

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

RENE ROMO, *et al.*,

CASE NO. 2012-CA-00412

Plaintiffs,

v.

KEN DETZNER and PAM BONDI,

Defendants.

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THE LEAGUE OF WOMEN VOTERS OF  
FLORIDA, *et al.*

CASE NO. 2012-CA-00490

Plaintiffs,

v.

KEN DETZNER, *et al.*,

Defendants.

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KIM WZEP  
CLERK OF CIRCUIT COURT  
LEON COUNTY, FLORIDA

FILED

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**COALITION PLAINTIFFS' FIRST AMENDED COMPLAINT  
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs THE LEAGUE OF WOMEN VOTERS OF FLORIDA, THE NATIONAL COUNCIL OF LA RAZA, COMMON CAUSE FLORIDA, (hereinafter "the Coalition"), ROBERT ALLEN SCHAEFFER, BRENDA ANN HOLT, ROLAND SANCHEZ-MEDINA, JR., and JOHN STEEL OLMSTEAD, hereby allege:

## INTRODUCTION

1. On November 2, 2010, the voters approved Amendment 6 (FairDistricts Amendment) for inclusion in the Florida Constitution, greatly expanding the standards that govern the Legislature during congressional apportionment. The Florida Supreme Court has explained that the “overall goal” of the Amendment was twofold: “[T]o require the Legislature to redistrict in a manner that prohibits favoritism or discrimination, while respecting geographic considerations” and “to require legislative districts to follow existing community lines so that districts are logically drawn, and bizarrely shaped districts ... are avoided.” *Advisory Op. to Atty. Gen. re Standards for Establishing Legislative Dist. Boundaries*, 2 So.3d 175, 181, 187–88 (Fla.2009) (plurality opinion). After its passage, the FairDistricts Amendment was codified as Article III, Section 20, of the Florida Constitution.

2. With the advent of the FairDistricts Amendment, the Florida Constitution now imposes more stringent requirements on the Legislature in conducting congressional reapportionment. The new standards enumerated in Article III, Section 20, are set forth in two tiers, each of which contains three requirements. The first tier, contained in section 20(a), lists the following requirements: (1) no apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent; (2) districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and (3) districts shall consist of contiguous territory. The second tier, located in section 20(b), lists three additional requirements, the compliance with which is subordinate to those listed in the first tier of section 20 and to federal law in the event of a conflict: (1) districts shall be as nearly equal in population as is practicable; (2) districts shall be compact; and (3) where

feasible, districts shall utilize existing political and geographical boundaries. *See* art. III, § 20(b), Fla. Const. The order in which the constitution lists the standards in tiers one and two is “not [to] be read to establish any priority of one standard over the other within that [tier].” Art. III, § 20(c), Fla. Const.

3. The citizens of the state of Florida, through the Florida Constitution, employed the essential concept of checks and balances, granting to the Legislature the ability to apportion the state in a manner prescribed by the citizens and entrusting the judiciary with the responsibility to review the apportionment plans to ensure they are constitutionally valid. The obligations set forth in the Florida Constitution are directed not to the Legislature’s right to draw districts, but to the people’s right to elect representatives in a fair manner so that each person’s vote counts equally and so that all citizens receive fair and effective representation. There is no question that the goal of minimizing opportunities for political favoritism was the driving force behind the passage of the FairDistricts Amendment.

4. On February 9, 2012, the Florida Legislature passed CS/SB 1174, a bill of redistricting for Florida’s 27 congressional seats following the 2010 decennial census (“the Legislature’s Congressional Plan”). That plan violates both the intent and the letter of the constitutional requirements of Article III, Section 20.

5. Plaintiffs file this action seeking declaratory and injunctive relief to prevent the implementation and enforcement of the Legislature’s Congressional Plan in any future elections. The Legislature’s Congressional Plan threatens to harm Plaintiffs’ right to a fair and neutral redistricting plan, free of political gerrymandering or incumbent protection efforts. It likewise threatens to deny Plaintiffs’ right to a redistricting plan that respects the constitutionally required redistricting principles of compactness and respect for political and geographical boundaries.

The injury to these voters and all citizens of Florida, and the deprivation of their rights under Article III, Section 20, caused by the Legislature's Congressional Plan are neither necessary nor justified.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this matter pursuant to Fla. Stat. § 26.012 (2011) and Article V, Section 5(b) of the Florida Constitution. Venue is proper pursuant to Fla. Stat. § 47.011 (2011). Plaintiffs' action for declaratory and injunctive relief is authorized by Fla. Stat. § 86.011 (2011) as well as Fla. Stat. § 26.012(3) (2011).

### **PARTIES**

#### **Plaintiffs**

7. Plaintiffs are citizens and registered voters residing throughout the State of Florida and organizations representing the interests of Floridians who supported the FairDistricts Amendments and will be affected by the Legislature's Congressional Plan.

8. Plaintiff LEAGUE OF WOMEN VOTERS OF FLORIDA is a nonpartisan political organization founded in 1939 to promote active citizenship through informed and engaged participation in government. The League was one of the primary proponents of the FairDistricts Amendments and its members have been actively engaged in the redistricting process. A substantial number of its members will be harmed by the Legislature's Congressional Plan.

9. Plaintiff NATIONAL COUNCIL OF LA RAZA, formerly known as Democracia, Inc., is a Hispanic civil rights and advocacy organization that works to improve opportunities for Hispanic Americans through community-based organizations. It was one of the primary proponents of the FairDistricts Amendments and its members were actively engaged in the

redistricting process. A substantial number of its members will be harmed by the Legislature's Congressional Plan.

10. Plaintiff COMMON CAUSE FLORIDA is a nonpartisan, nonprofit advocacy organization dedicated to helping citizens have their voices heard in the political process and hold public officials accountable to the public interest. It was a primary proponent of the FairDistricts Amendments and its members have been actively engaged in the redistricting process. A substantial number of its members will be harmed by the Legislature's Congressional Plan.

11. Plaintiff ROBERT ALLEN SCHAEFFER is a citizen and registered voter in Sanibel, Florida.

12. Plaintiff BRENDA ANN HOLT is a citizen and registered voter in Quincy, Florida.

13. Plaintiff ROLAND SANCHEZ-MEDINA, JR. is a citizen and registered voter in Coral Gables, Florida.

14. Plaintiff JOHN STEEL OLMSTEAD is a citizen and registered voter in Tampa, Florida.

#### **Defendants**

15. Defendant KEN DETZNER, Secretary of State for the State of Florida, is the State's chief elections officer. Defendant Detzner is responsible for administering and supervising the elections of the United States Representatives from the State of Florida. He is sued in his official capacity.

16. Defendant the FLORIDA SENATE ("Senate") is one house of the Legislature of the State of Florida. Defendant FLORIDA SENATE is responsible for drawing reapportionment

plans for the United States Representatives from the State of Florida that comply with the Florida Constitution.

17. Defendant, MIKE HARIDOPOLOS, is the President of the Florida State Senate. He is sued in his official capacity. Defendant FLORIDA SENATE is responsible for drawing reapportionment plans for the United States Representatives from the State of Florida that comply with the Florida Constitution.

18. Defendant FLORIDA HOUSE OF REPRESENTATIVES (“House”) is the other house of the Legislature of the State of Florida. Defendant FLORIDA HOUSE OF REPRESENTATIVES is responsible for drawing reapportionment plans for the United States Representatives from the State of Florida that comply with the Florida Constitution.

19. Defendant, DEAN CANNON, is the Speaker of the Florida House of Representatives. He is sued in his official capacity. Defendant FLORIDA HOUSE OF REPRESENTATIVES is responsible for drawing reapportionment plans for the United States Representatives from the State of Florida that comply with the Florida Constitution.

### **FACTUAL ALLEGATIONS**

20. On November 2, 2010, the voters of Florida amended the state constitution by adopting two provisions that provide standards by which the Legislature must abide when drawing state legislative and congressional districts after each decennial census. *See Roberts v. Brown*, 43 So. 3d 673 (Fla. 2010); *Advisory Op. to Att’y Gen. re Standards for Establishing Legislative Dist. Boundaries*, 2 So. 3d 175 (Fla. 2009). These amendments were referred to as the “FairDistricts Amendments” and are now part of Florida’s Constitution at Article III, Section 20 (Congressional redistricting) and 21 (Legislative redistricting).

21. In drawing their proposed Congressional redistricting plan, neither the Senate nor the House complied with Article III, Section 20.

22. On November 28, 2011, the Senate publicly revealed its proposed congressional redistricting plan for the first time. The Senate formally introduced the plan in committee on December 6, 2011. On that same day, the House released seven separate congressional redistricting plans.

23. On January 6, 2012, the Coalition filed an alternative Congressional redistricting proposal on the Legislature's internet website. This proposal, SPUBC0170, comported with the constitutional requirements in Article III, Section 20: it sought to maximize electoral possibilities for Florida's 27 Congressional seats by leveling the playing field and fostering competitiveness, was drawn without favoring incumbent officials, preserved minorities' ability to participate in the political process, expanded the influence of minority voters, and respected the Amendment's mandates of contiguity, equal population, compactness, and respect for political and geographic boundaries.

24. The Coalition requested that both Houses consider its proposed plan as an alternative to those already under consideration. Both chambers rejected the Coalition's compliant plan.

25. On January 6, 2012, the Coalition wrote a letter to Senator Don Gaetz, Chairman of the Senate Reapportionment Committee, requesting that he or another member of the Committee offer the SPUBC0170 plan as a strike-all amendment and put it to a vote during a Committee meeting. The Senate Reapportionment Committee received the plan and had a full opportunity to consider it. Nonetheless, Senator Gaetz refused to offer the plan as a strike-all amendment and offer it for a vote.

26. On January 24, 2011, the Coalition wrote a letter to Representative Will Weatherford, Chairman of the House Committee on Redistricting, requesting that he or another member of the Committee offer the SPUBC0170 plan as a strike-all amendment and put it to a vote during a Committee meeting. In response to Chairman Weatherford's request that the Coalition explain the merits of its proposed alternative plan, the Coalition prepared a written submission detailing how on Article III, Section 20 requirements, its SPUBC0170 plan was superior to the plan that the House Committee was then considering, H000C9047. Moreover, the Coalition informed the Committee of various ways in which H000C9047 violated the requirements of Article III, Section 20.

27. At its January 27, 2012 meeting, the House Committee on Redistricting considered the Coalition's plan along with its written submission. Chairman Weatherford offered the alternative plan as a strike-all amendment, which the Committee rejected. Ultimately, the House Committee passed its own proposal, H000C9047, despite having been informed by the Coalition of some of the plan's constitutional deficiencies.

28. On February 9, 2012 the Florida Legislature passed the 2012 Congressional Plan, H00C9047.

29. On February 16, 2012, Governor Rick Scott signed the Legislature's Congressional Plan into law.

30. On March 9, 2012, the Florida Supreme Court issued a historic decision interpreting, applying, and enforcing Florida's new constitutional provisions regarding redistricting for the first time. *See In Re: Senate Joint Resolution of Legislative Apportionment 1176*, No. SC12-1, \_\_\_ So. 3d \_\_\_, 2012 WL 753122, at \*53 (Fla. Mar. 9, 2012) (hereinafter



“Op.”). In its opinion, the Supreme Court provided the judiciary with a detailed roadmap to interpret, apply, and enforce Florida’s constitutional requirements on redistricting.

31. As the Court held, the requirements of the constitutional provision fall into two tiers. Because compliance with the tier-two principles is objectively ascertainable, it provides a good starting point for analyzing challenges to the Legislature’s congressional reapportionment plan. Where adherence to a tier-one requirement explains the irregular shape of a given district, a claim that the district has been drawn to favor or disfavor a political party can be defeated. Where it does not, however, further inquiry into the Legislature’s intent is necessary.

32. The Court held that if an alternative plan can achieve the same constitutional objectives that prevent vote dilution and retrogression of protected minority and language groups and also apportions the districts in accordance with tier-two principles so as not to disfavor a political party or an incumbent, this will provide circumstantial evidence of improper intent. That is to say, an alternative plan that achieves all of Florida’s constitutional criteria without subordinating one standard to another demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan.

33. In considering whether a reapportionment plan is drawn with the intent to favor or disfavor a political party, the Court held that the partisan effects of a plan can be an objective indicator of intent. There is no acceptable level of improper intent. The inquiry for intent to favor or disfavor a political party looks at the shapes of districts together with undisputed objective data, such as the relevant voter registration and elections data, incumbents’ addresses, and demographics, as well as any proffered undisputed direct evidence of intent. The effects of the plan, the shape of district lines, and the demographics of an area are all factors that serve as objective indicators of intent. Disregard for compactness and political and geographical

boundaries also serve as objective indicia of improper intent. Improper intent may also be shown through direct evidence.

34. In considering whether a reapportionment plan is drawn with the intent to favor or disfavor an incumbent, the Court held that the effects of a plan can be an objective indicator of intent. There is no acceptable level of improper intent. The inquiry for intent to favor or disfavor an incumbent focuses on the shape of the district in relation to the incumbent's legal residence, as well as other objective evidence of intent, such as the maneuvering of district lines in order to avoid pitting incumbents against one another in new districts or the drawing of a new district so as to retain a large percentage of the incumbent's former district. Improper intent may also be shown through direct evidence.

35. As to both intent to favor a political party and intent to favor an incumbent, the Court held that where the shape of a district in relation to the demographics is so highly irregular and without justification that it cannot be rationally understood as anything other than an effort to favor or disfavor, improper intent may be inferred.

36. The Court held that alternative plans may be offered as relevant proof that the Legislature's apportionment plans consist of district configurations that are not explained other than by the Legislature considering impermissible factors, such as intentionally favoring a political party or an incumbent.

37. The Court held that the Legislature cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group's ability to elect its preferred candidates. A slight change in percentage of the minority group's population in a given district does not necessarily have a cognizable effect on a minority group's ability to elect its preferred candidate of choice. To undertake a retrogression

evaluation requires an inquiry into whether a district is likely to perform for minority candidates of choice, requiring consideration not only of the minority population in the districts, or even the minority voting-age population in those districts, but of political data and how a minority population group has voted in the past. In other words, the Legislature must undertake a functional analysis.

38. The Court held that the Legislature may depart from the criteria of compactness and respect for political and geographical boundaries “only to the extent necessary” to avoid diminishing the ability of minorities to elect candidates of choice. Alternative plans that make less departure from compactness and respect for political and geographical boundaries would serve as objective indicators of the Legislature’s improper intent.

39. The Court held that a violation of the Florida minority voting protection provision can be established by a pattern of overpacking minorities into districts where other coalition or influence districts could be created.

40. The Court held that compactness means geographical compactness, not functional compactness or communities of interest.

41. The Court held that political boundaries primarily encompass municipal or county boundaries. Geographical boundaries are boundaries that are easily ascertainable and commonly understood, such as rivers, railways, interstates, and state roads. The Legislature must be consistent in its use of political and geographical boundaries.

42. The Legislature’s Congressional Plan does not comply with the Florida Supreme Court’s holding regarding the meaning of the FairDistricts Amendments.

43. If allowed to stand, the Legislature’s Congressional Plan will be used to define the districts for Florida’s primary and general congressional elections in 2012 and for the rest of the

decade, thus permanently and irreparably denying Plaintiffs' rights guaranteed by Article III, Section 20 of the Florida Constitution.

### **Whole-Plan Constitutional Violations**

44. The Legislature's Congressional Plan unjustifiably violates the mandates of Florida's Constitution in numerous respects.

45. Article III, Section 20 requires that "[n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party." Although Florida's voters have split virtually evenly between Democratic and Republican candidates in recent statewide elections for President and United States Senate, the Legislature's Congressional Plan provides one party – the Republican party – with fully double the number of "safe" seats (i.e., seats that statistics show the party is almost certain to win) as it does the other party – the Democratic party. Indeed, Florida's congressional districts are so strongly gerrymandered in favor of the Republican party that even if voters statewide divide nearly evenly between Democratic and Republican candidates, Democrats are likely to win only eight of Florida's 27 congressional seats.

46. The Legislature's intentional 2:1 Republican favoritism ratio with respect to the safe Congressional districts is made all the more egregious by the intentional favoritism evident in the design of the "competitive" districts. Competitive districts are defined as districts that perform within 4% of a partisan shift, or between 46% and 54% Democratic in a two-way vote. Those competitive districts favor the Republican Party by a ratio of **5:1** over the Democratic Party. The House introduced and considered 14 separate congressional redistricting plans before settling on C9047 and the Senate introduced and considered three separate congressional plans. For almost every district in the Legislature's Congressional Plan that falls within a Democratic

performance range of 43% to 57%, the Legislature chose the version of that district that had the best Republican performance numbers rather than the district that was most compact and respectful of political and geographical boundaries. Members of the Legislature were well aware of this intentional partisan favoritism and nevertheless voted to pass the Legislature's Congressional Plan.

47. Article III, Section 20 requires that “[n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor ... an incumbent.” Incumbents in the Legislature's Congressional Plan are favored by receiving districts in which they keep approximately 73% of their former districts. Moreover, district lines were manipulated so that Republican performance in the districts of some Republican incumbents, including but not limited to Mario Diaz-Balart (District 25) and Daniel Webster (District 10), was intentionally enhanced in the map passed by the Legislature. Members of the Legislature were well aware of these and other types of intentional partisan and incumbent favoritism and nevertheless voted to pass the Legislature's Congressional Plan.

48. Article III, Section 20 requires 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.” To determine when Tier 2 criteria must yield to this Tier 1 imperative, the Legislature is required to conduct a “functional analysis” to justify any departure from compactness or respect for political and geographical boundaries by showing that the departure was absolutely necessary to avoid retrogression. The Legislature did not conduct the required functional analysis.

49. Article III, Section 20 requires that districts shall be compact. The Legislature's Congressional Plan contains numerous districts that are not compact, including Districts 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 17, 20, 21, 22, 23, 24, 25, 26, and 27.

50. Article III, Section 20 requires that districts shall utilize existing political and geographical boundaries where feasible. The Legislature's Congressional Plan contains numerous districts that do not utilize existing political and geographical boundaries, including Districts 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 17, 20, and 21.

51. By contrast, the redistricting plan submitted by the Coalition was compact, respected existing political and geographical boundaries, and plainly did not favor a particular party or any particular incumbents. To the contrary, by faithfully adhering to the criteria of Article III, Section 20, the Coalition Plan naturally resulted in a competitive plan in which either party could win a majority of the seats in the Congressional delegation, and that had the effect of leveling the political playing field by maximizing electoral opportunities for all candidates.

52. Both the Senate Reapportionment Committee and House Redistricting Committee were aware of the Coalition Plan and the Coalition's criticism of the intentional partisan and incumbent favoritism that characterized the committee's proposals. Both committees affirmatively considered the Coalition Plan. Both rejected it and adopted the House Redistricting Committee's unlawful plan into law.

### **District-Specific Constitutional Violations**

53. Specific districts in the Legislature's proposed congressional plan unjustifiably violate Article III, Section 20 in numerous respects. The following examples are apparent on the face of the Legislature's Congressional Plan. Other may be uncovered with discovery.

a. **District 5**

54. District 5 in the Committee's plan violates Article III, Section 20 of the Florida constitution. This district is unnecessarily and unjustifiably non-compact, fails to respect political and geographical boundaries, was drawn to favor an incumbent, and dilutes minority voting strength by overpacking minorities into a district where other coalition or influence districts could be created.

55. District 5 is facially non-compact and fails to respect political and geographic boundaries where feasible. It weaves through eight counties, stretching from north Jacksonville over 150 miles to Orlando. On its way, it twists and turns to grab as many African-American voters as it can, resulting in a contorted district that strains for contiguity.

56. District 5 scores extremely low on the two metrics for compactness used by the Florida Supreme Court: it has a Reock score of 0.09 and an Area/Convex Hull score of 0.29. The Florida Supreme Court invalidated District 5's counterpart, Senate District 6, for lack of compactness, and Senate District 6 was actually more compact than District 5 in the Legislature's proposed congressional plan. That district had a Reock score of 0.12 and Area/Convex Hull score of 0.43.

57. District 5 retains the vast majority of its predecessor district's population, which the Supreme Court found is an "objective indicator[] of intent" to favor an incumbent. District 5 unconstitutionally favors an incumbent Member of Congress, Corrine Brown by keeping 81% of the district she formerly represented (District 3) in the new district (District 5).

58. District 5 contains more African-American voters than are needed to provide African-Americans the ability to elect representatives of their choice. This confines the

influence of African-Americans to merely one district instead of providing this group broader influence in neighboring districts.

59. The Legislature did not conduct a functional analysis to show that District 5 departed from the requirements of compactness and utilization of political and geographical boundaries only to the extent necessary to avoid retrogression of minority voting strength.

60. The Coalition presented an alternative district (District 3) that complied with the Tier 1 and Tier 2 criteria of Article III, Section 20 and proves that the Legislature's failure to comply with these criteria was neither necessary nor justified. The Coalition's district was drawn without the intent to favor an incumbent, ensured minority voters' ability to elect without packing unnecessarily high levels of minority voters into the district, and complied with the constitutional requirements of compactness and respect for political and geographical boundaries. By unpacking minority voters in District 5, the Coalition was also able to create an additional minority influence district in Central Florida.

61. The Coalition's alternative district – District 3 – achieves all of Florida's constitutional criteria without subordinating one standard to another and demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan

**b. Districts 3, 4, 6, 9, 11, 12, 15, and 17**

62. Districts 3, 4, 6, 9, 11, 12, 15 and 17 share District 5's borders. These districts as drawn accommodate the incumbent favoritism and minority packing agenda effectuated by the Legislature's unconstitutional District 5. Because these districts are drawn to limit minority influence to District 5 and protect District 5's incumbent congress member, all but one of these districts (District 9) are safe Republican districts in which minority voters do not have the opportunity to influence electoral outcomes.



63. The Coalition's alternative proposal proves that by unpacking District 5 and complying with Tier 2 criteria, it is possible to create districts in Central Florida that provide minority voters opportunities to influence electoral outcomes.

64. Because District 5 is not compact and does not utilize existing political and geographical boundaries, these districts contiguous to District 5 are likewise non-compact and share boundaries with District 5 that are not existing political and geographical boundaries.

65. To the extent that these districts accommodate the Legislature's unconstitutional District 5, they too are unconstitutional and must be redrawn.

66. The Coalition's alternative districts achieve all of Florida's constitutional criteria without subordinating one standard to another and demonstrate that it was not necessary for the Legislature to subordinate a standard in its plan

**c. District 7**

67. District 7 is unnecessarily and unjustifiably non-compact, fails to respect political and geographical boundaries, violates Article III, Section 20's minority protection provision, and was drawn to favor an incumbent.

68. District 7 is defined by contorted borders to enable the very same racial packing and incumbent protection agenda effectuated by District 5.

69. District 7 unnecessarily and unjustifiably fails to respect political and geographical boundaries by crossing the Volusia County line to include Deltona and Orange City. In total, District 7 sprawls across portions of three counties and does not follow any consistent existing political or geographic boundary to do so.

70. The Legislature's motivation for drawing a non-compact district that disregards county lines was to preserve a safe seat in District 7 for incumbent Congresswoman Sandy Adams and to preserve District 6 as a safe Republican seat.

71. The Legislature's final amendment to District 7 placed the incumbent's home back in the district, and also returned some of District 7's original constituents to the district.

72. The Coalition submitted an alternative District 7 that complied with Article III, Section 20's compactness and respect for political and geographic boundaries requirement. The Coalitions' alternative district was defined exclusively by county borders and contains two whole counties. It was also more compact on standard compactness measurements than the Legislature's proposed District 7.

73. The Coalition's alternative District 7 achieves all of Florida's constitutional criteria without subordinating one standard to another and demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan.

#### **d. District 10**

74. District 10 is unnecessarily and unjustifiably non-compact, fails to respect political and geographical boundaries, violates Article III, Section 20's minority protection provision, and was drawn to favor an incumbent.

75. District 10 is visually and statistically non-compact. As drawn, this district includes the same "odd-shaped" appendage as was present in the corresponding Senate District 10 that the Florida Supreme Court invalidated for failure to meet the constitutional compactness requirement.

76. District 10's non-compactness is due to the Legislature's unconstitutional minority packing in District 5. District 10 was drawn to exclude Democratic, African-American

voters and to preserve a safe Republican seat. The Legislature's proposed District 10 performs at 44.3% Democratic performance, based on a four-race average (including the 2010 and 2006 gubernatorial elections and the 2008 and 2004 presidential elections).

77. District 10 was drawn with the intent to favor an incumbent, Daniel Webster. A late amendment to the plan removed Democratic voters from Congressman Webster's district. This had the effect of shoring up his reelection chances. In recent elections, his district had been trending more Democratic. This last minute amendment bolstered District 10's Republican lean.

78. The Coalition's alternative district unpacks the Legislature's unconstitutional District 5 to spread minority influence into another district: the Coalition's alternative District 8.

79. The Coalition's District 8 is a district in which African American voters will have the opportunity to influence electoral outcomes.

80. The Coalition's District 8 achieves all of Florida's constitutional criteria without subordinating one standard to another and demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan.

#### **e. Districts 13 and 14**

81. Districts 13 and 14 unjustifiably disregard political and geographic boundaries and are non-compact without any justification based on Tier 1 or federal law. District 14 crosses Tampa Bay and the Pinellas County line in order to remove African-American and Democratic voters from Pinellas and pack them into Hillsborough-based District 14.

82. The Legislature did not conduct a functional analysis to show that District 14 departed from the requirements of compactness and utilization of political and geographical boundaries only to the extent necessary to avoid retrogression of minority voting strength.

83. In the 2002 benchmark map, African-Americans comprised just 25.2% of District 14. The Legislature increased that to 26.6% African-American percentage in the 2012 map. However, the Legislature did not undertake a functional analysis of African-American voters' ability to elect representatives of their choice within District 14. Nor did the Legislature perform any analysis to determine whether the district performed as a "coalition district" where African-American and Hispanic voters vote cohesively and together have the ability to elect candidates of choice. Rather, the Legislature simply focused on keeping the minority percentages the same in District 14 as in the benchmark district.

84. By keeping minority voters confined to District 14, the Legislature was able to ensure that District 13 would remain a safe Republican seat for an incumbent Republican congress member, Bill Young. Additionally, District 14 remains a solidly Democratic seat for incumbent congress member, Kathy Castor.

85. These incumbents overwhelmingly retain their original constituents in the Legislature's plan. Incumbent Bill Young in District 13 keeps 85% of his former district while incumbent Kathy Castor in District 14 keeps 86% of her former district.

86. The Coalition's plan keeps each of its corresponding districts, District 10 and 11, entirely within a single county rather than crossing the Pinellas County line. District 10 is entirely in Pinellas County and District 11 is entirely in Hillsborough County.

87. The Coalition's plan respects city and county boundaries and the geographical boundary imposed by Tampa Bay. Additionally, the Coalition's plan demonstrates that by respecting the geographic boundary of the bay as well as the county line, District 10 becomes far more compact. The Coalition's District 10 has a Reock score of 0.57 and an Area/Convex Hull

score of 0.91, as compared to the Legislature's corresponding District 13, which has a Reock score of 0.46 and an Area/Convex Hull score of 0.82.

88. The Coalition's Districts 10 and 11 comply with both Tier 1 and Tier 2 of Article III, Section 20. By respecting the county line and the boundary of Tampa Bay, the Coalition's corresponding districts become naturally more politically competitive and less safe for the two incumbent Members of Congress.

89. The Coalition's Districts 10 and 11 achieve all of Florida's constitutional criteria without subordinating one standard to another and demonstrate that it was not necessary for the Legislature to subordinate a standard in its plan.

**f. Districts 20, 21, and 22**

90. Districts 20, 21, and 22 fail to comply with Article III, Section 20's requirements of compactness and respect for political boundaries.

91. District 20 is non-compact, scoring only 0.48 on Reock and 0.74 on Area/Convex Hull. It contains two spindly tentacles without any Tier 1 or federal law justification. This non-compactness is neither necessary nor justified, and it causes the surrounding districts to be even less compact.

92. The Legislature did not conduct a functional analysis to show that District 20 departed from the requirements of compactness and utilization of political and geographical boundaries only to the extent necessary to avoid retrogression of minority voting strength.

93. The Coalition's alternative district (District 23) is more visually compact, and it scores 0.53 on Reock and 0.77 on Area/Convex Hull. Additionally, the Coalition's district contains virtually the same level of African-American voting age population as does the

Legislature's district and ensures that this minority group will continue to have an ability to elect representatives of its choice.

94. Under the Legislature's Congressional Plan, District 20's neighboring districts, Districts 21 and 22, are needlessly non-compact. These districts have Reock scores of 0.28 and 0.18, respectively, and Area/Convex Hull scores of 0.60 and 0.61. Additionally, District 22's non-compactness is visually striking because it is sliced to the core by District 20's tentacle and reaches down across the Broward County line to extend an appendage of its own into Broadview Park and Plantation. At their southern ends, both Districts 21 and 22 cross the Palm Beach County line.

95. Again, the Coalition's districts are comparatively much more compact. In the Coalition's map these are Districts 22 and 19, which have Reock scores of 0.48 and 0.42 respectively, and Area/Convex Hull scores of 0.73 and 0.79. These districts also show greater respect for political boundaries; unlike the Legislature's corresponding Districts 21 and 22, only one of the Coalition's districts crosses the Palm Beach County Line.

96. The Coalition's alternative Districts 19, 22, and 23 achieve all of Florida's constitutional criteria without subordinating one standard to another and demonstrate that it was not necessary for the Legislature to subordinate a standard in its plan.

**g. District 25**

97. District 25 was drawn to favor an incumbent Republican congress member, Mario Diaz-Balart.

98. Representative Diaz-Balart's 2002 district had begun to trend Democratic, with an average of 50.9% Democratic performance in the 2008 presidential and 2010 gubernatorial elections. In a last-minute amendment to the plan before it was finally adopted, the Legislature

selectively shed Democratic territory, making the new district a solid Republican seat with only 45.1% Democratic performance under the same metric.

99. Of all the versions of District 25 that the Legislature considered, it selected the least compact version that contained the strongest Republican performance. The Legislature selected this new heavily Republican district for Mario Diaz-Balart from two possible variations of District 25 in all of the Legislature's proposed Congressional maps – one version that appeared in the Senate's map at S000C9014 (which was derived from S000C9002) and one version that appeared on all of the House maps. The Legislature's final version of District 25 is somewhat in between the two, contains lower Democratic performance than in either of the earlier proposed versions. Both variations of District 25 that appeared in the Legislature's other proposals were also far more compact than the final version of District 25 that was adopted.

100. The Coalition's alternative District 25 achieves all of Florida's constitutional criteria without subordinating one standard to another and demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan.

#### **h. Districts 22, 23, 24, 26, and 27**

101. The Legislature's proposed Southeast Florida districts are unjustifiably and unnecessarily non-compact. The Coalition's analogous districts are more compact on both the Reock and Area/Convex-Hull metrics. Additionally, the Coalition's analogous districts are all more visually compact than those the Legislature has proposed.

102. By drawing compact districts as required by Article III, Section 20, the Coalition's districts are more politically competitive under averaged results from recent statewide elections than those proposed by the Legislature.

103. The Coalition's alternative Southeast Florida districts achieve all of Florida's constitutional criteria without subordinating one standard to another and demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan.

\*\*\*\*\*

### **COUNT I**

- a. Plaintiffs reallege the facts set forth in paragraphs 1 through 103, above.
- b. The Legislature's Congressional Plan and individual districts in the Legislature's Congressional Plan, including but not limited to Districts 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 17, 25, 26, and 27 were drawn with the intent to favor the controlling political party and to disfavor the minority political party in violation of the Florida Constitution, Article III, Section 20(a).

### **COUNT II**

- a. Plaintiffs reallege the facts set forth in paragraphs 1 through 103, above.
- b. The Legislature's Congressional Plan and individual districts in the Legislature's Congressional Plan, including but not limited to Districts 3, 4, 5, 7, 10, 11, 12, 13, 14, 15, 17, 25, 26, and 27 were drawn with the intent to favor certain incumbents and disfavor others in violation of the Florida Constitution, Article III, Section 20(a).

### **COUNT III**

- a. Plaintiffs reallege the facts set forth in paragraphs 1 through 103, above.
- b. The Legislature's Congressional Plan and individual districts in the Legislature's Congressional Plan, including but not limited to Districts 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, and 17 were drawn with the intent to diminish and/or the effect of diminishing the ability of



racial and language minorities to participate in the political process and to elect candidates of their choice in violation of the Florida Constitution, Article III, Section 20(a).

**COUNT IV**

- a. Plaintiffs reallege the facts set forth in paragraphs 1 through 103, above.
- b. The districts in the Legislature's Congressional Plan, including but not limited to Districts 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 17, 20, 21, 22, 23, 24, 25, 26, and 27, are not compact in violation of the Florida Constitution, Article III, Section 20(b).

**COUNT V**

- a. Plaintiffs reallege the facts set forth in paragraphs 1 through 103, above.
- b. The districts in the Legislature's Congressional Plan, including but not limited to Districts 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 17, 20, and 21, fail to utilize existing political and geographic boundaries where feasible in violation of the Florida Constitution, Article III, Section 20(b).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully pray that this Court:

- a. Assume jurisdiction of this action.
- b. Issue a declaratory judgment, pursuant to Fla. Stat. § 86.011 (2011) as well as Fla. Stat. § 26.012(3) (2011) declaring that the Legislature's Congressional Plan and/or individual districts in the Legislature's Congressional Plan violate Article III, Section 20 of the Florida Constitution.
- c. Issue preliminary and permanent injunctions enjoining the Defendants, their agents, employees, and those persons acting in concert with them, from enforcing or giving any effect to the proposed Congressional district boundaries as drawn in the Legislature's

Congressional Plan, including enjoining Defendants from conducting any elections for the United States House of Representatives based on the Legislature's Congressional Plan.

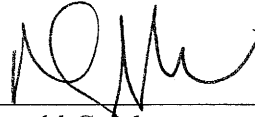
d. Enter an order adopting a lawful Congressional redistricting plan for the State of Florida or direct the Florida Senate and the Florida House to adopt a lawful Congressional districting plan for the State of Florida.

e. Make all further orders as are just, necessary, and proper to ensure complete fulfillment of this Court's declaratory and injunctive orders in this case.

f. Issue an order requiring Defendants to pay Plaintiffs' costs and expenses incurred in the prosecution of this action, as authorized by Fla. Stat. § 86.081 (2011).

g. Grant such other and further relief as it seems is proper and just.

Respectfully submitted this 3rd day of April, 2012,



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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this submission was furnished by email and by overnight mail to the following parties on this 3rd day of April, 2012:

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