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

EQUAL GROUND EDUCATION FUND,
et al.,

Plaintiffs,

v.

CORD BYRD, in his official capacity as
Florida Secretary of State, et al.,

Defendants.
_____/

Case Nos.: 2026 CA 914
2026 CA 925
2026 CA 928
(Consolidated)

FLORIDA SENATE'S RESPONSE IN OPPOSITION TO MOTIONS FOR TEMPORARY INJUNCTION

The Florida Senate responds in opposition to the motions for temporary injunction filed by the Equal Ground, Common Cause, and Thompson-Wynn Plaintiffs in these consolidated cases.

Introduction

Plaintiffs ask this Court to do what Florida law does not permit: resolve a statewide constitutional redistricting dispute through emergency injunction practice, before trial, and order congressional elections to proceed under a plan other than the one duly enacted and signed into law. The motions should be denied.

This case is not a routine request to preserve evidence, maintain possession of property, or prevent some discrete act pending final judgment. Plaintiffs seek extraordinary statewide relief. They ask the Court to enjoin the congressional plan enacted on May 4, 2026 (the "Enacted Plan") and to order the State to conduct the 2026 congressional elections under the 2022 congressional

plan (the "2022 Plan") instead. That request would not merely preserve conditions while the parties litigate. It would suspend a duly enacted law and substitute a different election regime before any final adjudication on the merits. And the effect of that injunction would be to grant Plaintiffs the ultimate remedy sought in their complaints at the very inception of the case.

The motion should be denied for several independent reasons.

First, Florida law does not permit Plaintiffs to use a temporary injunction as an interim remedial device in declaratory judgment actions. Just four years ago, the First District Court of Appeal confronted materially similar emergency relief in congressional redistricting litigation and held that "a temporary injunction cannot be used in a declaratory judgment action as an interim remedial tool." *Byrd v. Black Voters Matter Capacity Bldg. Inst., Inc.*, 339 So. 3d 1070, 1082 (Fla. 1st DCA 2022), *writ denied*, 340 So. 3d 475 (Fla. 2022). Plaintiffs try to avoid that rule by describing the 2022 Plan as the "status quo," but there is no question that the relief they seek would suspend current law and impose a substitute statewide election regime before final adjudication. Plaintiffs have not attempted to carry their burden to prove the validity of the alternative map they now prefer.

Second, Plaintiffs have not established a substantial likelihood of success on the merits. Their partisan-intent theory depends on converting political awareness, political effects, and alleged review of partisan data into constitutionally prohibited intent. But article III, section 20(a) of the Florida Constitution prohibits an apportionment plan or district "drawn with the intent

to favor or disfavor a political party or an incumbent." Properly read according to its text, structure, and original public meaning, that provision targets the Legislature's decision-making when placing district lines—not every political statement made in the surrounding public debate and not alleged partisan effects.

Third, Plaintiffs ask the Court to depart from the ordinary presumption of constitutionality owed to duly enacted statutes. The Senate preserves the argument that enacted congressional plans remain entitled to that presumption, that reasonable doubts must be resolved in favor of validity, and that Plaintiffs must prove any constitutional violation beyond a reasonable doubt. The contrary burden-shifting approach reflected in portions of the 2012-15 redistricting litigation should not be extended beyond its extraordinary facts and, if necessary, should be reconsidered by the Florida Supreme Court.

Fourth, Plaintiffs' Tier II claims fare no better. Their compactness and political-boundary theories depend on expert simulations, competing metrics, and disputed factual inferences. Those issues may be litigated in an appropriate final merits proceeding, but they do not establish the clear legal right required for emergency statewide relief.

Fifth, recent decisions of the Florida Supreme Court and United States Supreme Court create serious unresolved questions concerning the continuing operation, enforceability, and severability of the race-based provisions of the Florida Constitution. Those questions alone preclude a finding that Plaintiffs possess a clear legal right to emergency relief.

Finally, the equities and public interest weigh decisively against Plaintiffs' request. Changing congressional districts through a temporary injunction would disrupt statewide election administration, unsettle candidate and voter expectations, and risk precisely the kind of election confusion that courts have repeatedly cautioned against. If this case warrants expedited treatment, the proper course is expedited final adjudication rather than provisional replacement of Florida's enacted congressional map.

The motions for temporary injunction should be denied.

Background

This case involves a constitutional challenge to the congressional district map passed by the Legislature on April 29, 2026, and signed by the Governor on May 4, 2026. Three groups of plaintiffs have filed suit alleging violations of article III, section 20, of the Florida Constitution, and seeking declaratory and injunctive relief. The complaints assert two principal theories: that the Enacted Plan was drawn with prohibited intent to favor or disfavor a political party or an incumbent; and that several districts violate the Florida Constitution's compactness and boundary-usage provisions. Plaintiffs seek declaratory and injunctive relief against Florida's Secretary of State, the Florida Senate, and the Florida House of Representatives.

Plaintiffs' theory of partisan intent relies heavily on allegations regarding matters outside the Florida Legislature's formal enactment record. Among other things, Plaintiffs cite public statements attributed to political officials, national redistricting efforts, media commentary, statements by members of Congress,

social-media activity, and expert analyses concerning projected partisan performance. *See, e.g.*, Equal Ground Mem. at 7-8, 31; Thompson-Wynn Mem. at 6-11, 17-18, 22-24; Common Cause Mem. at 4-9, 17-22.

As for the legislative record, Plaintiffs rely substantially on the committee testimony of Jason Poreda. *See, e.g.*, Equal Ground Mem. at 10, 29; Thompson-Wynn Mem. at 13, 21, 30-31,36-38; Common Cause Mem. at 9-10, 16-17. Poreda identified himself as the sole drawer of the map that was transmitted to the bill sponsors, introduced as legislation, passed by the Legislature, and signed by the Governor. SOS Ex. 8 at 23 (testimony of Jason Poreda) ("I am the only one that drew the map."). The legislative transcripts attached to Plaintiffs' motions show that Poreda acknowledged considering partisan data as part of a broader set of redistricting information and in "final balancing," but he denied drawing the map with partisan intent. *Id.* at 54. Plaintiffs also cite statements by counsel for the Governor concerning the legal premises of the map. Equal Ground Mem. at 10, 46; Thompson-Wynn Mem. at 13, 35; Common Cause Mem. at 10, 17-18. Plaintiffs contend that the Enacted Plan "cracks" and "packs" Democratic voters in several regions of the State, including Tampa Bay, Central Florida, and South Florida. Equal Ground Mem. at 13-23; Thompson-Wynn Mem. at 22-32; Common Cause Mem. at 25-43. They rely on expert simulations, partisan-performance metrics, and district-specific comparisons to argue that the Enacted Plan allegedly reflects unconstitutional partisan favoritism.

Notably, Plaintiffs do not allege that *any* legislator's vote on the Enacted Plan (much less the Legislature as a whole) was motivated by prohibited partisan intent.

Plaintiffs separately challenge several districts as allegedly non-compact or unnecessarily disruptive of political and geographic boundaries, including Congressional Districts 9, 15, 16, 22, and 25. Equal Ground Mem. at 38-46; Thompson-Wynn Mem. at 44-46; Common Cause Mem. at 27-28, 34-35, 42-43. Plaintiffs emphasize, among other things, the geographic shape of District 25, the cross-state configuration of District 22, county and municipal splits, and alternative computer-generated districting simulations. Equal Ground Mem. at 12, 16-17, 19-20, 22, 24, 26, 38, 42; Thompson-Wynn Mem. at 22-32; Common Cause Mem. at 18-19, 25, 28, 38, 42-43. Plaintiffs contend that those simulations purportedly demonstrate the feasibility of more compact or differently configured districts. Equal Ground Mem. at 24-26; Common Cause Mem. at 18-19.

Legal Standard

"A temporary injunction is extraordinary relief that should be granted only when the party seeking the injunction has established four elements: (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." *Fla. Dep't of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1110 (Fla. 2021). Each of these elements "must be proven by the movant with competent, substantial evidence." *Holland*

M. Ware Charitable Found. v. Tamez Pine Straw LLC, 343 So. 3d 1285, 1289 (Fla. 1st DCA 2022) (citing *State, Dep't of Health v. Bayfront HMA Med. Ctr., LLC*, 236 So. 3d 466, 472 (Fla. 1st DCA 2018)). "Failure to prove any one of the four elements mandates denial of the motion for temporary injunction." *Id.* The writ of injunction "is an extraordinary, not an ordinary, everyday writ, and it should never be granted lightly, but cautiously and sparingly." *Godwin v. Phifer*, 41 So. 597, 602 (Fla. 1906).

Congressional redistricting legislation, "like any legislation, is entitled to a presumption of validity." *Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec'y, Fla. Dep't of State*, 415 So. 3d 180, 197 (Fla. 2025).

Argument

I. The requested temporary injunction is not available in this declaratory judgment action.

Plaintiffs' motions fail at the threshold because Florida law does not permit the use of a temporary injunction as an interim remedial device in a declaratory judgment action.

This case is controlled by *Byrd v. Black Voters Matter Capacity Building Institute, Inc.*, 339 So. 3d 1070 (Fla. 1st DCA 2022). *Byrd* arose from a constitutional challenge to Florida's 2022 Plan under article III, section 20, of the Florida Constitution. *Id.* at 1074. There, as here, plaintiffs sought emergency injunctive relief requiring the use of a different congressional plan before a final adjudication on the merits. *Id.* The circuit court granted that request, proscribed the implementation of the 2022 congressional map, and ordered the Secretary of

State to implement a different congressional districting plan for the 2022 election. *Id.* at 1074-75. After the Secretary appealed that order, the circuit court vacated the automatic stay. *Id.* at 1075.

The First District reversed, reinstated the automatic stay, and held unequivocally that "a temporary injunction cannot be used in a declaratory judgment action as an interim remedial tool." *Id.* at 1082. This is so "even if the status quo cannot be preserved. The declaratory judgment must come first as a final order." *Id.* Even where a constitutional writ of injunction is authorized, its purpose is "solely preservative or preventative." *Id.* at 1073. "A temporary injunction that goes beyond that limit, by determining a matter in controversy and granting a remedy, is subject to reversal." *Id.* at 1078; *see also Geise v. Fleck*, 51 Fla. L. Weekly D694 (Fla. 6th DCA Apr. 2, 2026) (recognizing that chapter 86 "only authorizes the granting of injunctive relief after a declaratory judgment is obtained and only by motion"); *City of Newberry v. Alachua County*, 366 So. 3d 1176, 1179 (Fla. 1st DCA 2023) (acknowledging that "chapter 86 requires a plaintiff to obtain declaratory relief first, *before* the plaintiff seeks an injunction").

Those principles foreclose the relief Plaintiffs seek here. Before obtaining relief on their declaratory judgment claims, Plaintiffs ask this Court to enjoin enforcement of the Enacted Plan, prohibit elections from taking place under current law, and require Florida to conduct elections under the 2022 Plan instead. Equal Ground Mot. at 3-4; Thompson-Wynn Mot. at 5; Common Cause Mot. at 3-4. The injunction Plaintiffs seek would resolve the central legal dispute

they brought before this Court—whether the Enacted Plan may lawfully govern congressional elections—and "essentially is a grant of the ultimate relief sought by" Plaintiffs. *Byrd*, 339 So. 3d at 1082.

Plaintiffs seek to distinguish *Byrd* on the basis that the circuit court's injunction there had imposed "an entirely new, never-enacted congressional map" as relief, whereas Plaintiffs seek an injunction requiring elections to be held under the now-repealed 2022 Plan. Equal Ground Mem. at 51-52; Thompson-Wynn Mem. at 50; Common Cause Mem. at 64-65. Although Plaintiffs argue they are seeking less sweeping injunctive relief than the *Byrd* plaintiffs, this distinction is insufficient. Plaintiffs are still asking this Court for a mandatory injunction requiring the State to conduct elections under a repealed congressional map that no longer carries the force of law. They also fail to address the aspects of the First District's decision discussed above: 1) whether a temporary injunction can be used in a declaratory judgment action as an interim remedial tool; and 2) whether the declaratory judgment must come first, before a plaintiff may seek an injunction to enforce it. And Plaintiffs fail to acknowledge that *they bear the burden* to "produce an alternative plan proving that any asserted defect in the Legislature's [enacted] plan is remediable." *Black Voters Matter*, 415 So. 3d at 198.

Plaintiffs ask this Court to preserve the "status quo" that they claim is represented by the repealed 2022 Plan, Equal Ground Mem. at 51-52, Thompson Wynn Mem. at 50, Common Cause Mem. at 64, but do not attempt to defend its configuration as an alternative to the Enacted Plan. Instead, they try to shift that

burden to Defendants contrary to *Black Voters Matter*. *Id.* This decision is particularly questionable in light of the evolving state and federal precedent concerning the use of race in redistricting since the enactment of the 2022 Plan.

All of these deficiencies are fatal to Plaintiffs' request for temporary injunctive relief before judgment.

II. Plaintiffs have not established a substantial likelihood of success on their partisan-intent claims.

Plaintiffs' motions rest on the assertion that the Enacted Plan was drawn with the intent to favor Republicans and disfavor Democrats. Equal Ground Mem. at 1, 7-8; Thompson Wynn Mem. at 1, 17-18, 21-22; Common Cause Mem. at 1-2, 15-16. But their partisan-intent theory asks this Court to equate political awareness, alleged review of partisan data, partisan effects, generalized political context, and public political rhetoric, with constitutionally prohibited intent. The Florida Constitution does not support that theory.

A. The Florida Constitution must be interpreted according to its text, structure, and original public meaning.

Article III, section 20(a) of the Florida Constitution provides that "[n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent." Under the Florida Supreme Court's modern interpretive methodology, constitutional provisions are interpreted according to their ordinary meaning at the time of adoption, read in context and in harmony with constitutional structure. *See, e.g.*, *Planned Parenthood of Sw. & Cent. Fla. v. State*, 384 So. 3d 67, 77 (Fla. 2024) ("The goal of this approach is to ascertain the original, public meaning of a constitutional provision—in other

words, the meaning as understood by its ratifiers at the time of its adoption"). Properly interpreted, the constitutional text significantly narrows the theory advanced by Plaintiffs in at least two respects.

First, the operative constitutional language concerns districts "drawn with the intent" to favor or disfavor a political party. Art. III, § 20(a), Fla. Const. The provision therefore regulates the drawing of district lines, the enacted district configurations, and the purpose motivating those line-drawing decisions. The Florida Supreme Court has recognized that the provision "prohibits intent, not effect" and that "redistricting will inherently have political consequences, regardless of the intent used in drawing the lines." *In re Sen. Joint Resol. of Legis. Apportionment 1176* (*Apportionment I*), 83 So. 3d 597, 617 (Fla. 2012). The Florida Constitution does not establish proportional representation requirements, "partisan symmetry" mandates, or any other mathematical measure of partisan "fairness." Yet Plaintiffs' theory would effectively insert those requirements into constitutional text where they do not appear.

Second, the passive construction "no apportionment plan or individual district shall be drawn" must be interpreted in light of constitutional structure. The Florida Constitution vests the legislative power of the State of Florida in the Legislature. Art. III, § 1, Fla. Const. Article III, section 20, provides "[s]tandards for establishing congressional district boundaries." Those boundaries are "establish[ed]" through ordinary legislation dividing the state into 28 congressional districts and assigning every census block within the boundaries

of the state to a particular district. § 8.0002, Fla. Stat. The constitutional "actor" in redistricting is, therefore, the Legislature acting through the enactment of law.

That point substantially narrows the relevant inquiry. The constitutional question is whether *the Legislature* enacted districts with prohibited intent, not whether political commentators outside of Florida's redistricting process advocated partisan goals, national political actors publicly discussed redistricting, media commentary existed, or partisan consequences were foreseeable. Plaintiffs' motions repeatedly rely on generalized political context and statements by persons outside the Legislature. Equal Ground Mem. at 7-9 (relying on statements by persons such as Governor DeSantis, party officials, and members of Florida's congressional delegation); Thompson-Wynn Mem. at 6-7, 10-11 (same); Common Cause Mem. at 5, 8-9 (same). But the constitutional text regulates enacted governmental action, not ambient political atmosphere. The proper focus is therefore on what the *Legislature* did and its intent in doing so, based principally (if not exclusively) on the legislative record on which the redistricting legislation was passed.

To the extent the Florida Supreme Court's opinions in *Apportionment I* and its progeny are contrary to original public meaning, the Senate respectfully preserves the argument that the Florida Supreme Court should recede from the relevant portions of those decisions in favor of the contrary reading described above.

B. The Enacted Plan is entitled to a presumption of constitutionality.

Florida law has long recognized that duly enacted statutes are presumed constitutional and may not be invalidated unless their unconstitutionality is established beyond a reasonable doubt. *See, e.g.*, *Planned Parenthood*, 384 So. 3d at 77 ("[W]e will . . . determine if, beyond a reasonable doubt, violence was done [to] any provisions of the organic law in the passage of the challenged act, and in doing so will not deal with the merits of the measure, that being the exclusive concern of the Legislature." (quoting *Waybright v. Duval County*, 196 So. 430, 432 (Fla. 1940))). These standards have historically applied to redistricting legislation. *In re Apportionment L. Senate Joint Resol. No. 1305, 1972 Regular Session*, 263 So. 2d 797, 805-06 (Fla. 1972). And the Florida Supreme Court's most recent redistricting decision acknowledged that congressional redistricting legislation, "like any legislation, is entitled to a presumption of validity." *Black Voters Matter*, 415 So. 3d at 197. These principles reflect foundational constitutional norms, including a respect for the separation of powers and the Legislature's constitutionally assigned policymaking authority.

The Senate recognizes that the Florida Supreme Court in 2015 departed from its longstanding precedent and rejected the "beyond a reasonable doubt" standard in evaluating constitutional compliance of redistricting legislation and adopted an approach that shifted the burden to the Legislature to justify its redistricting choices. *League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 398-401 (Fla. 2015), *abrogated in part by Black Voters Matter*, 415 So. 3d at 180. To the extent *Black Voters Matter* did not expressly abrogate this holding, the

Senate respectfully preserves the argument that the Florida Supreme Court should recede from it and restore the ordinary presumption of constitutionality and the "beyond a reasonable doubt" standard. The Florida Supreme Court decisions altering a plaintiff's burden of proof to establish a constitutional violation based solely upon the subject matter of the challenge find no support in the text of the Florida Constitution and are clearly erroneous.

C. Plaintiffs' evidence does not establish legislative intent to favor or disfavor a political party.

Plaintiffs principally rely on legislative testimony concerning use of partisan data and expert analyses concerning partisan effects. Neither establishes a substantial likelihood of success.

First, Plaintiffs emphasize isolated committee testimony from Jason Poreda that partisan data was "considered" as part of the "entire suite of redistricting criteria that are available to other states." Equal Ground Mem. at 10, Thompson-Wynn Mem. at 13; Common Cause Mem. at 10, 16. But Plaintiffs ignore the overwhelming majority of Poreda's committee presentation, which painstakingly explained his map-drawing process on the basis of non-partisan considerations including race-neutrality, compactness, boundary usage, and population balancing. *See* Common Cause Ex. 11 at 20:2-7, 74:1-15; SOS Ex. 8 at 26, 27, 33-34.

Plaintiffs also fail to acknowledge Poreda's testimony expressly denying that he drew the map with partisan intent. *See* SOS Ex. 8 at 54 (testimony of Jason Poreda) ("I did not draw with partisan intent . . . [M]y intent was not to draw a partisan map in any way . . . [I]t was certainly not a factor and it was not

my intent to create or draw a partisan map."); *see also id.* at 26 (testimony of Mohammad Jazil, counsel to the Governor) ("Senator, my assessment or my analysis was [if] partisan intent can be taken into account. The map drawer is going to answer the question of whether or not partisan intent was, in fact, taken into account"); Equal Ground Mem. at 9 (citing Poreda's exchange with Senator Lori Berman where Poreda denied that he "set out to give more seats to Republicans" (SOS Ex. 8 at 50-51)).

Poreda also testified that, to the extent he considered partisan data, it came late in the process during "final balancing" after district configurations were largely established. *See* SOS Ex. 8 at 54. That sequence matters. A review of partisan data after district configurations have largely taken shape is not proof that the districts were drawn *because of* partisan considerations. The Supreme Court recently emphasized this distinction in *Alexander v. South Carolina State Conference of the NAACP*, 602 U.S. 1 (2024). There, the Court rejected inferences of unconstitutional motive based merely on evidence that map drawers "viewed racial data at some point during the redistricting process." *Id.* at 22-23; *see also id.* at 22 (noting map drawer's uncontroverted testimony that he considered the relevant racial data only after he had drawn the enacted map).

Plaintiffs' theory effectively treats any access to or awareness of partisan data as a constitutional violation. But article III, section 20, by its plain terms, does not prohibit a map drawer from reviewing political data. Nor does it require legislators to blind themselves to political *effects* of a districting plan. Instead,

the Florida Constitution prohibits districts drawn "with the intent to favor or disfavor a political party or an incumbent."

Plaintiffs also rely heavily on expert analyses purporting to show partisan asymmetry, voter "packing" and "cracking," and deviations from computer-generated simulations. But, once again, alleged partisan *effects* do not establish unconstitutional intent. Nothing in article III, section 20, guarantees proportional partisan outcomes or requires maps to conform to computer generated simulations. At most, Plaintiffs' experts offer competing policy judgments, disputed statistical analyses, and inferential claims concerning legislative purpose. Those issues are sharply contested and fact intensive. *See* SOS Exs. 1 & 2.

Importantly, Plaintiffs' expert witnesses are not authorized to testify as to their opinions about legislative intent. *See Taylor v. Novartis Pharm. Corp.*, No. 06-61337-CIV, 2013 WL 5118945, at *4 (S.D. Fla. Apr. 22, 2013) ("Defendant's motivation or intent is not a proper subject of expert testimony."); *see also In re Rezulin Prods. Liab. Litig.*, 309 F. Supp. 2d 531, 546 (S.D.N.Y. 2004) (stating that "the intent, motives or states of mind of corporations, regulatory agencies and others have no basis in any relevant body of knowledge or expertise" and thus are not admissible expert testimony); *cf. Luis v. State*, 851 So. 2d 773, 778 (Fla. 2d DCA 2003) ("[E]xpert testimony concerning the defendant's intent crosses the line from providing expert testimony to simply telling the jury how to decide the case."). At best, Plaintiffs have shown this case will involve experts debating over disputed facts and attorneys arguing about purported legislative intent. Plaintiffs

do not establish the clear and undisputed constitutional violation required for emergency injunctive relief.

Plaintiffs additionally seek to aggregate political rhetoric, partisan expectations, national redistricting efforts, media commentary, public statements, and electoral effects into a generalized theory of unconstitutional partisan intent. *See* Equal Ground Mem. at 7-11, 29-31, 35-36; Thompson-Wynn Mem. at 6-7, 10-13, 17-18, 22-23; Common Cause Mem. at 4-9, 18-19. That approach is incompatible with the constitutional text and structure. If accepted, Plaintiffs' theory would effectively constitutionalize a rule that Florida's redistricting process becomes suspect when political actors outside the Legislature advocate political outcomes (or even when an anonymous social media account "re-posts" a partisan message). The text of article III, section 20 contains no such prohibition. And under a faithful textual, structural, and original-public-meaning reading of the Florida Constitution, Plaintiffs have not established a substantial likelihood of proving that the Florida Legislature passed the Enacted Plan with the constitutionally prohibited intent to favor or disfavor a political party.

III. Plaintiffs have not established a substantial likelihood of success on their Tier II claims.

Plaintiffs likewise fail to establish a substantial likelihood of success on their claims under article III, section 20(b), of the Florida Constitution (the "Tier II" claims). At most, Plaintiffs identify disputed factual and methodological disagreements concerning compactness, political-boundary decisions, and competing districting preferences. Those disputes are neither sufficiently clear

nor sufficiently undisputed to entitle Plaintiffs to emergency statewide injunctive relief.

Article III, section 20(b) provides in relevant part that "[u]nless compliance with the standards in this subsection conflicts with the standards in subsection (a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries." The Tier II standards of stand on equal constitutional footing; none of these standards has priority over another under the Florida Constitution. Compactness and boundary-usage metrics therefore cannot be evaluated in isolation or through abstract geometric preferences divorced from the realities of statewide districting. No constitutional provision requires maximization of any single Tier II metric. *See Apportionment I*, 83 So. 3d at 635 ("The Florida Constitution does not mandate, and no party urges, that districts within a redistricting plan achieve the highest mathematical compactness scores"). As for boundary-usage, the Florida Constitution itself qualifies the criterion. The Florida Supreme Court has stated that the constitutional qualification "where feasible" permits "more flexibility" in balancing the boundary-usage metric with compactness. *Id.* at 636.

Plaintiffs principally challenge Congressional Districts 9, 15, 16, 22, and 25 as allegedly non-compact. They rely on visual comparisons, expert-generated simulations, compactness metrics, and alternative district configurations. But compactness is not a matter of aesthetic preference alone. Courts repeatedly recognize that compactness involves competing methodologies and context-

dependent judgment. *See id.* at 635 (noting that lower compactness measurements may result from the desire "to follow political or geographical boundaries or to keep municipalities wholly intact"). These fact-dependent issues are classic merits questions inappropriate for emergency resolution through temporary injunction proceedings.

Nor do Plaintiffs' computer-generated simulations establish a constitutional violation, even if they purportedly demonstrate the availability of "more compact" districts. The Florida Constitution does not require the Legislature to adopt the most compact theoretically possible map generated by computational modeling, and compactness statistics are not a rachet that must be tightened with every new redistricting plan. And computer simulations necessarily reflect the embedded assumptions, programmed priorities, weighting criteria, and discretionary methodological judgments of their programmers which may differ from the equally valid Tier II priorities of another map drawer. At most, simulated alternatives demonstrate that different districting choices were possible—a self-evident proposition. Florida's Constitution assigns the policy choice surrounding districting responsibility to the Legislature, not to the unknown methodological judgments and policy preferences underlying Plaintiffs' simulation software.

Finally, Plaintiffs challenge the Enacted Plan on the basis that it splits various counties and cities. Equal Ground Mem. at 13, 44-46; Thompson-Wynn Mem. at 29-30, 38, 45-46; Common Cause Mem. at 23, 26-27, 32-34, 40. While keeping counties or municipalities whole (or minimizing "splits") may be a

constitutionally *permitted* objective, that statistic alone does not directly measure a plan's compliance with the Florida Constitution's boundary-usage standard. It is, at best, an imperfect proxy for the constitutional requirement that districts use "existing political and geographical boundaries" where feasible. Art. III, § 20(b), Fla. Const. For example, the City of Tallahassee is contained wholly within Congressional District 2. But the district boundaries of District 2 do not coincide at any point with the boundaries of Tallahassee. The fact that Tallahassee is kept whole and not "split" in the Enacted Plan says little about District 2's use of existing political and geographical boundaries. The same is true of the various county or municipal "splits" discussed by Plaintiffs: the existence of splits does not itself establish constitutional infirmity.

In addition, Plaintiffs' overemphasis on city and county boundaries alone ignores the other geographical boundaries that Constitution authorizes the Legislature to take into account, such as roads and rivers. Plaintiffs want this Court to prioritize the usage of political boundaries over geographical ones, but this is not supported by the constitutional text. Municipal boundaries can be non-contiguous and often are not compact. This is yet another example of how following one consideration, such as political boundary usage, can lead to the diminution of another, such as compactness measures.

Ultimately, Plaintiffs' Tier II claims ask this Court to weigh competing expert methodologies, compare alternative districting philosophies, assess simulation models, and determine whether different statewide balancing judgments should have been made. These are quintessential trial issues

requiring full factual development with examination of experts, evidentiary findings, and careful statewide analysis. They are not issues appropriate for emergency resolution through a temporary injunction to replace the Enacted Plan before final adjudication. At minimum, Plaintiffs cannot establish the substantial likelihood of success on their Tier II claims required for the extraordinary statewide relief they seek.

IV. Serious constitutional and severability questions independently preclude emergency relief.

Recent federal and Florida precedent create substantial unresolved constitutional and severability questions concerning the operation and enforceability of article III, section 20. In *Black Voters Matter*, the Florida Supreme Court upheld Florida 2022 Plan on the ground that the remedial district sought by the plaintiffs would violate the Equal Protection Clause. 415 So. 3d at 200. The Court emphasized that federal equal-protection principles supersede the conflicting race-based provisions of the Florida Constitution, stating that "compliance with the Non-Diminishment Clause is not a compelling governmental interest under the test established in the Supreme Court's Equal Protection Clause jurisprudence." *Id.* at 197. The United States Supreme Court's subsequent decision in *Callais* further constrains the use of race-based districting and reinforces the constitutional limits imposed by the Equal Protection Clause.

Taken together, those decisions draw into question the enforceability of the race-based provisions of article III, section 20(a) of the Florida Constitution. As explained in the response of the Florida House of Representatives, those

provisions were adopted by Florida voters as part of a single integrated package addressing party-and-incumbent favoritism, compactness requirements, boundary-usage restrictions, and contiguity requirements. Art. III, § 20, Fla. Const. The ballot initiative was approved for ballot placement as a comprehensive framework addressing a single subject. *Advisory Op. to Att'y Gen. re Standards For Establishing Legis. Dist. Boundaries*, 2 So. 3d 175, 178-79 (Fla. 2009). The race-based provisions were not peripheral features, they were central components of the proposal's architecture, operation, and political presentation to the electorate.

Accordingly, if portions of article III, section 20 are unconstitutional, serious questions arise concerning whether those provisions are severable from the remainder of the amendment. The response of the Florida House of Representatives thoroughly explains why these provisions are not textually or structurally severable under Florida precedent and that article III, section 20 is unenforceable in its entirety. But at minimum, these issues present substantial and unresolved constitutional questions that independently preclude any finding that Plaintiffs have a "substantial likelihood of success" on the merits of their claims. Expedited temporary injunction proceedings are a poor vehicle for resolving constitutional questions of this magnitude and complexity.

V. The equities and public interest preclude emergency injunctive relief.

Even if the temporary injunctive relief Plaintiffs seek were available, and even if they had a viable merits theory on this record, the equitable considerations independently compel denial of their motions. Temporary

injunctive relief is never awarded as a matter of course, particularly where the requested injunction would disrupt statewide election administration and suspend the operation of a duly enacted law. Here, Plaintiffs seek extraordinary relief affecting every congressional district in Florida on the eve of the 2026 election cycle. The resulting disruption to election administration, candidate reliance, voter expectations, and the orderly conduct of elections would be immediate and substantial.

Supreme Court precedent recognizes the substantial dangers associated with late judicial intervention in election administration. In *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006), the United States Supreme Court explained: "Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls." The Supreme Court has repeatedly reaffirmed that principle in subsequent election cases involving congressional districting and election administration. For example, in *Merrill v. Milligan*, 142 S. Ct. 879 (2022), the Court entered an order staying district court injunctions that would have required Alabama to redraw its congressional districts in the weeks before the primary elections. Justice Kavanaugh's concurring opinion emphasized how an injunction in a redistricting case can create a "prescription for chaos for candidates, campaign organizations, independent groups, political parties, and voters, among others." *Id.* at 880 (Kavanaugh, J., concurring). State and local election officials "need substantial time to plan for elections" and even "heroic efforts likely would not be enough to avoid chaos and confusion." *Id.* For that reason, the *Purcell* principle teaches

that "[w]hen an election is close at hand, the rules of the road must be clear and settled. Late judicial tinkering with election laws can lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others." *Id.* at 880-81. *See also Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418 (2025) (staying district court decision enjoining the use of Texas's new congressional map in the 2026 elections).

Plaintiffs understate the magnitude of the disruption their requested relief would cause. Although they seek to characterize their requested injunction as a simple restoration of the prior district lines from the 2022 Plan, the practical reality is far more substantial. The requested injunction would require Florida election officials to immediately suspend administration and implementation of the Enacted Plan, revert election systems to a different congressional map, revise district assignments for purposes of candidate qualifying and ballot styles, modify candidate and voter information, and conduct the 2026 congressional election under a judicially imposed map. Those disruptions would occur against active election-administration deadlines and ongoing reliance interests affecting candidates, political parties, supervisors of elections, and voters statewide.

The requested relief would also inject substantial uncertainty into the electoral process itself. Candidates, election officials, and voters are entitled to stability and predictability in the administration of statewide elections. Temporary injunction proceedings are not meant to impose sweeping election changes on compressed timelines and incomplete factual records. As the First District recognized in *Byrd*, the circuit court that handled the congressional

redistricting litigation following the 2012 apportionment imposed a remedial plan only after a full trial and providing the Legislature two opportunities to adopt a compliant plan. *Byrd*, 339 So. 3d at 1082-83. That process ensured the orderly conduct of elections and avoided the chaos and uncertainty that Plaintiffs' requested relief could cause.

Here, Plaintiffs seek to skip the trial and jump ahead to their final requested relief. Under the Florida Constitution, the Legislature is entitled to make the policy decisions surrounding the enactment of district maps. Plaintiffs seek to strip the Legislature of this constitutional responsibility and ask the Court to implement their own policy preferences.

Plaintiffs also claim that they will suffer irreparable harm if Florida conducts its congressional elections under the Enacted Plan. Equal Ground Mem. at 53; Thompson-Wynn Mem. at 48; Common Cause Mem. at 62. Contrary to their rhetoric, however, the Plaintiffs' case involves the configuration of district lines, not the "constitutional right to vote." *Id.* The voting-method decisions Plaintiffs cite are of little relevance in evaluating the allegations of irreparable harm here.

Finally, the public interest strongly favors the orderly conduct of elections and respect for duly enacted legislation pending final adjudication. Whatever disputes exist concerning the merits of Plaintiffs' claims, the public interest does not favor emergency judicial replacement of statewide congressional districts through temporary injunction proceedings and on a preliminary evidentiary record. This would create an immediate disruption for election officials,

candidates, and voters. The potential for interlocutory appeals through two levels of Florida's judiciary, and motion practice regarding a stay of any injunction order, only heightens the possibility of electoral chaos. *Byrd* recognized this danger in the congressional redistricting context four years ago and appropriately reinstated a stay of the trial court's preliminary injunction—a decision that was upheld by the Florida Supreme Court when it denied the plaintiffs' petition for a constitutional writ. *Black Voters Matter Capacity Bldg. Inst., Inc.*, 340 So. 3d at 475.

If the case ultimately warrants relief after full adjudication on the merits, the Court will retain authority to enter appropriate final remedies. But the extraordinary and disruptive interim relief Plaintiffs seek is neither necessary nor equitable at this stage.

For all of these reasons, the equities and public interest preclude issuance of a temporary injunction.

Conclusion

Plaintiffs' motions for temporary injunctions should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 13, 2026, this document was filed through the Florida Courts E-Filing portal and was served by email on all counsel of record.

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