Indeed, the Governor’s Office defended the map by arguing the Amendment does not apply at all.

There is no serious dispute the 2026 Plan was drawn with the intent to favor the Republican Party and disfavor the Democratic Party. As a result, it violates Article III, Section 20(a) of the Florida Constitution. It also violates the Fair Districts Amendment’s mandate that districts be compact and, where feasible, utilize existing political and geographical boundaries. Indeed, the 2026 Plan accomplishes its partisan goals by creating sprawling districts that crisscross cities and counties. These are not the byproducts of a race-neutral map or a good-faith effort to comply with the Fair Districts Amendment. They are the hallmarks of partisan engineering. No expert analysis is required to conclude the 2026 Plan is infected with partisan intent, but by standard measures of partisan bias, the 2026 Plan is one of the most extreme congressional maps enacted by any state in the past 50 years—and substantially more extreme than the Legislature’s own 2012 Plan that the Florida Supreme Court struck down as an unconstitutional partisan gerrymander.

Plaintiffs ask that this Court preserve the status quo: the court-approved map that governed Florida’s last two congressional elections and that Defendants themselves drew and defended as constitutional. The equities overwhelmingly favor this modest relief. The burden the 2026 Plan imposes falls on Florida’s election administrators, who must implement new district lines on a compressed timeline, and on the voters who will find themselves in unfamiliar districts with

unfamiliar candidates on their ballots—not on the Defendants who created this situation. And the public interest could not be clearer: Floridians passed the Fair Districts Amendment to prevent politicians from choosing their voters. The 2026 Plan is precisely what Floridians voted to prohibit.

## **BACKGROUND**

### **I. The Florida Constitution prohibits partisan intent in redistricting, requires compact districts and respect for existing boundaries, and empowers courts to enforce these constraints.**

In 2010, Floridians voted by an overwhelming margin to enact the Fair Districts Amendment to the Florida Constitution. Ex. 53.<sup>1</sup> That Amendment “dramatically alter[ed] the landscape with respect to redistricting by prohibiting practices that have been acceptable in the past, such as crafting a plan or [a] district with the intent to favor a political party or an incumbent.” *In re Senate Joint Resol. of Legis. Apportionment 1176 (Apportionment I)*, 83 So. 3d 597, 607 (Fla. 2012). The “overall goal” of the Amendment is to require redistricting “in a manner that prohibits favoritism or discrimination, while respecting geographic considerations.” *Advisory Op. to Att’y Gen. re Standards for Legis. to Follow in Cong. Redistricting*, 2 So. 3d 175, 181 (Fla. 2009).

The Fair Districts Amendment standards are enumerated within two “tiers” in Article III, Section 20 of the Florida Constitution. The “Tier I” standards provide that (1) no congressional plan “shall be drawn with the intent to favor or disfavor a political party or an incumbent;” (2) “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 (3) “districts shall consist of contiguous territory.” Fla. Const. art. III, § 20(a). The “Tier II” standards provide that (1) “districts shall be as

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<sup>1</sup> All exhibits are described in the Affidavit of Christina Ford, attached as Ex. 1 to Plaintiffs’ motion.



nearly equal in population as is practicable;” (2) “districts shall be compact;” and (3) “districts shall, where feasible, utilize existing political and geographical boundaries.” *Id.* § 20(b).

The Florida Constitution prohibits plans created with *any* partisan intent. Under Article III, Section 20, “there is no acceptable level of improper [partisan] intent.” *Apportionment I*, 83 So. 3d at 617. The constitutional compactness mandate further “serves to limit partisan redistricting” by “ensur[ing] that districts are logically drawn and that bizarrely shaped districts are avoided.” *Id.* at 632, 636. The additional Tier II requirement that “districts shall, where feasible, utilize existing political and geographical boundaries,” Fla. Const. art. III, § 20(b), is similarly “aimed at preventing improper intent.” *Apportionment I*, 83 So. 3d at 638.

The Fair Districts Amendment did not emerge overnight. Redistricting reform in Florida had been attempted at least eight times over four decades—through legislative proposals, constitutional revision commissions, and citizen initiatives—before advocates finally succeeded in 2010. *See* Ex. 47. The Fair Districts Florida campaign spent four years building a bipartisan coalition, collecting nearly 1.75 million signatures, and ultimately securing approval from 63% of Florida voters. *Id.* Throughout, the campaign’s public messaging centered overwhelmingly on ending partisan gerrymandering—the practice that had defined Florida redistricting for decades. In the weeks before the November 2010 election, major newspapers across the state described the Fair Districts Amendment almost exclusively in terms of its partisan and geographic provisions. *See* Exs. 48–52. The prohibition on partisan gerrymandering, in conjunction with the compactness and boundary requirements, were what voters overwhelmingly chose to enshrine in their state constitution. *See id.*; *see also infra* Argument I.C.

Florida courts have since enforced those provisions repeatedly, and the U.S. Supreme Court has held up Florida’s standards as a model for the nation. In *Apportionment VII*, the Florida

Supreme Court found that the Legislature had made a “mockery” of the Fair Districts Amendment in passing Florida’s 2012 Plan, holding that the entire map was “tainted by unconstitutional intent to favor the Republican Party.” *League of Women Voters of Fla. v. Detzner (Apportionment VII)*, 172 So. 3d 363, 369, 377 (Fla. 2015). The Court acknowledged that this would not be the last time Florida courts would likely need to confront a partisan gerrymander, pressing future courts to continue to give “meaning to the intent of the framers and voters who passed the Fair Districts Amendment.” *Id.* And when the U.S. Supreme Court held in *Rucho v. Common Cause* that federal courts could not adjudicate partisan gerrymandering claims under the federal constitution, it made clear that “[p]rovisions in state statutes and state constitutions can provide standards and guidance for state courts to apply”—and cited Florida’s enforcement of the Fair Districts Amendment as proof, noting that “[t]here is no ‘Fair Districts Amendment’ to the Federal Constitution.” 588 U.S. 684, 719 (2019) (citing *Apportionment VII*, 172 So. 3d at 363).

## **II. The Legislature and Governor created and have vigorously defended the 2022 Plan.**

In advancing the 2026 Plan, the Legislature and the Governor seek to replace a congressional map that they themselves adopted and vigorously defended over the past four years. The Governor proposed the 2022 Plan for consideration in April 2022 after he vetoed maps prepared by the Legislature, with the professed “goal” “hav[ing] a constitutional map.” Ex. 42.

At the time, the 2022 Plan’s primary map drawer—the Governor’s then-Deputy Chief of Staff, Alex Kelly—touted the 2022 Plan’s compliance with the Fair Districts Amendment. *See* Ex. 22 at 14. Before the Legislature, Kelly was adamant that he “did not consider or even look at political data, including party registration[] and voter data.” *Id.* at 11. He said the 2022 Plan made “several overall improvements with respect to tier two metrics,” “improve[d] overall visual

compactness,” and “ha[d] a net effect of reducing . . . county split[s] and significantly increase[d] usage of Tier [II] political and geographic boundary lines.” *Id.* at 14.

Neither the Governor’s Office nor the Legislature ever suggested during the 2022 redistricting cycle that race had predominated in drawing any of the districts in that plan. Quite to the contrary: the 2022 Plan *eliminated* the only district (prior CD 5) that Governor DeSantis contended was driven by race. *Id.* at 13. Kelly testified before the Legislature that the Governor’s Office did not even *consider* race in drawing *any* districts in the 2022 Plan, insisting, “we drew districts in a race neutral way.” Ex. 21 at 34.

For Tampa Bay districts, Kelly was explicit: “Race and political partisan data in no way related at all to my drawing[] of Districts 13, 14, 15, 16.” Ex. 21 at 36; *see also* Ex. 23 at 10 (confirming State did not consider CD 14 a protected minority district). The same was true in Central Florida, where Kelly asserted the districts “are drawn on race-neutral principles” and that the changes “result in Tier 2 improvements.” Ex. 22 at 15. Indeed, the State declined to consider CD 9 or CD 10 minority-protected districts in the 2022 Plan. *Id.* at 14–15; Ex. 23 at 11. As the House Redistricting Chair explained at the time, CD 9 was a “compact Tier 2 compliant district [that] *happens to be* a new majority-minority Hispanic district reflective of the Hispanic growth in this region.” Ex. 19 at 8–9. House Redistricting staff confirmed that CD 9’s majority Hispanic status was a result of the “natural population” in this area, *not* the result of an attempt to specifically keep the Hispanic population together to draw a majority Hispanic district. Ex. 18 at 21.

Several South Florida districts—including CDs 22, 23, and 25, none of which were protected minority districts, *see* Ex. 23 at 11—were also drawn without any racial considerations. Jason Poreda, who helped draw some of the South Florida districts in the 2022 Plan, testified before a federal court that such districts “were drawn race-neutrally.” Ex. 28 at 121. And even as

to South Florida districts that *were* minority protected—including CDs 24 and 26—Poreda testified those districts were drawn using “race-neutral factors.” *Id.* at 120–21; *see also* Ex. 20 at 40–41 (House Redistricting Chair emphasizing the Tier II compliance of CD 24).

The Governor’s concern about racial gerrymandering in the 2022 redistricting process was confined to then-CD 5, a Black-performing district that spanned from Jacksonville to Tallahassee. Governor DeSantis vetoed maps containing such a district, and his Office drew the 2022 Plan that they contended contained only “race neutral” districts. Ex. 22 at 13–14. The racial gerrymandering problem the Governor identified in 2022—the East-West CD 5—was addressed and resolved through the enactment of his proposed map.

At no point in the 2022 redistricting cycle did anyone from the Legislature or the Governor’s Office suggest that CD 20 had been drawn with race as the predominant factor. In fact, House Redistricting Chair Sirios emphasized the work the Legislature did to increase the Tier II compliance of CD 20, explaining, “[t]his decade we were able to create this district in such a way that respects more major roadways in the area such as US 441, I-95, and the Florida Turnpike, and keeps more cities whole . . .” Ex. 20 at 38.

Although the Governor now professes concern over the compactness of the 2022 Plan’s CD 20, *see* Ex. 9 at 2–4, that district outperforms the East-West configuration of CD 5 on every compactness measure by a substantial margin. *Compare* Ex. 24 at 43, *with* Ex. 10 at 16. Indeed, this alleged concern rings especially hollow given the sprawling districts the 2026 Plan created, as well as that new CDs 15 and 25 are less compact on *every compactness measure* than CD 20 in the 2022 Plan. *Compare* Ex. 23 at 10, *with* Ex. 9 at 10.

The 2022 Plan was tested in both state and federal court—and survived both challenges. The Florida Supreme Court upheld the 2022 Plan just last year, bringing the state court challenge

to a close. *See Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec’y*, 415 So. 3d 180, 200 (Fla. 2025). In federal court, plaintiffs alleged the 2022 Plan was drawn with discriminatory intent, but those claims, too, were rejected. *See Common Cause Fla. v. Byrd*, 726 F. Supp. 3d 1322 (N.D. Fla. 2024). Based on these rulings, Defendants have no basis to now claim that the 2022 Plan—the map the Governor’s Office drew, that the Legislature passed, that Defendants here defended in years of litigation, and that has governed Florida’s congressional elections through two consecutive election cycles—presents any constitutional infirmity.

### **III. Florida’s 2026 Plan was designed to be the last puzzle piece in a nationwide mid-decade redistricting blitz for partisan advantage.**

The 2026 Plan represents the culmination of a yearlong push for mid-decade partisan redistricting. In June 2025, President Trump successfully pressured Texas Republicans to redraw congressional districts to more heavily favor Republicans in advance of the 2026 midterms. *See* Ex. 29. The North Carolina and Missouri legislatures followed Texas’s lead, and voters in California and Virginia responded by amending their state constitutions to allow for mid-decade partisan redraws of their congressional maps. *See* Exs. 31, 45. In contrast, Florida made no efforts to amend its constitution when it sought to conduct a mid-decade redistricting for partisan gain.

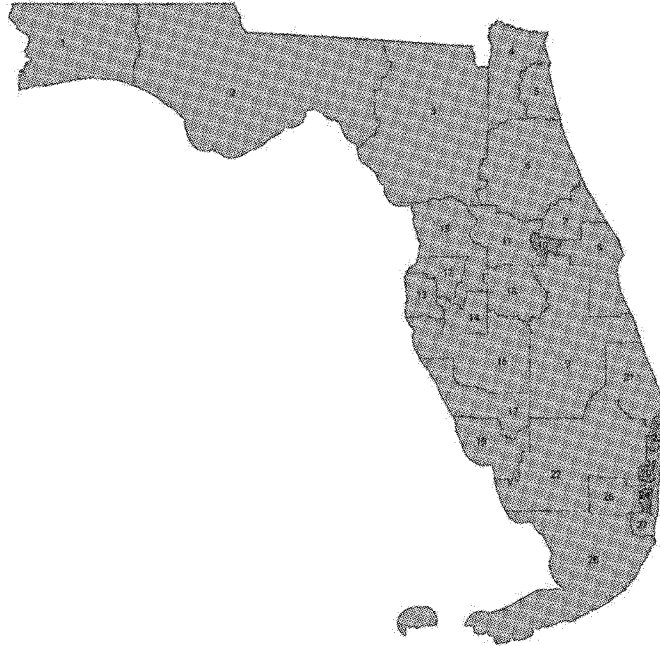
Governor DeSantis announced his desire to redistrict shortly after President Trump called for mid-decade redistricting, Exs. 29, 33, 38 and later called for a special session to conduct mid-decade redistricting, Ex. 6. In the interim, Florida’s Republican lawmakers and leaders made no effort to pretend that Florida’s redistricting is about anything other than pure partisan advantage. *See* Exs. 32–39. In December 2025, Florida State Senator and RNC Chair Joe Gruters reposted a prediction that Florida would add five Republican congressional seats during mid-decade redistricting. Ex. 32. Multiple members of Florida’s congressional delegation publicly mused about how many Republican seats Florida could add without jeopardizing their own seats. Exs.

33–34. U.S. Representative Byron Donalds, the Florida Republican Party’s leading gubernatorial candidate, argued at a campaign event that because of “California and Virginia responding to Texas . . . Florida needs to respond.” Ex. 35. And after Virginia voters approved a new congressional map shortly before Florida’s special session, “Team DeSantis”—the “Official TEAM account of @RonDeSantis”—reposted a tweet remarking that “Florida can add up to +5 REPUBLICAN seats to more than cancel out Virginia’s 10-D-1R gerrymandering map that passed.” Ex. 37. The post was quickly taken down but captured by reporters. *See id.*

This public celebration of partisan aims was matched with an unprecedentedly secretive map development process. No public hearings were held, no draft maps were released for public review, and no venue was made available for the public to submit proposed plans or comments before the special session. *See* Ex. 16. This process stood in stark contrast to the 2021–2022 cycle, for example, in which the Legislature held over twenty committee and subcommittee meetings and operated a website to facilitate public review and submission of plans. *See* Exs. 26–27.

#### **IV. The Governor and Legislature openly flouted the Florida Constitution in releasing, considering, and enacting the 2026 Plan.**

The Governor and Legislature made a mockery of the Fair Districts Amendment at every stage of the 2026 Plan’s process. On April 27, the day before the special session was set to convene, the Governor’s Office released the map for the first time. The Governor’s Office provided the map to Fox News—before it was provided to the Legislature—and made no effort to conceal the plan’s partisan purpose, releasing the map color-coded in red and blue, with 24 districts shaded red and 4 shaded blue, as shown below. Ex. 43.



In a statement to Fox News, Governor DeSantis explained that the map was drawn to reflect the increase of the Republican population of the state. Ex. 41 (“[W]e have moved from a Democrat majority to a 1.5 million Republican advantage.”). The map was accompanied by a memorandum from the Governor’s General Counsel confirming the 2026 Plan was drawn in deliberate disregard of the Fair Districts Amendment. *See* Ex. 9 at 2–4. In particular, the memo argued that the Fair Districts Amendment’s race provisions are unconstitutional, and that the entire Fair Districts Amendment must fall with them, including the Amendment’s prohibition on partisan gerrymandering and Tier II requirements to draw compact districts and to use political and geographic boundaries where feasible. *See id.* at 4.

One day later, the Legislature heard from Jason Poreda, a member of the Governor’s staff who claimed to have drawn the map himself but would not share any other information about who he consulted with—other than confirming he consulted with the Governor’s Office—in developing the map, claiming such an inquiry was protected by legal privileges. *See* Ex. 11 at 59–60; Ex. 12 at 50–51. The House Redistricting Committee voted against placing Poreda under oath before receiving questions from Committee members. *See* Ex. 11 at 43–45.

Poreda's testimony removed any doubt that the 2026 Plan was drawn with partisan intent. Poreda explained that he drew the map "not having to comply with the Fair Districts Amendment" and so used "the entire suite of redistricting criteria that are available to other states . . . including partisan data." Ex. 12 at 23. Yet just months earlier, DeSantis himself had acknowledged such use would be unlawful: When asked by reporters whether the plan would favor the Republican Party, he responded: "[Mapmakers are] not allowed to use the partisan data." Ex. 44.

The Governor's attorney, Mo Jazil, confirmed that the map's legal justification depended on a court agreeing that the Fair Districts Amendment's partisan gerrymandering prohibition is null and void. *See* Ex. 12 at 48. Jazil cited two reasons for redistricting: to account for "population growth" since 2020 and "to ensure the state has a race-neutral congressional plan." *Id.* at 4.

The floor debate the next day confirmed the 2026 Plan's partisan intent and disregard for the Fair Districts Amendment more generally. The bill's House sponsor, for example, acknowledged that the map drawer considered partisan data and was unable to provide any substantive justification for the 2026 Plan's departure from traditional redistricting principles—namely, its reduction in compactness and increase in county and city splits as compared to the 2022 Plan. Ex. 13 at 13–14, 17–19. When the bill's Senate sponsor, Senator Gaetz, was asked whether passing a map drawn using partisan data violated the oath Senators took to uphold the Florida Constitution, Senator Gaetz responded that it would only be illegal if it were proven in court that partisan intent was the "controlling factor" for line drawing decisions—an interpretation that neither the Fair Districts Amendment's plain text nor Florida Supreme Court precedent supports. *See* Ex. 14 at 21; *infra* Argument I.A. Senator Gaetz conceded, however, that the map remained subject to the constitutional ban on partisan gerrymandering. *See* Ex. 14 at 85–86 ( "If it



turns out that [the race provisions are unconstitutional], I still believe everything else in the Fair Districts Amendment ought to stand and should stand and does stand.”).

When asked whether the Legislature had ceded its redistricting authority to the Governor’s Office, Senator Gaetz emphasized the Legislature’s authority to accept, reject, or amend the proposal. *Id.* at 43. Although several Republican Senators (including Senators Bradley, Calatayud, Garcia, and Grall) voted against the 2026 Plan, the Legislature ultimately enacted it. *Id.* at 87.

**V. The 2026 Plan is an extreme and intentional partisan gerrymander.**

The 2026 Plan is an extreme partisan gerrymander in favor of the Republican Party. The 2026 Plan decimates four Democratic districts, leaving only half the number of Democratic seats as in the 2022 Plan. That is no accident: The 2026 Plan accomplishes that result by carving up Florida’s Democratic-leaning cites, drawing sprawling and non-compact districts, and ruthlessly packing and cracking Democrats across the state. Although partisan intent is obvious on the record based on Poreda’s admission to using partisan data, Plaintiffs’ evidence is also supported by the expert analyses of Dr. Jonathan Rodden, Dr. Jowei Chen, and Dr. Chris Warshaw, all of whom are recognized experts in redistricting.

Dr. Rodden is a tenured professor of political science at Stanford University and the founder and director of the Stanford Social Science Lab, a center for research and teaching with a focus on the analysis of geospatial data in the social sciences. *See* Ex. 2, Dr. Rodden Expert Report at 2 (hereinafter “Rodden Rep.”). Dr. Rodden has published extensively on political geography and representation, and his testimony has been credited by dozens of courts, including in multiple partisan gerrymandering cases. *Id.* at 2–3. Dr. Rodden served as an expert for the plaintiffs in the litigation successfully striking down Florida’s 2012 Plan as a partisan gerrymander. *Id.* at 49–50. For this case, Dr. Rodden examined how the 2026 Plan impacts district partisanship and

performance on traditional redistricting principles, with a focus on Tampa Bay, Orlando, and Southeast Florida.

Dr. Chen is an associate professor of political science at the University of Michigan, Ann Arbor. *See* Ex. 3, Dr. Chen Expert Report at 3 (hereinafter “Chen Rep.”). Dr. Chen is one of the “foremost political science scholars on the question of political geography” and “helped pioneer the methodology of using computer simulations to evaluate the partisan bias of a redistricting plan.” *Common Cause v. Lewis*, No. 18-CVS-014001, 2019 WL 4569584, at \*17 (N.C. Super. Sep. 3, 2019); *see also League of Women Voters of Utah v. Utah State Legis.*, No. 220901712, 2025 WL 3145894, at \*3 (Utah Dist. Ct. Nov. 10, 2025) (recognizing Dr. Chen as “one of the preeminent scholars in the field of using computer simulations in redistricting,” finding his testimony “credible, careful, and lucid,” and giving his testimony “great weight”). Like Dr. Rodden, Dr. Chen served as an expert for the plaintiffs in the litigation successfully striking down Florida’s 2012 Plan as a partisan gerrymander. *See* Chen Rep. ¶ 10. For this case, Dr. Chen developed 5,000 race-blind and partisan-blind computer-simulated congressional plans that follow the redistricting criteria in the Fair Districts Amendment. *See id.* ¶¶ 12–15. By comparing the simulations to the 2026 Plan, Dr. Chen can determine whether the 2026 Plan’s extreme partisan characteristics can be explained by a race-neutral plan, by a desire to prioritize the traditional redistricting criteria in the Fair Districts Amendment, or by Florida’s political geography. *See id.* ¶¶ 12–15.

Finally, Dr. Warshaw is a professor at the McCourt School of Public Policy at Georgetown University. *See* Ex. 4, Dr. Warshaw Expert Report at 1 (hereinafter “Warshaw Rep.”). Dr. Warshaw is “an expert in the field of American politics.” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 777 (Pa. 2018). He “has been published extensively in prestigious

peer-reviewed publications and he has published specifically on the topic of partisan gerrymandering.” *Ohio A. Philip Randolph Inst. v. Householder*, 373 F. Supp. 3d 978, 1025–26 (S.D. Ohio 2019). Courts have “found his testimony highly credible” and “no court has ever failed to credit his testimony.” *Id.* For this case, Dr. Warshaw used a variety of standard measures to evaluate whether the 2026 Plan exhibits partisan bias.

**A. The 2026 Plan radically reshapes Florida’s congressional district lines, carving up the State to the benefit of the Republican Party and at the expense of traditional redistricting criteria.**

The 2026 Plan consistently carves up political subdivision boundaries and distorts district lines to benefit the Republican Party. Every change the 2026 Plan makes is designed to benefit the Republican Party; indeed, the map drawer freely admitted he disregarded compliance with the Fair Districts Amendment and considered partisan data. Ex. 12 at 23. And, while the map maker purported to free himself of any racial considerations, the 2026 Plan is *less* compact, *increases* county and city splits, and *deviates more* frequently from political and geographic boundaries than the 2022 Plan. *See* Rodden Rep. at 12; Ex. 23 at 26; Ex. 10 at 16.

The first notable feature of the 2026 Plan is the districts it does not change. In North Florida, the 2026 Plan preserves *in their entirety* CDs 1 through 7, each of which has reliably elected a Republican since the 2022 Plan’s inception. Rodden Rep. at 9 & Fig.1. And it leaves those districts alone even though population in CDs 5 and 6 are growing rapidly, *see* Rodden Rep. at 12, which was one of the Governor’s purported justifications for redistricting, Ex. 11 at 5–6.

Even more notably, the 2026 Plan makes *virtually no changes* to CDs 27 and 28 in South Florida, each of which were minority-protected districts in the 2022 Plan for Latino voters—and both of which elect Republicans. *See* Ex. 23 at 11–13. Even though the 2026 Plan was designed to eliminate all racial considerations, CDs 27 and 28 remain “almost identical” to their predecessors

in the 2022 Plan, as Poreda himself admitted, Ex. 11 at 27, and indeed, analysis confirms they retain virtually all of their predecessor districts. *See* Rodden Rep. at 9 & Fig. 3.

In every other region of the state, however, including those regions that had *no* recognized minority-protected districts (and thus no need to re-draw “race-blind”), the 2026 Plan radically reconfigures the map to eliminate four reliable Democratic districts. *See id.* at 8–10 & Fig. 1. All told, the 2026 Plan eliminates *half* of the districts that can be expected to elect Democratic representatives as compared to the 2022 Plan—a plan that was already quite favorable for Republicans. *See* Warshaw Rep. at 8. Below, Plaintiffs show how the 2026 Plan meticulously packs and cracks Democratic voters across the state, all the while subordinating traditional redistricting criteria to do so.

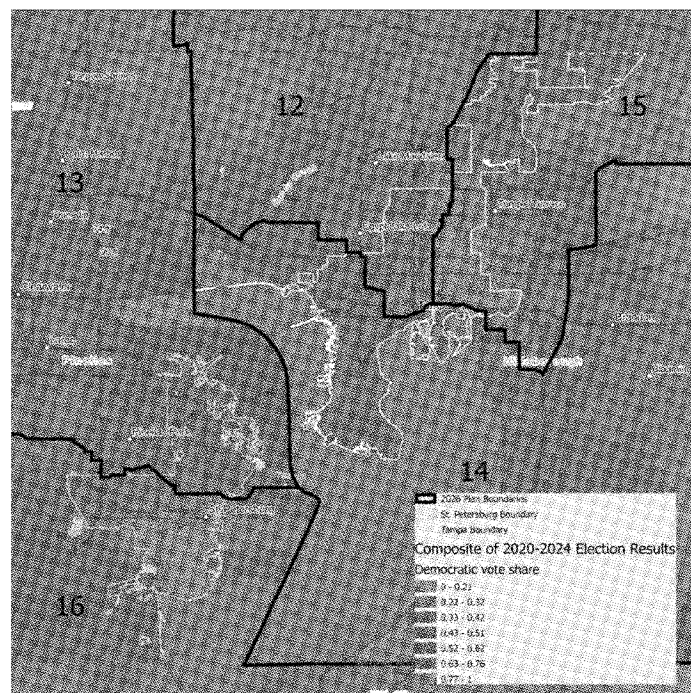
### **1. Tampa Bay**

Until as recently as 2022, Tampa Bay had two Democratic members of Congress, one from CD 14, located solely in Hillsborough County, which kept the city of Tampa whole, and one from CD 13, anchored in Pinellas County, which kept St. Petersburg whole. Rodden Rep. at 12–13. The 2022 Plan, under the stated explanation of creating more Tier II-compliant districts, *see supra* Background II, eliminated CD 13 as a Democratic district by packing Democratic voters from both St. Petersburg and Tampa into CD 14. *See id.* at 13. The 2022 Plan’s crossing of Tampa Bay to join these voters was itself a brazen gambit; the Legislature’s same tactic in Tampa Bay was struck down as a partisan gerrymander in 2015. *See Apportionment VII*, 172 at 406–09.

The 2026 Plan completes what the 2022 Plan started but could not accomplish without an avowed retreat from the Fair Districts Amendment: eliminating *all* of Tampa Bay’s Democratic districts by meticulously cracking Democratic voters across new CDs 12, 13, 14, 15, and 16, all while subordinating traditional redistricting criteria to accomplish that goal. *See* Rodden Rep. at 12–14 & Fig. 4, 18–22; Chen Rep. ¶¶ 92–105. The 2026 Plan accomplishes this goal by creating

a pinwheel out of Tampa, dividing it into three segments, each of which takes approximately a third of Tampa's population and then reaches out to the rural periphery to overwhelm urban Democrats. Rodden Rep. at 13–17 & Figs. 6–7. Under the 2026 Plan, CD 14 goes from a reliable Democratic-performing district (with a predicted vote share of 54.5% Democratic), to a Republican district (43.9% Democratic). *Id.* at 18–19 & Tbl. 1. Such a configuration of Tampa Bay has never existed in modern history. A single district composed primarily of the population of the city of Tampa has existed and elected a Democratic member of Congress in every single U.S. Congressional election since 1962. *Id.* at 13.

Meanwhile, the 2026 Plan also ensures that CD 13 does not become a Democratic-performing district on its own by splitting St. Petersburg with the new CD 16. The cracking of Tampa Bay's Democratic voters is shown below. *Id.* at 16, Fig. 6.



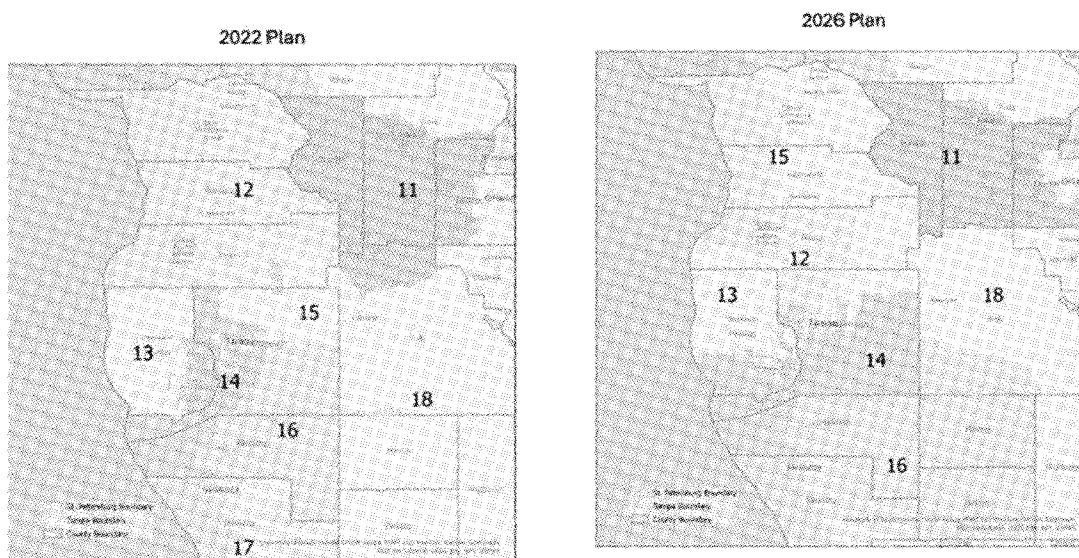
In eliminating CD 14 as a Democratic district, the 2026 Plan violates a number of traditional redistricting principles. Even though Tampa can easily fit within one or two congressional districts, the 2026 Plan perfectly splits the city of Tampa into even thirds. *Id.* at 21.

Such an arrangement would not emerge without partisan intent: as Dr. Chen shows, race-blind and partisan-blind simulations that are designed to prioritize the Fair Districts Amendment's criteria almost *always* create a district with at least 50% of Tampa's residents, and *none* of the simulations creates a district with as low of a percentage of Tampa's residents as in the 2026 Plan. *See* Chen Rep. ¶¶ 92–94 & Fig. 20.

The 2026 Plan's configuration of Tampa Bay also results in substantially noncompact districts. To crack Democrats, the plan must pair urban voters in Tampa and St. Petersburg with voters in faraway, rural counties. *See* Rodden Rep. at 7, 13. CD 15, for example, pairs residents of downtown Tampa in Hillsborough County with residents much further north in Citrus County, including Crystal River and Homosassa Springs. *Id.* at 13. CD 15's sprawling design is not likely to emerge without partisan intent: As Dr. Chen shows, race-blind and partisan-blind simulations that are designed to prioritize the Fair Districts Amendment's criteria pair residents of Hillsborough County with residents of Citrus County only 0.3% of the time. *See* Chen Rep. ¶¶ 97–99 & Fig. 22. Such a configuration also transforms CD 15 from one of the most compact districts in the 2022 Plan to one of the least compact in the 2026 Plan. *See* Ex. 23 at 10; Ex. 10 at 16. Indeed, CD 15 in the 2026 Plan is now less compact on every single mathematical compactness measure *than CD 20 in the 2022 Plan*, which the Governor has decried as noncompact. *Compare* Ex. 23 at 10, *with* Ex. 10 at 16; *see also* Rodden Rep. at 40.

A similar pattern emerges for the new CD 16, which in the 2022 Plan consisted only of Hillsborough and Manatee Counties, but which now reaches east to grab the bottom of Pinellas County (splitting St. Petersburg), dips into Sarasota County, and goes as far east as DeSoto, Hardee, and Polk Counties. *See* Rodden Rep. at 13–14 & Fig. 4; Ex. 23 at 24; Ex. 15. The change substantially increases the footprint of CD 16 and decreases its compactness, both mathematically

and visually. *See* Rodden Rep. at 13–14 & Fig. 4, 20–21 & Tbl. 2. And it is, again, a design that is not likely to emerge without partisan intent: As Dr. Chen shows, race-blind and partisan-blind simulations that are designed to prioritize the Fair Districts Amendment’s criteria never pair Pinellas with DeSoto or Hardee Counties, and pair Pinellas with Polk and Sarasota Counties just 0.6% and 0.4% of the time, respectively. *See* Chen Rep. ¶¶ 103–105 & Fig. 24. The arrangement of Tampa Bay’s districts from the 2022 Plan to the 2026 Plan is shown below:

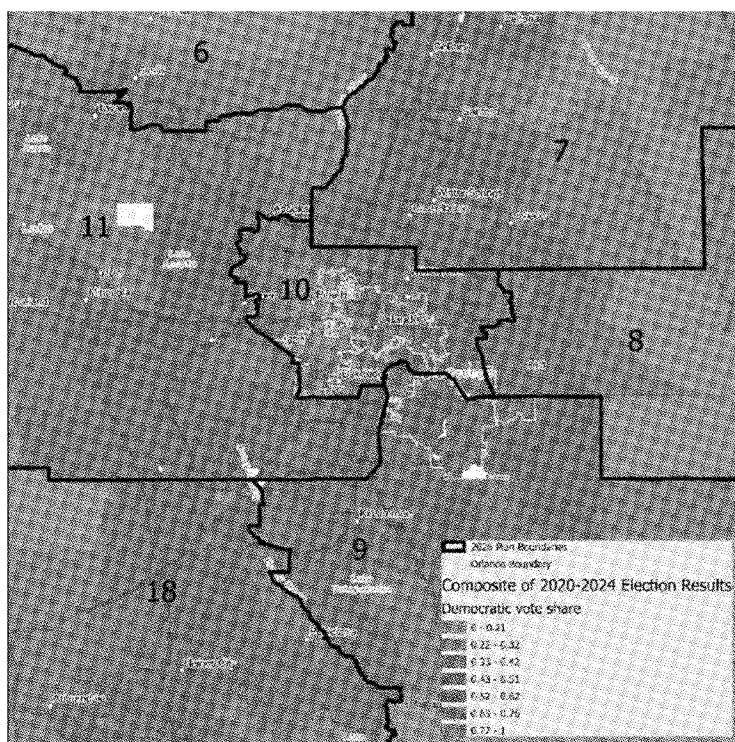


CDs 13 and 14 in the 2026 Plan also become less compact than their predecessors on nearly every commonly used mathematical compactness measure. Rodden Rep. at 20–21 & Tbl. 2. Moving from the 2022 Plan to the 2026 Plan, the districts that encompass Tampa Bay—Districts 12 through 16—become on average less compact *on every commonly used mathematical compactness measure*. *See id.* This outcome, too, would not emerge without partisan intent. As Dr. Chen shows, race-blind and partisan-blind simulations that are designed to prioritize the Fair Districts Amendment’s criteria *almost always* produce districts in Tampa Bay that are both more compact (and more Democratic-leaning) than those in the 2026 Plan. *See* Chen Rep. ¶¶ 95–96 & Fig. 21, ¶¶ 100–102 & Fig. 23.

## 2. Orlando Metro

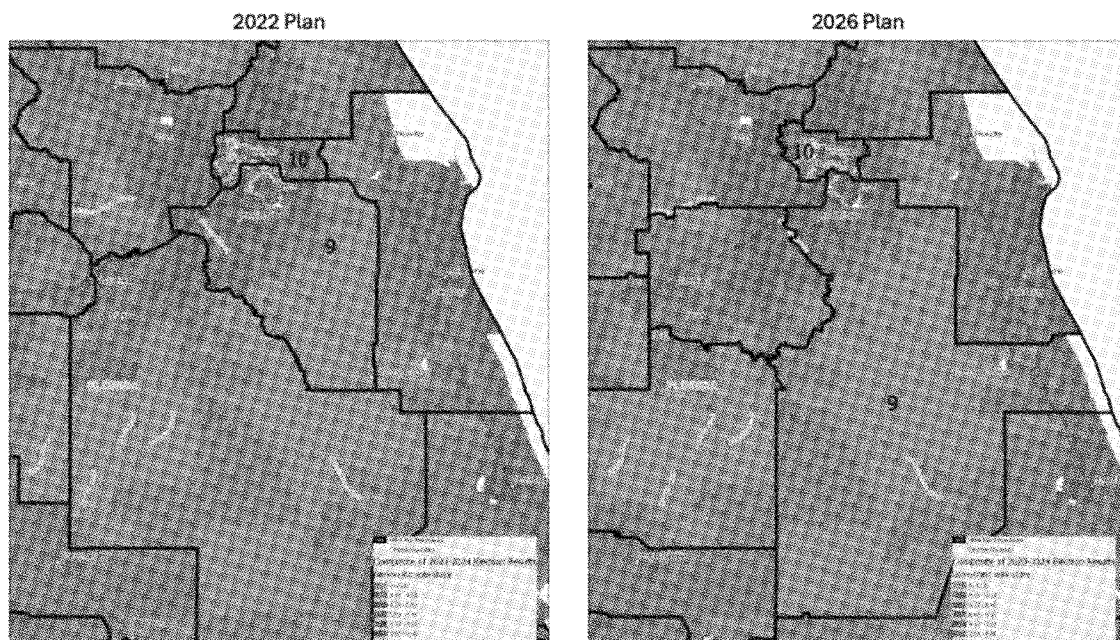
Until 2022, the Orlando metropolitan area had three Democratic members of Congress, from CDs 7, 9, and 10. Rodden Rep. at 22. The 2022 Plan, under the stated explanation of creating more Tier II compliant districts, *see supra* Background II, eliminated CD 7 as a Democratic district, leaving two districts that could reliably elect a Democrat to Congress: CD 10, anchored in Orange County, and CD 9, anchored in Orange, Osceola, and Polk Counties. *See id.* at 22.

Unlike Tampa Bay, which can be successfully cracked to leave no Democratic districts, Democrats are sufficiently numerous in Central Florida such that it is not mathematically possible to construct the region with no Democratic seats. *Id.* at 22. So the 2026 Plan does the next best thing: it packs Democrats tightly into CD 10 and siphons Democrats from CD 9 by scattering them across several surrounding districts, all while subordinating traditional redistricting criteria to accomplish that goal. *See id.* at 22, 24–29. The figure below shows just how efficiently Democrats have been packed into CD 10 and cracked among the remaining districts. *Id.* at 24–25 & Fig. 11.





The 2026 Plan accomplishes its goal of eliminating CD 9 as a Democratic-performing district by reducing CD 9’s footprint in Orange and Osceola Counties, where more Democratic voters reside, and taking the district so far south that it reaches the southwestern shore of Lake Okeechobee. *Id.* at 22, 24–25. Overall, the areas moved into CD 9 were overwhelmingly Republican (69 percent), and the areas moved out of CD 9 were Democratic (56 percent). *Id.* at 26–27 & Tbl. 3. Under the 2026 Plan, CD 9 goes from a relatively safe Democratic district (52.4% Democratic) to a Republican district (40.6% Democratic). *Id.* at 37 & Tbl. 3. Neighboring districts absorb some of CD 9’s Democrats, but no district takes on so many that they will lose their Republican status. *Id.* In the end, CD 9 and its neighboring districts (CDs 8 and 11) end up with virtually identical Democratic vote shares of 40.6, 40.7 and 40.5 percent. *Id.* The figure below shows the change between the 2022 Plan and the 2026 Plan in this region. *Id.* at 24–26 & Figs. 11–12.



In eliminating CD 9 as a Democratic district, the 2026 Plan violates a number of traditional redistricting principles. As noted, the 2026 Plan creates a sprawling new CD 9, pairing voters in

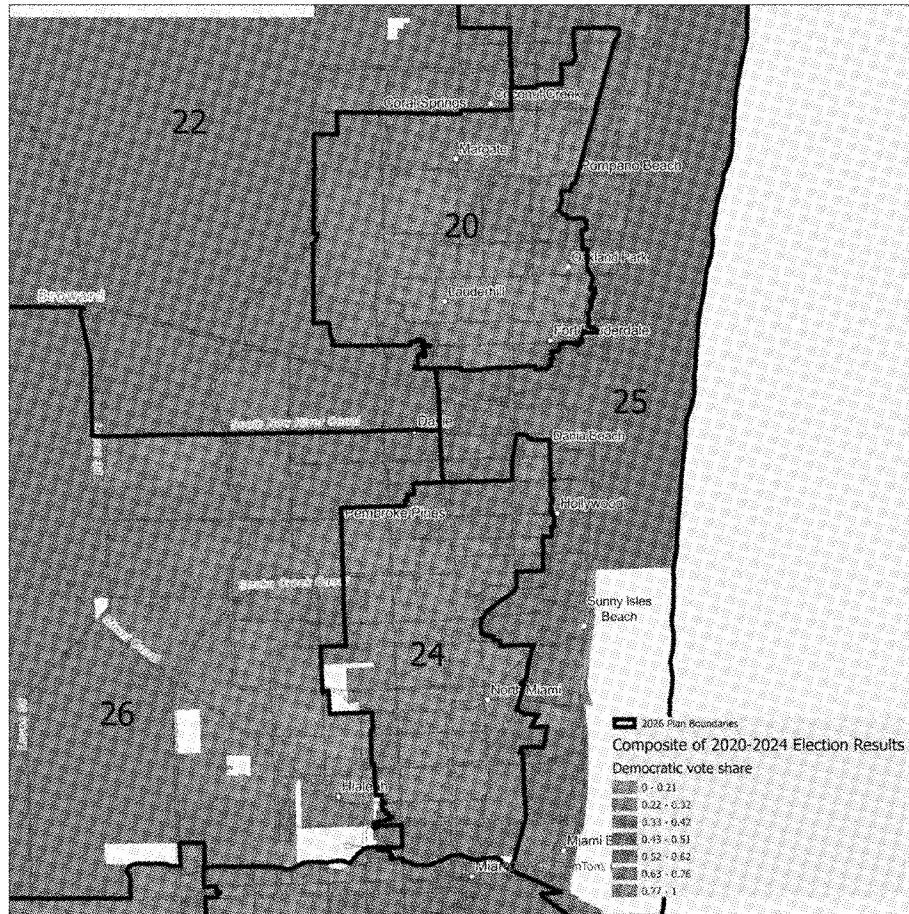
Orange County with voters over a hundred miles south in Glades County, bordering Lake Okeechobee. *Id.* at 22, 24 & Fig. 10. CD 9’s design is not likely to emerge without partisan intent: As Dr. Chen shows, race-blind and partisan-blind simulations that are designed to prioritize the Fair Districts Amendment’s criteria pair residents of Orange County with residents of Glades County only 1.6% of the time. Chen Rep. ¶¶ 109–111 & Fig. 26. Such a configuration also decreases CD 9’s compactness both visually and on every mathematical compactness measure as compared to the 2022 Plan. *See* Rodden Rep. at 23 Fig. 9, 29 & Tbl. 4. And as Dr. Chen shows, the 2026 Plan’s Orlando-based districts are less compact than nearly every simulation he produced, once again indicating partisanship was subordinated to traditional redistricting criteria in this region. Chen Rep. ¶¶ 106–108 & Fig. 25.

Finally, although CD 10 is visually compact, its boundaries are not easily explainable by neutral criteria. Indeed, a full third of CD 10’s boundaries in the 2026 Plan do not follow *any* recognized political or geographic boundary, making it the worst-performing district in the 2026 Plan on this measure. Ex. 10 at 16.

### **3. South Florida**

South Florida is home to the State’s largest population of Democratic voters. Until the 2022 Plan, South Florida elected anywhere from five to seven Democrats to Congress. Rodden Rep. at 30. Under the stated explanation of attempting to comply with Tier II criteria, *see supra* Background II, the 2022 Plan redrew the South Florida region and established only five districts that would elect a Democrat to Congress: CDs, 20, 22, 23, 24, and 25. Rodden Rep. at 30.

The 2026 Plan decimates the five reliably held Democratic seats in South Florida into only three. *Id.* at 30–31. The 2026 Plan does so by packing Democratic (and particularly Black Democratic) voters into CDs 20 and 24 as shown below, even though there is no longer any race-related reason to do so under the Governor’s reasoning:



See *id.* 32–33 & Fig. 17; Ex. 10 at 16. Incredibly, despite now being drawn “race-neutrally,” CD 24’s Black voting age population (BVAP) *increases* from 42.17% to 47.72% and the district decreases in compactness by a substantial margin on every mathematical compactness measure as compared to its predecessor in 2022. *Compare* Ex. 23 at 10, *with* Ex. 10 at 16. CD 24 in the 2026 Plan also splits eight cities (more cities than it keeps whole), whereas CD 24 in the 2022 Plan split only two cities. *Compare* Ex. 23 at 25, *with* Ex. 10 at 17; *see also* Rodden Rep. at 36. To the extent that new CD 24 was in fact drawn race-neutrally, the only other reasonable explanation for this district is a desire to pack Democrats into a single district in Miami.

Although CD 20 in the 2026 Plan is more visually compact than its predecessor district, the district performs substantially worse than CD 20 in the 2022 Plan on adherence to political and geographic boundaries. *Compare* Ex. 23 at 26, *with* Ex. 10 at 16. In total, 32% of CD 20’s

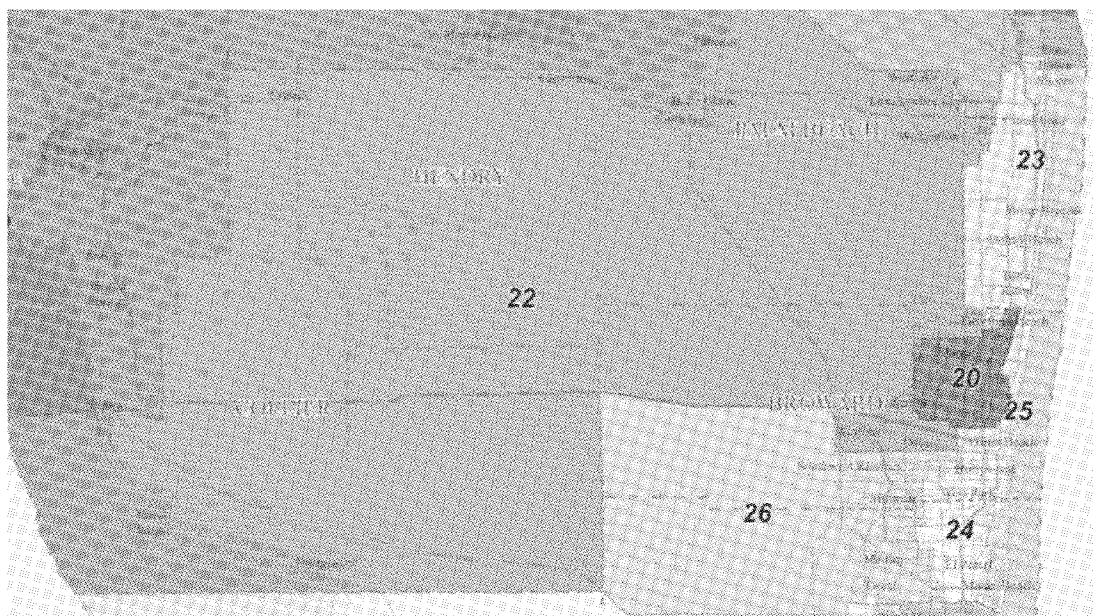
boundaries do not follow a recognized political or geographic boundary, making it one of the worst performing districts on this measure in the 2026 Plan, Ex. 10 at 16, and suggesting partisan intent prompted deviations from established boundaries to pick and choose voters. Finally, CD 20 in the 2026 Plan also splits seven cities, a comparable number to its predecessor, but now with no Tier I race justification for doing so at all. *Compare* Ex. 23 at 25, *with* Ex. 10 at 17. To the extent this district was in fact drawn race-neutrally, the only other reasonable explanation for this district's configuration is a desire to pack Democrats into a single district in Broward County.

The 2026 Plan then capitalizes on these two packed Democratic districts by surrounding them with new CDs 25 and 22, both of which transform to Republican-performing districts. Rodden Rep. at 34 & Tbl. 5. To create these Republican districts, the 2026 Plan subverts traditional redistricting criteria. New CD 25, for example, stretches down Florida's coast all the way from Boca Raton to Miami Beach. *See id.* at 31 & Fig. 15; Ex. 15. As Dr. Chen's redistricting simulations show, a map drawn to adhere to redistricting criteria in the Fair Districts Amendment would virtually *never* assign Miami-Dade County municipalities (such as Miami Beach or North Miami) to the same district as Boca Raton and other portions of Palm Beach County or produce such a grossly noncompact district as CD 25. *See* Chen Rep. ¶¶ 112–120, Figs. 27–39. The choice to do so is only explainable by partisan intent. *See id.* ¶¶ 112–120.

In stringing these coastal regions together, new CD 25 is both visually and mathematically noncompact. In fact, new CD 25 is *substantially* less mathematically compact than the 2022 Plan's CD 20 that the Governor has repeatedly criticized. *Compare* Ex. 23 at 10, *with* Ex. 10 at 16; *see also* Rodden Rep. at 40. And new CD 25 is nearly as non-compact as the prior CD 5 that stretched from Tallahassee to Jacksonville that the Florida Supreme Court held was non-compact in *Black Voters Matter*. *Compare* Ex. 10 at 16, *with* Ex. 24 at 20. CD 25's non-compactness cannot be

explained by any desire to keep cities together: it splits 11 cities, none of which are required to be split because of their population. *See* Rodden Rep. at 21 n.3, 36.

The 2026 Plan also creates a substantially noncompact CD 22, shown below, which stretches all the way from Marco Island on southwest Florida's coast to Parkland, Wellington, and Weston on Florida's east coast, splitting six cities in the process. *See* Ex. 10 at 18; Ex. 15; *see also* Rodden Rep. at 31 & Fig. 15.



Overall, the city and county splits in South Florida, all made in service of eliminating Democratic seats, are striking and extreme. Together, new CDs 25 and 22 alone split 15 cities, just one less than the number of cities split in the 2022 Plan *across all 28 districts*. *See* Rodden Rep. at 36; Ex. 23 at 3. Similarly, although Broward, Miami-Dade, and Palm Beach Counties each need to be split given their substantial populations, the 2026 Plan splits them far more than necessary, splitting Broward five ways, Miami-Dade five ways, and Palm Beach four ways, in each case splitting the county in such a way to advantage Republicans and disadvantage Democrats. *See* Rodden Rep. at 35. There is, of course, no Tier I race justification for any of these splits given that the 2026 Plan was allegedly drawn with no racial considerations whatsoever.

**B. The 2026 Plan’s extreme partisan results cannot be explained by a race-neutral plan, by adherence to traditional redistricting criteria, or by Florida’s political geography.**

Expert analysis confirms that the extreme partisan results in the 2026 Plan are not the result of race-neutrality, an attempt to comply with the Tier II traditional redistricting criteria, or Florida’s natural political geography. They are only explainable by partisan intent.

Dr. Chen’s race-blind, partisan-blind analysis shows the 2026 Plan creates more Republican-favoring districts than *all 5,000* of the computer-simulated plans. *See* Chen Rep. ¶ 41.

And it is an extreme partisan outlier on every measure. For example:

- The 2026 Plan produces 24 Republican districts and only 4 Democratic districts (defined as over 50% Republican vote share). By contrast, *none* of the 5,000 computer-simulated plans create 24 or more Republican districts. *See id.* ¶¶ 42–44 & Fig. 9.
- The 2026 Plan produces 23 safe Republican districts (as defined by 55% Republican vote share). By contrast, *none* of the 5,000 computer-simulated plans create 23 or more safe Republican districts. Instead, the middle 95% of the simulated plans contain between 15 to 19 safe Republican districts. *See id.* ¶¶ 45–46 & Fig. 10.
- The 2026 Plan creates *zero* districts with Republican vote share between 47.5% to 52.5%, districts that would otherwise be considered very electorally close between the parties. By contrast, the vast majority of the computer-simulated plans contain two to five districts within a 47.5% to 52.5% Republican vote share, and over 98% of the computer-simulated plans create more of these “electorally close” districts than the 2026 Plan does. *See id.* ¶¶ 47–50 & Fig. 11.
- The 2026 Plan creates only one district (CD 25, with a 53% Republican vote share) with Republican vote share between 45% to 55%, a range reflecting potentially competitive seats, particularly in wave years. By contrast, *all 5,000* of the simulated plans have more than one “competitive” district in this range, with the vast majority containing five to eight, and some containing as many as ten potentially “competitive” districts. *See id.* ¶¶ 51–52 & Fig. 12.

As Dr. Chen’s simulations show, the 2026 Plan accomplishes these outcomes by creating a huge number of partisan outlier districts that are not found in any of his simulations. In particular:

- Dr. Chen finds that both CDs 20 and 24 (the two-most Democratic districts in the 2026 Plan) are more heavily Democratic than 100% of the two-most Democratic districts in each of the 5,000 computer-simulated plans. And CD 10 is more Democratic than 98.2% of the

simulated plans. Together, these results reflect an effort to pack Democrats as tightly as possible into a small number of districts. *See id.* ¶¶ 60–62.

- Dr. Chen finds that eight safe Republican districts in the 2026 Plan are less heavily Republican than the safe Republican districts produced in 99% of the computer simulated districts. These results reflect an effort to efficiently distribute Republicans in the 2026 Plan more widely than would otherwise occur naturally. *See id.* ¶¶ 63–64.

All told, Dr. Chen finds that 19 of the 28 districts in the 2026 Plan are statistical partisan outliers. *See id.* ¶ 68 & Fig. 14. And because Dr. Chen controls for these factors, Dr. Chen is able to conclude that these results are not the result of a race-neutral plan, a plan that attempts to adhere to the Fair Districts Amendment’s criteria, or a plan that simply occurs as a result of Florida’s political geography. *See id.* ¶ 69.

Finally, Dr. Chen compared the 2026 Plan to the 5,000 computer-simulated plans along common measures of partisan bias, including the efficiency gap (which measures how many more votes are “wasted” by the disadvantaged party), the lopsided margins measure (which measures the extent to which the disadvantaged party’s voters are packed into a small number of districts that are won by a lopsided margin), and the partisan symmetry measure (which measures what share of seats each party would win in a 50-50 election between the parties). *See id.* ¶¶ 76–90. Dr. Chen’s analysis on all of these measures demonstrates that the 2026 Plan is an *extreme statistical outlier* in its bias toward the Republican Party as compared to the simulations, which is unexplainable by Florida’s political geography or by compliance with the Fair Districts Amendment’s criteria. *See id.* ¶¶ 76–90 & Figs. 16–19. The evidence is unequivocal. In an election in which Democrats and Republicans each take 50% of the vote, Democrats would win between 11 and 14 congressional seats under most simulated plans—but only 8 seats under the 2026 Plan. *See id.* ¶ 89. In short, the 2026 Plan leaves no room for Florida voters to translate their preferences into congressional representation.

Based on all of these findings, including Dr. Chen’s analysis of the 2026 Plan’s lack of compactness and unnecessary political subdivision splits, *see id.* ¶¶ 16–33, 91–120 & Figs. 1–8, Dr. Chen concluded that partisanship not only informed but predominated in the drawing of the 2026 Plan—that is, it subordinated traditional redistricting criteria to its political goals, and did so to a quantifiable, statistical extreme. *See id.* ¶¶ 121–27.

**C. The 2026 Plan favors the Republican Party at historically extreme levels.**

A variety of traditional metrics of partisan gerrymandering show that the 2026 Plan has a historically extreme level of partisan bias. *See* Warshaw Rep. at 1. Indeed, it has a larger partisan bias than Florida’s 2012 Plan that was struck down as a partisan gerrymander and any other congressional plan enacted by a large state in the past fifty years. *See id.* at 8–9 & Tbl. 2.

The 2026 Plan performs extraordinarily poorly on the efficiency gap, which measures the extent to which one party’s votes are systematically “wasted”—either packed into safe districts or cracked across losing ones—relative to the other party’s. *See id.* at 4–5. As Dr. Warshaw shows, when applying recent election results, the 2026 Plan has a 21.4% efficiency gap—meaning one in five Democratic votes are wasted compared to Republican votes. *See id.* at 9, Tbl. 2. That figure dwarfs the 7% efficiency gap of Florida’s 2012 congressional plan—the plan the Florida Supreme Court deemed an unconstitutional partisan gerrymander. *Id.* at 9, Tbl. 2; *Apportionment VII*, 172 So. 3d at 390–93. Among large states with similarly sized congressional delegations, the 2026 Plan is the most extreme plan enacted over the past 50 years. *See* Warshaw Rep. at 9, Tbl. 2.

The other standard measures tell the same story. The declination metric, which captures asymmetries in the distribution of district-level vote shares between the parties on a scale of -1 to +1, is .975 in a pro-Republican direction under the 2026 Plan, nearly three times the .375 declination of Florida’s unconstitutional 2012 Plan, and more partisan than any plan enacted in any state in the past fifty years. *Id.* at 5, 9, Tbl. 2. And the Geographic and Election Outcomes



metric indicates that the 2026 Plan has extracted the maximum Republican advantage achievable. *Id.* at 7. These are not marginal differences. They are the statistical signature of a map engineered for partisan dominance.

## **VI. The 2026 Plan harms Plaintiffs.**

The 2026 Plan harms the Voter Plaintiffs, who reside across Florida and in each of the challenged districts. The Voter Plaintiffs are registered either with the Democratic Party or with no party affiliation; all of the Voter Plaintiffs have consistently voted for Democratic candidates in the U.S. House of Representatives and intend to do so in the future. Exs. 55–72. The Voter Plaintiffs will be harmed if they are forced to vote under a congressional plan drawn with partisan intent, which dilutes their voting power, and in districts that violate the Florida Constitution’s requirements as to compactness and utilization of existing political and geographic boundaries.

Plaintiff Equal Ground, a nonprofit organization dedicated to increasing engagement among Black voters in Florida, is also harmed by the 2026 Plan. It dilutes the voting power of the communities Equal Ground serves, who overwhelmingly prefer Democrats or who have no party affiliation, and makes Equal Ground’s voter engagement and turnout work less effective. *See* Ex. 54 ¶¶ 9–11. In particular, the 2026 Plan breaks apart cities, counties, and communities that have organized together and fought for the same issues for years into separate congressional districts with separate representatives. *See id.* ¶ 9. When that happens, organizing becomes harder, and the work Equal Ground does every day—registering voters, turning them out, building civic power in underserved communities—becomes less effective. *See id.*

## **LEGAL STANDARD**

“Under Florida law, a party seeking a temporary injunction must prove four things: ‘(1) a substantial likelihood of success on the merits, (2) the unavailability of an adequate remedy at law, (3) irreparable harm absent entry of an injunction, and (4) that the injunction would serve the

public interest.” *Planned Parenthood of Sw. & Cent. Fla. v. State*, 384 So. 3d 67, 73 n.4 (Fla. 2024) (quoting *Fla. Dep’t of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1110 (Fla. 2021)).

## **ARGUMENT**

### **I. Plaintiffs are substantially likely to succeed on the merits of their claims that the 2026 Plan violates both Tier I and Tier II of the Florida Constitution.**

Plaintiffs are substantially likely to show the 2026 Plan violates the Florida Constitution’s prohibition of partisan intent in redistricting, as well as the Florida Constitution’s mandate that “districts shall be compact” and shall “where feasible, utilize existing political and geographical boundaries.” Fla. Const. art. III, § 20(a)–(b). And as Plaintiffs show, this Court is obligated to apply those provisions to the 2026 Plan.

#### **A. The 2026 Plan was drawn with intent to favor the Republican Party and disfavor the Democratic Party (Count I).**

The 2026 Plan, both plan-wide and at the district level, unequivocally violates the Florida Constitution’s requirement that “[n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party.” Fla. Const. art. III, § 20(a). The Florida Constitution’s “prohibition on improper partisan intent in redistricting applies . . . ‘both the apportionment plan as a whole and to each district individually’ and does not ‘require a showing of malevolent or evil purpose.’” *Apportionment VII*, 172 So. 3d at 375 (quoting *Apportionment I*, 83 So. 3d at 617). In contrast to “equal protection political gerrymandering claims” previously brought under the federal Constitution, which ask when partisan intent “has gone too far,” under the Florida Constitution, “there is no acceptable level of improper [partisan] intent.” *Apportionment I*, 83 So. 3d at 617 (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 296 (2004)).

A partisan intent claim under the Florida Constitution may be shown with either direct or circumstantial evidence of intent. *See Apportionment I*, 83 So. 3d at 617. Direct evidence, found in the statements and communications of those “responsible for drafting districting plans,”

*Apportionment VII*, 172 So. 3d at 388–89, is “rare.” *Harkenrider v. Hochul*, 204 A.D.3d 1366, 1373, *aff’d as modified*, 197 N.E.3d 437 (N.Y. 2022). As the Florida Supreme Court recognized, in a challenge to a plan’s partisan intent, “circumstantial evidence is often essential” “and indeed may be the only type of evidence available.” *Apportionment VII*, 172 So. 3d at 378.

This case, however, presents the Court with clean evidence of direct intent. And the circumstantial evidence only confirms what the map drawer and its supporters publicly expressed—the 2026 Plan is an avowed, unequivocal, extreme partisan gerrymander.

### **1. Direct Evidence of Partisan Intent**

Before the Legislature, the 2026 Plan’s professed map drawer, Jason Poreda, admitted that he did not consider himself bound by the Fair Districts Amendment in drawing the 2026 Plan and consequently used partisan data to draw the 2026 Plan. *See supra* Background IV. Such an admission would have been a bombshell to discover in a trove of emails after years of litigation; it should be no less shocking because the map drawer admitted it on the public record.

In prior redistricting cycles conducted under the Fair Districts Amendment, Florida’s map drawers have gone to great lengths to disclaim consideration of *any* partisan data. *See supra* Background II. There has been only one exception: to ensure compliance with Tier I’s protections for minority voters to confirm the district still performs for the minority group’s candidate of choice under new district lines. Indeed, the only time the Florida Supreme Court has excused “access to political data” in the map-drawing process was for that very purpose: to confirm compliance with Tier I’s race protections. *See Apportionment I*, 83 So. 3d at 619. Because Poreda affirmatively disclaimed any attempt to comply with Tier I’s race protections, *see supra* at Background IV, the use of partisan data in the 2026 Plan establishes direct evidence of partisan intent, and this Court need not go any further to conclude the 2026 Plan is unconstitutional.

But there is still more direct evidence of intent here. In the days before the special session,

the Governor’s team stated their partisan intentions directly, first when the Governor’s team re-tweeted that “Republicans’ plan should be to go for BROKE in Florida” and “add up to +5 REPUBLICAN seats to more than cancel out Virginia’s 10-D-1R [map],” *supra* at Background III, and shortly thereafter when the Governor’s Office released a blue and red shaded map to show just how many seats Republicans would win under the 2026 Plan, *supra* at Background IV. As one Florida Republican consultant told NBC, the Governor’s choice to do so was “wild”—“I don’t know how you can argue a red and blue map released from the governor’s office doesn’t show some form of partisan intent.” Ex. 40. All along the way, the architects of the 2026 Plan told us what their intent was, and they delivered.

## **2. Circumstantial Evidence of Partisan Intent**

This case also has circumstantial evidence in spades. Circumstantial evidence of intent can include a wide variety of evidence: “the effects of the plan,” while not sufficient on its own, “may serve as [an] objective indicator[] of intent.” *Apportionment I*, 83 So. 3d at 617. Similarly, consideration of the “shape of district lines,” and particularly “[a] disregard for [Tier II] principles can serve as indicia of improper intent.” *Id.* at 617–18. Plaintiffs may also put forward alternate maps, which may serve as “relevant proof that the [plan] consist[s] of district configurations that are not explained other than by [partisan intent].” *Id.* at 611. Additionally, the “specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker’s purposes,” as do “[d]epartures from the normal procedural sequence [which] might afford evidence that improper purposes are playing a role,” *Apportionment VII*, 172 So. 3d at 388–89 (quoting *Village of Arlington Heights v. Metro Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977)). Finally, evidence of “pretextual” explanations for a districting plan also serve as evidence as improper intent. *Apportionment I*, 83 So. 3d at 673. Although Plaintiffs need not submit circumstantial evidence across all of these categories, here, Plaintiffs have evidence for every one.

***Effects of the 2026 Plan.*** Although “partisan imbalance” of a plan alone does not itself prove partisan intent, partisan “effect” still serves as an “objective indicator[] of intent.” *Apportionment I*, 83 So. 3d at 618. Here, the partisan bias in the 2026 Plan is extreme. Applying recent election results, the 2026 Plan is expected to elect 24 Republicans and only 4 Democrats, giving Democrats only 14% of the state’s congressional seats, even though Democrats receive a much larger statewide vote share. *See* Warshaw Rep. at 8.

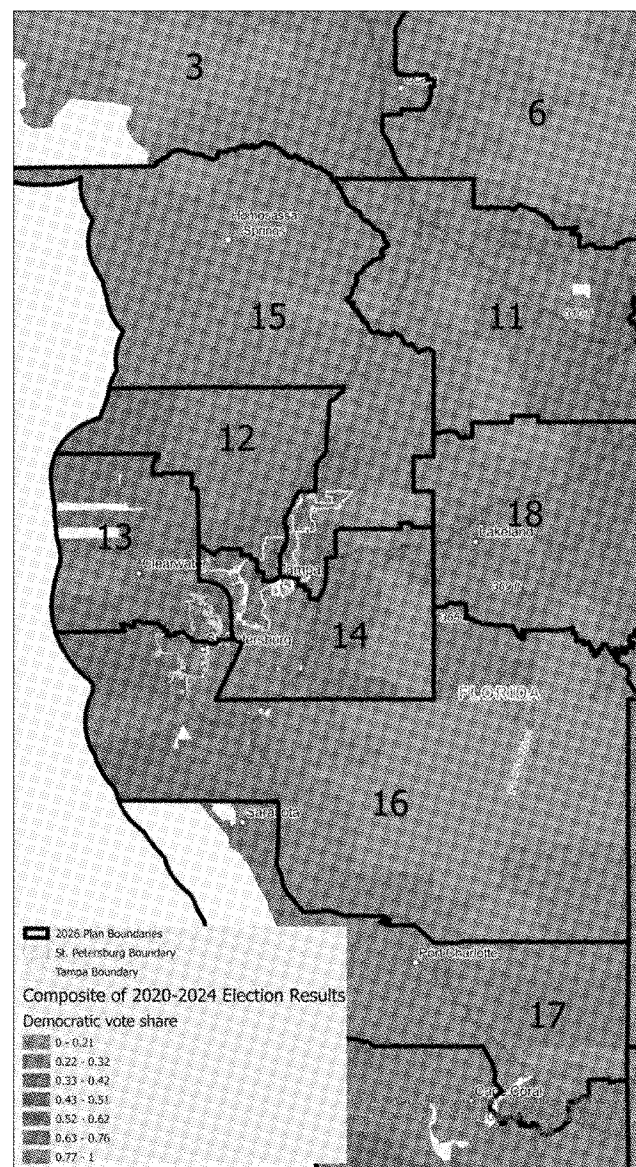
As Plaintiffs’ experts showed, the 2026 Plan creates this result by packing Democrats into CDs 10, 20, 23, and 24, and distributing Democrats efficiently across the remainder of the Plan’s 24 seats. *See* Rodden Rep. at 4, 9–10. In Tampa Bay, Democrats were extracted from CD 14 and pushed out to the surrounding districts and Republicans were moved in, *see id.* at 13, 18–19 & Tbl. 1, in Orlando, Democrats were packed into CD 10 and siphoned away from CD 9, *see id.* at 22, 26–27 & Tbl. 3, and in South Florida, Democrats were packed into CDs 20 and 24 and extracted from surrounding districts, *see id.* at 32–34 & Tbl. 5.

The partisan bias of the 2026 Plan is historically extreme. Traditional measures of partisan bias show that when applying recent election results, the 2026 Plan has a higher partisan bias than the 2012 Plan that the Florida Supreme Court struck down as a partisan gerrymander in 2015. *See* Warshaw Rep. at 8–9 & Tbl. 2. Florida’s 2026 Plan is more extreme than 99% of all plans enacted nationwide over the past fifty years, and is the *single most extreme plan* among states with comparably sized congressional delegations. *See id.* at 8–9 & Tbl. 2. As other courts have held, these kind of partisan bias measures can evince partisan intent. *See League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, 192 N.E.3d 379, 411–12 (Ohio 2022).

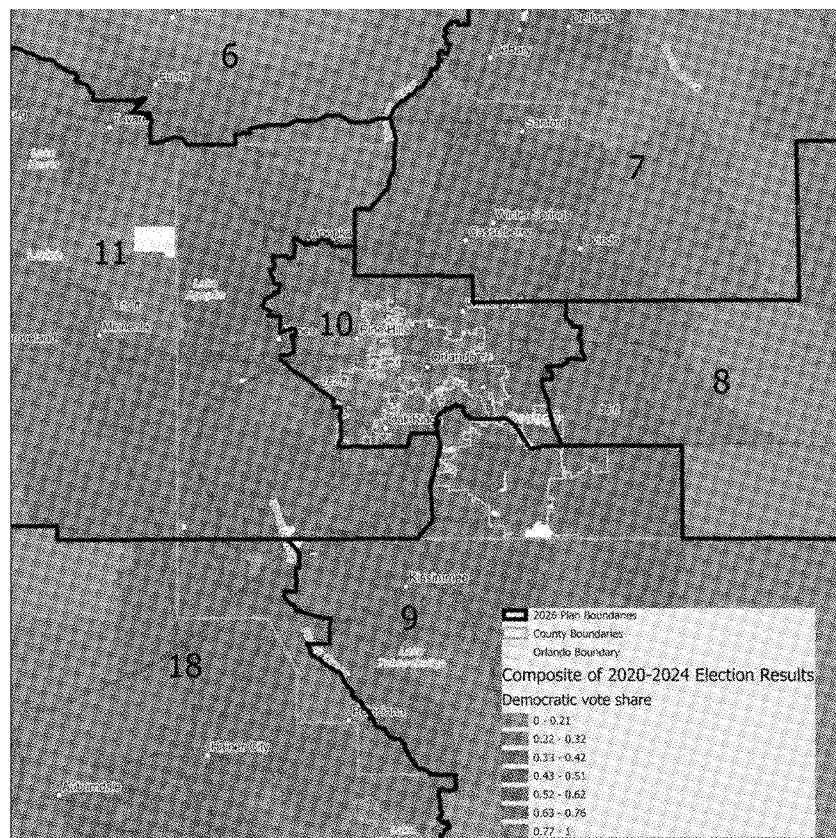
***Shape of District Lines.*** The “shape of district lines,” in conjunction with “the demographics of an area,” also serve as “objective indicators of intent.” *Apportionment I*, 83 So.

3d at 617. Here, the 2026 Plan's packing and cracking of Democratic voters, as shown in the images below, is so stark that even a political novice can understand the goal.

In Tampa Bay, the district lines are drawn to create a pinwheel out of the Democratic-leaning city of Tampa, dividing it into three segments, each reaching out to the rural periphery to overwhelm urban Democrats. *See* Rodden Rep. at 13, 17 & Fig. 7. And in the Democratic-leaning city of St. Petersburg, Democratic voters in Pinellas County's urban core are extracted and combined with rural parts of five other counties. *See id.*



In Central Florida, where it is not possible to eliminate all Democratic districts, the 2026 Plan packs Democrats in Orange County and efficiently distributes them into the remaining districts. *See id.* at 22, 24–25. Expert analysis of CD 9, which was flipped from a Democratic district to a Republican one, show a concerted effort to carve off heavily Democratic census blocks and move them into District 18, as well as to take in substantial new portions of Republican territory. *See id.* at 24–26 & Figs. 11–12.



Finally, in South Florida, the 2026 Plan’s packing and cracking is textbook, creating blue islands out of CDs 20 and 24, and surrounding them with new Republican districts CDs 25 and 22. *See id.* at 31–32 & Fig. 16. In particular, CD 25 meanders along the coast from Delray Beach in the north to the southern tip of Miami Beach, carving out Democratic neighborhoods and drawing in the most Republican coastal areas along the way. *See id.* at 31–33 & Figs. 16–17.





subordination of traditional redistricting criteria enables it to eliminate four Democratic districts).

***Alternate Plans.*** Alternate maps may serve as “relevant proof that the [plan] consist[s] of district configurations that are not explained other than by [partisan intent].” *Apportionment I*, 83 So. 3d at 611. That proof may come by way of simulations, and courts have repeatedly relied on these kinds of simulation results, including particularly by Dr. Chen, to find evidence of partisan gerrymandering. *See Adams v. DeWine*, 195 N.E.3d 74, 87–89 (Ohio 2022) (crediting Dr. Chen’s simulation analysis in striking down map as partisan gerrymander); *League of Women Voters*, 178 A.3d at 817–20 (same); *see also Harkenrider*, 197 N.E.3d at 443 (accepting simulations as evincing impermissible partisan intent).

Here, that proof is stark: Dr. Chen produced 5,000 computer-simulated plans that are race-blind, partisan-blind, and comply with traditional redistricting criteria. *See Chen Rep.* ¶¶ 12–15. The 2026 Plan performs worse than *all* of them on compactness and on county splits, and is a statistical outlier on every partisan measure that Dr. Chen examines. *See generally id.; supra* Background V.B.

The simulations demonstrate that Florida’s political geography cannot explain the 2026 Plan’s extreme partisan results. *See Chen Rep.* ¶¶ 5, 14. Because the simulations are race-blind, a race-neutral plan does not explain the 2026 Plan’s extreme partisan results. *See id.* ¶¶ 5, 15. And because the simulations are designed to prioritize traditional redistricting criteria, any attempted compliance with Tier II criteria (which Poreda disavowed, in any event, *see supra* Background IV), does not explain the 2026 Plan’s extreme partisan results. *See id.* ¶¶ 5, 15.

***Sequence of Events Leading to 2026 Plan.*** Next, the “specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker’s purposes.” *Apportionment VII*, 172 So. 3d at 388 (citation omitted). The sequence of events here speak for

themselves: The Governor announced his intention to redistrict Florida mere weeks after the President pressured Republicans to redistrict for partisan gain. *See supra* Background III. In the year that followed, national and state Republicans (including Florida state legislators) called on Florida to join the fray, many quite brazenly, openly speculating about how many Republican seats Florida could realistically add. *See id.* This included even the Governor’s own staff, who, as noted, retweeted arguments that Republicans should “go for BROKE in Florida” to “cancel out Virginia.” *See id.* The Governor’s Office then began the special session by releasing the 2026 Plan, color coded and all, to show 24 red Republican seats, and only 4 blue Democratic ones, as a media exclusive. *Supra* at Background IV. It is impossible to believe a partisan-neutral map came out of that process, and indeed it did not.

***Departure from Normal Sequence.*** In evaluating intent, courts may also consider “[d]epartures from the normal procedural sequence.” *Apportionment VII*, 172 So. 3d at 389 (citation omitted). This redistricting process was unusual from the start: it was not required by the decennial Census but instead conducted voluntarily and mid-decade, a break from the traditional course of redistricting once per decade on a non-partisan, reapportioning basis. The map drawing process here was conducted entirely in secret, with no public hearings dedicated to congressional map development, no release of draft maps for public or legislator review, and no venue for the public to submit proposed plans or comments before the special session—a dramatic departure from prior redistricting cycles. *See supra* Background IV. And when the plan was finally released, the Governor’s team argued they were not actually constrained by the Fair Districts Amendment in drawing it. *See id.* That alone is a significant departure from the normal sequence. In the normal course, Florida lawmakers and mapmakers at least feign compliance with Florida law.

***Pretextual Explanations.*** Finally, courts may also consider whether any explanations

appear to be pretextual in assessing intent. *Apportionment I*, 83 So. 3d at 673. There are two such pretextual explanations here. The first is the Governor’s explanation that Florida needed to redistrict to respond to population changes since 2020. *See supra* Background IV. But that explanation makes no sense: Both the 2022 Plan and the 2026 Plan use the 2020 Census to divide population; it is therefore not possible for the 2026 Plan to reflect population growth. *See* Ex. 12 at 22–23; Rodden Rep. at 11. Nor do the 2026 Plan’s changes to districts correlate at all with the areas that have actually seen the most population growth. *See* Rodden Rep. at 11–12 & Fig. 3.

The second pretextual explanation for the 2026 Plan is the need to have a race-neutral plan. *See supra* Background IV. But the professed aim of race-neutrality, even if genuine, would not require changes to any congressional districts in Tampa Bay or Central Florida. Neither of those regions had districts the State deemed protected in the 2022 Plan, and the Governor’s map drawer in 2022 proclaimed both regions were drawn without any consideration of race. *See supra* Background II. Although race was considered in the drawing of South Florida districts in the 2022 Plan, the 2026 Plan made virtually no changes to the Latino-protected districts that elect Republicans. *See supra* Background V.A. And the extreme partisan changes that it made to the rest of South Florida were not required to achieve a race-neutral plan. As Dr. Chen’s simulations showed, race neutrality does not yield these consequences. *See supra* Background V.B.

This entire mid-decade redistricting process made a mockery of the Fair Districts Amendment. Even if any one factor in isolation did not suffice to prove intent, when “viewed cumulatively,” they “demonstrate a clear pattern.” *Apportionment I*, 83 So. 3d at 654. Because “[a] finding of partisan intent . . . renders the Legislature’s redistricting plan constitutionally invalid,” *Apportionment VII*, 172 So. 3d at 375 (citation omitted), the Court must enjoin the 2026 Plan.

**B. The 2026 Plan violates the Florida Constitution’s Tier II requirements (Counts III and IV).**

The 2026 Plan also violates the Fair Districts Amendment’s Tier II requirements that “districts shall be compact” and “districts shall, where feasible, utilize existing political and geographical boundaries” “[u]nless compliance . . . conflicts with the [Tier I requirements] or with federal law.” Fla. Const. art. III, § 20. As explained above, *supra* Argument I.A, the 2026 Plan’s violations are not necessitated by any Tier I requirements; rather they are in service of Tier I violations themselves. These Tier II violations independently require invalidation of the 2026 Plan.

**1. The 2026 Plan violates the constitutional compactness mandate.**

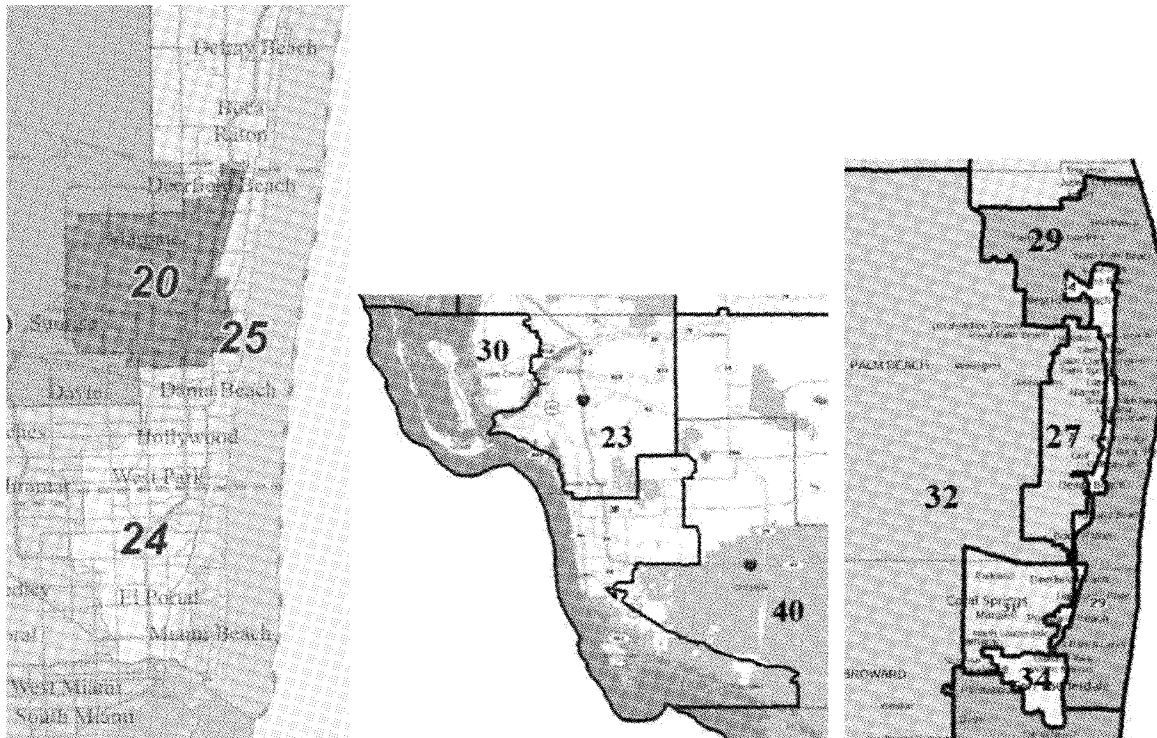
The 2026 Plan as a whole—and CDs 9, 15, 16, 22, and 25 specifically—violate the Florida Constitution’s compactness requirement. The constitutional compactness mandate “ensure[s] that districts are logically drawn and that bizarrely shaped districts are avoided.” *Apportionment I*, 83 So. 3d at 636. “Compactness can be evaluated both visually and by employing standard mathematical measurements.” *Id.*; *see also id.* at 634 (explaining that “[c]ompact districts should not have an unusual shape, a bizarre design, or an unnecessary appendage unless it is necessary to comply with some other requirement”).

As Dr. Chen’s simulations show, the 2026 Plan is substantially less compact than can be achieved in Florida, both statewide and in every region he examines. Chen Rep. ¶¶ 16–27 (plan-wide), 95–96, 100–102 (Tampa Bay), 107–108 (Orlando), 112–120 (South Florida). Moreover, the 2026 Plan is less compact than the 2022 Plan on multiple measures of compactness. *Compare* Ex. 10 at 16, *with* Ex. 23 at 5, 10; *see also* Rodden Rep. at 12. This lack of compactness cannot be explained as the product of the Fair Districts Amendment’s Tier I criteria, as the 2026 Plan’s map drawer was explicit that he did not consider himself bound by that criteria. *See* Ex. 12 at 23. It also cannot be explained by changes in Florida’s population, as the 2026 Plan used the same Census

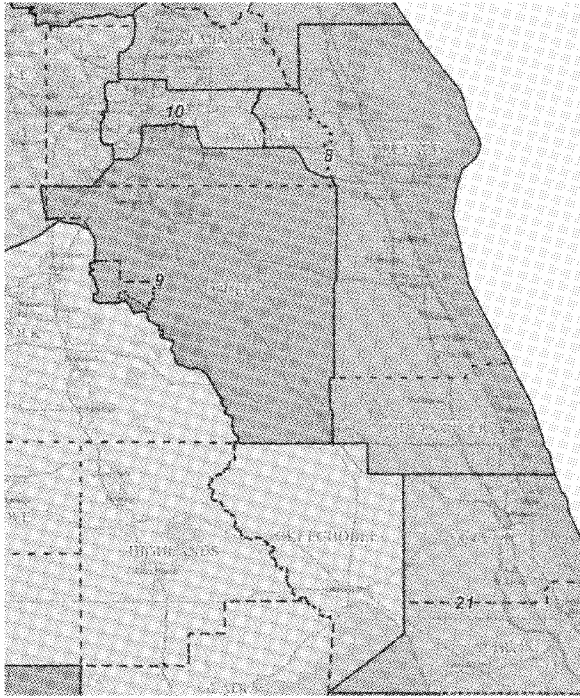
data as the 2022 Plan, and at any rate, the 2026 Plan’s changes bear no correlation to the areas of Florida with the greatest population change since the 2020 Census. Rodden Rep. at 11–12 & Fig.3. The 2026 Plan’s unnecessary reduction in statewide compactness thus violates the mandatory requirement that “districts shall be compact.”

The 2026 Plan’s CDs 9, 15, 16, 22, and 25 are also egregiously and unlawfully noncompact, as demonstrated by their visual appearance as well as compactness metrics. For example, CD 25 begins north of Boca Raton and snakes down Florida’s southeastern coast, occasionally meandering inland, until reaching Miami Beach. Rodden Rep. at 31. This elongated, uneven district unsurprisingly scores poorly on each of the compactness metrics and is substantially less compact on every mathematical compactness measure than even the 2022 Plan’s CD 20 that the Governor has criticized. *See* Ex. 10 at 16; Ex. 23 at 10; *see also* Rodden Rep. at 40. As Dr. Chen’s simulations show, *none* of the simulated plans drew a district that connected Boca Raton to Miami Beach, suggesting CD 25 is far less compact than it could be. Chen Rep. ¶¶ 113–116 & Fig. 27.

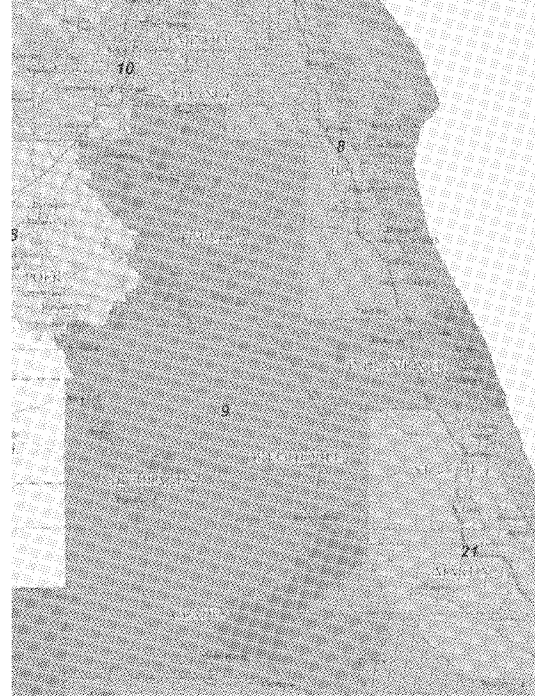
The 2026 Plan’s CD 25 has no predecessor in the 2022 Plan. Instead, the district bears a striking resemblance to prior decades’ districts that the Florida Supreme Court has held to violate the constitutional compactness requirement. Below is a comparison of the 2026 Plan’s CD 25 (depicted left), with one former State Senate district (District 30, depicted center) that the Florida Supreme Court described as an “upside-down alligator” and invalidated, *see Apportionment I*, 83 So. 3d at 672–73, and another (District 29, depicted right) that the Florida Supreme Court described as “a long and narrow coastal district” and invalidated, *see id.* at 675. *See* Ex. 15 at 9 (left image); *Apportionment I*, 83 So. 3d at 672 (center image), 674 (right image).



The 2026 Plan's CD 9 is similarly noncompact. It winds more than one hundred miles across central Florida, starting in Orange County and moving south to combine three entire counties and portions of four additional counties before reaching Glades County. Rodden Rep. at 22; *see also* Ex. 15. The 2026 Plan's CD 9 is visually less compact than the 2022 Plan's CD 9, as shown by the below comparison of CD 9 (shaded brown) between the 2022 and 2026 Plans. *See* Ex. 15; *see also* Rodden Rep. at 23, Fig. 9. The 2026 Plan's CD 9 performs worse than the 2022 Plan's CD 9 on each of the three mathematical compactness scores. Rodden Rep. at 29 & Tbl. 4. As Dr. Chen's simulations show, only 1.6% of simulated plans drew a similarly sprawling district that connected Orange County to Glades County, suggesting CD 9 is far less compact than it could be. *See* Chen Rep. ¶¶ 109–111 & Fig. 26.

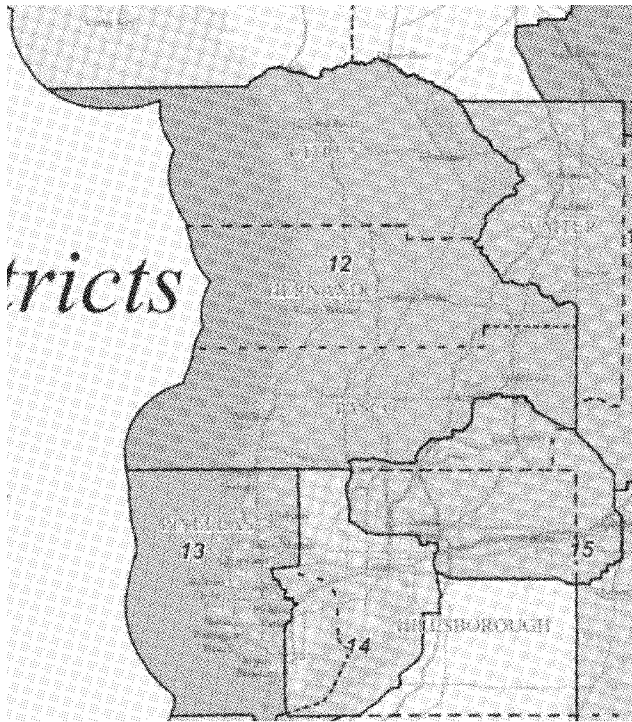


**CD 9 (2022 Plan)**

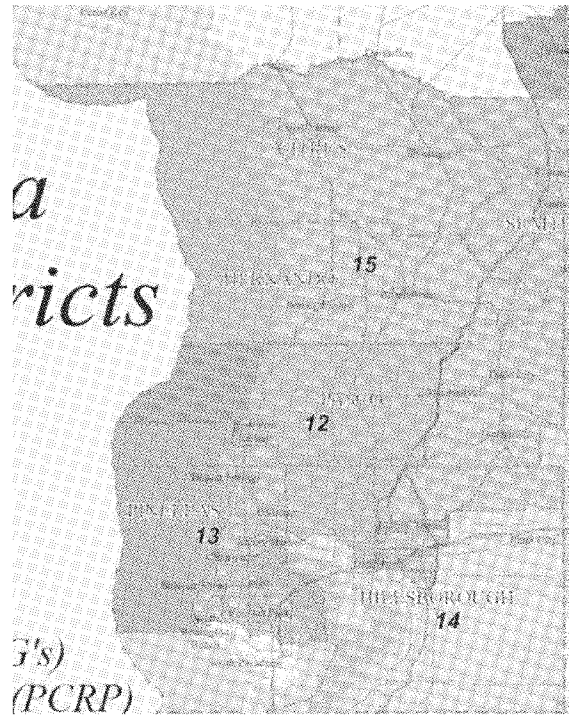


**CD 9 (2026 Plan)**

The 2026 Plan's CD 15 also performs worse on all three compactness scores as compared to its predecessor district in the 2022 Plan. Rodden Rep. at 20–21 & Tbl. 2. It also performs worse on all three metrics as compared to the 2022 Plan's CD 20, *see id.* at 40 (Southeast Florida). CD 15 was one of the most compact districts in Florida in the 2022 Plan, but is one of the least compact districts in the 2026 Plan. *Id.* at 20. This mathematical noncompactness is matched by visual noncompactness: whereas the 2022 Plan's CD 15 (below left, shaded teal) formed a small circle, the 2026 Plan's CD 15 (below right, shaded teal) takes about a third of Tampa and an eastern chunk of Pasco County before hooking dramatically northwest to Hernando and Citrus County. Ex. 15; *see also* Rodden Rep. at 14, Fig. 4. As Dr. Chen's simulations show, only 0.3% of simulated plans drew a district that connected Hillsborough to Citrus County, suggesting CD 15 is far less compact than it could be. *See* Chen Rep. ¶¶ 97–99 & Fig. 22.



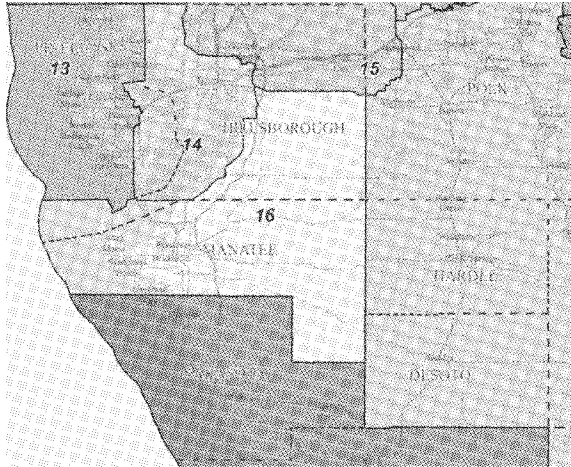
**CD 15 (2022 Plan)**



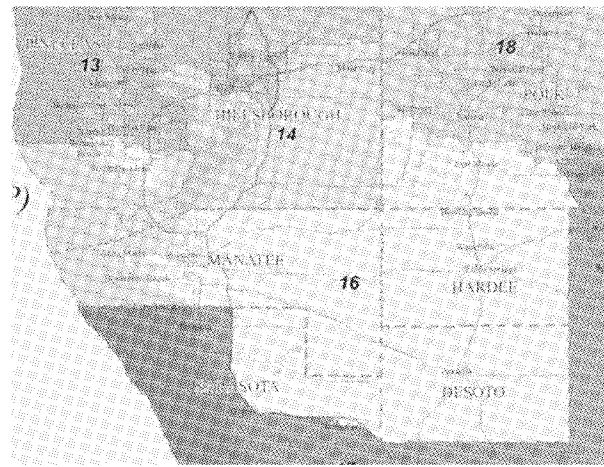
**CD 15 (2026 Plan)**

The 2026 Plan's CD 16 is also unconstitutionally noncompact. The district takes the southernmost portions of Pinellas County and spans across Tampa Bay all the way east to take the entirety of Manatee, DeSoto, and Hardee Counties, as well as a portion of Polk and Sarasota Counties. Ex. 15. The 2026 Plan's CD 16 is far less visually compact than the 2022 Plan's CD 16, which made no incursion into Pinellas County and stopped eastward at the Manatee County line, as shown by the below comparison of CD 16 (shaded yellow). *See id.* Reflecting its unusual shape, CD 16's Reock and Polsby-Popper compactness scores also dropped significantly from the 2022 Plan to the 2026 Plan. Rodden Rep. at 21, Tbl. 2. As Dr. Chen's simulations show, no plan in his 5,000 simulations drew a similarly sprawling district that connected Pinellas to DeSoto or Hardee Counties, and only 0.4% and 0.6% of his simulations paired Pinellas with Sarasota and Polk Counties, respectively, showing CD 16 is far less compact than it could be. *See Chen Rep.* ¶¶ 103–105 & Fig. 24.



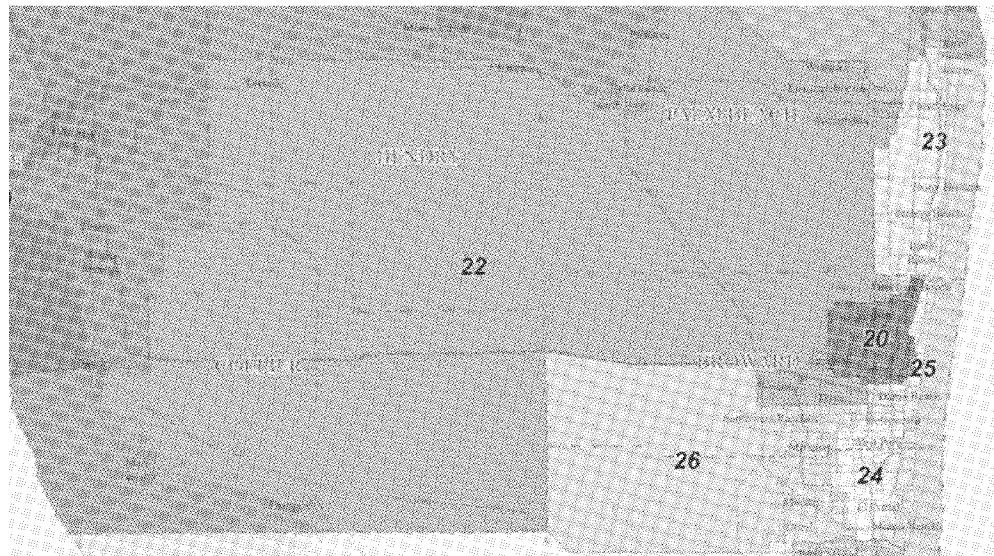


**CD 16 (2022 Plan)**



**CD 16 (2026 Plan)**

Finally, the 2026 Plan's CD 22 is a creature with no real predecessor in the 2022 Plan, pieced together by bridging together former CDs 18, 19, 20, 23, 25, and 26 to create an entirely new district stretching across southern Florida, from Marco Island in the west to Weston and Wellington in the east, as shown below. *See* Ex. at 15; *see also* Rodden Rep. at 31 & Fig. 15.



Each of these districts, and the 2026 Plan as a whole, violate the Florida Constitution's compactness requirement. This Court should find that Plaintiffs are likely to succeed in their challenge to the 2026 Plan on this independent ground.

**2. The 2026 Plan violates the constitutional requirement to utilize existing political and geographic boundaries where feasible.**

The 2026 Plan also violates the Florida Constitution’s requirement that “districts shall, where feasible, utilize existing political and geographical boundaries.” Fla. Const. art. III, § 20(b). The Florida Supreme Court considers “adherence to county and city boundaries as political boundaries, and rivers, railways, interstates and state roads as geographical boundaries.” *Apportionment I*, 83 So. 3d at 638. Like the compactness requirement, the requirement to adhere to political and geographical boundaries “is aimed at preventing improper intent.” *Id.*

In past redistricting cycles, the Florida Supreme Court has invalidated multiple districts for failure to comply with this provision. *See, e.g., id.* at 662–79; *Apportionment IV*, 172 So. 3d at 402. In doing so, the Court has considered the extent to which a district follows the types of boundaries described above and whether the district “splits counties, municipalities, and geographical features.” *Apportionment I*, 83 So. 3d at 656, 673.

The 2026 Plan’s CDs 9, 10, 12, 14, 15, 16, 20, 22, 23, 24, and 25 violate the constitutional requirement that districts utilize existing political and geographical boundaries where feasible. First, in the Tampa Bay region, CDs 12, 14, and 15 trisect the city of Tampa, strategically carving up the core of the city and combining the fragments with faraway areas. Rodden Rep. at 13–14 & Fig. 4. Tampa “can easily been kept in a single district” as it was prior to the 2022 Plan, but instead the 2026 Plan divides it “almost equally into thirds.” *Id.* at 21; *but see* Chen. Rep. ¶ 93 (showing nearly all simulated plans produce a single district containing over half of Tampa’s population). The same is true of St. Petersburg, which is sliced in two. Rodden Rep. at 21–22. Counties in Tampa Bay, too, including Hillsborough and Pasco, are divided far more than necessary. *Id.* at 21.

In addition, a substantial portion of the boundaries of CDs 12, 14, and 15 do not correspond to existing political or geographic boundaries, suggesting the mapmaker is picking and choosing

preferred boundaries. In fact, one-fifth of the boundaries of CDs 12 and 14 do not correspond with any existing political or geographic boundaries, Ex. 10 at 16, such that the districts perform significantly worse on this metric as compared to their predecessors in the 2022 Plan. Ex. 23 at 26.

In Central Florida, the 2026 Plan strategically splits the city of Orlando as well as Orange, Osceola, and Polk Counties. Rodden Rep. at 21–22, 24–26 & Figs. 11–12. The 2026 Plan splits Orlando between four different districts, even though its population could be contained in one congressional district. *Id.* at 28–29. The district lines “violate[] municipal boundaries in the Orlando Area more than is necessary.” *Id.* at 28. In fact, approximately one-third of CD 10’s boundaries do not correspond to existing political or geographic boundaries. Ex. 10 at 16.

And finally, in South Florida, CDs 20, 22, 23, 24, and 25 unnecessarily split numerous cities, including Coconut Creek, Coral Springs, Dania Beach, Davie, Deerfield Beach, Delray Beach, Fort Lauderdale, Hallandale Beach, Hollywood, Miramar, North Miami, North Miami Beach, Pembroke Pines, Plantation, Pompano Beach, Riviera Beach, Royal Palm Beach, Sunrise, and West Palm Beach. *See* Rodden Rep. at 36–39 & Figs. 19–21, 21 n.3; Ex. 10 at 18. The districts also unnecessarily split Broward County into five districts, Miami-Dade County into five districts, and Palm Beach County into four districts, all representing an increase from the splits of those counties in the 2022 Plan. Rodden Rep. at 35. A substantial portion of each district’s boundaries does not correspond to existing political or geographic boundaries, with nearly one-third of CD 20’s boundaries failing to correspond to existing political or geographic boundaries. Ex. 10 at 16.

These districts’ failures to utilize existing political and geographic boundaries cannot be explained by the need to comply with Tier I criteria or even with the Tier II compactness criteria, because the map drawer avowedly did not consider himself bound by those constitutional requirements. Ex. 12 at 23. Likewise, the 2026 Plan’s general failure to adhere to political and

geographic boundaries cannot be explained as the result of an effort to comply with other portions of the Fair Districts Amendment. The Legislature had no legal obligation to redistrict mid-decade, and in doing so chose to enact a plan with two more split counties and 14 more split cities—all split numerous times—than the 2022 Plan, and that adheres less closely to existing political and geographic boundaries than the 2022 Plan. *See* Ex. 10 at 17–18; Ex. 23 at 5, 24–26.

**C. The Court has no basis to refuse to enforce the Florida Constitution’s redistricting mandates.**

If this Court finds the 2026 Plan violates the Florida Constitution, it must enjoin the Plan. Although the Governor has argued the entire Fair Districts Amendment is unconstitutional (a convenient argument, given that the 2026 Plan does not comply with it), the Governor’s argument is meritless. As the Governor’s counsel conceded before the Legislature, the Governor’s theory succeeds only if the Amendment’s racial protections are wholly unconstitutional under the U.S. Constitution’s Equal Protection Clause, *and* the Amendment’s remaining provisions—including its prohibition on partisan gerrymandering and Tier II criteria—are non-severable. That argument fails at every step, and this Court need not resolve any difficult constitutional question to reject it.

For this Court to decline to enforce the Fair Districts Amendment’s intentional partisan gerrymandering and Tier II provisions, it would first have to hold the Amendment’s racial protections facially unconstitutional—a sweeping conclusion that *Louisiana v. Callais* provides no basis to reach. Although many predicted that *Callais* would invalidate Section 2 of the Voting Rights Act, *Callais* did not do that. Instead, *Callais* held, for the first time, that compliance with Section 2 of the Voting Rights Act remains a compelling state interest, so long as the requisite evidence of discriminatory intent is present. *Louisiana v. Callais*, No. 24–109, 2026 WL 1153054, at \*13 (U.S. Apr. 29, 2026). *Callais* provides no legal basis to conclude the Amendment’s race provisions are suddenly unlawful or could not be applied lawfully, consistent with *Callais*.

Separately, the Governor’s non-severability argument fails under Florida’s established severability framework. As a threshold matter, the burden of proving non-severability rests squarely on Defendants. In *Ray v. Mortham*, the Florida Supreme Court expressly rejected the argument that those seeking to enforce an amendment must “prove” that voters would have adopted it without the unconstitutional provisions, as that would be “the antithesis of the purpose underlying severability—to preserve the constitutionality of enactments where it is possible to do so.” 742 So. 2d 1276, 1281 (Fla. 1999). The burden instead falls on the party arguing non-severability to demonstrate that the valid and invalid provisions are so inseparable that voters would not have adopted one without the other. *See id.* (“[W]e 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.”). Defendants cannot meet that burden here.

Florida courts apply a four-prong test to determine whether an unconstitutional provision of a law—including a constitutional amendment—may be severed from the remainder. *Id.* That test provides that when part of a law is declared unconstitutional, the remainder will be permitted to stand if:

(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.

*Id.* (quoting *Cramp v. Bd. of Pub. Instruction of Orange Cnty.*, 137 So. 2d 828, 830 (Fla. 1962)).

Each prong favors severability here.

***Prong 1—Physical Separability.*** The Fair Districts Amendment’s racial protections, its prohibition on partisan gerrymandering, and its Tier II requirements appear as textually distinct

provisions within Article III, Section 20. The racial protections and partisan gerrymandering prohibition are separate clauses within subsection (a), joined by “and,” while the Tier II compactness and boundary requirements appear in an entirely separate subsection (b). Excising the racial protections would not disturb the textual integrity or structural coherence of the remaining provisions.

***Prong 2—Independent Accomplishment of Purpose.*** The prohibition on partisan gerrymandering accomplishes its own objective—ensuring that congressional districts are not drawn to favor or disfavor a political party—entirely without reference to the racial protections. The same is true of the Tier II requirements: the mandate that districts be compact and utilize existing political and geographic boundaries serves the independent purpose of ensuring that maps respect territorial boundaries and are not contorted for any impermissible reason. Unlike *Emerson v. Hillsborough County*, 312 So. 3d 451, 461–62 (Fla. 2021), where the court found that a surtax and its distribution scheme formed an “interlocking plan” that was “functionally dependent,” the Amendment’s race provisions are not interlocking with the remaining provisions. Indeed, many other states have adopted constitutional or statutory prohibitions on partisan gerrymandering and compactness and boundary requirements without any corresponding racial protection, demonstrating that such provisions are fully capable of operating as standalone requirements, untethered to minority voting protections.<sup>2</sup>

***Prong 3—Inseparability in Substance.*** Defendants cannot demonstrate that Florida voters would have declined to adopt the partisan gerrymandering prohibition or the Tier II requirements standing alone. In fact, just last year, in a federal lawsuit concerning Florida state legislative districts, the Secretary put forward an expert report (the “Adkins Report”) concluding that the

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<sup>2</sup> E.g., Ariz. Const. art. 4, pt. 2, § 1(14); Haw. Rev. Stat. § 25-2(b); Idaho Code § 72-1506; Mich. Const. art. IV, § 6(13); Mont. Code Ann. § 5-1-115(2); Wash. Rev. Code § 44.05.090.

prohibition on “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,” Ex. 46 at 3, and, “[w]hile preservation of minority representation was a part of those amendments, most attention given the amendments in news reports and from the spokespersons themselves gave priority to the amendments’ provisions prohibiting favoring or disfavoring political parties or incumbents.” *Id.* at 57.

As the Adkins Report shows, contemporary news coverage from the month leading up to the November 2010 election confirms that Florida voters understood the partisan gerrymandering prohibition as the Amendment’s defining and independent purpose, and understood the Tier II requirements as independently meaningful constraints on the Legislature’s redistricting power. In the weeks before the election, newspapers across the state published voter guides and editorial coverage of Amendments 5 and 6—the Fair Districts Amendments for state legislative and congressional districts. Many of those accounts described the Amendments in terms of the partisan gerrymandering prohibition and the compactness and boundary requirements alone, without any mention of the racial protections. The *Palm Beach Post*—in a front-page story on October 11, 2010, titled “Amendments’ goals: Curb tailor-made voting districts”—identified the anti-partisan gerrymandering language as the Amendments’ “crucial language,” explaining that the Amendments’ core purpose was to “make it much harder for political parties to tailor voting districts to their tastes.” Ex. 51. One week later, the *Palm Beach Post* published a pro/con feature on Amendments 5 and 6. Ex. 52. Under a heading titled “What it means,” the feature described the Amendments’ purpose in terms of partisan and incumbent protection: “A YES vote would require the legislature not to split communities and not to draw districts solely to favor an incumbent or a party.” *Id.* *Florida Today* similarly described the Amendments as measures that

“say it will stop gerrymandering by office holders, which keeps parties and incumbents in power.” Ex. 48. The *Tallahassee Democrat* described the Amendments as requiring the Legislature to draw political and congressional seats “without benefiting or harming any candidate or party.” Ex. 49. And the *Orlando Sentinel* told its readers the Amendments were about preventing legislators from “search[ing] for the kind of partisan voters who will keep them and their friends in office,” telling readers to vote yes “if you think voters should choose politicians, rather than the other way around.” Ex. 50. This contemporaneous news coverage is powerful evidence that Florida voters understood the prohibition on partisan intent in redistricting and the Tier II requirements as independently meaningful and would have adopted them standing alone, separate and apart from the racial protections. Even the 2026 Plan’s own Senate sponsor rejected the Governor’s non-severability argument during the special session, arguing the Fair Districts Amendment’s partisan gerrymandering prohibition “ought to be saved” regardless of what happens to the racial protections. Ex. 14 at 19.

***Prong 4—Completeness of Remainder.*** Striking the racial protections while preserving the partisan gerrymandering prohibition, the Tier II compactness and boundary requirements, and the contiguity requirement leaves a complete, independently operative constitutional enactment fully capable of governing the Legislature’s redistricting conduct and providing meaningful standards for judicial enforcement.

All four prongs of the *Cramp* test thus favor severability. Whatever the constitutionality of the Amendment’s race protections—which this Court need not reach—the Amendment’s prohibition on partisan gerrymandering and its Tier II criteria stand on their own, remain fully in force, and are sufficient to invalidate the 2026 Plan.



**II. Plaintiffs are entitled to a temporary injunction to maintain the status quo: the 2022 Plan.**

This Court has clear authority to preserve the status quo by enjoining the 2026 Plan and reverting to the 2022 Plan pending a final determination on the merits. Such relief is further appropriate since Plaintiffs have satisfied the remaining criteria for a temporary injunction.

**A. This Court has authority to preserve the status quo by ordering the State to conduct the 2026 elections using the 2022 Plan.**

Plaintiffs do not ask this Court to devise an interim remedy or impose a new congressional map. They ask only that this Court do what Florida courts have long recognized as the proper function of temporary injunctive relief: preserve the status quo, the 2022 Plan. *See Planned Parenthood of Greater Orlando, Inc. v. MMB Props.*, 211 So. 3d 918, 924 (Fla. 2017). That relief is squarely within this Court’s authority under *Byrd v. Black Voters Matter Capacity Building Institute, Inc.*, 339 So. 3d 1070 (Fla. 1st DCA 2022).

In *Byrd*, the First District held that a temporary injunction “has but one purpose: to maintain the status quo.” *Id.* at 1073. *Byrd* made clear that preserving the status quo means more than simply freezing in place whatever the law happens to be at the moment a motion for a temporary injunction is filed—the status quo to be preserved is “the condition that existed before the subject matter at the center of the present controversy arose, i.e., before [the challenged law] became law.” *Id.* In *Byrd*, the court reversed a circuit court order imposing an entirely new, never-enacted congressional map as relief that exceeded that permissible scope. But Plaintiffs here ask for nothing of the kind. The 2022 Plan is not a judicially-created remedy—it is the existing, enacted, court-approved map that governed Florida’s congressional elections for two election cycles. It is also, notably, the map that Defendants themselves enacted and successfully defended in multiple courts over multiple years. *See supra* Background II. Having spent years urging Florida courts to uphold the 2022 Plan as a lawful and constitutional map, Defendants are in no position to argue

that restoring it as the operative map for the 2026 elections would be constitutionally impermissible.<sup>3</sup>

**B. Plaintiffs satisfy the other temporary injunction criteria.**

Plaintiffs satisfy the remaining temporary injunction factors. Absent an injunction, Plaintiffs will suffer irreparable harm for which there is no adequate remedy at law—elections conducted under an unconstitutional map cannot be unwound, and the burden imposed by a brand-new map on a compressed timeline falls on Florida’s election administrators and voters, not on Defendants. And the public interest plainly favors relief given that 62.9% of Florida voters passed the Fair Districts Amendment to prevent exactly this kind of partisan manipulation.

**1. Plaintiffs have no adequate remedy at law.**

Plaintiffs seek a temporary injunction prohibiting Defendants from enforcing the 2026 Plan and instead preserving the status quo—the 2022 Plan. No other remedy exists under Florida law to remedy the harm Plaintiffs will suffer if the 2026 elections proceed under an unconstitutional plan. Plaintiffs lack an adequate remedy at law where, as here, their injuries result from a violation of a fundamental constitutional right. *See, e.g., Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1263–64 (Fla. 2017) (“In light of finding that the [challenged law] is likely unconstitutional, there is no adequate legal remedy at law for the improper enforcement of the [law].”), *overruled on other grounds by Planned Parenthood of Sw. & Cent. Fla.*, 384 So. 3d 67; *see also League of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d 1205, 1224 (N.D. Fla. 2018) (granting temporary injunction in voting-related case because injury could not “be undone through monetary remedies”

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<sup>3</sup> In 2022, reverting to the prior decade’s map was constitutionally untenable because Florida had gained a congressional seat after the 2020 census, producing population deviations as large as 24 percent. No such obstacle exists here.

(quoting *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987)); *Madera v. Detzner*, 325 F. Supp. 3d 1269, 1282 (N.D. Fla. 2018) (same).<sup>4</sup>

**2. Plaintiffs and other Florida voters will suffer irreparable harm absent a temporary injunction.**

Plaintiffs will suffer irreparable harm absent temporary injunctive relief. Plaintiffs have a constitutional right guaranteed to them by Article III, Section 20 to vote in congressional districts free of partisan intent. If the 2026 primary and general elections were conducted under the unlawful 2026 Plan, Plaintiffs’ constitutional rights would be irreparably injured. Florida “law recognizes that a continuing constitutional violation, in and of itself, constitutes irreparable harm.” *Bd. of Cnty. Comm’rs v. Home Builders Ass’n of W. Fla., Inc.*, 325 So. 3d 981, 985 (Fla. 1st DCA 2021). Harms to the constitutional right to vote are quintessentially irreparable. *See, e.g., League of Women Voters of Fla.*, 314 F. Supp. 3d at 1224; *Madera*, 325 F. Supp. 3d at 1282. That is because “once the election occurs, there can be no do-over and no redress” for voters whose rights were violated. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *see also, e.g., Larios v. Cox*, 305 F. Supp. 2d 1335, 1343–44 (N.D. Ga. 2004) (per curiam) (three-judge court) (holding that stay of court’s order finding state legislative plans unconstitutional would result in “irreparable harm to the plaintiffs, and to all voters in Georgia who have had their votes unconstitutionally debased,” and that court had “a responsibility to ensure that future elections will not be conducted under unconstitutional plans”), *aff’d*, 542 U.S. 947 (2004).

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<sup>4</sup> In weighing whether an injury cannot be remedied at law and thus constitutes irreparable harm, the Florida Supreme Court has relied on precedent from federal courts. *See, e.g., Gainesville Woman Care*, 210 So. 3d at 1263–64 (noting that U.S. Supreme Court and lower federal courts “have presumed irreparable harm when certain fundamental rights are violated”).

### **3. Injunctive relief will serve the public interest.**

The public interest requires an injunction preventing the use of the 2026 Plan in the 2026 congressional elections. As Florida courts have consistently found, “enjoining the enforcement of a law that encroaches on a fundamental constitutional right presumptively would serve the public interest.” *Green v. Alachua Cnty.*, 323 So. 3d 246, 254 (Fla. 1st DCA 2021) (citation modified); *see also League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1167 (N.D. Fla. 2012) (The “vindication of constitutional rights . . . serve[s] the public interest almost by definition.”). The right to vote in congressional elections conducted under a lawful map is precisely such a fundamental constitutional right.

Moreover, this Court should not lose sight of what makes this case unusual, and what makes the need for preliminary relief particularly acute. The 2026 Plan was not enacted on the basis of a good-faith legal judgment that it complies with the Florida Constitution as written. It was enacted on an explicit bet that future courts will change the law. But the Governor’s legal theories about what future courts might do does not suspend the Fair Districts Amendment’s operation, relieve the Legislature of its obligation to comply with it, or authorize this Court to look the other way while elections are conducted under a map drawn in knowing violation of it. The public interest is served by enforcing the constitution as it exists today, not as the Governor hopes it might someday be rewritten. That is precisely what the voters who passed the Fair Districts Amendment asked the Florida judiciary to do. *See Apportionment I*, 83 So. 3d at 607 (“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 comply with those standards constitutionally invalid.”).

Additionally, implementing the 2026 Plan before the 2026 primary would impose severe and unnecessary burdens on Florida’s election administrators and voters alike. Florida’s primary

is scheduled for August 18, 2026, and the current deadline to mail ballots to uniformed and overseas voters is effectively July 3 (due to the July 4 holiday)—fewer than nine weeks away. Ex. 5 ¶ 4. Before ballots can be sent, election administrators must process the new boundaries. Because the 2026 Plan’s district lines cut through residential neighborhoods and frequently deviate from major roads and existing political subdivision boundaries, implementation will be particularly burdensome and error-prone, and cause serious risks of voter confusion. *Id.* ¶¶ 6, 8–11, 14. Florida has been through this before: implementing the 2022 congressional plan ahead of that year’s August primary proved exceedingly difficult even with a somewhat longer runway than the timeline the Legislature and Governor have provided here. *Id.* ¶¶ 12–13. By contrast, retaining the 2022 Plan, which has been used in two prior election cycles, does not come with the same risk of implementation errors that implementing a new map on a compressed timeline inevitably produces. *Id.* ¶ 14. Indeed, on May 4, 2026, the day the Governor signed the bill enacting the 2026 Plan, all 67 Supervisors of Elections received instructions to “preserve” the 2022 Plan “in case the need to implement it becomes necessary.” Ex. 17.

Granting temporary relief in this matter is not only practicable—it is imperative. Plaintiffs do not ask this Court to implement a new congressional plan or resolve complex line-drawing questions on an expedited basis. They ask only that this Court preserve the status quo: the lawful, court-approved 2022 Plan that has governed Florida’s congressional elections for the past two election cycles.

## **CONCLUSION**

Plaintiffs request that the Court temporarily enjoin implementation of the 2026 Plan. Plaintiffs further request that the Court expedite its consideration of this motion, including the scheduling of any hearings, to ensure that a necessary remedy is timely adopted and a lawful congressional plan is in place in Florida in time for the 2026 congressional elections.

Dated: May 6, 2026

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 6, 2026 I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to all counsel of record and counsel in the Service List below, including counsel for the Florida Senate and Florida House of Representatives by consent.

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