

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS, et al.,
Plaintiffs,

v.

OHIO REDISTRICTING COMMISSION and
FRANK LAROSE, in his official capacity,
Defendants,

and

SENATOR VERNON SYKES and HOUSE
MINORITY LEADER ALLISON RUSSO, in their
capacities as members of the Ohio
Redistricting Commission,
*Proposed Intervenor-
Defendants.*

Case No. 2:22-cv-773

Chief Judge Marbley

Magistrate Judge Deavers

**Motion and Supporting Memorandum of Senator Vernon Sykes and
House Minority Leader Allison Russo to Intervene as Defendants**

Senator Vernon Sykes and House Minority Leader Allison Russo are members of the Ohio Redistricting Commission, with Senator Sykes serving as Co-Chair. They move to intervene as defendants under Federal Rule of Civil Procedure 24. Their intervention now is imperative because the plaintiffs have requested the convening of a three-judge district court under 28 U.S.C. § 2284(a). But “a three-judge court is not required where the district court itself lacks jurisdiction of the complaint or the complaint is not justiciable in the federal courts.” *Shapiro v. McManus*, 577 U.S. 39, 44–45 (2015). As the proposed intervenors will argue, that is exactly the case here—this action is not presently justiciable, and the Court currently lacks jurisdiction to issue the relief sought. For these reasons, the proposed intervenors will ask that the Court deny the request to convene a three-judge court and deny the preliminary-injunction motion. Instead, the proposed intervenors will ask this

Court to defer consideration of the case by entering a stay, as required by *Growe v. Emison*, 507 U.S. 25 (1993), to allow proceedings before the Ohio Supreme Court to continue. The plaintiffs have filed this lawsuit to “race to beat the [Ohio Supreme Court] to the finish line.” *Id.* at 37. But the U.S. Supreme Court has “required federal judges to defer consideration of disputes involving redistricting where the State, through its legislative or judicial branch, has begun to address that highly political task itself.” *Id.* at 33.

Intervention is warranted on three separate grounds:

First, intervention of right is warranted under Rule 24(a)(2). The motion is timely. Senator Sykes and House Minority Leader Russo have an interest in this action—and the action directly threatens that interest—because they are parties to the proceedings before the Ohio Supreme Court that this action is designed to short-circuit. And their interests are not adequately represented by the Commission, as evidenced by the fact that they are currently advocating a diametrically opposite position from the Commission before the Ohio Supreme Court—through separate filings, represented by separate counsel. *See* Exhibit A. The Ohio Supreme Court has recognized their divergent interests not only by allowing them to file their own briefs, but by allotting them argument time to be shared with the petitioners—not the Commission (which time they ultimately ceded to the petitioners’ counsel). That is more than enough to make the “minimal” showing required by Rule 24(b). *Ne. Ohio Coal. for Homeless & Serv. Employees Int’ Union, Local 1199 v. Blackwell*, 467 F.3d 999, 1007–08 (6th Cir. 2006).

Second, even if the criteria for intervention of right were not satisfied, intervention would be appropriate under Rule 24(b)(1). *See League of Women Voters of Mich. v. Johnson*, 902 F.3d 572, 577–80 (6th Cir. 2018) (holding that denying intervention to legislators in a redistricting dispute was an abuse of discretion). Senator Sykes and House Minority Leader Russo seek to assert defenses that raise common questions of law or fact—specifically, that this suit is unripe, that the plaintiffs

currently lack standing, that the Commission has sovereign immunity, and that the Court should defer to the ongoing Ohio Supreme Court proceedings under *Growe v. Eimson*. In addition, the intervention motion is timely, and intervention won't cause any undue delay or prejudice. Counsel for the originally named defendants have not yet entered their appearances, briefing can occur on the same schedule, and jurisdictional and justiciability arguments go to the Court's power to act.

Finally, intervention is permissible under Rule 24(b)(2). Senator Sykes and House Minority Leader Russo are state officers; the plaintiffs' claims are based on the orders (or lack thereof) of the Commission that they administer; the motion is timely; and there is no delay or prejudice.¹

Respectfully submitted,

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February 20, 2022

Attorneys for Proposed Intervenor-Defendants

¹ Rule 24(c) requires a proposed intervenor to attach a proposed pleading to notify existing parties of the intervenor's claims or defenses. This motion gives notice of the intervenors' defenses, and those defenses will be set forth in more detail in filings to be submitted shortly. So long as "the parties are clearly on notice" of the proposed intervenor's "position and arguments" and no party suffers prejudice, the Sixth Circuit has repeatedly held that intervention should not be denied for failure to file a complaint or an answer. *See Providence Baptist Church v. Hillandale Comm., Ltd.*, 425 F.3d 309, 314-15 (6th Cir. 2005); *League of Women Voters of Mich.*, 902 F.3d at 580.

CERTIFICATE OF SERVICE

I certify that on February 20, 2022, I filed this intervention motion through this Court's CM/ECF system. I further certify that, because no counsel for the defendants has yet appeared, I served copies on the defendants' counsel, Bridget Coontz, Ohio Attorney General's Office, *bridget.coontz@ohioattorneygeneral.gov*, and Eric Clark, Organ Law LLP, *ejclark@organlegal.com*.

/s/ C. Benjamin Cooper

C. Benjamin Cooper

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Exhibit A

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
: Case No. 2021-1193
Relators, :
v. : Original Action Filed Pursuant to Ohio
: Constitution, Article XI, Section 9(A)
Ohio Redistricting :
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.
: Prac. R. 14.03]
Respondents. :
:
:

Bria Bennett, *et al.*, :
: Case No. 2021-1198
Relators, :
v. : Original Action Filed Pursuant to Ohio
: Constitution, Article XI, Section 9(A)
Ohio Redistricting :
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.
: Prac. R. 14.03]
Respondents. :
:
:

The Ohio Organizing Collaborative, *et al.*, :
: Case No. 2021-1210
Relators, :
v. : Original Action Filed Pursuant to Ohio
: Constitution, Article XI, Section 9(A)
Ohio Redistricting :
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.
: Prac. R. 14.03]
Respondents. :
:
:

RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE
MINORITY LEADER ALLISON RUSSO TO PETITIONERS' OBJECTIONS

FILED

JAN 28 2022

CLERK OF COURT
SUPREME COURT OF OHIO

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**RESPONSE OF RESPONDENTS VERNON SYKES AND ALLISON RUSSO
TO PETITIONERS' OBJECTIONS**

We offer this pro se filing in response to the petitioners' objections to the purportedly remedial map approved by a majority of the Ohio Redistricting Commission on Saturday, January 22, 2022. We are: (1) Senator Vernon Sykes Co-Chair of the Ohio Redistricting Commission and State Senator for the 28th District of the Ohio Senate, and (2) Respondent House Minority Leader Allison Russo, Commissioner and Leader of the Minority Caucus in the Ohio House.¹ We are the only Democrats on the Commission. We are also the only woman and African American on the Commission.

As this Court well knows from prior proceedings, the interests of the Democratic Commissioners conflict with the Republican Commissioners' interests. Because of that conflict, the Ohio Attorney General appointed the Democratic Commissioners separate legal counsel. This appointment enabled the Democratic Commissioners, through legal counsel, to file their own pleadings and give voice to the efforts and perspectives of the Democratic Commissioners. This Court has recognized the Democratic Commissioners' distinct interests by allowing them to file their own briefs and allotting them time for oral argument to be shared not with the Republican Commissioners but with the petitioners (which time they ultimately ceded to the petitioners' counsel).

The Attorney General has now denied us, the current Democratic Commissioners, separate counsel and has unilaterally asserted that we will be represented by the Commission's counsel only. The Attorney General's Office first advised us that we were not allowed to file

¹ On January 12, 2022, Allison Russo, a Democrat and Representative for House District 24, was elected Leader of the House Minority Caucus, replacing former Minority Leader Emilia Sykes. On January 18, 2022, Leader Russo was sworn in as a member of the Ohio Redistricting Commission, and a notice was filed with the Court substituting Leader Russo as a party in this matter.

objections to the Commission's maps alongside the petitioners, despite the fact that we had objections to the constitutionality of the majority's ostensibly remedial map. After the petitioners' objections, this Court afforded the respondents—which includes us—the opportunity to respond to the objections. However, the Attorney General has denied our assigned special counsel permission to file such a response or even consult with us. On January 26, 2022, our counsel told us that they would no longer represent or advise us. Indeed, the Attorney General has taken the position that we are not allowed to file a separate response at all, despite the fact the Court ordered “respondents” to file a response, if any, and the fact we are respondents. The Attorney General unilaterally declared, through his spokesperson, that “one counsel will respond to the court on behalf of the entire commission” and “[n]one of the individual members will respond separately.” *See* Jake Zuckerman, Ranking Dem says GOP Attorney General blocked her from lawyers in redistricting suit,” *Ohio Capital Journal* (Jan. 27, 2022), available at <https://perma.cc/U9YX-ETKK>. This is a shameless effort to thwart our ability to comply with the Court's order and to separately inform the Court about what transpired in the Commission following the Court's January 12, 2022, decision invalidating the General Assembly district plan.

There is a clear conflict between our interests, as Democratic Commissioners who are separately-named respondents, and the Republican Commissioners. The Democratic Commissioners' multiple filings in these proceedings, including Answers to the Petitions, make that clear. The Commission and the Republican Respondents acknowledged this conflict when they advocated for a realignment, for oral argument purposes, of the “Relators and the Respondents who filed Answers in support of the Relators or whose interests are aligned with Relators.” *See* “Respondents The Ohio Redistricting Commission, Governor Mike Dewine,

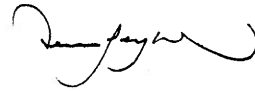
Auditor of State Keith Faber, Ohio Secretary of State Frank LaRose, Ohio Senate President Matt Huffman and Ohio Speaker of the House Robert Cupp's Joint Response to Relators' Request for Oral Argument," filed Nov. 3, 2021 in Case Nos. 2021-1193, 2021-1198 and 2021-1210, at p. 5. The Court has recognized this, realigning, for oral argument purposes, the Democratic Commissioners with the petitioners.

For the Attorney General to now insist that one pleading be filed on behalf of the entire Commission and all its individual members in response to the petitioners' objections, and to forbid a separate filing by the Democratic Commissioners, blatantly ignores the conflicting interests and is unacceptable. We are named individually as respondents and will continue to file our own pleadings, regardless of the Attorney General's improper moves, unless and until the Court instructs us otherwise. Because, at this juncture, we do not have the time to challenge the Attorney General's decision before the Court's deadline for the respondents' responses, we have no choice but to file this pleading *pro se*.

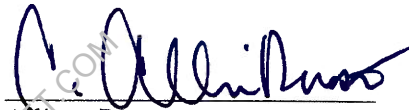
Our pleading consists of three affidavits, from: (1) Co-Chair Sykes; (2) Leader Russo; and (3) Chris Glassburn, the map drawing expert we were able to retain to help us after the Court's decision invalidating the maps. Through these affidavits, we are able to provide the Court with information about our discussions and actions that is within our personal knowledge and that is not public. We adopt the legal arguments submitted by the petitioners, but these affidavits provide further evidence substantiating the unconstitutionality of the maps, and, in particular, how the Commission's majority violated Article XI, Section 6 of the Ohio Constitution. In addition, the affidavit of Chris Glassburn demonstrates—as the petitioners have also argued—that a proportional map complying with the requirements of Section 6 can be drawn without violating any other sections of Article XI.

We ask that the Court again invalidate the map adopted by the Republican Commissioners, order the Commission to draw a map that complies with the Ohio Constitution and this Court's pronouncements, and direct the Legislature and Secretary of State to make the necessary adjustments to the election schedule to accommodate this Court's orders.

Respectfully submitted,



Vernon Sykes



Allison Russo

*Respondents Senator Vernon Sykes
and House Minority Leader
Allison Russo, pro se*

CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2022, a copy of the foregoing Response of Senator Vernon Sykes and House Minority Leader Allison Russo was filed by hand and sent via email to the following:

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Ohio*

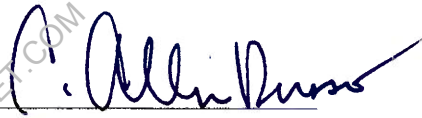
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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
: Case No. 2021-1193
Relators, :
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Ohio Redistricting :
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Bria Bennett, *et al.*, :
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Ohio Redistricting :
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The Ohio Organizing Collaborative, *et al.*, :
: Case No. 2021-1210
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Ohio Redistricting :
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.
: Prac. R. 14.03]
Respondents. :
:
:

AFFIDAVIT OF RESPONDENT VERNON SYKES

State of Ohio
County of Franklin, SS:

I, Vernon Sykes, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

1. I have personal knowledge of all the information below.
2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

Republican Commissioners waited nearly a week after the Court's ruling to agree to reconvene the Commission to work on drafting new General Assembly maps.

3. Despite the Court's tight timeframe to convene the Commission in the days immediately after this Court's decision, Speaker Cupp did not schedule the Commission to reconvene until January 18, 2022—nearly a week after the Court's ruling and well into the Court's ten-day deadline for a new map.

4. Following the Supreme Court's decision on January 12, 2022, in the above-captioned case directing the Commission to develop a new map and my reappointment to the Redistricting Commission by Leader Kenny Yuko, I immediately began working with staff members of the Senate and House Democratic Caucuses about next steps and developing an action plan. Indeed, I was in communication with Speaker Cupp shortly after the Court's decision.

5. When I spoke with Speaker Cupp on Thursday, January 13, he indicated that the Commission would meet Friday (the following day), Saturday, or Monday. I indicated that sooner is better. Speaker Cupp's indication turned out to be incorrect, as the Commission did not agree to meet until six days after the Court's decision—over halfway through the time allotted by the Court to draw a constitutionally-compliant map.

6. In the meantime, I instructed my staff to prepare a statement for the Commission as a whole to release prior to its first meeting. In phone calls with Speaker Cupp during the weekend of January 15, I emphasized several points that I wanted to be included in the statement. *First*, I wanted the Commission to commit to achieving a 54% Republican and 46% Democratic map as directed by the Court. *Second*, I wanted the Commission to state an intent to provide opportunities for public input, including through public hearings. *Finally*, I wanted the Commission to state its intent to work together. Speaker Cupp told me that Republican Commissioners did not intend to include the 54%/46% metric or the opportunity for the public to testify in its statement.

7. On several other occasions over the ensuing days, I emphasized to Speaker Cupp that I wanted the Commission to hold public hearings and suggested some of them could be conducted virtually. I also made clear that, after proposing a revised map, the Commission should hold hearings across the state or virtually before formally adopting the proposed map in accordance with Article XI of the Ohio Constitution and the Court's decision. As the deadline approached, I continued to advocate to Speaker Cupp that the public should have an opportunity to provide input. Speaker Cupp rebuffed all my requests, indicating that there was not an appetite among the Republican members of the Commission for hearing more public testimony.

The Republican Commissioners refused to work together with the Democratic Commissioners on a single map.

8. The process leading to the Commission's adoption of its new, so-called "remedial" map was much like the process the Court condemned in analyzing the first map. The Republican Commission members kept me and the other Democratic Commissioner in the dark about their plans and actions and did not collaborate with us on proposed maps.

9. The first Commission meeting on January 18 was largely a pro forma session, and not one that advanced a collaborative map-drawing process. The Commission swore in new House Minority Leader-Elect Allison Russo but did not engage in any substantive discussion of any maps.

10. The next Commission meeting—and the first substantive meeting—was not until January 20, 2022, eight days from the Court’s decision and two days before the Commission’s declared deadline. At the outset of the January 20 Commission meeting, I was caught off guard and concerned when Republican Commissioners’ staff were handing out their copies of the Franklin County and Hamilton County maps, which they had just posted on the Commission website. Up to this point, I had directed my staff to meet with Republican staff members to work on a single map on a region-by-region basis. Republican staff had given similar (but not the same) county maps to my staff the day before, but there had been no agreement on them. I did not know that the Republican Commissioners would be submitting their own county maps on the Commission website before we could reach a consensus as a Commission on how those districts should be drawn.

11. Because Republican Commissioners posted only PDF versions of their maps with no accompanying hard data, I could not meaningfully review their proposals.

12. I asked Chris Glassburn, the expert the Democratic Commissioners retained to help in the map-drawing process, to present his draft Hamilton and Franklin County maps to the Commission that afternoon. The Republican Commissioners’ map drawers, however, did not present the Republicans’ maps to the Commission; indeed, Ray DiRossi and Blake Springhetti did not testify at all at that meeting. Instead, Speaker Cupp summarily discussed the maps. Mr. Glassburn, on the other hand, answered questions for about an hour about his draft. In questioning, Mr. Glassburn emphasized that the Republican staff would not agree that they were all working

toward a goal of a proportional map with 45 Democratic-leaning seats in the House and 15 in the Senate.

13. After the Commission's meeting, I had still hoped that we could agree to come up with a joint plan. I continued to assert to Speaker Cupp that there were pathways to reach a proportional map. He said he did not see a way of accomplishing it, but stated that if I could find one that Leader Russo and I should present it to the Commission.

14. Following the recess of the January 20, 2022 meeting, Leader Russo and I directed our map drawers, Chris Glassburn and Randall Routt, to draft a statewide map that was consistent with the Court's order and to address any issues raised by Republicans at the meeting. We also directed our staff to continue to work with Republican staff members with the goal of the Commission producing a single, jointly agreed-to map.

The Republican Commissioners did not disclose their statewide map until the day of the vote and refused to take feedback from the Democratic Commissioners or the public on their proposed maps.

15. The Commission did not reconvene again until Saturday, January 22, 2022—the Commission's stated deadline for approving a new map. Prior to that day, I had never been presented with any complete statewide map from the Republican Commissioners. I had only seen their proposals for a few counties. I was otherwise in the dark about their proposal. Because they did not share their work with my staff or me, I was excluded from collaborating and making suggestions on what they would propose that the Commission adopt.

16. That morning, I directed my staff to post Mr. Glassburn's proposed statewide General Assembly maps publicly, along with the supporting data.

17. On the day of the vote, the Republican Commissioners finally released their proposed maps. My staff received an email with the Republican Commissioners' map block assignment file in the morning, giving me little time to have my expert look at it prior to the

Commission's meeting and vote that afternoon. The Republican Commissioners did not post these maps publicly until a few hours before the convening of the Commission meeting. The public posting was only PDF images. So the public was left only with pictures—not meaningful data—to try to understand how those districts were drawn.

18. Throughout the day on January 22, I implored Speaker Cupp to allow public testimony and a panel discussion with Commissioners now that statewide maps had been released to the public.

19. But Speaker Cupp told me there was no appetite for public testimony, from him or his fellow Republican Commissioners. He told me that he believed any testimony would be repetitive, and the Republican Commissioners did not want to hear it again.

During the final Commission meeting, the Republican Commissioners refused to collaborate or make changes to make their map more proportional.

20. The only maps ever considered by the Commission were the Republican Commissioners' map (drawn by Messrs. DiRossi and Springhetti) and the Democratic Commissioners' map (drawn by Mr. Glassburn).

21. At the meeting, Mr. Glassburn presented a map that reached the 54% and 46% proportionality the Court designated. He again testified that the Republican Commissioners' mapmakers were not trying to reach that ratio, so his few interactions with them had been unsuccessful. And he expressed his willingness to continue working with the Commission and asked for their preferences for drawing districts, particularly in rural counties. But the Republican Commissioners instead just attacked the map. There were still over 7 hours left to create a fair map. I was prepared to continue working together to have an agreed-upon map.

22. The Republican Commissioners' map drawers also presented their map. I repeatedly asked Republican map drawers to identify any requirement in Article XI of Ohio's

Constitution that would prevent the Commission from drafting a proportional map. They would not do so.

23. To make my point that a more proportional map could be achieved without violating other parts of Article XI, I also asked Republican Commissioners and map drawers whether anything prevented the Commission from pairing a different combination of House Districts in Hamilton County to draw one additional Democratic-leaning Senate seat. My proposal would not have required the Commission to change any House district lines. The Republican map drawers paused—again, not answering my question. Speaker Cupp spoke up to say cursorily that the map drawers had “given the answer that [they] can give.” He then immediately and abruptly recessed the meeting.

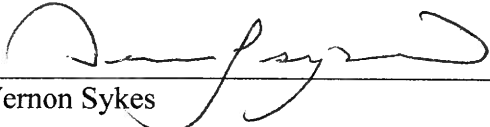
24. During that recess, I spoke directly with Speaker Cupp and made an appeal for collaboration in reaching a constitutional map compliant with the Court’s decision. Specifically, I asked him whether all the map drawers could meet again to work together to get closer to the proportionality ratios set forth by the Court. I noted that my staff had specific suggestions that would push the map towards those ratios. For example, Mr. Glassburn suggested that another Democratic Senate district could be drawn in Hamilton County and that a Democratic House district could be drawn in the Athens area with relative ease. In the time remaining before the end of the day, Mr. Glassburn could work to fix any technical errors in his proposed map that the Republican Commissioners’ map-drawers identified. That would result in a map that was compliant with all the constitutional requirements, including Section 6’s proportionality standard.

25. Speaker Cupp indicated that he would speak with the Republican Commissioners. Approximately twenty minutes later, he responded to tell me that he had spoken with each Republican Commissioner and they just “didn’t feel there was enough time” and it was “too late.”

Yet there were over six hours remaining before the Commission's purported deadline. That was plenty of time to make significant changes to reach proportionality.


26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

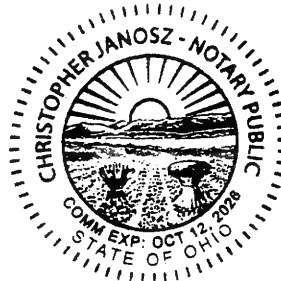


Vernon Sykes

Sworn to before me and subscribed in my presence this 6th day of January, 2022.



Notary Public



IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, et al., :
: **Case No. 2021-1193**
Relators, :
v. : **Original Action Filed Pursuant to Ohio**
: **Constitution, Article XI, Section 9(A)**
Ohio Redistricting :
Commission, et al., : **[Apportionment Case Pursuant to S. Ct.**
: **Prac. R. 14.03]**
Respondents. :
:
:

Bria Bennett, et al., :
: **Case No. 2021-1198**
Relators, :
v. : **Original Action Filed Pursuant to Ohio**
: **Constitution, Article XI, Section 9(A)**
Ohio Redistricting :
Commission, et al., : **[Apportionment Case Pursuant to S. Ct.**
: **Prac. R. 14.03]**
Respondents. :
:
:

The Ohio Organizing Collaborative, et al., :
: **Case No. 2021-1210**
Relators, :
v. : **Original Action Filed Pursuant to Ohio**
: **Constitution, Article XI, Section 9(A)**
Ohio Redistricting :
Commission, et al., : **[Apportionment Case Pursuant to S. Ct.**
: **Prac. R. 14.03]**
Respondents. :
:
:

AFFIDAVIT OF RESPONDENT ALLISON RUSSO

State of Ohio

County of Franklin, SS:

I, C. Allison Russo, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

1. I have personal knowledge of all the information below.

2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.

3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

Republican Commissioners delayed funding for experts the Democratic Commissioners needed to comply with the Court's order.

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.

5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

6. Beginning on January 14, 2022, I called and texted Sen. McColley about returning the signed funding memorandum. On the afternoon of January 16, 2022, still having not received his approval, I spoke with Commission Co-Chairman Speaker Bob Cupp and shared my concern that the funding memorandum had not been signed and we had been unable to engage a consultant to help us with the map drawing work.

7. Senator McColley's staff finally returned the signed memo late in the afternoon of Sunday, January 16. Only then could we enter a contract with Chris Glassburn to assist with map drawing and analysis. There were 6 days left before January 22, which the Commission stated was its deadline.

The Republican Commissioners and Republican staff would not work collaboratively with the Democratic Commissioners and Democratic staff to achieve a proportional map.

8. On January 17, 2022, I instructed my staff, including Mr. Glassburn, to work with the Republican Commissioners on a map containing 45 Democratic-leaning House Districts and 15 Democratic-leaning Senate Districts. I made clear to my staff that it was my objective to create a map that complied with Oh. Const. Article XI, Sections 2, 3, 4, 5, and 7 and also corresponded closely with statewide voter preferences in compliance with Section 6(B).

9. I asked my staff, including Mr. Glassburn and Sarah Cherry (Legal Counsel to the House Democratic Caucus), to report the substance of their attempts to collaborate with the Republican Commissioners and their team. It seemed to me that little substance emerged from the few meetings they had. As my staff reported, the Republican map drawers were not committed to drawing proportional maps even when presented with suggestions for doing so.

10. The Commission formally met on January 22, 2022 to adopt a map. Prior to that day, I had not received a copy of the map that the Republican Commissioners were going to

propose. I did not get that proposal until the morning of the vote. Indeed, I had little clue what was coming, given that the Republican map-makers had not made their plans—aside from a few counties—known and had not agreed that achieving proportionality, without violating any of the other constitutional requirements, was a goal.

11. At the meeting, Mr. Glassburn presented our Democratic proposal. Republican Commission members raised issues with the proposal. Mr. Glassburn made clear that he and the other map drawers, Ray DiRossi and Blake Springhetti, could resolve these issues if the Commission gave them time and directed them to work together to do so. But instead of directing Mr. DiRossi and Mr. Springhetti to work together with Mr. Glassburn to address the issues raised, the Commission abruptly recessed and then never again returned to work on or consider Mr. Glassburn's proposal.

12. During the recess, I participated in a conversation with Co-Chair Sykes and staff about asking the Commission Co-Chairman Speaker Bob Cupp for more time to work together to resolve issues with the map. Co-Chair Sykes and Mr. Glassburn left the room to make the request of Speaker Cupp. When they returned, Co-Chair Sykes told me that Co-Chair Cupp did not think there would be a willingness to work together on improving either the Democratic or Republican proposals or on a consensus map. A short time later, Co-Chair Sykes told me that the Speaker rejected the request and that the Commission would reconvene and vote on the Republican map with no additional changes. When the Commission reconvened, I voted against adoption of the legislative Republicans' maps.

13. The lack of collaboration doomed the Commission's map. Had improvements been allowed to the proposed maps, they could have satisfied this Court's decision. But the Republican Commissioners voted for their map without a single amendment.

14. After the Commission meeting ended, Co-Chair Sykes and I instructed Mr. Glassburn to continue work on an alternative set of map proposals. Specifically, I instructed him to address any issues raised by Republican Commission members. We were in agreement that there are various ways to draw a map that closely corresponds to voters' statewide preferences, does not favor or disfavor a political party, complies with the other provisions of Article XI, and satisfies the standards laid out by the Ohio Supreme Court in its January 12, 2022, decision. Mr. Glassburn's current proposal does just that.

The Attorney General has denied us access to counsel that can render conflict-free representation.

15. Not only did the Republican leaders refuse to collaborate with us on the maps, but now the Attorney General is attempting to muzzle us before this Court.

16. On January 26, 2022, our attorneys in this litigation informed me that the Attorney General of Ohio would not allow them to represent Co-Chair Sykes and me in this stage of the litigation, and consequently could not assist us in filing a response, despite the fact that the Court had ordered respondents—which we are—to file any responses by noon on Friday, January 28.

17. Recognizing that our interests diverge, the Attorney General has previously assigned the Democratic Commissioners outside counsel in this litigation separately from the Republican Commissioners.


18. I tried to reach the Attorney General by phone on January 26 and spoke to his First Assistant Attorney General Brenda Rinehart who informed me that not only could we not have outside counsel, but that the Attorney General would oppose our retaining pro bono counsel. When I spoke to the Attorney General the next day and asked him to reconsider, I expressed my concerns about being denied counsel given the conflict of interest between the

Respondents. Though he felt that the Commission was a single entity that deserves only one counsel, I expressed that I have also been named individually as a respondent in this lawsuit, and that my interests diverge from that of the Republican individuals named as Respondents. Certainly the map did not come from the Commission; as the process showed, it was the product of the Republican Commissioners without collaboration.


19. Because the Attorney General has denied Co-Chair Sykes and me counsel, we have no choice but to file pro se. Otherwise, the personal knowledge that we hold about this process would never get before the Court for its consideration of whether the Republican Commissioners' second map meets the requirements of Article XI, Section 6.

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.


C. Allison Russo

Sworn to before me and subscribed in my presence this 28th day of January, 2022.


Notary Public



Charles Benjamin Cooper, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, et al., :
: **Case No. 2021-1193**
Relators, :
: **Original Action Filed Pursuant to Ohio**
v. : **Constitution, Article XI, Section 9(A)**
: **[Apportionment Case Pursuant to S. Ct.**
Ohio Redistricting : **Prac. R. 14.03]**
Commission, et al., :
: **Respondents.** :
:
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Bria Bennett, et al., :
: **Case No. 2021-1198**
Relators, :
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v. : **Constitution, Article XI, Section 9(A)**
: **[Apportionment Case Pursuant to S. Ct.**
Ohio Redistricting : **Prac. R. 14.03]**
Commission, et al., :
: **Respondents.** :
:
:

The Ohio Organizing Collaborative, et al., :
: **Case No. 2021-1210**
Relators, :
: **Original Action Filed Pursuant to Ohio**
v. : **Constitution, Article XI, Section 9(A)**
: **[Apportionment Case Pursuant to S. Ct.**
Ohio Redistricting : **Prac. R. 14.03]**
Commission, et al., :
: **Respondents.** :
:
:

AFFIDAVIT OF CHRIS GLASSBURN

State of Ohio
County of Franklin, SS:

I, Chris Glassburn, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

1. I have personal knowledge of all of the information below. I am more than 18 years of age.

2. I am the President of Project Govern, a company that provides map drawing services and advises on redistricting matters. I contracted with the Ohio House and Senate Democratic caucuses on January 16, 2022, for the purpose of drawing a proportional map consistent with the Supreme Court's January 12, 2022, directives.

3. Attached to my affidavit are the following exhibits:

- a. Exhibit A: Democrats' Proposed House and Senate Maps (1/22/22).
- b. Exhibit B: Democrats' Proposed House and Senate Maps (1/26/22).
- c. Exhibit C: USB flash drive containing block equivalency data for the Democrats' Proposed Maps (1/22/22 and 1/26/22).
- d. Exhibit D: My company bio.

The Republican map drawers would not collaborate with me to reach a proportional General Assembly map, nor would they even agree that proportionality was a goal.

4. As a contracted expert for the Ohio House and Senate Democrats, I attended four meetings with varying staff from the Republican and Democratic Commissioners, including Randall Routt (Senate Democratic Caucus staffer), Sarah Cherry (Legal Counsel to the House Democratic Caucus), Ray DiRossi (the Senate Republicans' map drawer), and Blake Springhetti (the House Republicans' map drawer). These meetings reflect that the Republicans were both unwilling to accept proportionality as a goal for the maps and rejected many of my suggestions for

achieving proportionality for reasons wholly unconnected to the Constitution's line-drawing requirements.

5. At the first staff meeting, on January 17, 2022, Mr. DiRossi expressed that he wished to use the map previously adopted by the Commission, but struck down by the Supreme Court, as the basis for the next map drawing. Ms. Cherry responded that because the map was declared unconstitutional, it would not be appropriate to use as a starting point. Regardless, Mr. DiRossi stated that he would still prefer to use the invalidated map.

6. Throughout all of these meetings, I consistently asked Mr. DiRossi and Mr. Springhetti if they agreed that our goal was to reach the Supreme Court's ordered proportionality of districts, 54% Republican and 46% Democratic, so long as it is possible without violating any other constitutional requirements. They would never agree. For instance, in our first meeting, when I asked if a 54% to 46% breakdown was our goal, Mr. DiRossi responded that he would attempt to comply with the Supreme Court order. Yet it became clear that the Republican map drawers' view of complying with the Court's order was not proportionality. I kept asking Mr. DiRossi if the 54% Republican and 46% Democratic proportionality was the objective, and he would not agree. Mr. DiRossi would only respond evasively that he would attempt to comply with the Supreme Court order. This trend continued throughout all our meetings. Because the Republican map drawers did not seek proportionality overall, it was impossible to collaborate with them. We could not have any fruitful conversations about drawing districts in any region—and what pressure that would put on linedrawing in other parts of the State—because the Republicans would not agree to aim for proportionality.

7. At every single meeting I asked the Republican map drawers if the goal was to get to proportionality (54% - 46%) while complying with the other constitutional linedrawing requirements. At every meeting they would *not* accept that goal.

8. In all of our meetings, I made multiple suggestions as to how we could reach proportionality while complying with all other constitutional requirements, but the Republican map drawers would not agree to my suggestions. For example, in our second meeting on January 18, throughout the meeting, I made various suggestions about how various regions of the state needed to have districts drawn in order to achieve proportionality statewide. Throughout our discussions, it became clear that Mr. DiRossi was considering a series of districts that were 50%+1 Democratic throughout the state. I stated that if districts were consistently drawn as 50%+1 Democratic throughout the state, it would lead to an asymmetry in the balance of Democratic seats and reflect that the map was disproportionately favoring or disfavoring a party. Mr. DiRossi and the Republican representatives did not respond.

9. Throughout our discussions it was clear that the Republican mapmakers were unwilling to adopt suggestions to reach proportionality if it harmed their partisan concerns. For example, I demonstrated how it was possible to draw 2 Democratic Senate seats (of 2) and 6 Democratic House seats (of 7) in Hamilton County. Mr. DiRossi and Mr. Springhetti stated that the Republicans would not be supportive of drawing the 6th Democratic House seat or the 2nd Democratic Senate seat in Hamilton County. Mr. Springhetti stated, without reference to constitutional linedrawing requirements, that the Republicans needed both Republican House seats to be on the Western side of Hamilton County. I understand that two existing Republican incumbents live on the Western side of the county. Additionally, Mr. DiRossi responded that the Republicans needed the 7th Hamilton County seat to be connected to Warren County instead of

Butler County as in previous Democratic plans—again, without reference to constitutional line-drawing constraints.

10. I frequently told the Republican map drawers that their districts were not as compact as they could be, nor were they targeted to reaching a proportional map. For instance, during our third staff meeting on January 19, Mr. DiRossi passed out a proposed map of Franklin County with a district that was irregular and stretched from the middle of the western edge of the county, cut completely across the southern edge of the county, and then ran up to the middle of the eastern side. I noted that the seat was drawn very marginally Democratic and appeared to be gerrymandered. Mr. DiRossi stated that there was no requirement on how Democratic a seat could be, just that it had to be “sub 50” (i.e., under 50% Republican). I replied that the district was not compact and was unnecessary to achieve statewide proportionality or to meet goals inside of Franklin County for doing so. My concerns were rejected, and that unusually drawn district is now part of the Republican Commissioners’ adopted map.

Because the Republican map drawers would not collaborate with me, I drew a proportional map complying with all constitutional requirements.

11. Because the Republican map drawers would not collaborate with me, or even agree on the proportionality objective, I began focusing on drawing a separate map to demonstrate that a proportional map could be achieved while complying with all the constitutional requirements. I did not complete this map until the early morning hours of January 22. This map has 45 Democratic House seats (54 Republican) and 15 Democratic Senate Seats (18 Republican).

12. Later in the morning on January 22, I asked Mr. Routt to send these files to all the Republican Commissioners’ staff and to post the files to the Commission website. He did so.

13. The House and Senate maps I put together on January 22 were uploaded to the Commission website at <https://www.redistricting.ohio.gov/assets/district-maps/district-map->

580.zip. A true and accurate copy of that map is attached as Exhibit A, and the respective block equivalency files on the USB flash drive enclosed as Exhibit C.

14. The January 22, 2022 maps are also available here:

- a. Democrats' Proposed House Map (1/22/22):
<https://davesredistricting.org/maps#viewmap::5fcc3511-629b-40ec-9220-85ef943415e6>.
- b. Democrats' Proposed Senate Map (1/22/22):
<https://davesredistricting.org/maps#viewmap::2af4b8a3-58f3-4f73-99b3-cbcf29d45035>.

15. I presented the map I drafted to the Commission on the afternoon of January 22, 2022. I answered questions before the Commission and offered my continued willingness to work on the maps. If I had been provided several hours, I could have addressed the issues the Republican map drawers raised with this map. But I was not provided that opportunity, as the Republicans pushed through a vote on their map.

16. After the meeting, Co-Chair Sykes and Leader Russo instructed me to work on an alternative set of map proposals to address issues flagged by Republican Commission members. I have addressed all the issues flagged and am still able to draw a map that mirrors the partisan proportionality of the state (*i.e.*, 45/54 in the House; 15/18 in the Senate). The revised map is attached as Exhibit B, and the respective block equivalency files on the USB flash drive enclosed as Exhibit C.

17. The January 26, 2022 maps are also available here:

- a. Democrats' Proposed House Map (1/26/22):
<https://davesredistricting.org/maps#viewmap::744e3245-b230-48aa-b0ae-ccf9e700654e>.
- b. Democrats' Proposed Senate Map (1/26/22):
<https://davesredistricting.org/join/353fbfd5-09fa-4b8f-bf56-03a08848e885>.

The Republican Commissioner would not allow me to suggest amendments to their last-minute proposed map before it was adopted.

18. I received notice of the proposed Republican map at approximately 9:00am on January 22, the morning the map was voted on. The meeting was originally scheduled for 9:30am, then delayed several times. Overall, I was given the files less than six hours before the Commission reconvened. I had very little time to analyze it because I was only provided with the block assignment files and it takes time to make the data usable and evaluate whether it complies with all the constitutional provisions, including proportionality.

19. During the meeting, Auditor Faber asked for amendments to the Republican map. I remarked that the map was not proportional because so many so-called Democratic seats were in fact toss-ups, and that drawing so many so-called Democratic districts with such a razor thin margin was evidence of the map drawers' partisan bias. I offered suggestions for additional Democratic House seats in the areas of Hamilton, Franklin, Lucas, Montgomery and Athens Counties. I also noted that a Democratic Senate seat could be created in Hamilton County by simply changing which districts were paired together in the Senate Seats. I made other suggestions to reach proportionality while complying with the other constitutional requirements. The meeting recessed.

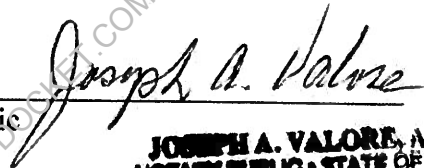
20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer and draw maps together. Speaker Cupp stated that he was doubtful that he could get support, but that he would speak to the Republican Commission members. Our offer to collaborate was rejected. A short time later, Republican Commission Members returned

to the meeting room and resumed the full Commission meeting. No amendments or joint drawing efforts were agreed to or made by the Republicans.

FURTHER AFFIANT SAYETH NAUGHT.


Chris Glassburn

Sworn to before me and subscribed in my presence this 28th day of January, 2022.


Notary Public

JOSEPH A. VALORE, APN
NOTARY PUBLIC - STATE OF CA
My commission has no expiration date
Section 147.03 C.R.S.

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit A

to Affidavit of Chris Glassburn

RETRIEVED FROM DEMOCRACYDOCKET.COM

Dems House Proposal – January 22, 2022

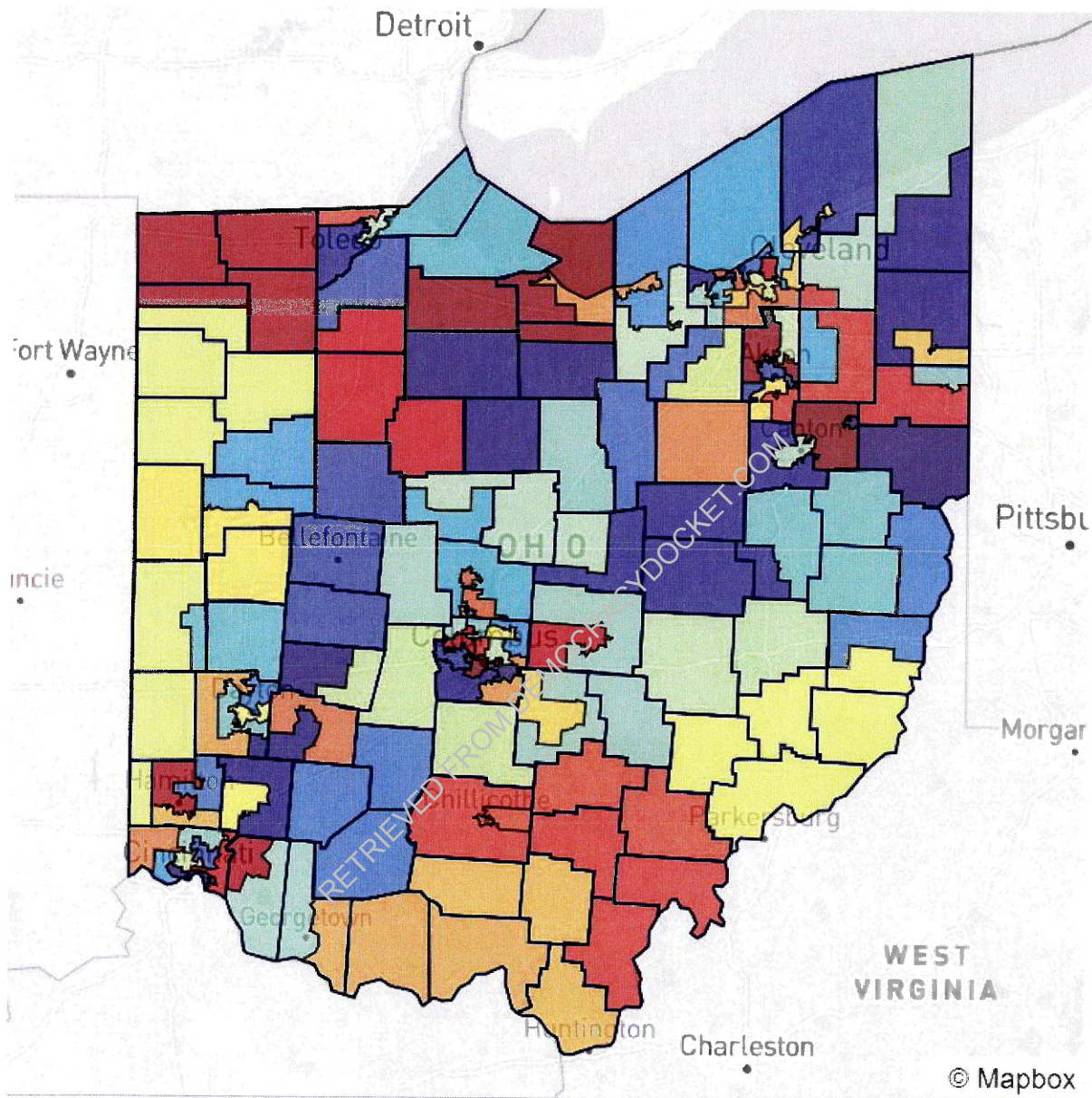
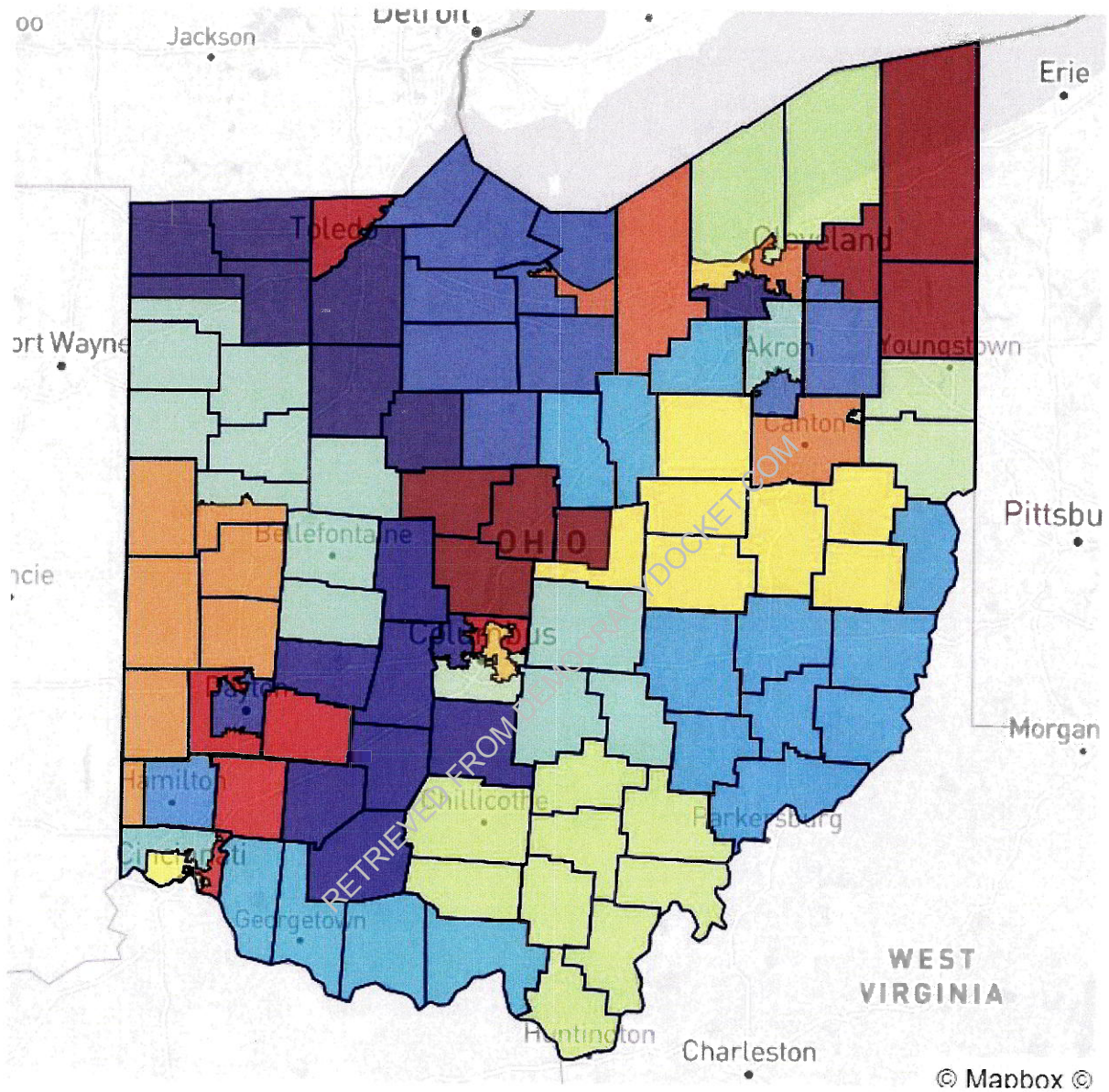


Exhibit B

to Affidavit of Chris Glassburn

RETRIEVED FROM DEMOCRACYDOCKET.COM

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022

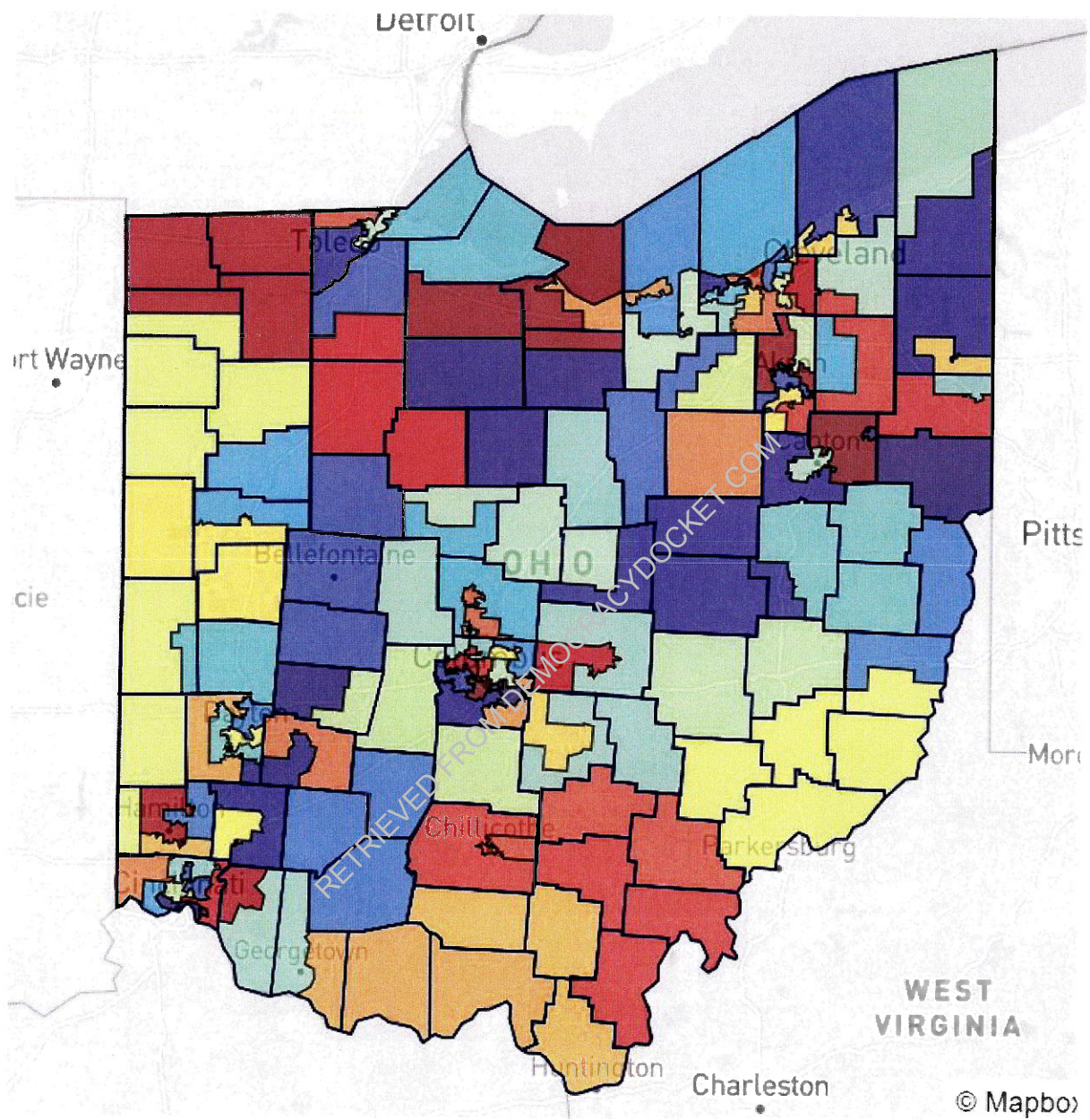


Exhibit C

to Affidavit of Chris Glassburn

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Exhibit D

to Affidavit of Chris Glassburn

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Organizational Profile

Project Govern



Chris Glassburn, Lead Consultant & Mapmaker

**23993 Fairlawn Drive
North Olmsted, OH 44070
440-570-9726
Chris@ProjectGovern.com**

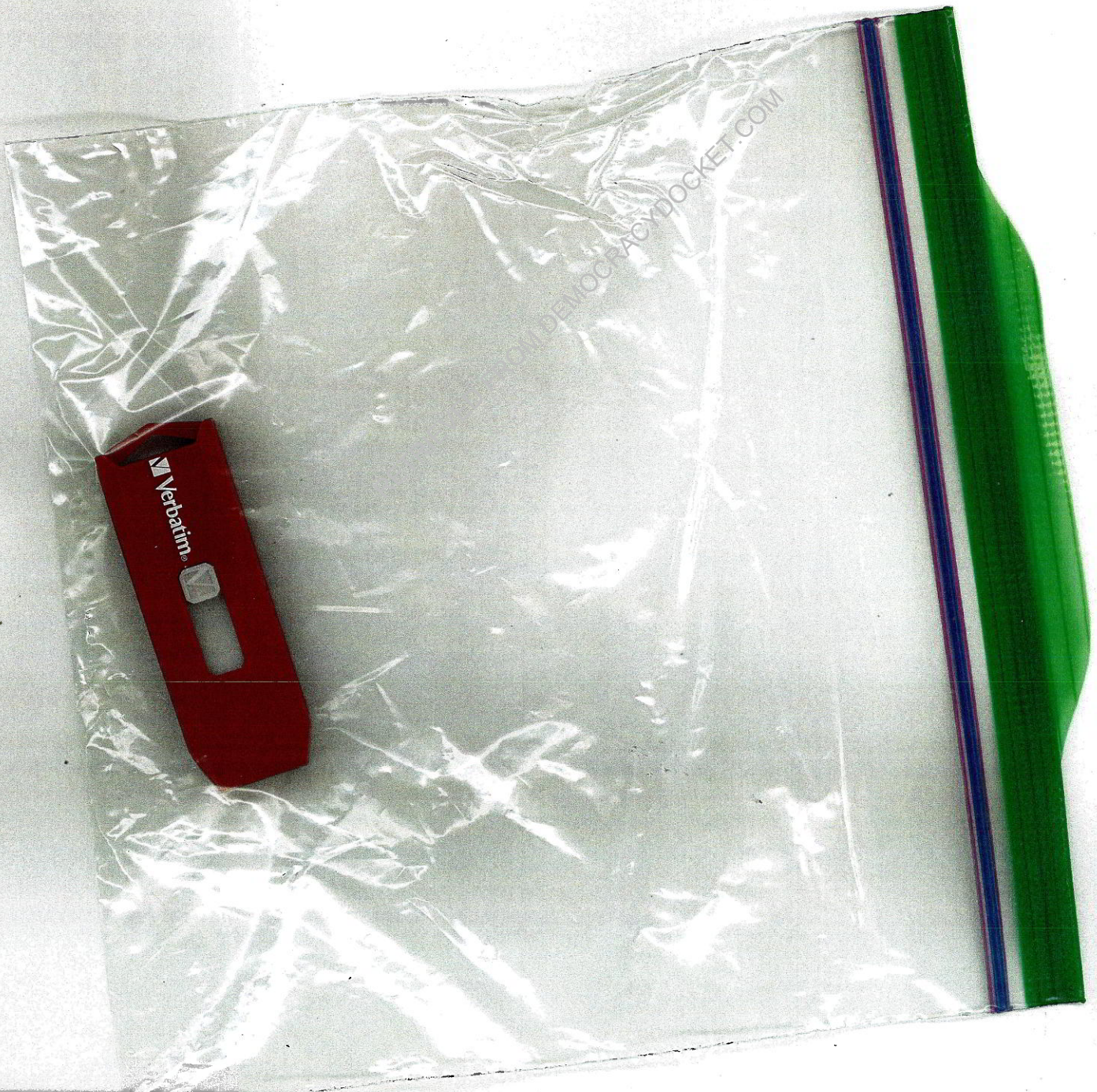
Chris Glassburn is the one of the top consultants providing campaign management, public engagement, and electoral data services in Ohio. In 2011, Glassburn served as the redistricting consultant and mapmaker for the Ohio House Democratic Caucus for Congressional Redistricting. Glassburn also served as the Democratic minority consultant and mapmaker for the Ohio Apportionment Board and as the Democratic mapmaker for plaintiffs in *Wilson v. Kasich* (decided 4-3 against, with current Supreme Court Chief Justice O'Connor dissenting).

A vigorous advocate of fair redistricting practices, Glassburn has spoken on dozens of public panels on redistricting reform. Since 2014, Glassburn has periodically served as a redistricting consultant to the Ohio League of Women Voters in their efforts to end gerrymandering. He was a lead co-author of both Ohio Constitutional Amendments that were overwhelmingly passed by voters to reform apportionment of the Ohio General Assembly (2015) and redistricting for Congress (2018).

From 2014 to 2016 Glassburn served as the Senior Policy Advisor to Cuyahoga County Executive Armond Budish. In his role for Cuyahoga County Glassburn held responsibility for assisting in the creation and passage of the biennial budget, supervising the agenda and alternate chairing the board of control, policy lead on behalf of the County Executive and lead of appointments to board and commissions.

In January 2017, Glassburn founded the firm Project Govern. Glassburn most recently has served as a consultant to issue campaigns in the May, 2021 Primary Election. In total, Glassburn has served as the lead consultant and/or campaign manager to over 120 individual candidate or issues campaigns with over a 90%-win rate. Some of his non-partisan/candidate clients have included the Sherwin Williams, Innovation Ohio, The Cuyahoga County Port Authority, the County Action Committee (Cuyahoga County HHS Levy), The Cleveland Clergy Coalition, LEAD Ohio and numerous confidential private sector clients.

Glassburn is a lifelong Northeast Ohioan and serves as a City Councilman and Leader of the Democratic Party in North Olmsted, Ohio. He and his wife Megan and daughter Adrianna live in North Olmsted.



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS, et al.,
Plaintiffs,

v.

OHIO REDISTRICTING COMMISSION and
FRANK LAROSE, in his official capacity,
Defendants,

and

SENATOR VERNON SYKES and HOUSE
MINORITY LEADER ALLISON RUSSO, in their
capacities as members of the Ohio
Redistricting Commission,
*Proposed Intervenor-
Defendants.*

Case No. 2:22-cv-773

Chief Judge Marbley

Magistrate Judge Deavers

[PROPOSED] ORDER

Senator Vernon Sykes and House Minority Leader Allison Russo have moved to intervene as defendants in this action. Because they have satisfied the requirements set forth in Rule 24, for the reasons given in their motion, the Court grants their motion to intervene.

IT IS SO ORDERED.

DATED: _____

**HON. ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE**