

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

Equal Ground Education Fund, *et al.*,

Plaintiffs,

Case No. 2026 CA 000914

v.

Cord Byrd, in his official capacity as  
Florida Secretary of State, *et al.*,

Defendants.

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**SECRETARY OF STATE'S RESPONSE IN OPPOSITION TO  
MOTION FOR TEMPORARY INJUNCTION**

This Court should deny Plaintiffs' motion for temporary injunction. The problems with it are fourfold: (1) such injunctions aren't available in declaratory judgment actions like this one; (2) the kind of prohibitory *and* mandatory relief that Plaintiffs seek is exceedingly rare and inappropriate here; (3) Plaintiffs are unlikely to succeed on the merits; and (4) the changes Plaintiffs seek this close to an election are highly disfavored because of their potential to cause confusion and chances for errors. Compounding problems, as to the merits argument, Plaintiffs haven't met the fact-specific test for showing that the State has run afoul of the prohibitions on partisan gerrymandering. Nor have they shown that the State has run afoul of the preferences for compactness and adherence to political and geographic boundaries. And even if they could establish a violation of the prohibitions and preferences in Article III, § 20, the State is under no obligation to adhere to this provision when a cornerstone of its tiered architecture is invalid under the U.S. Constitution's Equal Protection Clause.

**Background**

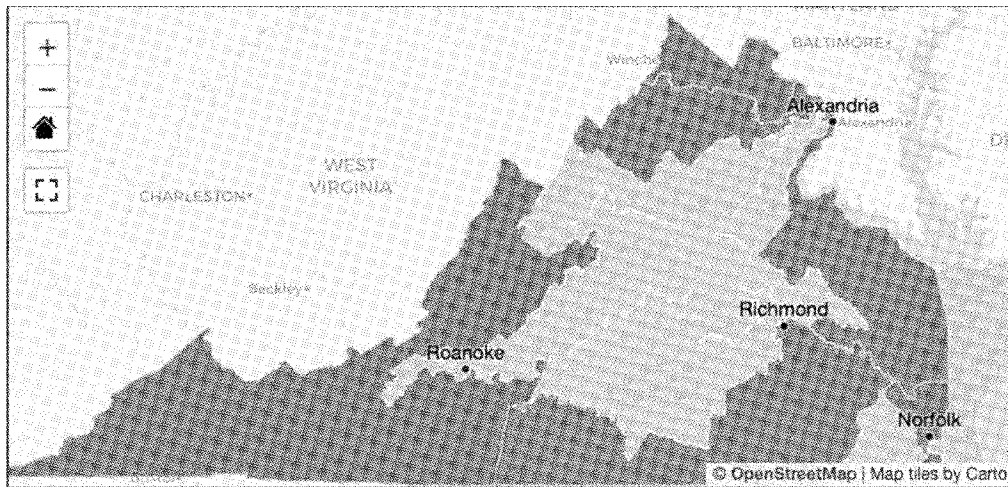
On April 29, 2026, the Florida Legislature passed a bill creating a new congressional redistricting plan. On May 4, 2026, the Governor signed that bill into law. Plaintiffs filed their complaint the same day. They moved for a temporary injunction on May 6, 2026.

In their motion, Plaintiffs provide reams of material but scant evidence to support the extraordinary relief they seek. The claim of partisan favoritism is tethered only to maps showing the district lines overlayed onto the results of a few elections, hearsay from their supposed experts, thoughts about tweets, their perspective on Fox News coverage, and a single factual representation from the Governor’s map drawer. *See* Mot. at 7-11. The mapmaker’s statement was that he used “the entire suite of redistricting criteria that are available to other states” “including partisan data.” Mot. at 10 (quoting legislative transcript). Missing from Plaintiffs’ facts is anything suggesting that the legislature—a separate branch of government—harbored an improper intent. Also missing is evidence of the kind of third-party influence on the redistricting process that proved dispositive after the 2010 decennial census. Though that was a *post-trial* finding. *See, e.g., League of Women Voters of Fla. v. Detzner*, 179 So. 3d 258, 262 (Fla. 2015) (“*Apportionment VIII*”); *League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 374 (Fla. 2015) (“*Apportionment VII*”).

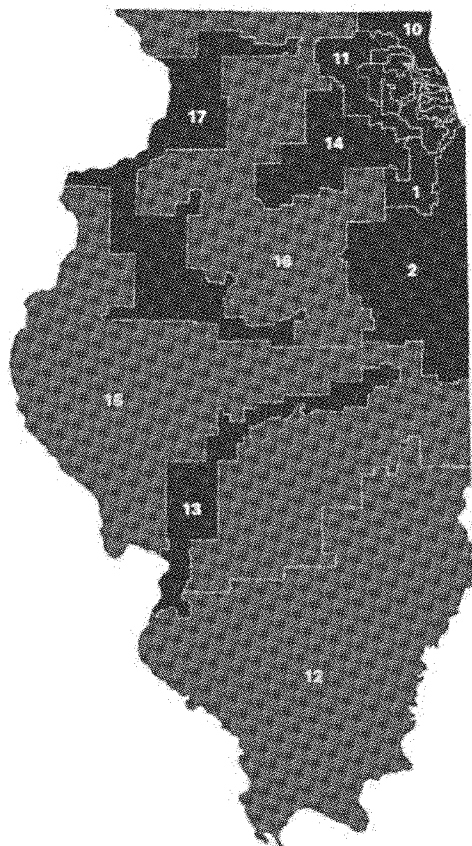
When it comes to compactness and boundary scores, these are relative concepts. There is no brightline beyond which a map goes from being compact to uncompact and no precise boundary score that serves as a cutoff for compliance; there are only comparisons. *See generally* **Exhibit 2** (Dr. Trende Report) at 13-18 (discussing compactness). And, when judged against the 2022 map—which was tested in the state and federal courts—the two maps are comparable, as Mr. Poreda told the legislature. **Exhibit 8** (Senate Rules Committee Transcript) at 11; *see also* Map & Statistics Package, [https://www.flsenate.gov/PublishedContent/Session/Congressional/11x17\\_mapandstats\\_EOGPC\\_RP2026.pdf](https://www.flsenate.gov/PublishedContent/Session/Congressional/11x17_mapandstats_EOGPC_RP2026.pdf) (last visited May 13, 2026) (providing statistics for the 2026 plan).

Finally, on its face, Florida’s map lacks the telltale signs of a partisan gerrymander. That’s unlike Virginia’s recently approved (and later enjoined) congressional plan where one part of the map (northern Virginia) looms over the rest with partisan thunder bolts clapping down onto the rest of the state. Nor is it like Illinois’ map with the Chicago area split into as many districts as possible to favor

one political party. Or the California plan with large urban areas like Los Angeles split up like strands of blue spaghetti.



(Virginia) <https://www.vpap.org/redistricting/2026>



(Illinois) <https://www.270towin.com/2026-house-election/states/illinois>



(Los Angeles Zoomed In) <https://www.270towin.com/2026-house-election/states/california>

The Secretary disputes that the 2026 congressional plan is “more partisan than any plan enacted in any state in the past fifty years,” as Plaintiffs claim through their expert analysis. Mot. at 26; *see also* Mot. at 31. With additional time, the Secretary hopes to prove this statement to be false.

### Argument

- I. **No *temporary* injunction is available in a declaratory judgment action such as this; there needs to be a trial before Plaintiffs can get the relief they seek.**

Plaintiffs seek to invalidate a map properly passed by the legislature and signed into law by the Governor. That is no small feat given that the redistricting plan, “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) (“*BVM II*”). But even more brazen is Plaintiffs’ attempt to secure *preliminary* relief while the case is litigated. The First District recently told this Court that it can’t temporarily enjoin and then replace congressional plans enacted by the Florida Legislature and signed into law by

the Governor. *Byrd v. Black Voters Matter Capacity Bldg. Inst., Inc.*, 339 So. 3d 1070 (Fla. 1st DCA 2022), *writ denied*, 340 So. 3d 475 (Fla. 2022) (“*BVMI*”). That case concerned the State’s 2022 plan. “Because there ha[d] been no trial and no final adjudication,” this Court “could not reach whether recently enacted Senate Bill 2-C (“SB 2-C”) comports with Article III, section 20, of the Florida Constitution.” *Id.* at 1073.

More specifically, the First District explained in *BVMI* that the “unique nature of a declaratory judgment” makes it so the declaration itself “*is the final relief.*” *Id.* at 1077. “There [is] nothing to remedy beforehand.” *Id.* That’s because “[t]he nature of a declaratory judgment is distinctive in that it ‘stands by itself; that is, no executory process follows as of course. In other words, *such a judgment does not involve executory or coercive relief.*’” *Id.* (citing *Watson v. Claughton*, 34 So. 2d 243, 245 (Fla. 1948)). Thus, “chapter 86 provides no authority for the circuit court to grant any affirmative, remedial relief,” *id.* at 1078, prior to a merits decision after trial on a declaratory action. Only after a merits decision can supplemental measures, including injunctions, “become available as needed to effectuate the judgment.” *Id.* at 1082. For good measure, the First District noted that “[a] temporary injunction is not an adjudication; it does not decide the merits.” *Id.* at 1078. This means that “a temporary injunction cannot be used in a declaratory judgment action as an interim remedial tool.” *Id.* at 1082. “The declaratory judgment must come first as a final order.” *Id.*

The First District went on to put its decision into “the proper context” by going “way back to 2012.” *Id.* at 1079. There, as here, litigation began shortly after the Florida Legislature enacted its plan. *Id.* But it took “years of litigation” for another plan to be put in place for the 2016 congressional election, *id.*; “not one, but two congressional elections went forward under a redistricting plan that was challenged,” and was later found to violate the Florida Constitution, *id.* at 1083. There was no rush to impose a *temporary* injunction that granted *final* relief without deciding the merits after a trial.

*Id.*; see also *City of Newberry v. Alachua County*, 366 So. 3d 1176, 1179 (Fla. 1st DCA 2023) (“[C]hapter 86 requires a plaintiff to obtain declaratory relief first, *before* the plaintiff seeks an injunction.”).

The setup for this case is like *BVM I*. Plaintiffs seek to temporarily enjoin a new congressional plan. They wish to do so through a declaratory judgment action. They wish to do so without an adjudication on the merits. And they wish to do so on the cusp of the next election, with the Florida Department of State accepting qualifying materials for congressional candidates beginning May 25, 2026. § 99.061(8), Fla. Stat.; see also **Exhibit 3** (Matthews Declaration). That’s improper. Such relief is unavailable under binding First District precedent.

This Court came to a similar conclusion in *City of Destin v. The Honorable J. Alex Kelly, Secretary of Commerce*, No. 2025-CA-1876, Doc.42 (Fla. 2d Cir. Ct. Dec. 29, 2025) (Dempsey, J.). **Exhibit 4**. There, the plaintiffs filed an action challenging the validity and constitutionality of Senate Bill 180, Ch. 2025-190, Laws of Florida, which concerned limitations on local governments in emergencies, and sought to enjoin it through a temporary injunction filed in a declaratory judgment case. This Court denied that motion, relying in part on *BVM I*. **Exhibit 4** at 2 (quoting *BVM I*, 339 So. 3d at 1077) (finding that “*Black Voters Matter*” “precludes the issuance of the requested preliminary injunction here”); see also *State v. Planned Parenthood of Sw. & Cent. Fla.*, 342 So. 3d 863, 868 (Fla. 1st DCA 2022) (similar).

Nor can Plaintiffs defend their request for a temporary injunction on the theory that they merely seek to “preserve the status quo.” Mot. at 1. As explained by the Governor in his letter to the legislature, the 2022 map—the status quo that Plaintiffs ask to maintain—was a “compromise” map that, although preferable to prior maps, suffers from racial defects. **Exhibit 5** (Axelman Letter) at 2. “[R]eturning to the status quo” would therefore be “infeasib[le].” *BVM I*, 339 So. 3d at 1080; see also *id.* at 1081 (noting that courts should consider the “unavailability of the status quo” before entering interim injunctive relief). In particular, “Congressional District 20 in the southeast has an odd shape

with two claws that track the black population,” “arguably a telltale sign of racial predominance.” **Exhibit 5** at 2. And the “legislative record shows” that several other districts in the 2022 map “were drawn with the Hispanic voting age population in mind to comply with the race-based requirements of the FDA.” **Exhibit 5** at 2. Both the Florida and U.S. Supreme Courts have since made clear that this sort of reliance on race is impermissible and fails strict scrutiny in all but the most extraordinary cases. *See BVM II*, 415 So. 3d at 197; *Louisiana v. Callais*, No. 24-109, slip op. at 33 (U.S. Apr. 29, 2026). The 2022 map is not one of those extraordinary cases—no one has identified any ongoing, concrete racial discrimination that its race-based considerations were drawn to rectify. *See Callais*, No. 24-109, slip op. at 30-31. And it’s Plaintiffs burden to show that the 2022 congressional plan remains workable. *BVM II*, 415 So. 3d at 197-98.

Bottomline: *BVM I* precludes this Court from issuing a temporary injunction. This Court should thus decline to issue one just as it did in *City of Destin*.

## **II. The prohibitory and mandatory relief being sought is inappropriate.**

Even if this Court could issue a temporary injunction in a declaratory judgment case, such an injunction would still be inappropriate. Plaintiffs seek to *prohibit* the use of the 2026 congressional plan and *mandate* the use of another congressional plan before a trial on the merits. *See* Mot. at 1 (arguing for “the court-approved map that governed Florida’s last two congressional elections”); *id.* at 55 (similar). It’s this second part that creates an additional problem for Plaintiffs. “[I]njunctions which compel or mandate affirmative action by a party are disfavored.” *Bull Motors, LLC v. Brown*, 152 So. 3d 32, 35 (Fla. 3d DCA 2014). Courts should be “even more reluctant to issue [mandatory injunctions] than prohibitory ones.” *Grant v. GHG014, LLC*, 65 So. 3d 1066, 1067 (Fla. 4th DCA 2010). Mandatory injunctions are “seldom granted,” *Groff G.M.C. Trucks, Inc. v. Driggers*, 101 So. 2d 58, 60 (Fla. 1st DCA 1958), and only in “rare cases,” *Kline v. State Beverage Dep’t of Fla.*, 77 So. 2d 872, 874 (Fla. 1955), where

there's a clear legal right "free from reasonable doubt," *Spradley v. Old Harmony Baptist Church*, 721 So. 2d 735, 737 (Fla. 1st DCA 1998).

This is not that rare case. Plaintiffs' partisanship claim turns on a fact-specific, burden-shifting, totality-of-circumstances test for partisan intent under Article III, § 20(a) of the Florida Constitution. *Infra*. Claims related to compactness and boundary adherence have no clear-cut answers, either. *Infra*. That's because compactness and boundary analysis are relative concepts—they turn on comparisons. *Infra*. All of that's *before* this Court even considers whether adherence to Article III, § 20 is required when a centerpiece of that provision mandates express racial classifications in violation of the Federal Constitution's guarantee of equal protection. *Infra*.

In short, as further detailed below, Plaintiffs can't establish a clear legal right free from reasonable doubt. It follows that Plaintiffs aren't entitled to a judicially disfavored *mandatory* injunction directing the State to run an election under a map other than the one approved and enacted by the political branches. Rather, this case fits neatly within the "general rule that a mandatory injunction can only be properly granted on a final hearing"—a trial. *Wilson v. Sandstrom*, 317 So. 2d 732, 736 (Fla. 1975); *see also Gulf Power Co. v. Glass*, 355 So. 2d 147, 148 (Fla. 1st DCA 1978). That hasn't happened.

### **III. Plaintiffs are unlikely to succeed on the merits and a temporary injunction isn't in the public interest.**

If Plaintiffs get past the initial hurdles to a temporary injunction—and they shouldn't—they must still (1) demonstrate "a substantial likelihood of success on the merits," (2) show "lack of an adequate remedy at law," (3) prove "irreparable harm," and (4) make plain that the injunction is in the "public interest." *Reform Party of Fla. v. Black*, 885 So. 2d 303, 305 (Fla. 2004). Plaintiffs aren't entitled to this "extraordinary remedy" because they stumble at the first and fourth steps, likelihood for success on the merits and the public interest. *City of Jacksonville v. Naegele Outdoor Advert. Co.*, 634 So. 2d 750, 752 (Fla. 1st DCA 1994).



**A. Plaintiffs are unlikely to succeed on the merits.**

Plaintiffs claim that Florida’s 2026 congressional plan violates several provisions of Article III, § 20 of the Florida Constitution. Article III, § 20 erects two tiers of standards for congressional boundaries and instructions on how the two tiers should interact:

(a) No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.

(b) Unless compliance with the standards in this subsection conflicts with the standards in subsection (a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.

(c) The order in which the standards within subsections (a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection.

Plaintiffs’ main merits argument centers on an alleged violation of Article III, § 20’s prohibition on partisan intent—the Tier I argument. Mot. at 28-37. They also contend that Florida’s 2026 congressional plan “violates the Florida Constitution’s Tier II requirements,” namely those concerning compactness and adherence to geographic and political boundaries. Mot. at 38-46. Plaintiffs recognize, of course, that their Tier I and Tier II arguments overlap. Mot. at 30-35. Yet they still say that the race-based provisions of Article III, § 20—which violate the Federal Constitution’s Fourteenth Amendment—are severable from the other provisions. Mot. at 46-50. But, at this early stage of the proceedings, Plaintiffs can’t establish improper partisan intent on the part of the executive or legislative branch. They can’t show a violation of the Tier II standards. Nor do they succeed in establishing that they are likely to prevail on the severability argument.

**1. Plaintiffs can't meet the current test for improper partisan intent.**

a. Among other things, Article III, § 20(a) provides that “[n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party.” Challengers bear the heavy burden of overcoming the presumption of validity that attaches to every enacted plan when attempting to prove improper partisan intent. *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 606 (2012) (“*Apportionment P*”); see also *In re Senate Joint Resol. of Legis. Apportionment 2-B*, 89 So. 3d 872, 881 (Fla. 2012) (“*Apportionment II*”). The presumption is significant: It “serves to recognize the deference initially owed to legislative acts upon passage” and reflects the “fundamental doctrine of separation of powers” that places “the primary responsibility” of line-drawing on the political branches. *Apportionment I*, 83 So. 3d at 606. It persists until a court makes an affirmative finding that the plan was drawn with unconstitutional partisan intent. *Apportionment VII*, 172 So. 3d at 391-92. Only “[o]nce a tier-one violation of the constitutional intent standard is found” does the burden shift to the State “to justify its decisions, and no deference should [be] afforded to the Legislature’s decisions regarding the drawing of the districts.” *Id.* at 400.

Article III, § 20(a)’s use of the word “intent” is also significant. In this way, the Florida Constitution “does not require the affirmative creation of a fair plan”—one whose partisan *effect* is the proportional distribution of seats to the two major parties. *Apportionment I*, 83 So. 3d at 643. The Florida Supreme Court has even said that the State doesn’t need to “compensate for a natural packing effect of urban Democrats in order to create a ‘fair’ plan,” or “alter the plan to bring it more in balance with the composition of voters statewide.” *Id.*

Proving intent is then an inherently fact-specific task. It’s a difficult task as well. Plaintiffs must prove the collective intent of a legislative body from a mix of statements, processes, and outcomes. *Apportionment VII*, 172 So. 3d at 376-78, 388-89. The facts considered include the improper use of and access to “political data,” *Apportionment I*, 83 So. 3d at 619; the “effects of the plan,” though effect

isn't sufficient by itself, *id.* at 617; the “shape of district lines,” *id.*; a “disregard for [Tier II] principles,” *id.* at 618; an assessment of alternative plans, *id.* at 611; the “specific sequence of events leading up to the challenged decision,” *Apportionment VII*, 172 So. 3d at 389; and “[d]epartures from the normal procedural sequence,” *id.* This list is not exhaustive, however. The Florida Supreme Court’s test relies on a totality-of-circumstances framework borrowed from the federal courts. *Id.* at 388-89 (citing *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977)).

The only previous instance of Article III, § 20(a) being used to invalidate a congressional plan followed a twelve-day trial. *Apportionment VII*, 172 So. 3d at 376. Among other things, the adjudicated facts included the following:

- The existence of a parallel redistricting process separate from the legislature’s public-facing process, *id.* at 376-77;
- The legislature’s destruction of “almost all” emails and “other documentation relating to redistricting,” *id.* at 392;
- Evidence of meetings between political consultants and legislative leaders early in the redistricting process, *id.*;
- Continued involvement and influence of political consultants throughout the legislative process, *id.*; and
- The use of an admittedly partisan 2002 congressional plan as the starting point for the redistricting, *id.* at 371.

Importantly, none of these facts are present in Plaintiffs’ challenge to the 2026 congressional plan.

There’s another complication when it comes to partisan intent in the drawing of a congressional plan. The Governor can, if he chooses, become involved in the congressional redistricting process. If that happens, Plaintiffs must bear the burden of proving improper partisan intent on the part of the Governor *and* the Florida Legislature. The allegedly improper intent of one branch can’t be imputed to the other. The U.S. Supreme Court has explained that such a “‘cat’s paw’ theory has no application to legislative bodies.” *Brnovich v. DNC*, 594 U.S. 647, 689 (2021). The

executive and legislative branches are separate entities with different duties and functions and are accountable to different constituencies. “It is insulting to suggest that” state legislators “are mere dupes or tools” of another branch of government. *Id.* at 690.

**b.** Plaintiffs fall short of establishing partisan intent under the existing framework. The 2026 congressional plan comes to this Court with a presumption of correctness. That presumption is overcome only after this Court holds a trial and makes an affirmative finding that the plan is infected with improper partisan intent. *See Apportionment VII*, 172 So. 3d at 391-92. But there’s been no trial. There’s been no adjudicated finding of improper partisan intent. So, the presumption must stand.

Even if the presumption could be overcome without a trial, Plaintiffs haven’t overcome it here. Statements attributed to the President of the United States and legislators in Texas, North Carolina, and Missouri can’t overcome the presumption. Mot. at 7. They play no role in Florida’s redistricting process. Nor can the hearsay statement attributed to Senator Joe Gruters overcome the presumption. Mot. at 7. That’s because he never participated in any legislative hearing on the plan, and he never even voted on the plan. **Exhibit 6** (Senate Rules Committee Vote); **Exhibit 7** (Senate Floor Vote). Tweets from the handle “Team DeSantis” don’t speak for the Executive Office of the Governor and aren’t self-authenticating. *See generally* § 90.902, Fla. Stat. A statement from the Governor about Republicans now having a “1.5 million” voter registration advantage is a statement of fact that has little effect on the intent inquiry. Mot. at 9. Mr. Poreda’s statement that he looked at “the entire suite of redistricting criteria,” “including partisan data,” doesn’t move the ball as much as Plaintiffs need. Mot. at 10. That’s because no legislator asked Mr. Poreda what precisely that data was—voter registration, turnout data, all available election results, or merely the results of one recent election. Nor did anyone ask Mr. Poreda how he used that partisan data—whether it affected *any* of the shapes of *any* of the districts. And Mr. Poreda stated emphatically on the record that he did not have partisan intent. **Exhibit 8** (Senate Rules Committee Transcript). The Senate’s sponsor later relied

on Mr. Poreda's statement in his floor speech. **Exhibit 9** (Senate Floor Debate Transcript) at 8 ("The Governor's representatives indicated yesterday that they did not use partisan information in a way that was different from the usual fashion that redistricting is done and that functional analysis is done.").

All that's left are the expert reports from Drs. Rodden, Chen, and Warshaw. They provide analysis that the State's experts (Drs. Trende and Voss) rebut. This Court has had no opportunity to hear from any of these experts, assess their methodology, or judge their credibility, so those reports cannot possibly justify preliminary relief at this stage of the litigation.

At the most basic level, Plaintiffs' experts gripe that Democrats don't have enough proportional representation. But that's not enough to succeed in a partisan intent claim. After all, the Florida Constitution "does not require the affirmative creation of a fair plan" that must "compensate for a natural packing effect of urban Democrats" or bring the likely results "more in balance with the composition of voters statewide." *Apportionment I*, 83 So. 3d at 643.

That's not all. As Dr. Voss notes, Dr. Chen's claims about partisanship suffer from several methodological problems. **Exhibit 1** (Dr. Voss Report). As an initial matter, Dr. Chen doesn't try "to capture legislative intent directly." **Exhibit 1** at 5. Rather, this is an inference being drawn from simulations in a state whose "political geography favors the Republican Party," which Dr. Chen must concede. **Exhibit 1** at 5. Dr. Chen also fails to "systematically isolate the effect of political geography from the effect of the newly adopted lines," creating a bias in his analysis. **Exhibit 1** at 5. He further collapses the requirement to utilize existing political and geographic boundaries into a "single consideration," the preservation of county borders. **Exhibit 1** at 6. He then "selectively uses" the 2022 map in his analysis, using it for his county comparisons but *not* for compactness or boundary usage. **Exhibit 1** at 6. Nor does Dr. Chen assess whether any "previous number of county splits might have been imposed by an obsolete interpretation" of the Voting Rights Act. **Exhibit 1** at 6. The "overwhelming emphasis on counties" may also skew Dr. Chen's simulations to favor the Democratic

Party. **Exhibit 1** at 6-7. Other problems include an unexplained floor for county splits, **Exhibit 1** at 7; possible errors in the number of splits, **Exhibit 1** at 7; misleading presentations of compactness numbers that, frankly, are not that different from the 2022 congressional plan, **Exhibit 1** at 7-8; unexplained assumptions about voting behavior at the Census block level “despite voting not being reported for those geographical areas,” **Exhibit 1** at 8; and the failure to provide “diagnostics for the simulations” so we can tell whether the 5,000 simulated maps are really any different from one another, **Exhibit 1** at 9. Other problems couldn’t be adequately studied given the rushed nature of these proceedings. **Exhibit 1** at 3-4.

Dr. Trende takes issue with the conclusions offered by Drs. Warshaw and Rodden. **Exhibit 2** (Dr. Trende Report). Dr. Warshaw uses a metric called “GEOMETRIC” in his analysis that, in Dr. Trende’s estimation, “appears to be both theoretically and operationally flawed,” **Exhibit 2** at 4; “has never been utilized before in litigation,” **Exhibit 2** at 4; fails to account for “any of the principles that might constrain parties in the real world,” **Exhibit 2** at 6, and just gets the question of partisan gerrymandering plain wrong in several known instances, **Exhibit 2** at 6-7. Dr. Warshaw also used an “efficiency gap” metric for partisanship, which looks at a party’s “excess” or “wasted” votes. **Exhibit 2** at 7-8. But this approach is riddled with flaws, **Exhibit 2** at 8-11, and it’s not a stable metric that tells us “whether something is or is not a gerrymander” in “future year[s],” **Exhibit 2** at 11. The “declination” metric has a history of misclassifying maps. **Exhibit 2** at 11. And Dr. Warshaw’s touting of the correlation between these various metrics doesn’t make sense to Dr. Trende. If the metrics are correlated, “what is the point of including them all?” **Exhibit 2** at 12. Dr. Trende also finds it surprising that Dr. Warshaw didn’t use other more common metrics, like the “mean-median score” or the “mean-median gap” that Dr. Warshaw employed in prior work, including prior work in Florida. **Exhibit 2** at 12-13.

As for Dr. Rodden, his attempt at showing the packing or cracking of Democratic voters is also flawed. “[W]hat Dr. Rodden seems to want is for Democrats in Tampa to be packed, and for Democrats in Miami to be cracked” without some baseline metric of why. **Exhibit 2** at 18. He wants cities to be kept whole. **Exhibit 2** at 19. But the Florida Constitution speaks in terms of all political and geographic boundaries *and* “cities in Florida are often non-compact and even non-contiguous.” **Exhibit 2** at 19. Dr. Rodden also reviews “the political performance of the 2015 plan, which was drawn with one fewer [congressional] district and uses population figures from 2010,” all of which tells us little about the 2026 congressional plan. **Exhibit 2** at 19. He faults the 2026 congressional plan for splitting Census Designated Places without telling us whether Florida respects or requires consideration of CDPs. **Exhibit 2** at 19. The color-coding on his maps misleads the reader into thinking that Republican areas are more Republican than they actually are. **Exhibit 2** at 19-20. The city splits in his report similarly mislead the reader by displaying only the cities in the region that are split, instead of including all the cities in a region which would “illustrate the complexity of following municipal boundaries to keep them whole.” **Exhibit 2** at 20. And some of the core-retention figures in his report are inaccurate. **Exhibit 2** at 20.

In sum, based on the material provided to date, Plaintiffs can’t establish partisan intent on the part of the Governor or the Florida Legislature.

## **2. Plaintiffs can’t establish that the 2026 plan fails the Tier II requirements.**

**a.** The Tier II requirements also require Plaintiffs to overcome the presumption of correctness. Compactness requires a showing that the shape of the district is unusual. *Apportionment I*, 83 So. 3d at 634. “[F]inger-like extensions,” “narrow and bizarrely shaped tentacles,” and “hook-like shape[s]” are “constitutionally suspect and often indicative of racial and partisan gerrymandering.” *Id.* at 638. “[Q]uantitative geometric measures of compactness” from “commonly used redistricting software” are used as proxies for the eye-ball test. *Id.* at 635. Alternatives are considered for comparison. *See, e.g.,*

*Apportionment VII*, 172 So. 3d at 436. The story is much the same for adherence to geographic and political boundaries. Importantly, as Plaintiffs note in their papers, the Tier II requirements are most relevant when used as a “yardstick by which to evaluate” whether a district can be drawn with improper partisan intent. *Apportionment I*, 83 So. 3d at 636. In this way, the Tier II requirements overlap with the Tier I analysis and vice versa. So, again, proving a violation requires well-developed facts.

b. Here, as Mr. Poreda testified before the Florida Legislature, the overall compactness of the 2026 congressional plan is consistent with the 2022 congressional plan that it replaced. **Exhibit 8** (Senate Rules Committee Transcript) at 11. The geographic and political boundary scores are much the same, too. **Exhibit 8** at 11-12; *see also* Map & Statistics Package, [https://www.flsenate.gov/PublishedContent/Session/Congressional/11x17\\_mapandstats\\_EOGPC\\_RP2026.pdf](https://www.flsenate.gov/PublishedContent/Session/Congressional/11x17_mapandstats_EOGPC_RP2026.pdf) (last visited May 13, 2026) (providing statistics for the 2026 plan); **Exhibit 1** (Dr. Voss Report) at 7-8 (discussing compactness). For Plaintiffs to rebut these statements made on the legislative record, they must explain why any differences on a plan-wide basis or on a district-by-district basis are meaningful from a practical perspective. Dr. Chen’s statistical sleight of hand doesn’t get the job done for the reasons that Dr. Voss explains. **Exhibit 1** at 7-8.

### 3. Article III, § 20 is unconstitutional and not severable.

a. If Plaintiffs can show that they are entitled to a preliminary injunction in a declaratory judgment case such as this *and* that a prohibitory and mandatory injunction is appropriate *and* that they have enough facts to satisfy the test for partisan intent or failure to adhere to Tier II criteria, they still lose. That’s because Article III, § 20 is unconstitutional and inseverable.

b. Article III, § 20(a) makes express classifications based on race. It states that “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.” Art. III, § 20(a), Fla. Const. Article III, § 20(b) goes on to say that



these race-based provisions supersede traditional redistricting criteria, like compactness and use of political and geographic boundaries, whenever there are “conflicts.” Race is a Tier I consideration, per Article III, § 20. Traditional redistricting criteria are Tier II considerations.

By its plain language, Article III, § 20 thus directs the legislature to use racial data, assess the political behavior of racial groups, determine whether racial minorities can elect candidates of their choice in specific districts, and draw (or refrain from drawing) district lines to protect the electoral prospects of people divided up by their race. The Florida Supreme Court recognized as much in its earliest case interpreting the race-based provisions of Article III, § 20. *Apportionment I*, 83 So. 3d at 619, 625-26 (discussing the functional analyses necessary under Article III, § 20).

To put it another way, Article III, § 20 isn’t a race-neutral provision susceptible to both constitutional and unconstitutional applications. Rather, it’s a provision that, in every “set of circumstances,” requires the legislature to sort voters by race and make legislative decisions based on racial classifications. *United States v. Salerno*, 481 U.S. 739, 745 (1987). The next question then is whether this race-based sorting is constitutional. It isn’t.

Sorting people based on race is highly suspect. *See, e.g., Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 208 (2023). It triggers the strictest of constitutional scrutiny. *Id.* at 206-07. To satisfy this strictest of scrutiny, there must be a compelling reason justifying the use of race, and a narrowly tailored application of the race-based solution to solve the race-based problem. *Id.*; *see also Callais*, No. 24-109, slip op. at 33 (“Louisiana’s enactment of SB8 triggered strict scrutiny because the State’s underlying goal was racial.”).

When it comes to redistricting, only “[c]ompliance with § 2 [of the Voting Rights Act], *as properly construed*, can provide such a [compelling] reason.” *Id.* at 2-3. That section of the Voting Rights Act was enacted through Congress’ exclusive authority to enforce the Fifteenth Amendment to the

U.S. Constitution. *Id.* at 4. And it was supported by a detailed record of race-based problems. *Id.* at 3 (citing *South Carolina v. Katzenbach*, 383 U.S. 301, 309-15 (1966)).

To state the obvious, Article III, § 20 of the Florida Constitution is nothing like the Voting Rights Act properly construed. In *BVM II*, the Florida Supreme Court held just that. 415 So. 3d at 197. *BVM II* said that Florida’s race-based provisions fail to provide the compelling reason necessary to justify the use of race because Article III, § 20 “is untethered to documented findings of intentional discrimination, past or present.” *Id.* “[U]nlike the Voting Rights Act,” Article III, § 20 also “lacks features tying its continued existence to the persistence of intentional discrimination in the future.” *Id.* It was adopted through a citizen-initiative process without any “voluminous record” showing a race-based problem that needed a race-based solution and without Congress’ exclusive enforcement authority under section two of the Fifteenth Amendment. *Id.* It was also modeled after a now improper interpretation of the Voting Rights Act. *See Callais*, No. 24-109, slip op. at 17-35. Thus, complying with Article III, § 20 can’t satisfy strict scrutiny. *See BVM II*, 415 So. 3d at 197.

To recap: Application of Article III, § 20’s race-based provisions necessarily requires racial classifications. These classifications, particularly after *BVM II*, can’t provide the compelling interest that strict scrutiny demands. 415 So. 3d at 197-98. The U.S. Supreme Court has made plain that race-based government action is inherently odious, even when undertaken for a remedial reason. *Students for Fair Admissions*, 600 U.S. at 206-08. And so, Article III, § 20’s race-based provisions violate the guarantees of equal protection under the U.S. Constitution’s Fourteenth Amendment—the superior and supreme law of the land. *See id.*; *Callais*, No. 24-109, slip op. at 18.

c. Because Article III, § 20’s race-based provisions are unconstitutional, the next question becomes whether these provisions are severable from the rest of this section. They are not.

*First*, severability plays a role in the analysis because it “implicates separation of powers.” *Gaymon v. State*, 288 So. 3d 1087, 1092 (Fla. 2020). Florida’s earliest case concerning the issue

emphasizes the need to prevent “trespass by the judicial department upon the legislative domain.” *State v. Deal*, 4 So. 899, 907 (1888). Done properly, severability aims to effectuate legislative intent without rewriting the law. So “a court *should hesitate* before pronouncing any of its parts to have the force of law” “unless it is *entirely clear* that the spurious parts are such as could not have influenced [the legislature] to approve the other parts, or, in other words, unless the latter are entirely severable, or distinct, and independent from the former.” *Id.* (emphasis added).

The danger is apparent: Allowing a law to stumble along after a court has excised some of its component parts undermines the entire legislative scheme. The danger becomes more acute when confronting language—as here—adopted by citizen initiative.

Article XI, § 3 of the Florida Constitution imposes a strict single-subject requirement for citizen initiatives. It provides that citizen initiatives “shall embrace but *one subject* and matter *directly* connected therewith.” Art. XI, § 3, Fla. Const. (emphasis added). That’s stronger than the connection required for legislative enactments, because the legislative single-subject provision requires only that a “law shall embrace but one subject and matter *properly* connected therewith.” Art. III, § 6, Fla. Const. (emphasis added).

When a measure is put to the voters, therefore, its various parts must form one cohesive whole. Absent some overwhelmingly clear textual evidence—like a severability provision in the initiative’s text presented to the voters—the initiative must rise or fall as a single, unified whole.

Decisions from other states with citizen-initiative provisions reinforce the principle. In *Thom v. Barnett*, for example, the South Dakota Supreme Court struck down a marijuana-legalization initiative because it combined recreational marijuana, medical marijuana, and hemp into a single proposal, and then refused to sever portions of the initiative. 967 N.W.2d 261, 281-83 (S.D. 2021). The South Dakota Supreme Court cited other state courts that similarly declined to sever portions of citizen initiatives based on an anti-logrolling rationale—disincentivizing the joining together of

unpopular measures with popular measures to get them passed. *Id.* at 282 (citing *Mont. Ass'n of Cnty. v. State*, 404 P.3d 733, 747 (Mont. 2017); *Armatta v. Kitzhaber*, 959 P.2d 49, 68 (Or. 1998)).

*Second*, putting together the animating purpose of severability with the constitutional distinctions between citizen initiatives and legislative enactments means this: At the very least, there must be some clear intent in the citizen initiative to let parts of a stricken initiative stand. In *Ray v. Mortham*, the Florida Supreme Court found that clear intent in an express severability clause that was put before the voters as part of an initiative concerning legislative term limits for federal and state officeholders. 742 So. 2d 1276, 1283 (Fla. 1999).

When presented to the voters, Article III, § 20 included *no* severability clause. **Exhibit 10** (Certified Copy of Amendment Text). The ballot summary also sold the initiative as a single package to voters. **Exhibit 11** (Certified Copy of Ballot Title and Summary). Proponents of the initiative told the Florida Supreme Court that the initiative had “a single concept, designed to do one goal,” that “each of the [initiative’s] standards serve[d] that same singular purpose,” and so all of Article III, § 20 had a “cohesive unity.” SC08-986, Oral Arguments, Florida Supreme Court Gavel to Gavel Video Portal | Case SC08-986, SC08-1163, SC08-1149, SC08-1165 (wfsu.org/gavel2gavel/), at 3:10-3:40 (last visited May 10, 2026). And the Florida Supreme Court’s 2009 advisory opinion approving the amendment for ballot placement embraced the argument. It said that the initiative’s various components “possess a natural relation and connection as component parts or aspects of a single dominant plan or scheme.” *Advisory Op. re Standards for Establishing Legis. Dist. Boundaries*, 2 So. 3d 175, 181-82 (Fla. 2010) (quotation removed). Put differently, Article III, § 20 has a “single unified purpose” of which the race-based provisions were integral component parts. *Id.* at 183. Article III, § 20 is thus inseverable.

Some, like Plaintiffs, seemingly read *Ray v. Mortham* as allowing for severability with or without a severability clause *and* despite the Florida Supreme Court’s earlier conclusion that the fair districts

initiative serves a single unified purpose. *See* Mot. at 47-50. That gets things backwards. Even with a severability clause, severing an initiative remains in tension with the single-subject requirement. As Justice Lewis explained in *Ray v. Mortham*, “it should be beyond debate that any initiative petition containing a severability clause telegraphs the message that even its proponents realize it does not contain a ‘single,’ discrete subject,” though “[a]nything that is divisible is not, by definition, ‘single.’” 742 So. 2d at 1289 (Lewis, J., concurring in result). The only way to resolve the tension, as the Florida Supreme Court did in *Ray v. Mortham*, is to lean on the severability clause presented to the voters as “persuasive of the fact the framers intended severability to save the amendment in case portions of it were declared invalid.” *Id.* at 1283 (majority opinion). In this way, an express severability clause presented to the voters becomes essential to squaring the analysis with Article XI, § 3’s single-subject requirement.

It’s wrong then to read *Ray v. Mortham* as allowing for severability absent an express severability clause. The four-part severability test borrowed from statutory severability cases is triggered only if there’s an express severability provision presented to the voters. Any other reading would require a reconsideration of *Ray v. Mortham* to square it with Article XI, § 3’s single-subject requirement.

*Third*, even if the *statutory* severability text from *Ray v. Mortham* is triggered, that text confirms that the race-based provisions in Article III, § 20 aren’t severable. That “test” says:

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

742 So. 2d at 1280-81 (quoting *Cramp v. Bd. of Pub. Instruction*, 137 So. 2d 828, 830 (Fla. 1962)).

The first and fourth parts of the test focus on structure and function. Subsection (a) in Article III, § 20 includes both the race-based protections and partisanship-based prohibitions. Subsection (b)

concerns traditional redistricting criteria, namely equal population, compactness, and adherence to existing political and geographic boundaries. Subsection (b) also creates the tiered scheme in Article III, § 20 by making subsection (a) Tier I and subsection (b) Tier II. There's then an interlocking structural connection between the two subsections. Subsection (c) reinforces the structure by explaining that there is no “priority of one standard over the other within that subsection.”

Indeed, the Florida Supreme Court's totality-of-circumstances test for Tier I violations makes the structural and functional connection plainer still. That test looks at the “extent to which the Legislature complies with the sum of Florida's traditional redistricting principles”—the Tier II standards—“as an objective indicator” of Tier I problems. *Apportionment I*, 83 So. 3d at 639; *see also* Mot. at 34-35.

Similar structural and functional connectivity was a reason for the U.S. Supreme Court's refusal to sever the constitutional from unconstitutional parts of the Professional and Amateur Sports Protection Act in *Murphy v. NCAA*, 584 U.S. 453 (2018). There, as here, severability wasn't an option where provisions were “obviously meant to work together” and “were meant to be deployed in tandem” to accomplish a singular purpose. *Id.* at 483-84. The singular purpose in *Murphy* was preventing legalized sports gambling. *Id.* And, as the Florida Supreme Court said in 2009, Article III, § 20 serves the “single unified purpose of establishing standards by which legislative and congressional districts are to be drawn.” *Advisory Op. re Standards for Establishing Legis. Dist. Boundaries*, 2 So. 3d at 183.

Notably, the U.S. Supreme Court's recent decision in *Callais* further recognized the continuing interplay between race-based remedial provisions and partisanship, as well. “[C]urrent political conditions” and “current data” remain essential to assessing whether there's a violation of the Voting Rights Act. No. 24-109, slip op. at 31. So, focusing on the first and fourth parts of the test from *Ray v. Mortham*, it's clear that the various components of Article III, § 20 were both structured and, in fact, function as one cohesive whole. *Cf. Emerson v. Hillsborough County*, 312 So. 3d 451, 460-61 (Fla. 2021)

(explaining that the “dual purpose[s]” of a statute could not “reasonably be divorced from” one another such that the provisions were functionally dependent and inseverable).

The second and third parts of *Ray v. Mortham*’s severability test focus on intent, i.e., whether the citizens would have approved Article III, § 20 without its race-based provisions. As addressed in the single-subject discussion above, that’s highly unlikely given the proposed text provided to voters *without* a severability provision, the ballot summary that discussed the amendment as having one singular goal, representations to the Florida Supreme Court, and the Florida Supreme Court’s own decision in 2009.

The text reinforces the intent point. Subsection (c) states that “[t]he order in which the standards within subsections (a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection.” The text thus tells us that the race-based provisions and the partisanship-related provisions and the remainder of subsection (a) are equally important—they are a packaged deal. Given this text, it’s difficult to conclude that voters would have intended to vote for one but not the other. That wasn’t the deal put before them.

Next, consider some of the additional context. The NAACP’s endorsement of what became Article III, § 20 turned on the proposal being a packaged deal. **Exhibit 12** (NAACP Endorsement in Preclearance Package). That endorsement said that the “main purpose” of the initiative was to “stop the abusive practice” of “gerrymandering,” but it “[a]bsolutely [would] not” “lessen the ability of Florida’s black voters to elect candidates of their choice.” **Exhibit 12** at 2. The NAACP supported the Tier II standards—compactness and adherence to political and geographic boundaries—only because these “problematic standards would *not* come into play” “to prevent the drawing of non-compact black majority districts, and districts such as those represented by Congresswoman Brown and Congressman Hastings would remain protected.” **Exhibit 12** at 3.

The sponsors of Article III, § 20, through Ellen Freidin, also testified before the Florida Legislature on February 11, 2010, where they doubled down on the packaged nature of the proposal. **Exhibit 13** (Freidin Testimony). She gave “an emphatic no” to the question of whether the initiative would “interfere with the rights of minority voters” and whether “minority voters [will] be worse off when the [initiative is] in the Constitution.” **Exhibit 13** at 17-18. She went on to explain that the initiative would “not in any way reduce the rights of minority voters.” **Exhibit 13** at 18. She touted how “leaders of minority communities support the Fair Districts’ amendments,” specifically referencing the NAACP who had “joined the Fair Districts’ team because they agree that in addition to reducing partisan gerrymandering, the amendments will add permanent protections for minority voters that are greater than what exist today in Florida or any other state.” **Exhibit 13** at 19. “Just look at the language,” she said in response to concerns about the proposal’s effect on minority rights. **Exhibit 13** at 19. The Tier II requirements like compactness and adherence to political and geographic boundaries would give way to the race-based provisions in Tier I. **Exhibit 13** at 21-22. So too would the prohibition on partisanship. **Exhibit 13** at 22.

Looking through the lens of the second and third parts of *Ray v. Mortham*’s severability test shows that the race-based provisions were an integral part of the package being sold to voters. Voters couldn’t have intended to vote for one part without the others.

In sum, Article III, § 20 was conceived, approved, and has always been applied as one cohesive whole. It can’t be severed now. And because it’s inseverable, and because its race-based provisions violate the federal guarantee of equal protection, Article III, § 20 doesn’t constrain redistricting.

d. “[T]he Legislature is of necessity, in the first instance, to be the judge of its own constitutional powers.” *BVM II*, 415 So. 3d at 197 (quoting *Cotten v. Leon Cnty. Comm’rs*, 6 Fla. 610, 616 (1856)). The legislation now at issue—the State’s 2026 congressional plan—reflects the considered judgment of the political branches of their superior obligations under federal law. That a litigant raises



constitutional questions isn't reason enough to rush to a resolution without trial and on a truncated record. Florida courts didn't do that after the enactment of the 2012 congressional map or the 2022 congressional map. There's no reason to do so now.

**B. The public interest favors denial of a temporary injunction.**

Finally, the public interest favors denial of a temporary injunction. Stability and predictability in election-related laws promote “[c]onfidence in the integrity of our electoral processes,” which “is essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006). Courts risk “voter confusion” and “incentive to remain away from the polls” when they order changes on the eve of elections, with the risk “increas[ing]” “[a]s an election draws closer.” *Id.* at 4-5.

Relying on this *Purcell* principle, the U.S. “Supreme Court has repeatedly” held that it’s improper to enjoin state election laws close to an election. *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1284 (11th Cir. 2020). And during the 2020 cycle, for example, every federal district court that tried to do so met the same fate: either the court of appeals granted a stay of the injunction, or the U.S. Supreme Court did. *See, e.g., RNC v. DNC*, 589 U.S. 423 (2020); *Tex. Democratic Party v. Abbott*, 961 F.3d 389 (5th Cir. 2020), *application to vacate stay denied*, 591 U.S. 1013; *Thompson v. DeWine*, 959 F.3d 804 (6th Cir. 2020), *application to vacate stay denied*, 2020 WL 3456705; *Merrill v. People First of Ala.*, 591 U.S. 1024 (2020); *Little v. Reclaim Idaho*, 591 U.S. 1060 (2020); *Ariz. Democratic Party v. Hobbs*, 976 F.3d 1081 (9th Cir. 2020); *Clarno v. People Not Politicians Or.*, 591 U.S. 1073 (2020); *Merrill v. People First of Ala.*, 141 S. Ct. 25 (2020); *Andino v. Middleton*, 141 S. Ct. 9 (2020); *A. Philip Randolph Inst. of Ohio v. LaRose*, 831 F. App’x 188 (6th Cir. 2020); *Tex. All. for Retired Ams. v. Hughs*, 976 F.3d 564 (5th Cir. 2020); *Richardson v. Tex. Sec’y of State*, 978 F.3d 220 (5th Cir. 2020); *Priorities USA v. Nessel*, 978 F.3d 976 (6th Cir. 2020); *Common Cause Ind. v. Lawson*, 978 F.3d 1036 (7th Cir. 2020); *Curling v. Sec’y of State for*

*Ga.*, 2020 WL 6301847 (11th Cir. 2020); *DNC v. Bostelmann*, 977 F.3d 639 (7th Cir. 2020), *application to vacate stay denied*, *DNC v. Wis. State Leg.*, 141 S. Ct. 28.

The Eleventh Circuit also used *Purcell* as one of two independent bases to stay a federal district court’s order enjoining Florida from implementing provisions of its election code during the 2022 redistricting. That court began by asking: “When is an election sufficiently ‘close at hand’ that the *Purcell* principle applies?” *League of Women Voters of Fla. v. Lee*, No. 22-11143, slip op. at 6 (11th Cir. May 6, 2022). It noted that the U.S. Supreme Court has relied on *Purcell* to preserve election laws where elections were as far as “about four months” away, and then concluded that “[w]hatever *Purcell*’s outer bounds,” the State of Florida “fits within them” because “the next statewide election [is] set to begin in less than four months” and the State’s election machinery is already moving. *Id.* at 7.

So too here. The primary election is three months away. The general election is six months away. Work is already underway to implement the 2026 congressional plan. Being this close to an election, therefore, makes any temporary injunctive relief inappropriate. *See, e.g., Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025) (staying the lower court’s redistricting order when the state’s primary election was four months away, and the general election was eleven months away); *see also id.* at 428 (Kagan, J., dissenting) (describing Texas’s election timeline).

Importantly, Florida’s statutory date for the beginning of candidate qualification is May 25, 2026, meaning the districts where these candidates are running should be set by then. § 99.061(8), Fla. Stat. With local election officials already implementing the new districts, *see Exhibit 3* (Matthews Declaration & Supervisors of Elections’ Letter), and candidates declaring for districts, a temporary injunction would be precisely the kind of disruption *Purcell* forbids. The confusion and administrative burden that would follow from a court’s interference with redistricting this close to an election would

undermine the orderly administration of Florida’s electoral process and the confidence of voters, candidates, and officials alike.

*Purcell* runs shoulder-to-shoulder with prior Florida cases. In its prior redistricting cases, the Florida Supreme Court waited until *after* a trial on the merits and *after* giving the Florida Legislature an opportunity to adopt a remedial congressional plan before imposing one of its own. *Apportionment VIII*, 179 So. 3d at 272. And the Florida Supreme Court did so *almost a year before* the next congressional election but still limited the time for filing motions for rehearing and clarification “[b]ecause of the extremely limited timeframe.” *Id.* at 298 (issued on December 2, 2015, for the 2016 congressional election); *see also Apportionment VII*, 172 So. 3d at 372 (“We emphasize the time-sensitive nature of these proceedings, with *candidate qualifying* for the 2016 congressional elections now less than a year away.” (emphasis added)).

Other Florida Supreme Court precedent neatly follows *Purcell*’s commonsense contour, as well. It recognizes that “[t]o interfere with the election process at [a] late date, even if a clear legal right were shown, would result in confusion and injuriously affect the rights of third persons.” *State ex rel. Haft v. Adams*, 238 So. 2d 843, 845 (Fla. 1970). This potential for interference provides reason enough to deny pre-election relief. *Id.*; *see also State ex rel. Walker v. Best*, 163 So. 696, 697 (Fla. 1935) (same).

Like the U.S. Supreme Court and the Florida Supreme Court, this Court should deny the request for a temporary injunction this close to the elections. The public interest demands as much.

### **Conclusion**

For the reasons discussed above, the Court should deny Plaintiffs’ motion for temporary injunction. No temporary injunction is available in this declaratory judgment action. That’s especially true because Plaintiffs seek mandatory relief, as well. Plaintiffs are also unlikely to succeed on the merits. And the public interest strongly cautions against imposing any injunction at this time.

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**CERTIFICATE OF SERVICE**

I certify that on May 13, 2026, a true and correct copy of the foregoing has been furnished to all counsel of record by electronic mail via the Florida Courts E-Filing Portal:

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