

IN THE SUPREME COURT OF OHIO

Bria Bennett, et al.,

Petitioners,

v.

Ohio Redistricting Commission, et al.,

Respondents.

Case No. 2021-1198

Original Action Filed Pursuant to Ohio
Constitution, Article XI, Section 9(A)

*[Apportionment Case Pursuant to S. Ct.
Prac. R. 14.03]*

**BENNETT PETITIONERS' MOTION FOR LEAVE TO FILE *INSTANTER*
OBJECTIONS TO THE SEPTEMBER 2023 PLAN**

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Petitioners Bria Bennett, *et al.* hereby move this Court for leave to file *instanter* objections to the Ohio Redistricting Commission’s September 29, 2023 Revised General Assembly Plan (the “September 2023 Plan”).

On May 25, 2022, this Court entered an order sustaining Petitioners’ objections to “Map 3” and ordered that plan “invalid in its entirety.” *League of Women Voters of Ohio v. Ohio Redistricting Comm.* (“*LWW V*”), Slip Opinion No. 2022-Ohio-1727, ¶ 5. The Court further ordered the Ohio Redistricting Commission “to be reconstituted, to convene, and to draft and adopt an entirely new General Assembly–district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B).” *Id.* It set deadlines for filing of the district plan, any objections to that plan, and any responses to such objections—all for June 2022. *Id.* ¶ 6. It also retained jurisdiction for the purpose of reviewing the new plan. *Id.*

The Ohio Redistricting Commission did not pass a new plan until September 29, 2023. It submitted the September 2023 Plan to the Court three days later, on October 2, 2023. In order to facilitate this Court’s orderly review of the new plan under its retained jurisdiction, Petitioners now respectfully request the opportunity to submit objections.

Petitioners’ proposed objections and evidence in support are attached to this Motion.

Dated: October 5, 2023

Respectfully submitted,

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I hereby certify that the foregoing was sent via email this 5th day of October, 2023 to the following:

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I. Introduction

The Ohio Redistricting Commission continues its open defiance of this Court's orders. More than 16 months ago, this Court invalidated a Commission-drawn General Assembly plan for the fifth time and ordered the adoption of a constitutional plan. But, undeterred, the Commission once again adopted a blatant partisan gerrymander: The General Assembly plan it passed on September 29, 2023 (the "September 2023 Plan") gives Republicans a 13-point advantage above Ohioans' statewide preferences, much like the four predecessor plans that the Court already rejected in this very case.

In 2015, Ohio voters overwhelmingly adopted a constitutional amendment that reformed Ohio's General Assembly redistricting process. In a series of clear and unequivocal opinions, this Court interpreted the newly-revised Article XI of the Ohio Constitution, gave it force, and held that the Ohio Redistricting Commission is bound to adopt General Assembly plans in which the allocation of districts matches the partisan preferences of Ohioans, unless doing so would violate other Article XI standards. There is no bona fide dispute that it is possible to achieve proportionality while adhering to other constitutional standards. And there can be no dispute that the September 2023 Plan does not achieve proportionality, or anything close to it.

Petitioners have waited the better part of two years for relief, during which time an entire election cycle has passed. The plan now before the Court suggests that the Commission assumes that this Court will neither enforce Article XI, Section 6(B) nor adhere to its prior decisions. Petitioners submit that this is the last chance to show that Ohioans were not sold a bill of goods in 2015—the last chance to show that the current redistricting process is not irredeemably broken. Petitioners therefore file these objections and respectfully request that the Court invalidate the Commission's September 2023 Plan as a plainly insufficient remedy.

II. Factual Background

The facts of this case have been extensively documented in this Court’s prior opinions, so Petitioners only summarize them briefly here. *See, e.g., League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 168 Ohio St. 3d 522, 2022-Ohio-1727, 200 N.E.3d 197, ¶ 1–4 (“*League V*”). In 2015, Ohio voters overwhelmingly approved a constitutional amendment to reform the state’s legislative redistricting process. *Id.* at ¶ 4. In September 2021, the newly-formed Ohio Redistricting Commission passed a General Assembly plan that disregarded the new amendment’s anti-gerrymandering provisions. This Court struck the plan down as unconstitutional, ordered the Commission to reconvene to adopt an entirely new plan, and retained jurisdiction to review the new plan. *Id.* at ¶ 138–39. The Commission again adopted a gerrymandered plan; and this Court again struck the plan down, ordered the adoption of a new plan, and retained jurisdiction to review the same. This same sequence repeated itself five times in the spring of 2022. *See League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 167 Ohio St.3d 255, 2022-Ohio-65, 192 N.E.3d 379, ¶ 2 (“*League I*”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 168 Ohio St.3d 28, 2022-Ohio-342, 195 N.E.3d 974, ¶ 67–68 (“*League II*”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 168 Ohio St.3d 309, 2022-Ohio-789, 198 N.E.3d 812, ¶ 2 (“*League III*”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 168 Ohio St.3d 374, 2022-Ohio-1235, 199 N.E.3d 485, ¶ 2 (“*League IV*”); *League V* at ¶ 5.

This Court most recently struck down a Commission-adopted General Assembly plan on May 25, 2022. *Id.* The Court ordered the Commission to reconvene and pass a plan by June 3. *Id.* at ¶ 6. The Commission ignored the Court’s order and refused to reconvene for sixteen months.

At long last, on September 13, 2023, the Commission reconvened to consider a new General Assembly plan. A week later, the Commission proposed a plan with a partisan skew that

closely tracked that of plans this Court had previously struck down. *See* Affidavit of Dr. Jonathan Rodden (Oct. 5, 2023) (“Rodden Aff.”), tbl. 7. The Commission held three hearings on the proposed plan. The hearings were held in far-flung locations across Ohio, often removed from urban centers, and mostly during regular work hours. *See* Ohio Redistricting Commission, *Meetings*, <https://www.redistricting.ohio.gov/meetings> (accessed Oct. 5, 2023). Two of the meetings were held on the Jewish high holiday of Yom Kippur. *Id.* Despite these barriers, the public turned out to provide testimony in droves. Public feedback was overwhelmingly against the plan. *See, e.g.*, The Ohio Channel, Ohio Redistricting Commission – 9-26-2023 (Sept. 26, 2023), at 0:00:00–2:03:20.¹

As with prior maps, however, the overwhelming weight of public sentiment played little role in the plan adopted by the Commission. On the evening of September 26, following closed-door negotiations among the Commissioners, the Commission presented its final plan. The final September 2023 Plan differed very little from the earlier September 2023 Proposal. As Dr. Jonathan Rodden’s analysis shows—using the Court’s guidance on calculations and the 2016-2020 election data that the Commission itself used to report each district’s performance—the two plans’ proportionality is nearly identical: each party’s share of districts differs only by 0.1 percentage point across the two plans. Rodden Aff., tbl. 6. Moreover, the September 2023 Plan’s proportionality is on par with that of the very first plan that this Court invalidated and that of the twice-invalidated plan that was used in the 2022 elections. *Id.* at ¶ 23, tbls. 6 & 7.

¹ Available at <https://www.ohiochannel.org/video/ohio-redistricting-commission-9-26-2023>. As of this filing, a transcript of the Commission’s September 26, 2023 meeting is not yet available.

Plan Proportionality, 2016-2020 Election Data

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal
HOUSE				
# of seats with two-party Democratic vote share >.52	30	32	26	30
Percentage (excluding competitive seats)	33.7%	34.0%	32.5%	33.7%
# of seats with two-party Republican vote share >.52	59	62	54	59
Percentage (excluding competitive seats)	66.3%	66.0%	67.5%	66.3%
<hr/> <hr/>				
SENATE				
# of seats with two-party Democratic vote share >.52	9	9	8	8
Percentage (excluding competitive seats)	31.0%	30.0%	30.8%	30.8%
# of seats with two-party Republican vote share >.52	20	21	18	18
Percentage (excluding competitive seats)	69.0%	70.0%	69.2%	69.2%
<hr/> <hr/>				
TOTAL PLAN				
# of seats with two-party Democratic vote share >.52	39	41	34	38
Percentage (excluding competitive seats)	33.1%	33.1%	32.1%	33.0%
# of seats with two-party Republican vote share >.52	79	83	72	77
Percentage (excluding competitive seats)	66.9%	66.9%	67.9%	67.0%

Nevertheless, without any opportunity for public comment or further debate, the Commission unanimously adopted the September 2023 Plan. The Ohio Channel, Ohio Redistricting Commission – 9-26-2023 (Sept. 26, 2023), at 2:29:40–2:31:51. While the Democratic Commissioners voted for the Plan, both made clear that their yea votes were not an endorsement of its constitutionality. Senate Minority Leader Nickie Antonio conceded that the plan “doesn’t achieve this ideal statewide proportionality ratio[.]” *Id.* at 2:22:16–223:47. And House Minority Leader Allison Russo explained that she was casting her vote for the plan despite that “we are not achieving what I believe the voters of Ohio wanted us to achieve when they passed reforms in 2015.” *Id.* at 2:25:31–2:26:48. Leader Russo further noted that the plan “put[s] politics over the people” and “the Constitution,” such that the plan is not “fair.” *Id.* at 2:26:48–2:28:00.

III. Argument

The September 2023 Plan violates the proportionality requirement of Article XI, Section 6(B), which this Court has clearly enunciated in its *five* prior opinions in this case.

A. **This Court has already set forth the legal standard for compliance with Article XI, Section 6(B).**

Article XI, Section 6(B) of the Ohio Constitution provides that the Commission “shall attempt” to draw a district plan that meets the following standard: “The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio.”

In the first opinion issued in this case, this Court held that compliance with Section 6 is “mandatory.” *League I*, 167 Ohio St.3d 255, 2022-Ohio-65, 192 N.E.3d 379, at ¶ 84–90; *see also id.* at ¶ 88. (“If it is possible for a district plan to comply with Section 6 and Sections 2, 3, 4, 5, and 7, the commission *must* adopt a plan that does so.” (emphasis added)). This Court also held

that claims brought under Section 6 are actionable. *Id.* at ¶ 91–101; *see id.* at ¶ 94 (“Section 9(A) allows review of a district plan for compliance with any provision in Article XI, including Section 6.”).

This Court went on to explain that compliance with Section 6(B) “requires the calculation—and then the comparison—of two things.” *Id.* at ¶ 105. First, one “must determine how voters in the proposed districts are likely to vote in future elections by examining the statewide federal and state partisan election results from the previous ten years.” *Id.* And in presenting a full plan’s expected partisan composition, “competitive districts should be excluded” because they do not reliably “favor” any party. *See, e.g., League IV*, 168 Ohio St.3d 374, 2022-Ohio-1235, 199 N.E.3d 485, at ¶ 59; *see also League III*, 168 Ohio St.3d 309, 2022-Ohio-789, 198 N.E.3d 812, at ¶ 40–42; *League II*, 168 Ohio St.3d 28, 2022-Ohio-342, 195 N.E.3d 974, at ¶ 62. Second, one must calculate “the statewide preferences of the voters of Ohio . . . by totaling the votes cast in statewide partisan elections and calculating the percentages of votes received by candidates of each political party.” *League I* at ¶ 106–07. This Court explained that, “[u]nder this methodology, there is no dispute that ‘about 54 percent of Ohio voters preferred Republican candidates and about 46 percent of Ohio voters preferred Democratic candidates’ in the relevant past elections.” *League II* at ¶ 51 (quoting *League I* at ¶ 108). Accordingly, this Court held that “under Section 6(B), the commission is required to attempt to draw a plan in which the statewide proportion of Republican-leaning districts to Democratic-leaning districts closely corresponds to those percentages.” *Id.* at ¶ 11 (quoting *League I* at ¶ 108).

Finally, this Court held that “Article XI, Section 6(B) does not require the majority-party members of the commission to try to draw a plan that is acceptable to the minority-party members of the commission or vice versa. It requires *all* members of the commission to attempt to draw a

plan in which the proportional favor to each political party's candidates 'correspond[s] closely' to statewide voter preferences over a defined period." *League I* at ¶ 111. Indeed, this Court emphasized that "even if commission members of the minority party agreed to a proposed plan, this does not necessarily mean that the agreed-upon plan would comply with Section 6." *Id.*

B. The September 2023 Plan does not comply with Article XI, Section 6(B), as set forth in the Ohio Constitution and interpreted by this Court.

The September 2023 Plan violates Section 6(B) for the same reasons as its predecessors. First, using this Court's methodology, "the statewide proportion of Republican-leaning districts to Democratic-leaning districts" is either 66.9 percent to 33.1 percent (using election data through 2020 only) or 68.9 percent to 31.1 percent (including 2022 election data). Second, the "statewide preferences of Ohio voters" are either 54 percent Republican and 46 percent Democrat, as the Court has previously found to be undisputed using 2012-2020 election results, *League II* at ¶ 51, or 56 percent Republican and 44 percent Democrat, as Dr. Rodden found using 2014-2022 election results, *Rodden Aff.* at tbl. 1. Thus, regardless of whether one uses 2022 data or not, the September 2023 Plan gives Republicans a 13-point advantage above and beyond the statewide preferences of Ohio voters.

That this grossly disproportionate plan violates Article XI, Section 6(B) is beyond cavil. The September 23 Plan's partisan favoritism is about the same as that reflected in the very first Commission plan. The Commission has ignored the fact that this Court has already invalidated several plans that give Republicans a similar advantage. *See Rodden Aff.* at tbl. 6 (showing that plan invalidated in *League I* and plan twice-invalidated in *League III* and *League V* allocate about the same advantage to Republicans). And in doing so, the Court has underscored the fact that "the commission *could* have drawn a more proportional plan," which Respondents do not dispute. *League I*, 167 Ohio St.3d 255, 2022-Ohio-65, 192 N.E.3d 379, at ¶ 112-13. As before, Petitioners

point to the Rodden Plan and the Corrected Independent Map Drawers' Plan as two plans that fully comply with Sections 2, 3, 4, 5, and 7 *and* achieve near proportional representation as required by Section 6. *See* Rodden Aff. at ¶ 5–6 & tbls. 6–7; *see also League I* at ¶ 88 (“If it is possible for a district plan to comply with Section 6 and Sections 2, 3, 4, 5, and 7, the commission *must* adopt a plan that does so.” (emphasis added)). That these two plans have now been available to the Commission and the public for about a year and a half without criticism, Rodden Aff. at ¶ 5, only further demonstrates that “the commission *could* have drawn a more proportional plan,” *League I* at ¶ 112.

The fact that the September 23 Plan passed with the minority party's acquiescence is immaterial to the Section 6 analysis. Article XI gives this Court original jurisdiction to safeguard the people's right to fair representation, rather than leaving redistricting to the whims of political dealmaking. To be sure, this Court has already made clear that bipartisan support does nothing to save a constitutionally-flawed plan. *See id.* at ¶ 111 (“[E]ven if commission members of the minority party agreed to a proposed plan, this does not necessarily mean that the agreed-upon plan would comply with Section 6.”). The September 2023 Plain clearly fails to comply with Section 6(B).

Plan Proportionality, 2016-2020 Election Data

	<u>Commission September 2023 Plan</u>	<u>Rodden Plan</u>	<u>Corrected IMD Plan</u>
HOUSE			
# of seats with two-party Democratic vote share >.52	30	40	42
Percentage (excluding competitive seats)	33.7%	41.7%	44.7%
# of seats with two-party Republican vote share >.52	59	56	52
Percentage (excluding competitive seats)	66.3%	58.3%	55.3%
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SENATE			
# of seats with two-party Democratic vote share >.52	9	12	13
Percentage (excluding competitive seats)	31.0%	40.0%	41.9%
# of seats with two-party Republican vote share >.52	20	18	18
Percentage (excluding competitive seats)	69.0%	60.0%	58.1%
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TOTAL PLAN			
# of seats with two-party Democratic vote share >.52	39	52	55
Percentage (excluding competitive seats)	33.1%	41.3%	44.0%
# of seats with two-party Republican vote share >.52	79	74	70
Percentage (excluding competitive seats)	66.9%	58.7%	56.0%
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C. The law-of-the-case doctrine forecloses re-litigation of the legal questions that this Court has already decided in this case.

To state the obvious, the prior decisions *in this case* continue to govern these proceedings. As this Court has confirmed time and again, the law-of-the-case doctrine provides that “the decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels.” *See, e.g., State ex rel. Gallagher v. Collier-Williams*, 2023-Ohio-748, ¶ 13 (quoting *Nolan v. Nolan*, 11 Ohio St.3d 1, 3, 462 N.E.2d 410 (1984)).

In any event, even if this Court’s prior decisions were precedent in a *different* case that *could* be overruled, there would be no warrant to do so here. “[I]n Ohio, a prior decision of the Supreme Court may be overruled where (1) the decision was wrongly decided at that time, or changes in circumstances no longer justify continued adherence to the decision, (2) the decision defies practical workability, and (3) abandoning the precedent would not create an undue hardship for those who have relied upon it.” *Westfield Ins. Co. v. Galatis*, 100 Ohio St. 3d 216, 2003-Ohio-5849, 797 N.E.2d 1256, ¶ 48. None, let alone all, of these factors apply here.

First, none of the prior *League* opinions were wrongly decided. On the contrary, this Court has faithfully applied the plain text of the Ohio Constitution. Even though the text it was interpreting was new, the Court did so in a manner consistent with settled legal principles, *see, e.g., League I*, 167 Ohio St.3d 255, 2022-Ohio-65, 192 N.E.3d 379, at ¶ 94 (“This conclusion—which gives meaning to the mandatory language in Section 6—is consistent with the settled principles that no part of the Constitution ‘should be treated as superfluous unless that is manifestly required’ and that we should avoid any construction that makes a provision ‘meaningless or inoperative.’”) (quoting *State ex rel. Myers v. Spencer Twp. Rural School Dist. Bd. of Edn.*, 95 Ohio St. 367, 373, 116 N.E. 516 (1917)), and with the benefit of hundreds of pages of briefing from

three sets of Petitioners and at least three sets of Respondents. That this Court has already chosen to reaffirm its analysis five times further shows the durability of its analysis.

Second, nothing about this Court's prior *League* decisions is unworkable. This Court has applied the same principles to four different General Assembly plans thus far, and it can continue to do so. Section 6 sets out a simple mathematical formula against which plan compliance is gauged. Whether it is possible to meet that standard while complying with other Article XI requirements is a readily-discernible fact: Petitioners and the Commission's own independent consultant map drawers have shown that drawing a plan that complies with the Ohio Constitution and this Court's decisions is possible. *See* Rodden Aff. at ¶ 5. And although the Commission itself has seen fit to defy this Court's orders and ignore the work of its own independent map drawers (with no explanation or justification), that does not mean that the orders themselves defy workability. To suggest otherwise would be to abdicate this Court's authority to interpret the constitution and thus the fundamental underpinnings of the separation-of-powers doctrine itself. *See State v. Thompson*, 92 Ohio St. 3d 584, 2001-Ohio-1288, 752 N.E.2d 276, 279 ("The purpose of the separation-of-powers doctrine is to create a system of checks and balances so that each branch maintains its integrity and independence."); *State ex rel. Edwards v. Murray*, 48 Ohio St. 2d 303, 304, 358 N.E.2d 577, 578 (1976) ("There is no question that the administration of justice by the judicial branch of the government may not be impeded by the other branches of government in the exercise of its powers.").

Finally, for this Court to change course now would upset the significant reliance interests of not just Petitioners, but the people of Ohio who voted overwhelmingly to enshrine anti-gerrymandering provisions into the constitution to protect their democracy and their fundamental right to vote. This Court has stood up to protect those rights five times. Dramatically reversing

course now would reward the Commission's intransigence, undermine the Court's authority by suggesting that a party that defies that authority long enough can secure its own favored outcomes, and confirm Ohioans' cynicism. If there were ever a case in which changing course would produce "real-world dislocations," this is that case. *See Galatis*, 100 Ohio St. 3d 216, 2003-Ohio-5849, 797 N.E.2d 1256, at ¶ 58 ("[T]he Court must ask whether the previous decision has become so embedded, so accepted, so fundamental, to everyone's expectations that to change it would produce not just readjustments, but practical real-world dislocations." (quoting *Robinson v. Detroit*, 462 Mich. 439, 466, 613 N.W.2d 307 (2000)); *see also id.* ("If overruling a precedent would cause chaos, it should be upheld even if wrongly decided.")).

IV. Conclusion

For the foregoing reasons, Petitioners respectfully request that this Court invalidate the September 2023 Plan. This Court should also issue any other remedies it deems appropriate and necessary to ensure that Ohioans are able to vote under a constitutional General Assembly plan in 2024.

Dated: October 5, 2023

Respectfully submitted,

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IN THE SUPREME COURT OF OHIO

Bria Bennett, et al.,

Petitioners,

v.

Ohio Redistricting Commission, et al.,

Respondents.

Case No. 2021-1198

Original Action Filed Pursuant to Ohio
Constitution, Article XI, Section 9(A)

*[Apportionment Case Pursuant to S. Ct.
Prac. R. 14.03]*

**EVIDENCE TO PETITIONERS' [PROPOSED] OBJECTIONS
(Expert Affidavit of Dr. Jonathan Rodden)**

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EXPERT AFFIDAVIT OF DR. JONATHAN RODDEN

I, Jonathan Rodden, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify to the facts set forth below based on my personal knowledge and having personally examined all records referenced in this affidavit, and further state as follows:

I. INTRODUCTION AND SUMMARY

1. For the purpose of this report, I have been asked to examine the redistricting plan for the Ohio State House of Representatives and Ohio Senate, adopted by the Ohio Redistricting Commission on September 29, 2023 (“September 2023 Plan”). As in my previous reports in this case, I have addressed the standard set forth in Article XI, Section 6(B), namely, that “[t]he statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio.”
2. I demonstrate that this “partisan proportionality” standard was clearly not met by the September 2023 Plan—under any measure.
3. The statewide preferences of Ohio’s voters “are 54 percent in favor of the Republican Party and 46 percent in favor of the Democratic Party.” *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 168 Ohio St.3d 28, 2022-Ohio-342, 195 N.E.3d 974, ¶ 64 (“*League II*”). But at best, even including competitive districts and using only 2016-2020 election data, the September 2023 Plan reflects a 61R/38D advantage in the House, or an advantage of 61.6 percent to 38.4 percent of allocated seats in favor of Republicans. In the Senate, it reflects a 23R/10D advantage, which corresponds to a 69.7 percent to 30.3 percent advantage in Republicans’ favor.
4. As this Court stated in its January 12, 2022 opinion declaring invalid the General Assembly plan adopted by the Commission on September 16, 2021, “[i]f it is possible for a district plan to comply with Section 6 and Sections 2, 3, 4, 5, and 7, the commission must adopt a plan

that does so.” *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 167 Ohio St.3d 255, 2022-Ohio-65, 192 N.E.3d 379, ¶ 88 (“*League I*”).

5. In order to show that it was possible for the Commission to comply with both Section 6 and Sections 2, 3, 4, 5, and 7 of the Ohio Constitution, I compare the September 2023 Plan with two alternative plans: The Rodden Plan and the Corrected Independent Map Drawers’ Plan (the “Corrected IMD Plan”). These plans were submitted to the Court, along with native files, on February 18, 2022 and April 12, 2022, respectively.
6. The Rodden Plan and the Corrected IMD Plan comply with each of the requirements of Sections 2, 3, 4, 5, and 7. They also produce a partisan breakdown that more closely corresponds to the preferences of Ohio voters. Using plan-wide averages, compactness scores reveal that these maps draw more compact districts than those in the September 2023 Plan. They also split fewer political subdivisions. Accordingly, these maps reveal that there is nothing about the political geography of Ohio that might explain the September 2023 Plan’s lack of proportionality.

II. QUALIFICATIONS

7. I am currently a tenured Professor of Political Science at Stanford University and the founder and director of the Stanford Spatial Social Science Lab—a center for research and teaching with a focus on the analysis of geo-spatial data in the social sciences. I am engaged in a variety of research projects involving large, fine-grained geo-spatial data sets including ballots and election results at the level of polling places, individual records of registered voters, census data, and survey responses. I am also a senior fellow at the Stanford Institute for Economic Policy Research and the Hoover Institution. Prior to my employment at Stanford, I was the Ford Professor of Political Science at the Massachusetts Institute of Technology. I received my Ph.D. from Yale University and my B.A. from the University of Michigan, Ann Arbor, both in political science. A copy of my current C.V. is included as Exhibit A.
8. In my current academic work, I conduct research on the relationship between the patterns of political representation, geographic location of demographic and partisan groups, and the drawing of electoral districts. I have published papers using statistical methods to assess political geography, balloting, and representation in a variety of academic journals including *Statistics and Public Policy*, *Proceedings of the National Academy of Science*, *American Economic Review Papers and Proceedings*, the *Journal of Economic Perspectives*, the *Virginia Law Review*, the *American Journal of Political Science*, the *British Journal of Political Science*, the *Annual Review of Political Science*, and the *Journal of Politics*. One of these papers was selected by the American Political Science Association as the winner of the Michael Wallerstein Award for the best paper on political economy published in the last year, and another received an award from the American Political Science Association section on social networks. In 2021, I received a John Simon Guggenheim Memorial Foundation Fellowship, and received the Martha Derthick Award of the American Political Science Association for “the best book published at least ten years ago that has made a lasting contribution to the study of federalism and intergovernmental relations.” My recent work has been supported by the National Institutes of Health and the National Science Foundation.

9. I have recently written a series of papers, along with my co-authors, using automated redistricting algorithms to assess partisan gerrymandering. This work has been published in the *Quarterly Journal of Political Science*, *Election Law Journal*, and *Political Analysis*, and it has been featured in more popular publications like the *Wall Street Journal*, the *New York Times*, and *Boston Review*. I wrote a book, published by *Basic Books* in June of 2019, on the relationship between political districts, the residential geography of social groups, and their political representation in the United States and other countries that use winner-take-all electoral districts. The book was reviewed in *The New York Times*, *The New York Review of Books*, *Wall Street Journal*, *The Economist*, and *The Atlantic*, among others.
10. I have expertise in the use of large data sets and geographic information systems (GIS), and I conduct research and teaching in the area of applied statistics related to elections. My PhD students frequently take academic and private sector jobs as statisticians and data scientists. I frequently work with geo-coded voter files and other large administrative data sets, including in recent papers published in the *Annals of Internal Medicine* and *The New England Journal of Medicine*. I have developed a national data set of geo-coded precinct-level election results that has been used extensively in policy-oriented research related to redistricting and representation.
11. I have previously submitted five affidavits in this case. I have also been accepted and testified as an expert witness in several election law and redistricting cases: *Romo v. Detzner*, No. 2012-CA-000412 (Fla. Cir. Ct. 2012); *Mo. State Conference of the NAACP v. Ferguson-Florissant Sch. Dist.*, No. 4:2014-CV-02077 (E.D. Mo. 2014); *Lee v. Va. State Bd. of Elections*, No. 3:15-CV-00357 (E.D. Va. 2015); *Democratic Nat'l Committee et al. v. Hobbs et al.*, No. 16-1065-PHX-DLR (D. Ariz. 2016); *Bethune-Hill v. Virginia State Board of Elections*, No. 3:14-cv-00852-REP-AWA-BMK (E.D. Va. 2014); and *Jacobson et al. v. Lee*, No. 4:18-cv-00262 (N.D. Fla. 2018), and *Rivera v. Schwab*, No. 2022-cv-89 (Kan. Dist. Ct. 2022). I drew a Pennsylvania Congressional redistricting plan, known as the “Carter Plan,” that was chosen by the Pennsylvania Supreme Court for implementation in 2022. *Carter v. Chapman*, No. 7 MM 2022, 2022 WL 549106 (Pa. Feb. 23, 2022). I also worked with a coalition of academics to file Amicus Briefs in the U.S. Supreme Court in *Gill v. Whitford*, No. 16-1161, and *Rucho v. Common Cause*, No. 18-422. Much of the testimony in these cases had to do with geography, electoral districts, voting, ballots, and election administration.

III. DATA SOURCES

12. I collected statewide election data for 2012 to 2022 from the Ohio Secretary of State.¹ I also accessed precinct-level election results from the Ohio Secretary of State for statewide elections from 2016 to 2022 that were matched to 2020 Ohio voting tabulation districts and census blocks by the Redistricting Data Hub.²

¹ <https://www.ohiosos.gov/elections/election-results-and-data/>

² <https://redistrictingdatahub.org/state/ohio/>

13. Additionally, I accessed block assignment files for all of the Commission-adopted plans I analyze from the Commission's website³ and archived website.⁴
14. For the analysis conducted in this report, I used the software package Stata and R. In creating the Rodden Plan and correcting the Independent Map Drawers' Plan to create the Corrected IMD Plan, I used Maptitude for Redistricting and the same U.S. Census redistricting data used by the Ohio Redistricting Commission, as archived in the "Ohio University Common and Unified Redistricting Database."⁵

IV. COMPARING THE SEPTEMBER 2023 PLAN WITH OTHER PLANS ON PARTISAN PROPORTIONALITY

15. According to *League I* at ¶ 108, the Commission must attempt to draw a plan with a seat share that "closely corresponds" to a breakdown of 54 percent in favor of Republicans and 46 percent in favor of Democrats. As this Court has held in interpreting Section 6(B)'s proportionality requirement, "competitive districts . . . must either be excluded from the proportionality assessment or be allocated to each party in close proportion to its statewide vote share." *League II* at ¶ 62.
16. Determining the proportion of districts that favor each party, based on consideration of the relevant elections identified in Article XI, Section 6(B), requires an aggregation of the precinct-level results of these past elections to the boundaries of a map's proposed districts. However, precinct-level election results linked with geo-spatial boundaries were not available for the 2012 and 2014 elections, and thus all parties have used election data from 2016 onwards to calculate the average partisan vote share in each district.
17. As discussed in my previous reports to this Court, using the full statewide election results from 2012 to 2020, the statewide preferences of Ohio voters must be translated into state legislative maps in which 45.9 percent of seats favor Democrats and 54.1 percent of seats favor Republicans. Since there are 99 seats in the Ohio House of Representatives, a statewide vote share of 45.9 percent would be associated with 45.44 Democratic seats, which rounds down to 45 seats. Similarly, a 45.9 percent vote share would be associated with about 15.15 Democratic seats in the 33-member Ohio Senate, which rounds down to 15 seats.
18. Because statewide election results from 2022 are now available, Table 1 sets forth all partisan statewide races from 2012 to 2022. If one were to consider the full statewide election results from 2014 to 2022 rather than 2012 to 2020, the statewide preferences of Ohio voters are 43.6 percent in favor of Democrats and 56.4 percent in favor of Republicans. Since there are 99 seats in the Ohio House of Representatives, a statewide vote share of 43.6 percent would be associated with 43.16 Democratic seats, which rounds down to 43 seats. Similarly, a 43.6 percent vote share would be associated with about 13.39 Democratic seats in the 33-member Ohio Senate, which rounds down to 13 seats.

³ <https://redistricting.ohio.gov/maps>

⁴ <https://archive.redistricting.ohio.gov/maps#view-maps>

⁵ <https://www.redistricting.ohio.gov/resources>

Table 1: Statewide General Election Outcomes, Ohio, 2012-2022

	Democratic Votes	Republican Votes	Other	Two-party Democratic Vote Share
2012 President	2,827,709	2,661,439	91,791	51.5%
2012 U.S. Senate	2,762,766	2,435,744	250,618	53.1%
2014 Governor	1,009,359	1,944,848	101,706	34.2%
2014 Att. Gen.	1,178,426	1,882,048		38.5%
2014 Auditor	1,149,305	1,711,927	143,363	40.2%
2014 Sec. of State	1,074,475	1,811,020	141,292	37.2%
2014 Treasurer	1,323,325	1,724,060		43.4%
2016 President	2,394,164	2,841,005	261,318	45.7%
2016 Senate	1,996,908	3,118,567	258,689	39.0%
2018 Senate	2,358,508	2,057,559	1,017	53.4%
2018 Governor	2,070,046	2,235,825	129,949	48.1%
2018 Att. Gen.	2,086,715	2,276,414		47.8%
2018 Auditor	2,008,295	2,156,663	175,962	48.2%
2018 Sec. of State	2,052,098	2,214,273	103,585	48.1%
2018 Treasurer	2,024,194	2,308,425		46.7%
2020 President	2,679,165	3,154,834	88,203	45.9%
2022 Senate	1,939,489	2,192,114	1,739	46.94%
2022 Governor	1,545,489	2,580,424	8,964	37.46%
2022 Att. Gen.	1,647,644	2,484,753		39.87%
2022 Auditor	1,683,216	2,397,207		41.25%
2022 Sec. of State	1,635,824	2,444,382	42,753	40.09%
2022 Treasurer	1,692,160	2,390,542		41.45%
2022 Chief Justice	1,807,133	2,307,415		43.92%
2022 Justice 1/1/23	1,764,845	2,330,575		43.09%
2022 Justice 1/2/23	1,789,384	2,306,428		43.69%
Sum, 2012-2020	30,995,458	36,534,651	1,747,493	45.9%
Sum, 2014-2022	40,910,167	52,871,308	1,458,540	43.6%

19. It is my understanding that the Commission’s approach to evaluating the partisanship of each district was to add up all the votes cast for each of the two major parties in each statewide election and divide by the total number of votes cast for both of the two major parties, summing over all of those elections.

20. I have calculated this measure of district-level partisanship for each district—using both a 2016 to 2020 election composite and a 2016 to 2022 election composite—in each of the following plans: the September 2023 Plan,⁶ the September 2021 Plan (the original plan adopted by the Commission),⁷ the 2022 Election Plan (the plan first adopted by the Commission in February 2022 and used in the 2022 elections),⁸ the September 2023 GOP Proposal (the first plan proposed by the Commission in September 2023),⁹ the Rodden Plan,¹⁰ and the Corrected IMD Plan.¹¹ In Table 2, I include these metrics for the Ohio House using 2016 to 2020 data, and in Table 3 I include those metrics for the Ohio House using 2016 to 2022 data. Tables 4 and 5 provide the same information for the Ohio Senate.
21. Two things are immediately apparent from these tables. First, the distribution of partisan seats in the September 2023 Plan is nearly identical to that in the September 2021 Plan—the very first plan that the Ohio Redistricting Commission passed in 2021, and which the Ohio Supreme Court invalidated in January 2022. Second, the distribution of partisan seats did not change very much between the Commission’s original September 2023 GOP Proposal and the final September 2023 Plan. And finally, when one includes competitive districts, the September 2023 Plan has far fewer Democratic-leaning seats than the 2022 Election Plan, which the Ohio Supreme Court *twice* invalidated.
22. In accordance with the Ohio Supreme Court’s previous rulings, if competitive districts are excluded (i.e., if any seats between 48 and 52 percent Democratic vote share are excluded from the analysis), the September 2023 Plan produces a breakdown of 9D/20R in the Senate (or 31.0 percent Democratic/69.0 percent Republican) and 30D/59R in the House (or 33.7 percent Democratic/66.3 percent Republican) using 2016 to 2020 election data. Using 2016 to 2022 data, it produces a breakdown of 9D/23R in the Senate (or 28.1 percent Democratic/71.9 percent Republican) and 29D/61R in the House (or 32.2 percent Democratic/68.8 percent Republican).
23. Tables 6 and 7 set forth the partisan breakdown of each of the above-considered plans when one excludes competitive districts, demonstrating that the proportionality of the September 2023 Plan is on par with that of the September 2021 Plan, the 2022 Election Plan, and the September 2023 GOP Proposal. And although none of the plans analyzed achieves perfect proportionality when excluding competitive districts, the Rodden Plan and the Corrected IMD Plan come much closer than any of the plans proposed or adopted by the Commission.

⁶ <https://www.redistricting.ohio.gov/assets/district-maps/district-map-10000121.zip>

⁷ <https://archive.redistricting.ohio.gov/assets/district-maps/district-map-173.zip>

⁸ <https://archive.redistricting.ohio.gov/assets/district-maps/district-map-873.zip>

⁹ <https://www.redistricting.ohio.gov/assets/district-maps/district-map-10000001.zip>

¹⁰ <https://archive.redistricting.ohio.gov/assets/district-maps/district-map-773.zip>

¹¹ <https://archive.redistricting.ohio.gov/assets/district-maps/district-map-1273.zip>

Table 2: Plan Statistics, Ohio House of Representatives, 2016-2020 Election Data

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal	Rodden Plan	Corrected IMD Plan
# of seats with two-party Democratic vote share >.5	38	37	45	37	42	45
Expressed as percentage of seats	38.4%	42.4%	45.5%	37.4%	42.4%	45.5%
# of seats with two-party Republican vote share >.5	61	62	54	62	57	54
Expressed as percentage of seats	61.6%	62.6%	54.5%	62.6%	57.6%	54.5%
# of seats with two-party Democratic vote share >.52	30	32	26	30	40	42
Expressed as a percentage of seats	30.3%	32.3%	26.3%	30.3%	40.4%	42.4%
# of seats with two-party Democratic vote share <.48	59	62	54	59	56	52
Expressed as percentage of seats	59.6%	62.6%	54.5%	59.6%	56.6%	52.5%
# of seats with two-party Democratic vote share between .48 and .5	2	0	0	3	1	2
Expressed as percentage of seats	2.0%	0.0%	0.0%	3.0%	1.0%	2.0%
# of seats with two-party Democratic vote share between .5 and .52	8	5	19	7	2	3
Expressed as percentage of seats	8.1%	5.1%	19.2%	7.1%	2.0%	3.0%
# of seats with two-party Democratic vote share >.55	24	27	22	23	29	24
Expressed as a percentage of seats	24.2%	27.3%	22.2%	23.2%	29.3%	24.2%
# of seats with two-party Democratic vote share <.45	53	56	52	55	51	48
Expressed as percentage of seats	53.5%	56.6%	52.5%	55.6%	51.5%	48.5%
# of seats with two-party Democratic vote share between .5 and .55	14	10	23	14	13	21
Expressed as percentage of seats	14.1%	10.1%	23.2%	14.1%	13.1%	21.2%
# of seats with two-party Democratic vote share between .45 and .5	8	6	2	7	6	6
Expressed as percentage of seats	8.1%	6.1%	2.0%	7.1%	6.1%	6.1%

Table 3: Plan Statistics, Ohio House of Representatives, 2016-2022 Election Data

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal	Rodden Plan	Corrected IMD Plan
# of seats with two-party Democratic vote share >.5	32	32	29	32	40	40
Expressed as percentage of seats	32.3%	42.4%	29.3%	32.3%	40.4%	40.4%
# of seats with two-party Republican vote share >.5	67	67	70	67	59	59
Expressed as percentage of seats	67.7%	67.7%	70.7%	67.7%	59.6%	59.6%
# of seats with two-party Democratic vote share >.52	29	30	24	26	32	30
Expressed as a percentage of seats	29.3%	30.3%	24.2%	26.3%	32.3%	30.3%
# of seats with two-party Democratic vote share <.48	61	62	57	61	56	55
Expressed as percentage of seats	61.6%	62.6%	57.6%	61.6%	56.6%	55.6%
# of seats with two-party Democratic vote share between .48 and .5	6	5	13	6	3	4
Expressed as percentage of seats	6.1%	5.1%	13.1%	6.1%	3.0%	4.0%
# of seats with two-party Democratic vote share between .5 and .52	3	2	5	6	8	10
Expressed as percentage of seats	3.0%	2.0%	5.1%	6.1%	8.1%	10.1%
# of seats with two-party Democratic vote share >.55	23	24	20	21	24	19
Expressed as a percentage of seats	23.2%	24.2%	20.2%	21.2%	24.2%	19.2%
# of seats with two-party Democratic vote share <.45	57	61	54	58	54	51
Expressed as percentage of seats	57.6%	61.6%	54.5%	58.6%	54.5%	51.5%
# of seats with two-party Democratic vote share between .5 and .55	9	8	9	11	16	21
Expressed as percentage of seats	9.1%	8.1%	9.1%	11.1%	16.2%	21.2%
# of seats with two-party Democratic vote share between .45 and .5	10	6	16	9	5	6
Expressed as percentage of seats	10.1%	6.1%	16.2%	9.1%	5.1%	6.1%

Table 4: Plan Statistics, Ohio Senate, 2016-2020 Election Data

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal	Rodden Plan	Corrected IMD Plan
# of seats with two-party Democratic vote share >.5	10	10	15	10	15	15
Expressed as percentage of seats	30.3%	30.3%	45.5%	30.3%	45.5%	45.5%
# of seats with two-party Republican vote share >.5	23	23	18	23	18	18
Expressed as percentage of seats	69.7%	69.7%	54.5%	69.7%	54.5%	54.5%
# of seats with two-party Democratic vote share >.52	9	9	8	9	12	13
Expressed as a percentage of seats	27.3%	27.3%	24.2%	27.3%	36.4%	39.4%
# of seats with two-party Democratic vote share <.48	20	21	18	21	18	18
Expressed as percentage of seats	60.6%	63.6%	54.5%	63.6%	54.5%	54.5%
# of seats with two-party Democratic vote share between .48 and .5	3	2	0	2	0	0
Expressed as percentage of seats	9.1%	6.1%	0.0%	6.1%	0.0%	0.0%
# of seats with two-party Democratic vote share between .5 and .52	1	1	7	1	3	2
Expressed as percentage of seats	3.0%	3.0%	21.2%	3.0%	9.1%	6.1%
# of seats with two-party Democratic vote share >.55	8	7	7	8	11	6
Expressed as a percentage of seats	24.2%	21.2%	21.2%	24.2%	33.3%	18.2%
# of seats with two-party Democratic vote share <.45	16	18	16	17	17	15
Expressed as percentage of seats	48.5%	54.5%	48.5%	51.5%	51.5%	45.5%
# of seats with two-party Democratic vote share between .5 and .55	2	3	8	2	4	9
Expressed as percentage of seats	6.1%	9.1%	24.2%	6.1%	12.1%	27.3%
# of seats with two-party Democratic vote share between .45 and .5	7	5	2	6	1	3
Expressed as percentage of seats	21.2%	15.2%	6.1%	18.2%	3.0%	9.1%

Table 5: Plan Statistics, Ohio Senate, 2016-2022 Election Data

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal	Rodden Plan	Corrected IMD Plan
# of seats with two-party Democratic vote share >.5	9	9	10	9	12	13
Expressed as percentage of seats	27.3%	27.3%	30.3%	27.3%	36.4%	39.4%
# of seats with two-party Republican vote share >.5	24	24	23	24	21	20
Expressed as percentage of seats	72.7%	72.7%	69.7%	72.7%	63.6%	60.6%
# of seats with two-party Democratic vote share >.52	9	9	7	8	12	10
Expressed as a percentage of seats	27.3%	27.3%	21.2%	24.2%	36.4%	30.3%
# of seats with two-party Democratic vote share <.48	23	23	20	23	19	18
Expressed as percentage of seats	69.7%	69.7%	60.6%	69.7%	57.6%	54.5%
# of seats with two-party Democratic vote share between .48 and .5	1	1	3	1	2	2
Expressed as percentage of seats	3.0%	3.0%	9.1%	3.0%	6.1%	6.1%
# of seats with two-party Democratic vote share between .5 and .52	0	0	3	1	0	3
Expressed as percentage of seats	0.0%	0.0%	9.1%	3.0%	0.0%	9.1%
# of seats with two-party Democratic vote share >.55	8	7	5	8	9	5
Expressed as a percentage of seats	24.2%	21.2%	15.2%	24.2%	27.3%	15.2%
# of seats with two-party Democratic vote share <.45	20	19	18	20	18	18
Expressed as percentage of seats	60.6%	57.6%	54.5%	60.6%	54.5%	54.5%
# of seats with two-party Democratic vote share between .5 and .55	1	2	5	1	3	8
Expressed as percentage of seats	3.0%	6.1%	15.2%	3.0%	9.1%	24.2%
# of seats with two-party Democratic vote share between .45 and .5	4	5	5	4	3	2
Expressed as percentage of seats	12.1%	15.2%	15.2%	12.1%	9.1%	6.1%

Table 6: Plan Proportionality, 2016-2020 Election Data

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal	Rodden Plan	Corrected IMD Plan
HOUSE						
# of seats with two-party Democratic vote share >.52	30	32	26	30	40	42
Percentage (excluding competitive seats)	33.7%	34.0%	32.5%	33.7%	41.7%	44.7%
# of seats with two-party Republican vote share >.52	59	62	54	59	56	52
Percentage (excluding competitive seats)	66.3%	66.0%	67.5%	66.3%	58.3%	55.3%
SENATE						
# of seats with two-party Democratic vote share >.52	9	9	8	8	12	13
Percentage (excluding competitive seats)	31.0%	30.0%	30.8%	30.8%	40.0%	41.9%
# of seats with two-party Republican vote share >.52	20	21	18	18	18	18
Percentage (excluding competitive seats)	69.0%	70.0%	69.2%	69.2%	60.0%	58.1%
TOTAL PLAN						
# of seats with two-party Democratic vote share >.52	39	41	34	38	52	55
Percentage (excluding competitive seats)	33.1%	33.1%	32.1%	33.0%	41.3%	44.0%
# of seats with two-party Republican vote share >.52	79	83	72	77	74	70
Percentage (excluding competitive seats)	66.9%	66.9%	67.9%	67.0%	58.7%	56.0%

Table 7: Plan Proportionality, 2016-2022 Election Data

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal	Rodden Plan	Corrected IMD Plan
HOUSE						
# of seats with two-party Democratic vote share >.52	29	30	24	26	32	30
Percentage (excluding competitive seats)	32.2%	32.6%	29.6%	29.9%	36.4%	35.3%
# of seats with two-party Republican vote share >.52	61	62	57	61	56	55
Percentage (excluding competitive seats)	67.8%	67.4%	70.4%	70.1%	63.6%	64.7%
SENATE						
# of seats with two-party Democratic vote share >.52	9	9	7	8	12	10
Percentage (excluding competitive seats)	28.1%	28.1%	25.9%	25.8%	38.7%	35.7%
# of seats with two-party Republican vote share >.52	23	23	20	23	19	18
Percentage (excluding competitive seats)	71.9%	71.9%	74.1%	74.2%	61.3%	64.3%
TOTAL PLAN						
# of seats with two-party Democratic vote share >.52	38	39	31	34	44	40
Percentage (excluding competitive seats)	31.1%	31.5%	28.7%	28.8%	37.0%	35.4%
# of seats with two-party Republican vote share >.52	84	85	77	84	75	73
Percentage (excluding competitive seats)	68.9%	68.5%	71.3%	71.2%	63.0%	64.6%

V. COMPARING THE SEPTEMBER 2023 PLAN WITH OTHER PLANS ON TRADITIONAL REDISTRICTING CRITERIA

24. I have also examined the extent to which each of these plans abides by traditional redistricting criteria, including average planwide compactness metrics and splits of counties and voting tabulation districts (VTDs). This information is included in Table 8 below.

Table 8: Compactness and Splits of Counties and Voting Tabulation Districts

	Commission September 2023 Plan	Commission September 2021 Plan	Commission 2022 Election Plan	September 2023 GOP Proposal	Rodden Plan	Corrected IMD Plan
HOUSE						
Average compactness scores						
(Higher scores = more compact)						
Reock	0.39	0.40	0.40	0.40	0.42	0.41
Polsby-Popper	0.31	0.30	0.31	0.32	0.35	0.33
Area/Convex Hull	0.75	0.74	0.75	0.75	0.79	0.77
Number of split counties	38	33	38	38	32	38
Number of split VTDs	126	110	135	125	96	110
SENATE						
Average compactness scores						
(Higher scores = more compact)						
Reock	0.40	0.40	0.39	0.40	0.44	0.43
Polsby-Popper	0.30	0.31	0.28	0.30	0.37	0.32
Area/Convex Hull	0.74	0.73	0.73	0.74	0.78	0.76
Number of split counties	14	13	15	14	15	22
Number of split VTDs	44	45	57	46	22	42

25. Both the Rodden Plan and the Corrected IMD Plan clearly outperform the September 2023 Plan on the traditional redistricting criterion of compactness. They are superior to the Commission’s newest plan, as well as its previous plans, under all three compactness measures I analyzed: Reock, Polsby-Popper and Area/Convex Hull.¹²
26. Another relevant redistricting criterion is the number of split political subdivisions. As in my previous submissions to the Court, I consider counties and VTDs, and I do not consider a county to be split if multiple districts are entirely contained within the county such that no district crosses the county boundary. Out of the 6 plans I considered, the Rodden Plan splits

¹² I calculate each of these using the R software package called “redistmetrics.” Note that in my previous reports, I reported scores produced by the software *Maptitude for Redistricting*.

fewer counties and VTDs in the House than any of the other plans. In the House, the Rodden Plan splits 6 fewer counties and 30 fewer VTDs than the Commission's September 2023 Plan. In the Senate, the Rodden Plan contains one more county split than the Commission's September 2023 Plan but splits half as many VTDs (22 in the Rodden Plan versus 44 in the September 2023 Plan). Although the Corrected IMD Plan does not perform as well as the Rodden Plan on this criterion, it splits the same or fewer number of VTDs in both the House and Senate than the 4 Commission plans I considered. And it splits the same number of counties in the House as all but one of the 4 Commission plans.

27. The Rodden Plan and the Corrected IMD Plan—both of which are far more proportional than any of the Commission plans and comply with all of the Ohio Constitution's other redistricting requirements—outperform or are on par with the Commission plans on traditional redistricting criteria. Therefore, they reveal that there is nothing about Ohio's political geography that might explain the September 2023 Plan's lack of proportionality.

VI. CONCLUSION

28. The September 2023 Plan is nowhere near the 46 percent Democrat/54 percent Republican breakdown that the Ohio Supreme Court's previous orders require, or even the 44 percent Democrat/56 percent Republican breakdown that the 2014-2022 statewide preferences of voters would require. The Rodden Plan and the Corrected IMD Plan show that the Commission *could* have drawn a far more proportional plan that complies with Ohio's constitutional requirements and performs as well or better on traditional redistricting criteria.

Jonathan Rodden

Jonathan Rodden

State of Florida County of Miami Dade

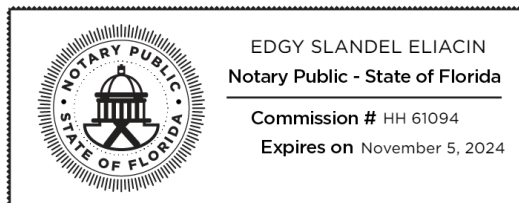
Sworn to before me this 5th day of October 2023.

by Jonathan Andrew Rodden produced Florida drivers license

Edgy Slandel Eliacin

Edgy Slandel Eliacin

Notary Public



My commission expires 11/05/2024

Notarized online using audio-video communication



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Exhibit A

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Academic Positions

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Visiting Scholar, Center for Basic Research in the Social Sciences, Harvard University, 2004.

Assistant Professor of Political Science, MIT, 1999–2003.

Instructor, Department of Political Science and School of Management, Yale University, 1997–1999.

Publications

Books

Why Cities Lose: The Deep Roots of the Urban-Rural Divide. Basic Books, 2019.

Decentralized Governance and Accountability: Academic Research and the Future of Donor Programming. Co-edited with Erik Wibbels, Cambridge University Press, 2019.

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Representation and Regional Redistribution in Federations: A Research Report, 2009, in *World Report on Fiscal Federalism*, Institut d'Economia de Barcelona.

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Book Review of *The Government of Money* by Peter Johnson, *Comparative Political Studies* 32,7: 897-900.

Fellowships, Honors, and Grants

John Simon Guggenheim Memorial Foundation Fellowship, 2021.

Martha Derthick Award of the American Political Science Association for "the best book published at least ten years ago that has made a lasting contribution to the study of federalism and intergovernmental relations," 2021.

National Science Foundation, funding for study "Segregation, Suburbanization, and Representation," 2023.

National Institutes of Health, funding for "Relationship between lawful handgun ownership and risk of homicide victimization in the home," 2021.

National Collaborative on Gun Violence Research, funding for "Cohort Study Of Firearm-Related Mortality Among Cohabitants Of Handgun Owners." 2020.

Fund for a Safer Future, Longitudinal Study of Handgun Ownership and Transfer (LongSHOT), GA004696, 2017-2018.

Stanford Institute for Innovation in Developing Economies, Innovation and Entrepreneurship research grant, 2015.

Michael Wallerstein Award for best paper in political economy, American Political Science Association, 2016.

Common Cause Gerrymandering Standard Writing Competition, 2015.

General support grant from the Hewlett Foundation for Spatial Social Science Lab, 2014.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2012.

Sloan Foundation, grant for assembly of geo-referenced precinct-level electoral data set (with Stephen Ansolabehere and James Snyder), 2009-2011.

Hoagland Award Fund for Innovations in Undergraduate Teaching, Stanford University, 2009.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, beginning Fall 2010.

Research Grant on Fiscal Federalism, Institut d'Economia de Barcelona, 2009.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2008.

United Postal Service Foundation grant for study of the spatial distribution of income in cities, 2008.

Gregory Luebbert Award for Best Book in Comparative Politics, 2007.

Fellow, Center for Advanced Study in the Behavioral Sciences, 2006-2007.

National Science Foundation grant for assembly of cross-national provincial-level dataset on elections, public finance, and government composition, 2003-2004 (with Erik Wibbels).

MIT Dean's Fund and School of Humanities, Arts, and Social Sciences Research Funds.

Funding from DAAD (German Academic Exchange Service), MIT, and Harvard EU Center to organize the conference, "European Fiscal Federalism in Comparative Perspective," held at Harvard University, November 4, 2000.

Canadian Studies Fellowship (Canadian Federal Government), 1996-1997.

Prize Teaching Fellowship, Yale University, 1998-1999.

Fulbright Grant, University of Leipzig, Germany, 1993-1994.

Michigan Association of Governing Boards Award, one of two top graduating students at the University of Michigan, 1993.

W. J. Bryan Prize, top graduating senior in political science department at the University of Michigan, 1993.

Other Professional Activities

Selection committee, best paper award, American Journal of Political Science.

Selection committee, best paper award, American Political Economy

International Advisory Committee, Center for Metropolitan Studies, Sao Paulo, Brazil, 2006–2010.

Selection committee, Mancur Olson Prize awarded by the American Political Science Association Political Economy Section for the best dissertation in the field of political economy.

Selection committee, Gregory Luebbert Best Book Award.

Selection committee, William Anderson Prize, awarded by the American Political Science Association for the best dissertation in the field of federalism and intergovernmental relations.

Courses

Undergraduate

Politics, Economics, and Democracy

Introduction to Comparative Politics

Introduction to Political Science

Political Science Scope and Methods

Institutional Economics

Spatial Approaches to Social Science

Graduate

Political Economy

Political Economy of Institutions

Federalism and Fiscal Decentralization

Politics and Geography

Consulting

2017. Economic and Financial Affairs Committee of the European Parliament.

2016. Briefing paper for the World Bank on fiscal federalism in Brazil.

2013-2018: Principal Investigator, SMS for Better Governance (a collaborative project involving USAID, Social Impact, and UNICEF in Arua, Uganda).

2022. Expert witness in *Rivera v. Schwab* No. 2022-cv-89 (Kan. Dist. Ct. 2022)

2022. Drew Pennsylvania Congressional redistricting plan that was chosen by the Pennsylvania Supreme Court for implementation in *Carter v. Chapman* No. 7 MM 2022, 2022WL 549106 (Pennsylvania Supreme Court).

2022. Written expert testimony in *Benninghoff v. 2021 Legislative Reapportionment Commission* (Pennsylvania Supreme Court).

2022 Expert witness in *Bennett v. Ohio Redistricting Commission*, No. 2012-1198 (Ohio Supreme Court).

2022 Expert witness in *Adams v. DeWine* No. 2012-1428 (Ohio Supreme Court).

2022 Expert witness in *Neiman v. LaRose* No. 2022-0298 (Ohio Supreme Court)

2019: Written expert testimony in *McLemore, Holmes, Robinson, and Woullard v. Hosemann*, United States District Court, Mississippi.

2019: Expert witness in *Nancy Corola Jacobson v. Detzner*, United States District Court, Florida.

2018: Written expert testimony in *League of Women Voters of Florida v. Detzner* No. 4:18-cv-002510, United States District Court, Florida.

2018: Written expert testimony in *College Democrats of the University of Michigan, et al. v. Johnson, et al.*, United States District Court for the Eastern District of Michigan.

2017: Expert witness in *Bethune-Hill v. Virginia Board of Elections*, No. 3:14-CV-00852, United States District Court for the Eastern District of Virginia.

2017: Expert witness in *Arizona Democratic Party, et al. v. Reagan, et al.*, No. 2:16-CV-01065, United States District Court for Arizona.

2016: Expert witness in *Lee v. Virginia Board of Elections*, 3:15-cv-357, United States District Court for the Eastern District of Virginia, Richmond Division.

2016: Expert witness in *Missouri NAACP v. Ferguson-Florissant School District*, United States District Court for the Eastern District of Missouri, Eastern Division.

2014-2015: Written expert testimony in *League of Women Voters of Florida et al. v. Detzner, et al.*, 2012-CA-002842 in Florida Circuit Court, Leon County (Florida Senate redistricting case).

2013-2014: Expert witness in *Romo v Detzner*, 2012-CA-000412 in Florida Circuit Court, Leon County (Florida Congressional redistricting case).

2011-2014: Consultation with investment groups and hedge funds on European debt crisis.

2011-2014: Lead Outcome Expert, Democracy and Governance, USAID and Social Impact.

2010: USAID, Review of USAID analysis of decentralization in Africa.

2006–2009: World Bank, Independent Evaluations Group. Undertook evaluations of World Bank decentralization and safety net programs.

2008–2011: International Monetary Fund Institute. Designed and taught course on fiscal federalism.

1998–2003: World Bank, Poverty Reduction and Economic Management Unit. Consultant for *World Development Report*, lecturer for training courses, participant in working group for assembly of decentralization data, director of multi-country study of fiscal discipline in decentralized countries, collaborator on review of subnational adjustment lending.

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