

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

MICHAEL GONIDAKIS, et al.,

Plaintiffs,

v.

FRANK LAROSE,

Defendant, and

**LEAGUE OF WOMEN VOTERS OF OHIO
and A. PHILIP RANDOLPH INSTITUTE
OF OHIO,**

Intervenor-Defendants.

Circuit Judge Amul R. Thapar
Chief Judge Algenon L. Marbley
Judge Benjamin J. Beaton

Case No. 2:22-cv-773

**INTERVENOR-DEFENDANTS' SUBMISSION REGARDING THE ROLE OF THE
FEDERAL COURT CONCERNING THE OHIO GENERAL ASSEMBLY
REDISTRICTING PLAN**

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I. INTRODUCTION AND LOCAL RULE 7.2 SUMMARY.

It is an essential component of our federal system that a federal court “should not preempt the legislative task nor intrude upon state policy any more than necessary.” *White v. Weiser*, 412 U.S. 783, 795 (1973) (internal quotations omitted). In service of that interest, *Grove v. Emison*, 507 U.S. 25 (1993) instructs federal courts to refrain from interfering in state redistricting processes as long as possible, to permit the state to devise a lawful reapportionment plan. This Court has observed: “What we’re trying to do is the least amount of damage to Ohio law. We’re going to do some damage if we get involved; there’s just no question. So we’re trying to do the least.” Tr. of Hr’g on P.I. Mot., ECF 150 at PageID # 4343:1–3.

The imposition of an invalidated Third (or “Fourth”) Plan hardly qualifies as a measured intervention that respects the state process.¹ On the contrary, to do so would be to violate federal and state law. Nor should this Court delay until it has no other option than to order the Third Plan, which would mean imposing a map that violates the Ohio Constitution, at enormous cost to state autonomy. By the same token, it is also clear that the imposition of the unquestionably now malapportioned 2011 Plan is not a necessary or desirable solution.² Such drastic measures are hardly in order given that a substantively compliant plan is available: the map drawn by the Independent Map Drawers (the “Independent Plan”).³ With a few hours’ work and the correction of a few technical details, it is ready for implementation.

As to what this Court should do, and when⁴:

¹ See Section III.A, *infra* (pp. 5-12); see also *Grove v. Emison*, 507 U.S. 25 (1993); *Bush v. Gore*, 531 U.S. 98 (2000); *White v. Weiser*, 412 U.S. 783, 795 (1973).

² See Section V, *infra* (pp. 18-21); see also *Evenwel v. Abbott*, 578 U.S. 54 (2016).

³ See Section IV (pp. 14-18), *infra*.

⁴ See Section VI (pp. 21-23), *infra*.

- At present, no primary date is in effect for the state legislative elections. To interfere as little as possible in the state process, however, this Court should permit the General Assembly with a further opportunity to set the primary date. Only if the General Assembly fails to act by April 20, 2022 should this Court direct a date for the primary for the elections for the state legislature. In that event, this Court should set the primary for the latest date that the Secretary of State has stated is feasible, *i.e.*, August 2, 2022.
- This Court should permit the state process to result in a district plan for the General Assembly elections. To make sure that a timely plan is enacted, the Court should order the adoption of a plan for that election on **April 20, 2022**. The Secretary has testified that to set a later date would necessitate the enactment of the invalid Third Plan, which would create greater disruption to state law and processes, contrary to Supreme Court precedent, including the reasoning of *Grove*.
- In advance of April 20, the Court should appoint a special master to correct the remaining few technical details of the already substantively compliant Independent Plan so that it is available for implementation by April 20. To meet this deadline, the Special Master should be directed to start work on April 18.

The above actions by this court are all that need to be done to resolve this dispute. Thus, there is no basis for Plaintiffs' motion for preliminary injunction seeking unnecessarily precipitous - and much more drastic - relief. It should be denied.⁵

⁵ This memorandum sets forth Intervenor's additional reasons why the preliminary injunction should be denied. It further addresses specific questions raised by the Court. We note that some

II. IF THE GENERAL ASSEMBLY DOES NOT ACT BY APRIL 20, 2022 THIS COURT SHOULD MOVE THE PRIMARY DATE TO AUGUST 2, 2022.

To satisfy its obligations under *Growe*, if the General Assembly does not set a new primary date, this court should schedule the primary for August 2. It has the authority to do so.

An August 2, 2022 Primary will permit voting to take place under a lawful plan. The Secretary of State's filing on March 28, confirmed by the testimony of Amanda Grandjean at the March 30 preliminary injunction hearing, established two key points: (1) that it is too late for primary elections for Ohio General Assembly offices to be held on May 3, 2022 under *any* plan;⁶ and (2) that the primary election for these offices may be delayed to as late as August 2, 2022 without interfering with the ability to hold a general election "in regular order." Response to Questions Contained in Order Issued March 25, 2022, ECF No. 113 at PageID # 2911–2912, 2919. Moreover, the Secretary has represented that the latest date for the enactment of a district plan for an August 2, 2022 election is 104 days before the primary date, *i.e.*, April 20, 2022. Tr. of Hr'g on P.I. Mot., ECF 150 at PageID # 4317:3–4318:25, 4319:22–25.

These facts establish three critical parameters regarding the election schedule. First, at present there is no operative primary date for the General Assembly elections. Second, the primary date, once established, will necessarily affect the "drop dead" date to have a district plan in place, and thus needs to be set as a precondition for the adoption of a district plan. Third, assuming the latest possible primary date is August 2, then the latest possible date for directing a plan for that primary is necessarily April 20, 2022.

of the responses to these questions underscore that the Plaintiffs will not suffer any irreparable injury should their motion be denied, given the scheduling options before the Court.

⁶ Indeed, voting has begun for the May 3, 2022 primary and the ballots for that primary conspicuously *do not* include the General Assembly elections. Tyler Buchanan, Early Voting Begins in Ohio for 2020 Primary Election, Axios Columbus (Apr. 5, 2022), <https://tinyurl.com/562jf8e6>.

The General Assembly should first be afforded a chance to set the primary date. Under *Grove*, this Court should intervene only if there is no prospect that the state process will timely resolve the redistricting dispute. *Grove*, 507 U.S. at 34. If the general assembly does not set a date in time, then this Court's stepping in to set a date would be a necessary, and substantially less intrusive, option than other forms of relief.

In the ordinary course, setting the primary date is the role and prerogative of the Ohio General Assembly. This Court therefore should not take on that task until it is clear that the General Assembly will not do so in time to conduct an orderly election. As set forth above, the latest possible primary date has been represented by Ohio's Chief Elections official, Secretary LaRose, to be August 2, 2022. And, per Secretary LaRose, the last date for the enactment of a plan to govern a primary on that date is April 20, 2022. Accordingly, the General Assembly should be given until April 20, 2022 to set the primary date for the General Assembly elections.

As a last resort, this court has the authority to move the primary date. Should the General Assembly fail to act, this Court has the authority to take this step. *See, e.g., Sixty-Seventh Minn. State Senate v. Beens*, 406 U.S. 187, 201 n.11 (1972) ("If time presses too seriously [to implement a remedial reapportionment plan], the District Court has the power appropriately to extend the [election deadline] time limitations imposed by state law."); *Quilter v. Voinovich*, 794 F. Supp. 756, 757 (N.D. Ohio 1992), rev'd on other grounds, 507 U.S. 146 (1993) (finding state legislative districts unconstitutional, vacating the primary date, and ordering a new one); *see also Larios v. Cox*, 305 F. Supp. 2d 1335, 1342 (N.D. Ga. 2004) ("We also observe that the court has broad equitable power to delay certain aspects of the electoral process if necessary").

To reiterate: this step should not be taken lightly. The General Assembly should be afforded the opportunity to set a new primary date consistent with the representations of the Secretary of State – both as regards the primary date and the deadline for the enactment of a district plan for that election (*i.e.*, April 20, 2022). This Court should act to set a primary date only if the General Assembly fails to do so.

III. PLAINTIFFS PRELIMINARY INJUNCTION MOTION SHOULD BE DENIED.

In assessing whether to grant a preliminary injunction, courts evaluate: “(1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by the issuance of the injunction.” *Ne. Ohio Coal. for the Homeless v. Husted*, 696 F.3d 580, 590–91 (6th Cir. 2012).

A. Plaintiffs Are Not Likely To Succeed on the Merits.

In their motion, Plaintiffs seek the imposition of the Fourth Plan and, as an alternative, the Third Plan. Pls.’ Post-Hr’g Br. in Support of Second Mot. For P.I., ECF 160 at PageID # 4522–24. Plaintiffs’ requested relief improperly asks this Court to impose a plan that the Ohio Supreme Court has already ruled violates Article XI, Sections 6(A) and 6(B) of the Ohio Constitution or that is materially indistinguishable from that Plan. Such drastic action is unnecessary given the availability of the map drawn by the independent map drawers under the direction of the Ohio Redistricting Commission..

1. The Third Plan cannot be enacted because it was invalidated by the Supreme Court of Ohio.

To the extent that this Court imposes any particular redistricting plan, it must be a plan that complies with Ohio state law. *See, e.g., Bush v. Gore*, 531 U.S. 98, 111 (2000) (per curiam)

(rejecting a proposed remedy on the grounds that it would require remanding to the Florida Supreme Court to issue an order in violation of the Florida Election Code); *White*, 412 U.S. at 795 (in crafting an apportionment remedy, federal courts should not “intrude upon state policy any more than necessary”); *Upham v. Seamon*, 456 U.S. 37, 42 (1982) (similar). In so doing, this Court must respect the rights safeguarded by the Ohio Constitution, absent an *unavoidable* conflict. *See, e.g., Guar. Tr. Co. of N.Y. v. York*, 326 U.S. 99, 105 (1945) (“Congress never gave, nor did the federal courts ever claim, the power to deny [sic] substantive rights created by State law . . .”).

The right not to vote under the invalidated Third Plan is one such right. The Supreme Court of Ohio has already declared the Third Plan invalid, “in its entirety,” under the Ohio Constitution. *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, 2022-Ohio-789, ¶ 44 (Ohio Mar. 16, 2022) (“*LWVO III*”). There is no dispute that the Supreme Court of Ohio is “the ultimate arbiter of Ohio law.” *Ohio ex rel. Skaggs v. Brunner*, 549 F.3d 468, 472 (6th Cir. 2008); *see, e.g., Hortonville Dist. v. Hortonville Ed. Assn*, 426 U.S. 482, 488 (1976) (“We are, of course, bound to accept the interpretation of [state] law by the highest court of [that] State.”). Further, state Courts are given particular deference when interpreting law governing state elections. *See Democratic Nat’l Comm. v. Wisconsin State Legislature*, 141 S. Ct. 28, 208 L. Ed. 2d 247 (2020) (noting the difference in “the authority of state courts to apply their own constitutions to election regulations” and cases involving federal elections) (Roberts, CJ, concurring); *see also Democratic Nat’l Comm.*, 141 S. Ct. at 34 n.1 (noting the particular deference given to state court interpretation of state constitutions for state elections) (Kavanaugh, J, concurring).

The role of the Supreme Court of Ohio is specifically defined by the Ohio Constitution in regards to the validity of the district plan for the General Assembly. After the Ohio state legislature proposed a ballot initiative to amend its Constitution, the voters of Ohio—the same individuals whose right to vote Plaintiffs claim to be defending—overwhelmingly voted to amend Article XI of the Ohio Constitution to its current form. *See League of Women Voters of Ohio v. Ohio Redistricting Comm’n, et al.*, 2022-Ohio-65, ¶ 101 (Ohio Jan. 12, 2022) (“*LWVO I*”). The state legislature and voters carefully considered the process by which redistricting should occur in Ohio. Most important here, the voters chose to vest the Supreme Court of Ohio with the authority to invalidate a redistricting plan, and they required the Commission to comply with any state court order invalidating such a plan. *See* Ohio Const. art. XI, § 9(A)–(B)

Put simply, this Court should not overturn the will of the state legislature and Ohio voters, as clearly expressed in the state Constitution and interpreted by the Supreme Court of Ohio. Not surprisingly, Ohio’s Attorney General has acknowledged as much, *see* Feb. 22, 2022 Letter from Attorney General Yost to Ohio General Assembly, ECF No. 91-4 at PageID # 1505 (“The federal court may not order the use of a map that was rejected by the Ohio Supreme Court, where the underlying provision of the state constitution has not been found to violate the federal constitution.”).

2. There is no basis for preempting the ruling of the Supreme Court of Ohio.

Plaintiffs’ briefing relies on case law that unremarkably states that federal law controls where there is an *unavoidable conflict* between state and federal law. *See* PI Mot., ECF No. 96 at PageID # 1593 (citing *Reynolds v. Sims*, 377 U.S. 533, 584 (1964)). But, on the very page of the *Reynolds* opinion to which Plaintiffs have cited, the Supreme Court also states unambiguously that “courts should attempt to accommodate the relief ordered to the

apportionment provisions of state constitutions insofar as is possible.” *Reynolds*, 377 U.S. at 584. Thus, so long as there exists the possibility of a map that complies with both the Ohio Constitution and federal law, it is vital that the Court avoid trampling on state constitutional requirements. *See Upham*, 456 U.S. at 42 (per curiam) (A federal court may not impose a “court-ordered plan that reject[s] state policy choices more than [is] necessary to meet the specific constitutional violations involved” because a “district court’s modifications of a state plan are limited to those necessary to cure any constitutional or statutory defect.”).

Reynolds and *Upham* are just particular applications of general preemption principles, under which federal law displaces state redistricting laws only if those laws “are an *unavoidable obstacle* to the vindication of the federal right.” *Large v. Fremont Cnty., Wyo.*, 670 F.3d 1133, 1145 (10th Cir. 2012) (emphasis in original). Federal courts may not “gratuitously disregard[] state laws—laws that need *not* be disturbed to cure the [federal law] violation.” *Id.* (emphasis in original). “In that situation, the conflict with state law is not a necessary consequence of the remedial operation of federal law but, rather, it reflects a mere policy disagreement” between the state law and the reviewing court. *Id.* at 1146.

3. The Third Plan was invalidated for substantial reasons: it fails to comply with Article XI Section 6(A) and 6(B) of the Ohio Constitution.

The Supreme Court of Ohio invalidated the Third Plan⁷ for good reason: it was a partisan gerrymander that violated Article XI, Sections 6(A) and 6(B) of the Ohio Constitution. Respect for that Constitution should compel this Court to decline to impose this invalidated Third Plan.

⁷ See Ex. 1, Third Plan; Ex. 2, Third Plan Native Files.

a) The Third Plan Violated Section 6(B).

Section 6(B) requires the commission to attempt to draw a plan in which the proportion of General Assembly seats that “favor each political party . . . correspond[s] closely to the statewide preferences of the voters of Ohio.” Ohio Const. art. XI, § 6(B). Over the past decade of statewide elections, Ohioans have cast 54% of their votes for Republicans and 46% of their votes for Democrats. *LWVO I*, ¶ 108. In comparing the 54-to-46 preference of Ohio’s voters to General Assembly districts, the Ohio Supreme Court has determined that toss-up districts with less than 52% vote share for either party do not “‘favor’ a political party within the meaning of Section 6(B),” *LWVO III*, ¶ 40, and therefore “must either be excluded . . . or be allocated to each party in close proportion to its statewide vote share.” *Id.* ¶ 38 (quoting *League of Women Voters of Ohio v. Ohio Redistricting Comm’n, et al.*, 2022-Ohio-342, ¶ 62 (Ohio Feb. 7, 2022) (“*LWVO II*”)).

The Third Plan, like the Second Plan that the Supreme Court of Ohio had recently invalidated, was stacked with an extreme number of districts that were labeled Democratic-leaning but were, in reality, toss-ups. In the Ohio House, 19 of 45 ostensibly Democratic seats actually had Democratic vote share between 50 and 52 percent; in the Senate, 7 of 15 ostensibly Democratic seats were in that range. *LWVO III*, ¶ 32. But there was not a *single* Republican seat in this 50-52% toss-up range. *Id.*

By creating 26 ostensibly Democratic toss-up districts in the House and Senate and no comparable Republican districts, the Third Plan created a plainly disproportionate map. As a result, the Court ruled, those seats should properly be excluded from the comparison, thus “giv[ing] Republicans a 67.9 percent share of the non-excluded districts (72 out of 106) and Democrats 32.1 percent (34 out of 106).” *Id.* ¶ 42. This allocation of 67.9% of the seats in the General Assembly was materially more than the 54% of the statewide votes earned by the

Republican Party over the past decade. *Id.* The Supreme Court of Ohio accordingly determined that this distribution “d[id] not ‘correspond closely’ to the statewide preferences of Ohio’s voters and violate[d] Article XI, Section 6(B) of the Ohio Constitution.” *Id.*

b) The Third Plan Violated Section 6(A).

Article XI, Section 6(A) requires that legislative plans not be “drawn primarily to favor or disfavor a political party.” Ohio Const. art. XI, § 6(A). To determine whether a legislative plan has been “drawn primarily to favor or disfavor a political party,” the Supreme Court of Ohio has consistently looked both to the process that produced the plan and to the plan itself. This evidence—process and substance—proved beyond a reasonable doubt that majority-party commissioners drew the Third Plan with the “overriding intent to maintain as much of an advantage as possible for members of their political party.” *LWVO III*, ¶ 32.

On process, each of the Supreme Court of Ohio’s decisions have faulted the Commission for disregarding the requirement in Article XI of the Ohio Constitution that “[t]he commission,” rather than a particular party, “shall draft” redistricting plans. *Id.* ¶ 25 (citing Ohio Const. art. XI, § 1(C)); *see also LWVO I*, ¶¶ 118–120; *LWVO II*, ¶ 34.

The Third Plan was no exception; it was drafted and adopted through an entirely partisan process that “did not allow the minority-party commission members to provide input . . . much less let them participate in its creation.” *LWVO III*, ¶ 30. Indeed, majority-party legislative staffers drafted the Third Plan entirely in secret. *Id.* ¶¶ 3–13. This plan was not unveiled to minority-party commissioners until just hours before they would have to vote on it. *Id.* ¶¶ 13–16, 29. When the minority-party commissioners asked to provide feedback, their requests were rebuffed. *Id.* The Supreme Court of Ohio concluded that this “one-sided process [wa]s evidence of an intent to draw a plan that favors the Republican Party at the expense of the Democratic Party.” *Id.* ¶ 30.

On substance, the Supreme Court of Ohio determined that the “remarkably one-sided distribution of toss-up districts is evidence of an intentionally biased map.” *Id.* ¶ 33. The result of this skewed distribution was that an election with a uniform two-point swing for Republicans would give that party commanding supermajorities in both houses, whereas a uniform two-point swing in favor of the Democrats would give that party absolutely nothing. *Id.* ¶ 42. Because this “evidence show[ed] — overwhelmingly — that the individuals who drafted the second revised plan primarily intended to favor the Republican Party,” that court held that the Third Plan violated Article XI, Section 6(A) of the Ohio Constitution. *Id.* ¶ 34.

4. The Fourth Plan is No Better.

On March 28, 2022, the Commission passed the Fourth Plan. *See* Ex. 3, Fourth Plan; Ex. 4, Fourth Plan Native Files. The Fourth Plan is equally invalid under the Ohio Constitution: it is nearly identical to the Third Plan already invalidated by the Supreme Court of Ohio, with only trivial changes.

a) The Fourth Plan Is Substantively Indistinguishable from the Invalidated Third Plan.

‘Fourth Plan’ is practically a misnomer. The Fourth Plan that the Commission adopted on March 28, by their own sponsor’s admission, consists of the invalidated Third Plan with “only minor changes.” Ex. 5, Tr. of Mar. 28, 2022 Ohio Redistricting Comm’n Hrg., at 117:14. These “minor changes” impact *less than one third of one percent of Ohio’s voters*, and do not remedy the constitutional defects that the Supreme Court of Ohio identified when invalidating the Third Plan. Ex. 6, Affidavit of Dr. Christopher Warshaw (Mar. 29, 2022) at 7 (hereinafter “Warshaw Aff.”).

b) The Fourth Plan Violates Sections 6(A) and 6(B).

Violation of Section 6(A): Process. This Fourth Plan was the result of a partisan process that violated Section 6(A) in order to favor the Republican Party. In particular:

- On the final day of the map drawing process, as the independent map-drawers neared completion of their maps, a partisan majority of the commission suddenly and without prior notice moved to have majority-party staffers make minor adjustments to the invalidated Third Plan. Ex 5, Tr. of Mar. 28, 2022 Ohio Redistricting Comm’n Hrg., at 56:8–57:2; *see also* Mot. to Dismiss, ECF 132 at PageID # 3092–3094.
- The Fourth Plan was then introduced and adopted within an hour, without any opportunity for review or analysis. Ex 5, Tr. of Mar. 28, 2022 Ohio Redistricting Comm’n Hrg., at 79:8–81:3, 109:10–111:1.
- Minority-party commissioners had no opportunity to participate in its creation, and all of their requests to review the plan or provide input were rebuffed. *Id.* at 105:18–22, 106:21–107:13.

Violation of Section 6(A): Substance. The Fourth Plan sustains the Third Plan’s asymmetric allocation of toss-up districts. This Fourth Plan creates 17 House districts with 50-52% Democratic vote share and 6 Senate districts with 50-52% Democratic vote share. Ex. 6, Warshaw Aff. at 2–3. Again, there is not a *single* Republican district in this range. *Id.* at 5–6. This asymmetry in close districts demonstrates the majority-party commissioners’ continued intent to favor their political party at the expense of Ohio’s voters and Constitution.

Violation of 6(B): The extremely disproportionate allocation of toss-up districts in the Fourth Plan also continues to violate Article XI, Section 6(B) of the Ohio Constitution. The Supreme Court of Ohio has invalidated plans that “d[id] not ‘correspond closely’ to the statewide

preferences of Ohio’s voters and violate[d] Article XI, Section 6(B) of the Ohio Constitution” when 64.4% of their districts and 67.9% of their districts favored Republicans. *LWVO III*, ¶ 42. When the toss-up districts in the Fourth Plan are excluded, as they must be, that plan gives the Republican Party a full 66% of seats in both the Ohio House and Senate. Ex. 6, Warshaw Aff. at 3–6.

B. Plaintiffs Will Not Suffer Irreparable Harm if the Third or Fourth Plan Is Not Imposed.

An “indispensable” requirement to a motion for a preliminary injunction is the threat of “imminent and irreparable injury.” *D.T. v. Sumner Cnty. Schs.*, 942 F.3d 324, 327 (6th Cir. 2019). That injury “‘must be both certain and immediate,’ not ‘speculative or theoretical.’” *Id.* The harm that plaintiffs claim to contend with is the possibility that they will be forced to vote under a districting plan more than a decade old or have their right to vote revoked completely. Pls.’ Mot. For a T.R.O. to Maintain the Third Plan, ECF No. 84 at PageID # 1160–1164. But such fears remain purely speculative at this point.

Plaintiffs here will not suffer irreparable injury if the Third or Fourth Plan is not ordered by this Court. Alternative remedies plainly exist, including the enactment of the Independent Plan (as set forth below). Thus, this factor weighs against granting a preliminary injunction.

C. The Balance of Hardships Does Not Favor the Plaintiffs.

“In exercising its discretion with respect to a motion for a preliminary injunction, a district court must give consideration to . . . whether issuance of the injunction would cause substantial harm to others.” *Bonnell v. Lorenzo*, 241 F.3d 800, 809 (6th Cir. 2001). Compelling Secretary LaRose to proceed with elections pursuant to the unconstitutional Third or Fourth Plans will cause substantial harm to Ohio voters.

Ohio affirmed its commitment to ending the harm of partisan gerrymandering in 2015, when an overwhelming majority (71.5% to 28.5%) of the electorate voted to amend Article XI to require that districts not be drawn “to favor or disfavor a political party,” and that the distribution of seats “shall correspond closely to the statewide preferences of the voters of Ohio.” Ohio Constitution, Article XI, §§ 6(A), 6(B). Here, the Supreme Court of Ohio has found that the Third Plan is a partisan gerrymander in violation of Article XI of the Ohio Constitution. *See* Section II.A.3, *supra*. The virtually indistinguishable Fourth Plan is presently under review by the Ohio Supreme Court. *See e.g.*, Pet’rs’ Obj. to Commission’s Mar. 28, 2022 Revised Plan, League of Women Voters of Ohio et al. v. Ohio Redistricting Comm’n, et al., 2021-Ohio-1198 (Apr. 1, 2022). Forcing Ohioans to once again vote in gerrymandered districts would cause the very harm that voters sought to eliminate by amending Article XI in 2015. This factor weighs heavily against granting a preliminary injunction.

D. The Public Interest Does Not Favor the Plaintiffs.

“In exercising its discretion with respect to a motion for a preliminary injunction, a district court must give consideration to . . . whether the public interest would be served by issuance of the injunction.” *Bonnell*, 241 F.3d at 809. Here, Plaintiffs have not shown that issuing a preliminary injunction to compel the implementation of an unconstitutional district plan serves the public interest. *See id.* at 826 (finding that the public interest would not be served where the court “[did] not find that Plaintiff’s alleged harm outweighs the potential harm to others”). To the contrary, Ohioans have a great interest in voting in constitutional districts, and protecting the integrity of their constitutional schemes as well as the decisions of their highest state court. Thus, this element also weighs against issuing a preliminary injunction. *See Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (explaining that a preliminary injunction is “an

extraordinary and drastic remedy” and should not be granted unless “the movant, *by a clear showing*, carries the burden of persuasion” [emphasis in original]).

IV. THERE ARE CONSTITUTIONALLY COMPLIANT ALTERNATIVES THAT CAN BE IMPLEMENTED EXPEDITIOUSLY.

It is not necessary for this Court to impose the unconstitutional Third or Fourth Plan. Nor is it necessary for this Court to start from scratch. A plan already exists that substantively complies with the Ohio Constitution and the instructions of the Ohio Supreme Court, and which was the product of substantial investment of time and resources during the state map drawing process: the Independent Plan. With a minor quality control review (which can be done within a day) to correct any potential technical details, the Independent Plan is ready for adoption and implementation. *See* Ex. 7, Independent Plan; Ex. 8, Independent Plan Native Files. Alternatively, a second plan – the “Rodden Plan” was submitted to the Commission; it is constitutionally compliant and could be readily implemented.

A. The Independent Plan Is Available for Prompt Implementation.

1. The Independent Plan Was Substantively Completed the Evening of March 28, Before the Court’s Midnight Deadline.

On March 21, 2022, the Ohio Redistricting Commission hired two independent map drawers, including one map drawer selected by Republican Commissioners, Mr. Douglas Johnson, and one selected by Democratic Commissioners, Dr. Michael McDonald, to draft and produce a constitutionally compliant map. Ex. 9, Tr. of Mar. 21, 2022 Ohio Redistricting Comm’n Hr’g, at 1–2. Between March 23–28, the independent map drawers worked nearly around-the-clock to draft a constitutionally compliant map.

On the evening of March 28, at almost the *exact* time that the Fourth Plan was being adopted, and over an hour and a half before the midnight deadline, the independent map drawers completed full House and Senate General Assembly maps that were substantially complete and

also substantially constitutionally compliant. *See* Ex. 10, Affidavit of Senator Vernon Sykes ¶ 69; Ex. 11, Affidavit of Minority Leader Allison Russo ¶ 61; Ex. 12, Affidavit of Christopher Glassburn ¶ 20; *see also* Exs. 7-8, Johnson McDonald Independent Plan 328 Final (Mar. 28, 2022) (“Independent Plan”), General Assembly District Plans – Draft Plans Drawn by Independent Map Drawers, Ohio Redistricting Comm’n, <https://redistricting.ohio.gov/maps>.

Co-Chair Sykes explained that the Independent Plan complied with the Ohio Constitution’s Article XI, Section 6 requirements by reaching the “constitutional partisan proportionality goals of 45 Democratic House seats leaning Democratic, and 54 leaning Republican, with 15 Democratic seats in the Senate and 18 leaning Republican in the Senate.” Ex. 5, Tr. of Mar. 28, 2022 Ohio Redistricting Comm’n Hr’g, at 114; Ohio Constitution Article XI, Section 6(B). Leader Russo confirmed that the Plan also “addresse[d] the symmetry concerns of the Court” as “the House seats have three competitive Democratic seats, three competitive Republican seats. In the Senate, there are two competitive Democratic seats, and zero Republican seats. So substantially better in terms of symmetry than the map that the Commission previously adopted.” Ex. 5 at 115. The Commission voted down the Independent Plan in a 2-5 vote with only Senator Sykes and Leader Russo voting in favor of the Fourth Plan.

2. Expert Analysis Confirms: the Independent Plan is Substantively Compliant with the Ohio Constitution.

At the March 30, 2022 preliminary injunction hearing and in affidavits filed before the Supreme Court of Ohio, three witnesses have confirmed that the Independent Plan substantively complies with the requirements of the Ohio Constitution, and that with minor technical fixes, the plan would be ready for implementation.

Proportionality and asymmetry. Expert witnesses confirm that the Independent Plan complies with the requirements in Article XI, Section 6 of the Ohio Constitution. They

demonstrate that the Independent Plan creates districts that closely correspond to the preferences of Ohio's voters, with 54 Republican-leaning seats and 45 Democratic-leaning seats in the Ohio House, and 18 Republican-leaning and 15 Democratic-leaning seats in the Ohio Senate.

Critically, it does so without the extreme asymmetry in the allocation of toss-up districts that infects the Third and Fourth Plans. *See* Exhibits to Pet'rs' Obj. to Gen. Assembly District Plan Adopted Mar. 28, 2022, Vol. II at 10-15, Ex. 13, *Bennett et al. v. Ohio Redistricting Comm'n, et al.*, 2021-Ohio-1198 (Apr. 1, 2022) ("Rodden Aff."); Ex. 14, Apr. 1 Obj. and Req. for Rem., Latner Aff. at 9-10, *Ohio Organizing Collaborative et al. v. Ohio Redistricting Comm'n, et al.*, 2021-Ohio-1210 (Apr. 1, 2022) ("Latner Aff.") (demonstrating that the Independent Plan creates three Republican and three Democratic House seats in the 50-52% range, and two Democratic Senate seats in that range).

Compactness. These witnesses also confirm that the Independent Plan is more compact than the Third or Fourth Plan, and therefore more compliant with the third requirement of Article XI, Section 6. Dr. Rodden, an expert witness, has calculated the compactness of these plans across three common statistical measures (Reock, Polsby-Popper, and Area/Convex Hull) and demonstrated that the Independent Plan outperforms the Third and Fourth Plan consistently across all metrics. *See* Tr. of Hr'g on P.I. Mot., ECF 150 at PageID # 4416:19-4417:4; Ex. 13, Rodden Aff. at 12. Mr. Glassburn, a Democratic consultant throughout the redistricting process, has calculated two of these measures, and confirmed Dr. Rodden's results. *See* Tr. of Hr'g on P.I. Mot., ECF 150 at PageID # 4372:14-4373:12.

Compliance with other requirements of Article XI. The Independent Plan is substantially compliant with all of the other requirements of Article XI of the Ohio Constitution (i.e., the technical requirements in Sections 2, 3, 4, 5, and 7), which concern factors such as population

equivalence, geographic splits, and the data used to draw maps. The Independent Plan was drawn, per the Commission's instructions to the map drawers, in observance of these technical requirements. *See* Tr. of Hr'g on P.I. Mot., ECF 150 at PageID # 4376:6-24 (testimony of C. Glassburn concerning independent map-makers' compliance with these requirements); Ex. 12, Apr. 4 Resp of Sen. Sykes and House Min. Leader Russo to Pet.'s Mot. for Order to Show Cause, Glassburn Aff. at ¶ 26-27, *Ohio Organizing Collaborative et al. v. Ohio Redistricting Comm'n, et al.*, 2021-Ohio-1210 (Apr. 4, 2022) (same). The Independent Plan Can Be Implemented Expeditiously

Mr. Glassburn testified that while there were a few minor technical flaws with the Independent Plan, *see id.* at PageID # 4367:10-20, the plan substantially met the constitutional requirements, *id.* at PageID # 4376:6-24. Mr. Glassburn testified that the technical fixes could be completed within one day. *Id.* at PageID # 4369:2-6.

B. Alternatively, the Court Can Direct the Implementation of the Rodden Plan.

A second compliant plan was also submitted to the Commission: the 'Rodden Plan'. *See* Tr. of Hr'g on P.I. Mot., ECF 150 at PageID # 4397:3-14 (testimony of Dr. Rodden at the March 30, 2022 hearing on the motion for preliminary injunction). That plan is also fully compliant with Sections 2, 3, 4, 5, and 7 of the Ohio Constitution, and far more compliant than the Third or Fourth Plan as regards Section 6. *See id.* at PageID # 4400:22-4401:6 (same); Ex. 3 to Intervenor-Plaintiffs' Opp. to Second Amended PI Mot., ECF No. 107-3 at PageID # 2607, 2609-2626 (Rodden Affidavit in Support of Objection to the Third Plan). Should the Court determine that, for whatever reason, the Independent Plan does not pass muster there is a second alternative on the table.

V. THIS COURT SHOULD NOT DIRECT THAT THE 2022 ELECTIONS TAKE PLACE PURSUANT TO THE 2011 PLAN.

Plaintiffs themselves state that “using the old legislative districts is not an option,” *see* PI Mot., ECF No. 96 at PageID # 1583, and no party has advocated for that result. This Court should refrain from reaching out for that resolution. To do so would violate both federal and state law. Moreover, given the availability of fully constitutionally viable options: the plan provided by the independent map drawers or the Rodden plan, taking an unlawful path is unnecessary.

A. Imposition of the 2011 Plan Would Violate Federal and State Law.

It is plain that elections under the 2011 plan would unconstitutionally require Ohio voters to vote under a malapportioned plan that violates *both* the U.S. and Ohio constitutions.

1. Imposition of the 2011 Plan Violates Federal Law.

Every state redraws districts based on the most recent decennial census. *Evenwel v. Abbott*, 578 U.S. 54, 60 (2016) (“Today, all States use total-population numbers from the census when designing congressional and state-legislative districts”). Ohio is no exception. *Ohio v. Raimondo*, 848 F. App’x 187, 188 (6th Cir. 2021).

The reason for this is straightforward: “the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis” because “an individual’s right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living on other parts of the State.” *Reynolds v. Sims*, 377 U.S. 533, 568 (1964); *see Karcher v. Daggett*, 462 U.S. 725, 737-38 (1983) (recognizing that “the census count represents the ‘best population data available’” from which to make “good-faith attempts to achieve population equality” (citation omitted)).

Therefore, if elections were conducted pursuant to the previous decennial census populations and under the 2011 plan, that election would be “constitutionally suspect.” *Reynolds*, 377 U.S. at 584 (“[I]f reapportionment were accomplished with less frequency, it would assuredly be constitutionally suspect.”); *see Arizona Independent Election Commission v. Arizona Independent Redistricting Comm’n*, 576 U.S. 787, 811 (2015) (providing that the “one-person, one-vote” principle would not permit former districts used for congressional elections “except in the ‘unlikely’ event that ‘the decennial census makes no districting change constitutionally necessary’” (citing *Branch v. Smith*, 538 U.S. 254, 273 (2003) (plurality opinion))).⁸

2. Imposition of the 2011 Plan Violates State Law.

Independently, the Ohio Constitution also requires the General Assembly maps to be based on the most recent federal decennial census. Ohio Const. art. XI § 7 (stating “district boundaries shall be created by using the boundaries . . . as they exist at the time of the federal decennial census on which the redistricting is based”); *see id.* § 3 (explaining that the population of the state for redistricting purpose shall be “determined by the federal decennial census”).⁹ Requiring Ohioans to vote under a plan that is based on an older census would thus also violate the state Constitution. Given federal courts “should not pre-empt the legislative task nor ‘intrude upon state policy any more than necessary,’” *White v. Weiser*, 412 U.S. 783, 795 (1973), this

⁸ According to Plaintiffs, the population changes reflected in the 2020 census show that an election under the 2011 plan would be constitutionally infirm. PI Mot., ECF No. 96 at PageID # 1583-84.

⁹ *See also Raimondo*, 848 F. App’x at 188 (“Under Ohio’s Constitution, Ohio uses that [census] data to redraw its state and federal voting districts.”); *LWVO I*, ¶ 4 (“The commission is responsible for redistricting the boundaries of the 99 districts of the House of Representatives and the 33 Senate districts . . . after the release of the federal decennial census.”); *Wilson v. Kasich*, 981 N.E.2d 814, 819 (2012) (same under previous version of Ohio Constitution).

Court should not permit an outcome that would result in elections occurring under the outdated 2011 plan, contrary to the will of Ohio voters and the state legislature.

B. Imposition of the 2011 Plan is Wholly Unnecessary.

While it is plainly the general rule that this Court should not impose an illegal plan, a narrow exception has been articulated in circumstances where there is absolutely no alternative. *See Upham*, 456 at 44 (“It is true that we have authorized District Courts to order or to permit elections to be held pursuant to apportionment plans that do not in all respects measure up to the legal requirements, even constitutional requirements. Necessity has been the motivating factor in these situations.”) (internal citations omitted). That exception does not apply here.

As an initial matter, it bears emphasis that the Ohio legislative and judicial processes are still working, with enough time to redraw the General Assembly maps for the 2022 election. The Ohio Court is in the process of reviewing Objections and Responses to the Fourth Plan.

But even if this Court ultimately must impose a map, there are clear alternatives to the 2011 Plan. In particular, this Court could implement a map that, like the Independent Plan, conforms to the federal and state constitution. That map suffers from none of the manifest constitutional defects of the 2011 Plan, the Third Plan or the Fourth Plan. Its existence makes clear that the “necessity” exception does not apply in this case. Alternatively, as noted above, the Court could direct the implementation of the Rodden Plan. In short, there are at least two constitutionally compliant alternatives to the 2011 Plan.

VI. THE PROPOSED PROCESS MOVING FORWARD.

A. The State Process Should Be Permitted to Work to an Orderly Conclusion with an April 20 Deadline So That a Valid Plan Can Be Adopted for an August 2 Primary.

As noted above, there is a need to set a date for a General Assembly primary election. If the legislature fails to set a date, this Court should set the primary for August 2, 2022. Given the

Secretary's testimony, LWV Intervenors are asking this Court to set April 20, 2022 as the date for the state map drawing process to conclude.

It bears emphasis: time remains prior to the April 20 deadline for the Ohio Supreme Court and the state process to be completed. The Ohio Supreme Court is presently reviewing objections to the Fourth Plan and is determining the remedy to be imposed. Petitioners' objection to the Ohio Redistricting Commission's March 28, 2022 revised plan, *League of Women Voters of Ohio v. Ohio Redistricting Comm'n, et al.*, 2021-Ohio-1193 (Ohio April 1, 2022). It must be permitted to do so.

B. *Grove* Does Not Require This Court to Endorse a Deadline for the Completion of the State Process that Results in the Imposition of the Third Plan.

This Court can intervene to make sure that a valid plan is timely adopted. *Grove*, 507 U.S. at 34; *see also Scott v. Germano*, 381 U.S. 407, 409 (1965) (noting that the district court may intervene “in the event a **valid** reapportionment plan . . . is not timely adopted”) (emphasis added). In so doing, however, this Court should not set a date so late that it ends up requiring the implementation of an *invalid* plan.

According to the representation of Jonathan Blanton of the Attorney General's Office representing the Secretary of State on March 30, the only plan that could be carried out *after* April 20, 2022 in time for an August 2, 2022 legislative primary would be the invalidated and unconstitutional Third Plan. Tr. of Hr'g on PI Mot., ECF 150 at PageID # 4311:17-4320:4. This Court should therefore not wait past April 20. To do so would unnecessarily incur a conflict between the state and federal constitutions, forcing a collision where none need occur. *See supra* Sections III.A.1–2 (only in the event of an *unavoidable* conflict between state and federal law does the latter preempt the former).

Delay past April 20 is not required by *Grove*, and under these circumstances such delay would in fact defy that case's reasoning. *Grove* does not call for delay for its own sake, but only where delay serves the interests of deference to state policy and leaving intact state courts' jurisdiction. *See* 507 U.S. at 35–37. Here, for this Court to refrain from intervening until after April 20 would end up necessitating a far *greater* intrusion on state policy. As set forth above, ordering a map that violates at least two provisions of the Ohio Constitution, contrary to the judgment of the Supreme Court of Ohio and the expressed will of a supermajority of Ohio voters would be just such an intrusion. To delay past April 20 in the name of deference to state autonomy would thus be a self-defeating measure.

C. As a Fail-Safe in the Event That the Ohio Process Does Not Timely Resolve, This Court Should Promptly Appoint Special Masters to Finalize the Independent Plan.

The Independent Plan is substantively complete, in need of only a few technical refinements. Tr. of Hr'g on PI Mot., ECF 150 at PageID # 4367:10-20. Moreover, the independent map drawers (Johnson and McDonald) are the best equipped individuals to perform this task, given their prior investment in the process. Ex. 9, Tr. of Mar. 21, 2022 Ohio Redistricting Comm'n Hrg., at 1–2.

Accordingly, the most efficient process here would entail the appointment of the independent map drawers as Special Masters so that they can finalize the Independent Plan. It can be accomplished within a day. Tr. of Hr'g on PI Mot., ECF 150 at PageID # 4369:2-6 (“Q. Mr. Glassburn, you had said that there might be some technical flaws in the independent mapmakers' map. How long would it take, in your opinion, to identify and fix those technical flaws? A. No more than one day.”).

In light of the nominal amount of work needed to finalize the Independent Plan, LVW Intervenor propose that the Special Masters be directed to begin work on April 18. This will

assure that that there is a plan available on April 20, 2022 should the Ohio process not produce a final plan by that date.

VII. CONCLUSION.

For the foregoing reasons, this Court should deny the motion for preliminary injunction, set April 20, 2022 as the deadline for the state process to conclude prior to federal court intervention, move the primary to August 2, 2022 (should the General Assembly not do so by April 20), and appoint Drs. Johnson and McDonald as special masters to finalize the Independent Plan should it be necessary for this Court to direct its implementation.

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Dated: April 6, 2022

Respectfully submitted,

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* *Pro hac vice* application forthcoming
** *Pro hac vice* application pending

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CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on this 6th day of April, 2022, I electronically filed the foregoing with the Clerk of Court for the United States District Court for the Southern District of Ohio, Eastern Division via the ECF system, which will send notification of such filing to all counsel of record.

/s/ Freda J. Levenson
Freda J. Levenson (0045916)
Counsel for Intervenor-Defendants

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

MICHAEL GONIDAKIS, et al.,

Plaintiffs,

v.

FRANK LAROSE,

Defendant, and

**LEAGUE OF WOMEN VOTERS OF OHIO
and A. PHILIP RANDOLPH INSTITUTE
OF OHIO,**

Intervenor-Defendants.

Circuit Judge Amul R. Thapar

Chief Judge Algenon L. Marbley

Judge Benjamin J. Beaton

Case No. 2:22-cv-773

**DECLARATION OF FRED A. J. LEVENSON IN SUPPORT OF
INTERVENOR-DEFENDANTS LEAGUE OF WOMEN VOTERS OF OHIO
AND A. PHILIP RANDOLPH INSTITUTE OF OHIO'S
SUBMISSION REGARDING THE ROLE OF THE FEDERAL COURT CONCERNING
THE OHIO GENERAL ASSEMBLY REDISTRICTING PLAN**

Declaration of Freda J. Levenson

I, Freda J. Levenson, 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 as 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:

1. I am one of the counsel for Intervenor-Defendants League of Women Voters of Ohio and A. Philip Randolph Institute of Ohio in the above-captioned case.
2. **Exhibit 1** is a true and correct copy of the visual representation of the Third Plan adopted by the Ohio Redistricting Commission (“the Commission”) on February 24, 2022, which is publicly available on the Commission’s website: <https://redistricting.ohio.gov/maps>.
3. **Exhibit 2** is a true and correct copy of the native files for the Third Plan adopted by the Commission on February 24, 2022, which are publicly available on the Commission’s website: <https://redistricting.ohio.gov/maps>. Exhibit 2 was filed manually with the Court and will be served on counsel of record for all parties. See ECF No 155.
4. **Exhibit 3** is a true and correct copy of the visual representation of the Fourth Plan adopted by the Commission on March 28, 2022, which is publicly available on the Commission’s website: <https://redistricting.ohio.gov/maps>.
5. **Exhibit 4** is a true and correct copy of the native files for the Fourth Plan adopted by the Commission on March 28, 2022, which are publicly available on the Commission’s website: <https://redistricting.ohio.gov/maps>. Exhibit 4 was filed manually with the Court and will be served on counsel of record for all parties. See ECF No 155.
6. **Exhibit 5** is a true and correct copy of the transcript of the March 28, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission’s website: <https://redistricting.ohio.gov/meetings>.
7. **Exhibit 6** is a true and correct copy of the Affidavit of Dr. Christopher Warshaw, as filed on April 1, 2022 in the Supreme Court of Ohio in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193.
8. **Exhibit 7** is a true and correct copy of the visual representation of the March 28, 2022 plan drafted by independent map drawers Drs. Douglas Johnson and Michael McDonald (“Independent Plan”), which is publicly available on the Commission’s website: <https://redistricting.ohio.gov/maps>.
9. **Exhibit 8** is a true and correct copy of the native files for the March 28, 2022 plan drafted by independent map drawers Drs. Douglas Johnson and Michael McDonald

(“Independent Plan”), which are publicly available on the Commission’s website: <https://redistricting.ohio.gov/maps>. Exhibit 8 was filed manually with the Court and will be served on counsel of record for all parties. See ECF No 155.

10. **Exhibit 9** is a true and correct copy of the transcript of the March 21, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission’s website: <https://redistricting.ohio.gov/meetings>.
11. **Exhibit 10** is a true and correct copy of the Affidavit of Senator Vernon Sykes, as filed on April 4, 2022 in the Supreme Court of Ohio in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193.
12. **Exhibit 11** is a true and correct copy of the Affidavit of Minority Leader Allison Russo, as filed on April 4, 2022 in the Supreme Court of Ohio in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193.
13. **Exhibit 12** is a true and correct copy of the Affidavit of Christopher Glassburn, as filed on April 4, 2022 in the Supreme Court of Ohio in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193.
14. **Exhibit 13** is a true and correct copy of the Affidavit of Dr. Jonathan Rodden, as filed on April 1, 2022 in the Supreme Court of Ohio in *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198.
15. **Exhibit 14** is a true and correct copy of the Affidavit of Michael S. Latner, as filed on April 1, 2022 in the Supreme Court of Ohio in *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210.

I declare the above to be true under penalty of perjury of the laws of the United States of America.

Respectfully submitted,

/s/ Freda J. Levenson

Freda J. Levenson (0045916)

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CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on this 6th day of April, 2022, I electronically filed the foregoing with the Clerk of Court for the United States District Court for the Southern District of Ohio, Eastern Division via the ECF system, which will send notification of such filing to all counsel of record.

/s/ Freda J. Levenson

Freda J. Levenson (0045916)

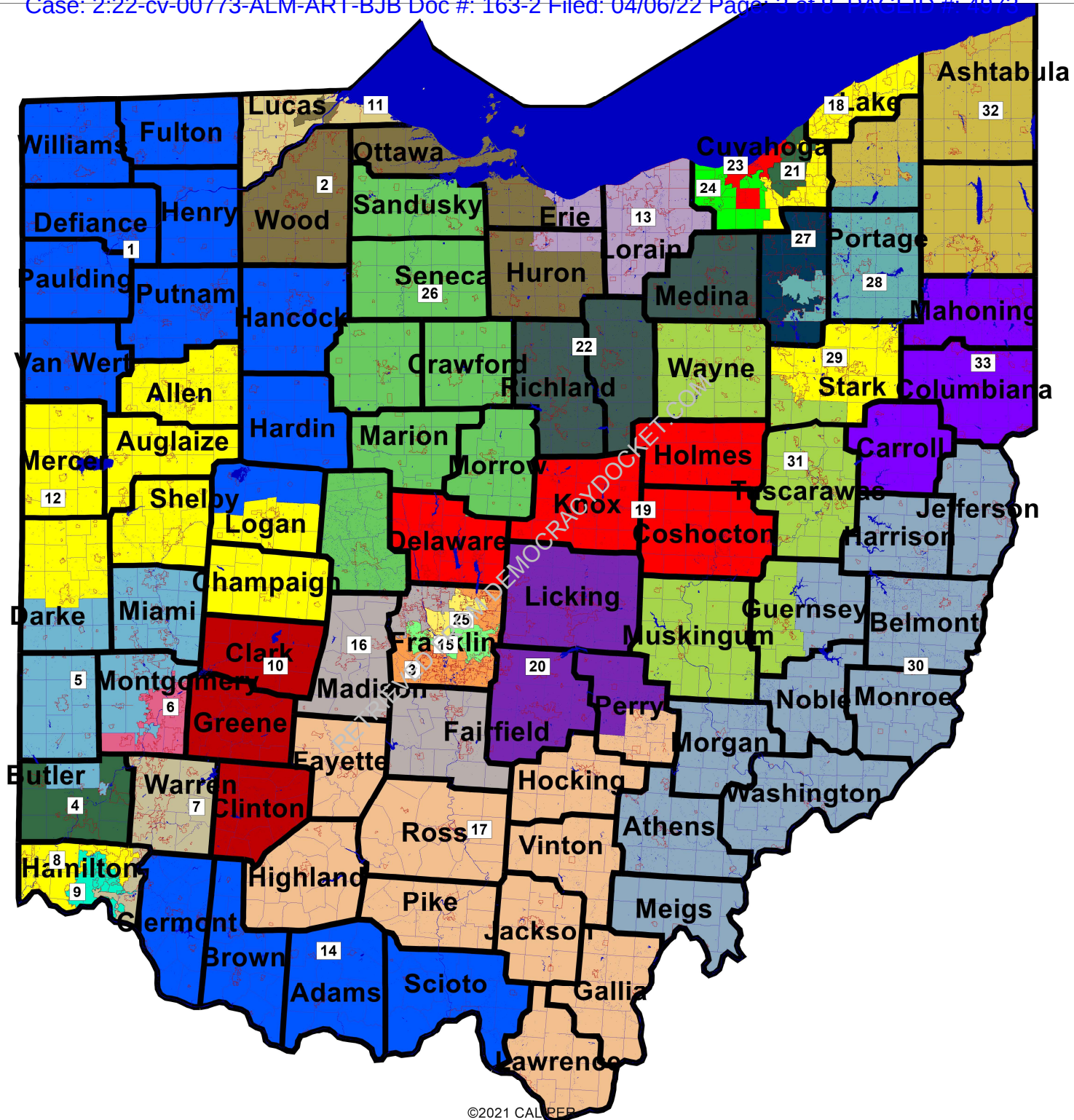
Counsel for Intervenor-Defendants

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EXHIBIT 1

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Pursuant to the 2020 U.S. Census, the population of Ohio as of April 1, 2020 was 11,799,448. The target population for each Ohio House district is therefore 119,186.

Statistical Information – Ohio House Districts
Revised February 24, 2022

House District	Population	Deviation
1	118,269	-0.77%
2	121,167	1.66%
3	119,267	0.07%
4	113,292	-4.95%
5	116,055	-2.63%
6	116,844	-1.97%
7	123,620	3.72%
8	123,378	3.52%
9	117,175	-1.69%
10	118,982	-0.17%
11	124,045	4.08%
12	114,076	-4.29%
13	125,018	4.89%
14	125,123	4.98%
15	125,126	4.98%
16	124,466	4.43%
17	124,902	4.80%
18	125,122	4.98%
19	123,250	3.41%
20	125,116	4.98%
21	125,129	4.99%
22	125,144	5.00%
23	124,913	4.81%
24	122,543	2.82%
25	115,014	-3.50%
26	120,124	0.79%
27	124,316	4.30%
28	120,869	1.41%
29	113,611	-4.68%
30	114,162	-4.22%
31	121,137	1.64%
32	121,972	2.34%
33	124,678	4.61%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED FEBRUARY 24, 2022

34	119,468	0.24%
35	124,362	4.34%
36	114,991	-3.52%
37	121,534	1.97%
38	122,075	2.42%
39	123,935	3.98%
40	117,193	-1.67%
41	114,264	-4.13%
42	117,985	-1.01%
43	113,597	-4.69%
44	113,261	-4.97%
45	123,472	3.60%
46	121,992	2.35%
47	123,473	3.60%
48	124,669	4.60%
49	116,324	-2.40%
50	113,282	-4.95%
51	113,841	-4.48%
52	118,043	-0.96%
53	123,651	3.75%
54	119,251	0.05%
55	120,633	1.21%
56	121,704	2.11%
57	124,111	4.13%
58	119,785	0.50%
59	123,071	3.26%
60	113,964	-4.38%
61	120,578	1.17%
62	124,425	4.40%
63	113,544	-4.73%
64	124,867	4.77%
65	114,353	-4.06%
66	116,342	-2.39%
67	118,575	-0.51%
68	115,385	-3.19%
69	120,418	1.03%
70	115,458	-3.13%
71	114,405	-4.01%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED FEBRUARY 24, 2022

72	121,758	2.16%
73	123,971	4.01%
74	116,122	-2.57%
75	115,928	-2.73%
76	124,936	4.82%
77	116,894	-1.92%
78	113,287	-4.95%
79	114,356	-4.05%
80	124,211	4.22%
81	113,487	-4.78%
82	114,464	-3.96%
83	122,058	2.41%
84	114,313	-4.09%
85	116,652	-2.13%
86	113,566	-4.72%
87	113,452	-4.81%
88	113,965	-4.38%
89	115,062	-3.46%
90	115,793	-2.85%
91	113,883	-4.45%
92	116,490	-2.26%
93	120,113	0.78%
94	114,124	-4.25%
95	114,126	-4.25%
96	114,020	-4.33%
97	114,521	-3.91%
98	123,138	3.32%
99	124,572	4.52%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED FEBRUARY 24, 2022

Pursuant to the 2020 U.S. Census, the population of Ohio as of April 1, 2020 was 11,799,448. The target population for each Ohio Senate district is therefore 357,559.

Statistical Information – Ohio Senate Districts
Revised February 24, 2022

Senate District	Population	Deviation
1	350,009	-2.11%
2	344,251	-3.72%
3	348,329	-2.58%
4	368,937	3.18%
5	365,339	2.18%
6	358,600	0.29%
7	366,653	2.54%
8	348,642	-2.49%
9	357,681	0.03%
10	345,985	-3.24%
11	345,846	-3.28%
12	344,252	-3.72%
13	360,945	0.95%
14	353,762	-1.06%
15	356,280	-0.36%
16	361,499	1.10%
17	350,486	-1.98%
18	372,274	4.12%
19	357,680	0.03%
20	359,774	0.62%
21	375,395	4.99%
22	359,853	0.64%
23	375,257	4.95%
24	374,494	4.74%
25	360,062	0.70%
26	340,983	-4.64%
27	362,577	1.40%
28	370,798	3.70%
29	354,275	-0.92%
30	342,270	-4.28%
31	345,256	-3.44%
32	363,792	1.74%
33	357,212	-0.10%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED FEBRUARY 24, 2022

Ohio's 33 Senate districts are comprised of the following Ohio House districts.

Senate District 1:	House Districts 81, 82, 83	
Senate District 2:	House Districts 44, 75, 89	Assigned to Senator Gavarone
Senate District 3:	House Districts 4, 5, 10	
Senate District 4:	House Districts 45, 46, 47	
Senate District 5:	House Districts 39, 40, 80	
Senate District 6:	House Districts 36, 37, 38	
Senate District 7:	House Districts 27, 55, 56	
Senate District 8:	House Districts 28, 29, 30	
Senate District 9:	House Districts 24, 25, 26	
Senate District 10:	House Districts 70, 71, 74	Assigned to Senator Hackett
Senate District 11:	House Districts 41, 42, 43	
Senate District 12:	House Districts 78, 84, 85	
Senate District 13:	House Districts 52, 53, 54	
Senate District 14:	House Districts 62, 63, 90	
Senate District 15:	House Districts 1, 2, 6	
Senate District 16:	House Districts 8, 11, 12	
Senate District 17:	House Districts 91, 92, 93	
Senate District 18:	House Districts 19, 23, 57	Assigned to Senator Cirino
Senate District 19:	House Districts 60, 61, 98	
Senate District 20:	House Districts 68, 69, 73	
Senate District 21:	House Districts 18, 21, 22	
Senate District 22:	House Districts 66, 67, 76	
Senate District 23:	House Districts 13, 14, 20	
Senate District 24:	House Districts 15, 16, 17	Assigned to Senator Dolan
Senate District 25:	House Districts 3, 7, 9	
Senate District 26:	House Districts 86, 87, 88	
Senate District 27:	House Districts 31, 32, 34	
Senate District 28:	House Districts 33, 35, 72	Assigned to Senator Sykes
Senate District 29:	House Districts 48, 49, 50	
Senate District 30:	House Districts 94, 95, 96	
Senate District 31:	House Districts 51, 77, 97	
Senate District 32:	House Districts 64, 65, 99	
Senate District 33:	House Districts 58, 59, 79	

All of the above assignments of Senators are made pursuant to Section 5, Article XI of the Ohio Constitution.

EXHIBIT 2

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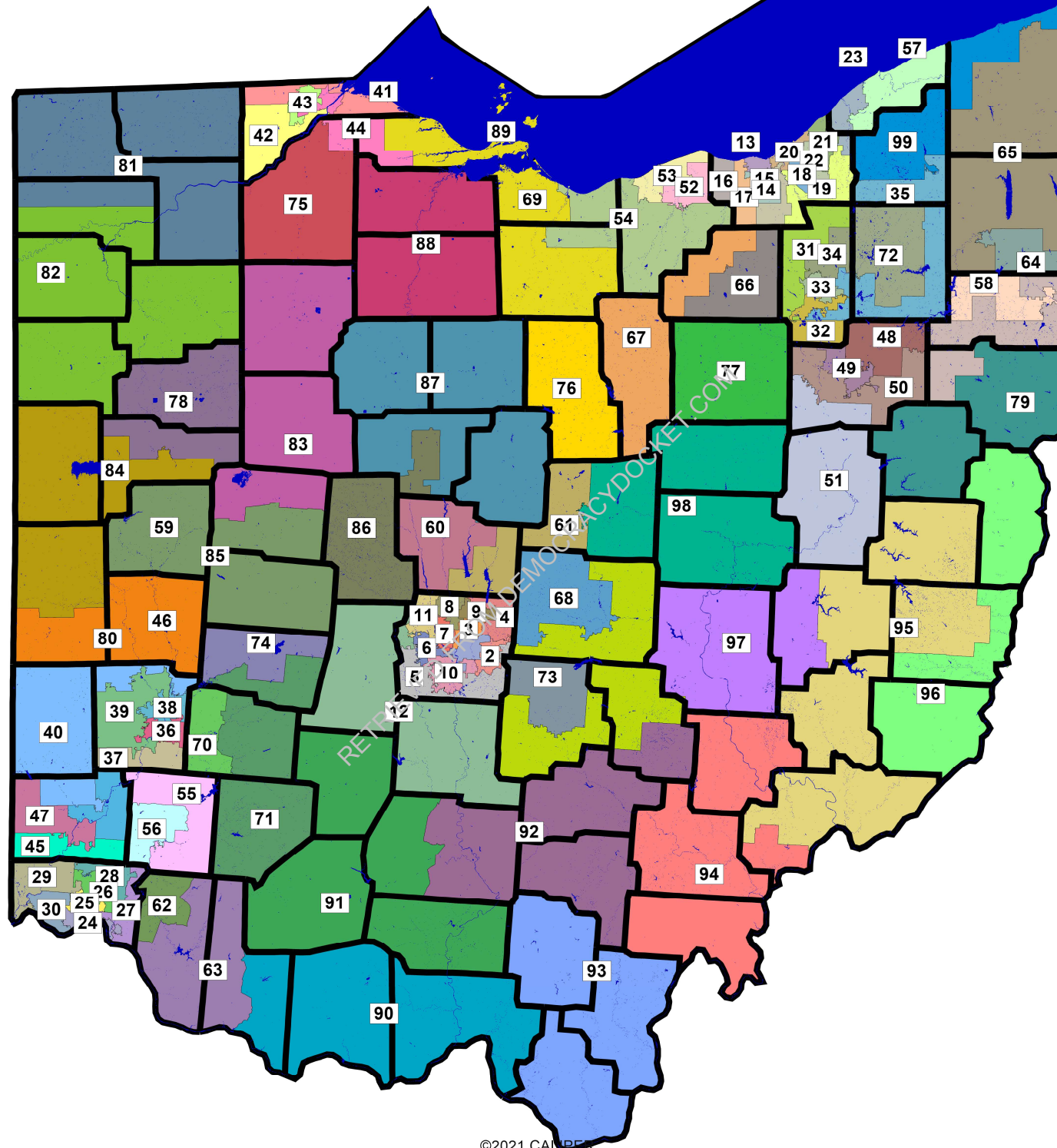
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EXHIBIT 3

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Pursuant to the 2020 U.S. Census, the population of Ohio as of April 1, 2020 was 11,799,448. The target population for each Ohio House district is therefore 119,186.

Statistical Information – Ohio House Districts
Revised March 28, 2022

House District	Population	Deviation
1	118,269	-0.77%
2	121,167	1.66%
3	119,267	0.07%
4	113,292	-4.95%
5	116,055	-2.63%
6	116,844	-1.97%
7	122,965	3.17%
8	124,033	4.07%
9	117,175	-1.69%
10	118,982	-0.17%
11	124,045	4.08%
12	114,076	-4.29%
13	125,018	4.89%
14	125,123	4.98%
15	125,126	4.98%
16	124,466	4.43%
17	124,902	4.80%
18	125,122	4.98%
19	123,250	3.41%
20	125,116	4.98%
21	125,129	4.99%
22	125,144	5.00%
23	124,913	4.81%
24	122,543	2.82%
25	115,014	-3.50%
26	120,124	0.79%
27	124,316	4.30%
28	120,869	1.41%
29	113,611	-4.68%
30	114,162	-4.22%
31	121,137	1.64%
32	121,972	2.34%
33	124,678	4.61%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED MARCH 28, 2022

34	119,468	0.24%
35	124,362	4.34%
36	114,991	-3.52%
37	121,534	1.97%
38	122,075	2.42%
39	123,935	3.98%
40	117,193	-1.67%
41	114,264	-4.13%
42	117,985	-1.01%
43	113,597	-4.69%
44	113,261	-4.97%
45	123,472	3.60%
46	121,992	2.35%
47	123,473	3.60%
48	124,669	4.60%
49	113,810	-4.51%
50	115,796	-2.84%
51	113,841	-4.48%
52	118,043	-0.96%
53	123,651	3.75%
54	119,251	0.05%
55	120,633	1.21%
56	121,704	2.11%
57	124,111	4.13%
58	119,785	0.50%
59	119,612	0.36%
60	113,964	-4.38%
61	120,578	1.17%
62	124,425	4.40%
63	113,544	-4.73%
64	124,867	4.77%
65	114,353	-4.06%
66	116,342	-2.39%
67	118,575	-0.51%
68	115,385	-3.19%
69	120,418	1.03%
70	115,458	-3.13%
71	114,405	-4.01%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED MARCH 28, 2022

72	121,758	2.16%
73	123,971	4.01%
74	116,122	-2.57%
75	115,928	-2.73%
76	124,936	4.82%
77	116,894	-1.92%
78	113,287	-4.95%
79	117,815	-1.15%
80	124,211	4.22%
81	113,487	-4.78%
82	114,464	-3.96%
83	122,058	2.41%
84	114,313	-4.09%
85	116,652	-2.13%
86	113,566	-4.72%
87	113,452	-4.81%
88	113,965	-4.38%
89	115,062	-3.46%
90	115,793	-2.85%
91	113,883	-4.45%
92	116,490	-2.26%
93	120,113	0.78%
94	114,124	-4.25%
95	114,126	-4.25%
96	114,020	-4.33%
97	114,521	-3.91%
98	123,138	3.32%
99	124,572	4.52%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED MARCH 28, 2022

Pursuant to the 2020 U.S. Census, the population of Ohio as of April 1, 2020 was 11,799,448. The target population for each Ohio Senate district is therefore 357,559.

Statistical Information – Ohio Senate Districts
Revised March 28, 2022

Senate District	Population	Deviation
1	350,009	-2.11%
2	344,251	-3.72%
3	348,329	-2.58%
4	368,937	3.18%
5	365,339	2.18%
6	358,600	0.29%
7	366,653	2.54%
8	348,642	-2.49%
9	357,681	0.03%
10	345,985	-3.24%
11	345,846	-3.28%
12	344,252	-3.72%
13	360,945	0.95%
14	353,762	-1.06%
15	356,280	-0.36%
16	362,154	1.29%
17	350,486	-1.98%
18	372,274	4.12%
19	357,680	0.03%
20	359,774	0.62%
21	375,395	4.99%
22	359,853	0.64%
23	375,257	4.95%
24	374,494	4.74%
25	359,407	0.52%
26	340,983	-4.64%
27	362,577	1.40%
28	370,798	3.70%
29	354,275	-0.92%
30	342,270	-4.28%
31	345,256	-3.44%
32	363,792	1.74%
33	357,212	-0.10%

GENERAL ASSEMBLY DISTRICT PLAN
REVISED MARCH 28, 2022

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Senate District 33:	House Districts 58, 59, 79	

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EXHIBIT 4

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EXHIBIT 5

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TRANSCRIPT OF VIDEO-RECORDED

SESSION OF THE

STATE OF OHIO

REDISTRICTING COMMITTEE

MARCH 28, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

Job No.: 443129

Pages: 1 - 139

Transcribed by: Christian Naaden

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Conducted on March 28, 2022

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1 P R O C E E D I N G S

2 SEN. SYKES: The meeting that began on March
3 the 27th. And if no objections, I will now [inaudible]
4 . And I call to order the meeting today on behalf of
5 the Redistricting Commission. Ms. [inaudible], please
6 call the roll.

7 SECRETARY: Co-Chair Speaker Cupp.

8 SEN. CUPP: Present.

9 SECRETARY: Co-Chair Senator Sykes.

10 SEN. SYKES: Present.

11 SECRETARY: Governor DeWine.

12 GOV. DEWINE: Here.

13 SECRETARY: Auditor Faber.

14 SEN. FABER: Here.

15 SECRETARY: President Huffman.

16 SEN. HUFFMAN: Here.

17 SECRETARY: Secretary LaRose.

18 MR. LAROSE: Here.

19 SECRETARY: And Leader Russo.

20 MR. RUSSO: Here.

21 SECRETARY: Mr. Co-Chair, all members are
22 present.

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1 SEN. SYKES: A quorum is present. So we will
2 continue to meet as a full Commission. At this time,
3 the independent map drawers are attending the meeting
4 virtually, and we ask that the audience refrain from
5 loud noise out of respect for the independent mapmakers
6 and the persons watching the proceedings remotely on
7 the Ohio Channel.

8 Members who are in the room, please use your
9 microphones so that everyone might hear it.

10 The minutes of the previous meeting are in
11 your folders. Do I have a motion to accept the minutes?

12 REP. CUPP: So moved.

13 MALE: Second.

14 SEN. SYKES: Are there any objections or
15 changes to the minutes as presented? If not, we will
16 accept the minutes as presented.

17 At this time, we'd like an update from the
18 independent mapmakers.

19 MR. JOHNSON: Good morning, co-chairs and
20 members of the Commission. Just reporting on our
21 status, we have received the -- oh, number one, we have
22 merged the maps together.

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1 So we have a merged House and a merged Senate
2 map incorporating all of the preferences at the time
3 discussed last night. And we have received and just
4 minutes ago finished importing in the incumbent list
5 and coding them purely for which are Senate and which
6 are House. So as discussed, we do not know names or
7 parties. We just have the dots of the senators and the
8 dots of the House members.

9 So that is imported in our maps. And while I
10 was doing that, Dr. McDonald [ph] has started on the
11 cleanup of the village and city splits and township
12 splits and the small technical things that trip up so
13 many maps. So that work is already underway.

14 And now that we have the the list imported, we
15 will begin the process that was at your direction from
16 last night to begin looking at which incumbents are
17 paired and which incumbents raised Section 5 issues.

18 So that's the work we're about to kick off.
19 The big question in our mind is a process question for
20 the day. Obviously, a big goal today is for you to
21 really make this your map by giving us your question --
22 your suggestions and requests and directions.

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1 And so wanted to -- I think a good thing that
2 could come out of this meeting would be a decision on
3 that process, if that's possible. Anything to add, Mr.
4 McDonald.

5 MR. MCDONALD: I would add that there was one
6 change that we've already made that was recommended to
7 us that in Warren County that we were told would fix
8 one of the incumbent issues. And so, we looked at it.
9 It is -- does not affect any of the constitutional
10 requirements or the Court requirements. So we went
11 ahead and implemented that particular change.

12 MR. JOHNSON: So if you have a process in mind
13 for how those changes should come from the
14 commissioners to us, we're certainly happy to work at
15 your direction, or we can offer some ideas for your
16 consideration on that, if you wish.

17 MR. SYKES: Could you -- we start with you
18 offering some ideas because we're trying to accommodate
19 your schedule as well.

20 MR. JOHNSON: I think just from a pure process
21 thought, it might be best if the commissioners share
22 requests amongst the other commissioners and primarily,

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1 I think through the staff liaisons. And if there is
2 consensus on a change, then either that commissioner or
3 the staff could pass that along to us and we would
4 implement it. If there is not consensus, I presume we
5 would likely need to come back to the Commission for
6 discussion.

7 But that would be the easiest way because we
8 anticipate that a lot of these changes will be
9 unanimous, non-controversial changes. We just want to
10 be sure that we're having some time to get some work
11 done and not constantly getting those. So if there is a
12 way to consolidate those, have the staff review and
13 sign off on them and then present them to us in batches
14 rather than one at a time, that would be helpful for
15 us.

16 SEN. SYKES: Any there questions or comments
17 from the commissioners? Senator Huffman.

18 SEN. HUFFMAN: Yeah. Thank you, Co-Chair. I
19 guess in terms of process, my expectation and I think
20 the other commissioners' expectation is that at some
21 point there would be a work product, a merged map,
22 taking into account all of the constitutional factors,

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1 the other factors that the various commissioners have
2 mentioned throughout these meetings. And we would have
3 a chance then to review that and then make comments.

4 So I guess the question, it appears -- if I'm
5 right, it appears, at least at this moment, the
6 product, if I can call it that, is not ready. But at
7 some point, the two of you will believe, hey, here's a,
8 we'll call it a proposal, and then commissioners will
9 have a chance to review that.

10 And I don't know whether we come back and
11 formally accept that proposal at -- whenever that would
12 be or that's just something that gets sent out. But,
13 you know, we -- I can't make suggested changes if I
14 don't know what it is that I'm changing. So I guess
15 that's a question is when -- I don't want to say when
16 because that's who knows. I mean, you have a better
17 idea, but there's no reason to say this time unless you
18 actually know.

19 So if you -- when that's ready, Mr. Co-Chair,
20 I guess I think all seven commissioners would like to
21 see it and then do their own analysis and be able to
22 make their suggested changes.

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1 And maybe I'm stating the obvious, but I don't
2 anticipate a process where the seven of us somewhere
3 virtually get a proposal and then we start making
4 changes and the changes that I'm making may affect the
5 changes that Senator Faber's making. And yeah, we'll do
6 that, Senator Huffman Yeah. We'll do that, Auditor
7 Faber. Now, we've got a new -- I mean, at some point we
8 have to have one working product and then move forward
9 from there. So --

10 SEN. SYKES: I believe we have a working
11 product at this point. The question -- and I appreciate
12 the comments and the question that Senator Huffman is
13 raising -- is that prepared -- is it prepared right now
14 to share with the members?

15 Of course, your share -- it's being shared all
16 along, but are we at that stage that the members could
17 have the unified copy and to use it for evaluating it
18 for assessment -- assessing any kind of changes?

19 MR. JOHNSON: So yes. We are not at the point
20 of giving you a formal next map because the instruction
21 was for us to incorporate the incumbents and make those
22 changes and give you kind of our next merge -- not just

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1 our merge but our merge with the incumbent adjustments
2 made.

3 But as we've been doing throughout this
4 process, we can give you just our current working copy,
5 and your staff can -- we'll pass those to your staff,
6 and they can share them with you.

7 And yes. I think to Senator Huffman's point,
8 we won't have done our incumbent adjustments yet, but
9 if you're -- you and -- maybe your staffs can help us
10 along in that process. We welcome any input or
11 direction you have on that. And to the Senator's point,
12 that's my hope is that perhaps, if we are coordinating
13 this and then we get the requests coming to us after
14 they've been coordinated between both caucuses, that
15 might be a working system.

16 MR. MCDONALD: I would just add that we are
17 sharing maps with your staff, and then we are posting
18 them onto the website when there's any major revision
19 to the map that's beyond just a small technical issue.
20 So we plan to -- after this meeting, to move the
21 technical adjustments that I've been making into a plan
22 -- the working draft plan, and we're going to share

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1 that with the staff. And my anticipation is that we're
2 going to --- I'm getting a nod yes that we are going to
3 publish that online.

4 MR. JOHNSON: And then in timing, to your
5 timing question, my thought is we talked about this a
6 little bit, that probably we schedule -- if we make
7 great progress and move faster, we'll certainly let you
8 know and perhaps meet before that. But let's suggests
9 that we have the next hearing at [inaudible] was 3:00.
10 So we would need to get you the files by 2:00. It's not
11 quite the 90 minutes you prefer, but we're tight. So if
12 that's okay with you, or we could give you a current
13 status map at 1:30 as well. But --

14 MR. MCDONALD: And I would just add to that. I
15 mean, your staff are going to be looking at these maps
16 over our shoulders, and people I know are going to be
17 viewing it online. So I -- there's going to be a lot of
18 transparency here. If you wish to come in and look at
19 the maps as we're doing them as well, I encourage you,
20 for the commissioners who can do so, I was very aware -
21 - you know, aware. I have my own vision problems. So
22 Speaker Cupp, you know, I understand he needs some maps

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1 and I understand the reason why.

2 So but for those who can come down, we'd
3 certainly invite you. And if it doesn't interrupt our
4 work too much, we would be happy to walk you through
5 any issue that you may have or want to look at any
6 particular part of the state.

7 SEN SYKES: Auditor Faber.

8 SEN. FABER: To speed this along, I know
9 you're talking about having various maps, but if we
10 could see -- at least have have the combined printout,
11 I came down and looked at it, but some changes have
12 been made and you're going to make now that the
13 incumbent stat- -- if we could have that printout for
14 us to look at and our staffs to look at, it may help
15 the process of offering amendments go faster if we can
16 see it in total and with the urban areas blown up.

17 MR. MCDONALD: Our strong preference is that
18 your staff do that. It takes us time to produce maps.
19 So we really would hope that you would rely upon your
20 staff to do that.

21 MR. JOHNSON: Just to be clear, we'll hand
22 over all the mapping files, like, in a few minutes

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1 here, and then the request is that then the respective
2 staff [inaudible] print the printouts. But yes. We will
3 certainly hand over all the files they need to do that.

4 SEN. SYKES: So it's been suggested that, one,
5 you're going to provide copies of every -- to every one
6 right now of the maps that you have. You have one
7 united map -- unified map, and the members are to look
8 through it to find out if there's any suggestions that
9 they would like to make.

10 You're going to continue to work on
11 compactness issues and splits as well as any
12 suggestions or amendments that's coming from the
13 members.

14 At 1:00 you suggest that we meet again, that
15 we will have another status report. By that time, you
16 would have the recommendations or suggestions on
17 dealing with the incumbency issue. And we could then
18 also print maps out again for the continued review of
19 the members.

20 And we would then set -- at the 1:00, we will
21 set a meeting at 3:00 to come back to, in fact, make
22 any suggestions from the Commission to you and your

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1 work.

2 MR. JOHNSON: Correct. If that -- I know it's
3 not the full 90 minutes, but the suggestion would be
4 that we give you kind of our working status at 2:00 for
5 you to review and be ready to give us direction on at
6 your -- at a meeting at 3:00, if that's comfortable
7 with -- if that works for the Commission.

8 SEN. SYKES: But the members will have access
9 to the unified map right now? Yes. Okay. All right.

10 MR. JOHNSON: Yes.

11 REP. CUPP: All right. So are we coming back
12 at 2:00, or are we getting a map at 2:00?

13 SEN. SYKES: 2:00, and we can come back at
14 3:00.

15 REP. CUPP: And we come back at 3:00?

16 SEN. SYKES: And come back at 3:00.

17 REP. CUPP: And not at 1:00?

18 SEN. SYKES: And not at 1:00.

19 REP. CUPP: And we're able to get a current --
20 get a map of current progress now --

21 SEN. SYKES: Yes. Yes.

22 REP. CUPP: -- to get familiar with it. Okay.

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1 SEN. SYKES: Any questions? Leader Russo?

2 MS. RUSSO: Thank you. Thank you, Mr. Co-
3 Chair. You know, I just wanted to say that I commend
4 these mapmakers. They have made significant progress
5 even since our late meeting last night. And it's been
6 very helpful to go in and talk with you and sort of
7 see. And I know some Commission members have been down
8 asking if there are -- some of their suggestions are
9 possible.

10 So I appreciate that. And I would encourage
11 all the commissioners, if you haven't been doing that,
12 to continue to do that because I think that that is
13 probably the fastest way to really get feedback on what
14 you're thinking or your suggestion may or may not be
15 possible and present any issues. And I appreciate both
16 of the mapmakers for being very accommodating to that.

17 SEN. SYKES: Can you just review with us just
18 a brief description of the map -- the unified map right
19 now, the proportionality, the symmetry, the compactness
20 as best you can so we understand where we stand right
21 now?

22 MR. MCDONALD: Yeah. So most of the map is,

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1 again -- Dr. Johnson and I have randomly been chosen
2 approaches. We have been collaborating all along, but
3 this unified map, given the preferences that was stated
4 by the Commission, is basically the one I've been
5 working on. So it made it easy for us to move over to a
6 unified map.

7 So that's the map. We've discussed it
8 previously. It's proportional both in the House and the
9 Senate. In the House, the proportionality -- the
10 symmetry issue is that there are three competitive
11 leaning Republican districts in that 48 to 52 partisan
12 index range and then there are three democratic. So it
13 has a three and three on the symmetry that the Court
14 has identified.

15 And then in the Senate, there's two Democratic
16 competitive and zero Republican competitive. But we've
17 looked at this hard, and I don't think we're going to
18 be able to improve upon that and keep proportionality.

19 SEN. SYKES: Are there any other questions or
20 comments from the members of the Commission? Leader
21 Russo.

22 MS. RUSSO: Thank you, Mr. Co-Chair. Just to

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1 the mapmakers, because I know that you now have the
2 incumbent data that you're incorporating. Do you have a
3 way of knowing which ones, for example, of the Senate
4 are midterm versus up -- or not in that situation
5 because I know that that was one of the discussion
6 points in providing the data to you. I just don't know
7 if that distinction has been made between those that
8 are midterm and have to be assigned to a district
9 versus those that are not.

10 MR. JOHNSON: So we do not. The list we
11 received, I believe, has just all 33 senators in it --
12 oh, minus the -- minus the term limit ones? Sorry.

13 MALE: Twenty-eight.

14 MR. JOHNSON: Sorry. All 28 that are not term
15 limited.

16 MR. MCDONALD: We're going to rely upon staff
17 to give us that direction as to which are the non-term,
18 the --

19 MS. RUSSO: Midterm.

20 MR. MCDONALD: -- midterm senators. Yes. So
21 that was just an agreement that we had to expedite the
22 production of the data for us.

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1 MS. RUSSO: Okay. Thank you.

2 SEN. SYKES: Any additional questions or
3 comments? We stand in recess.

4 We'll, have a presentation by the independent
5 map drawers.

6 MR. JOHNSON: Co-Chairs the members of the
7 Commission, we have an update for you, obviously. So we
8 have been working through the challenges of the
9 pairings first with the House and doing some geographic
10 cleanup of county splits and compactness and things
11 like that as much as we can as we make those changes.

12 At this point, we have gone through, I
13 believe, the entire state, except for the seven
14 counties in the northeast, and made all the House side
15 improvements that we believe we can make in terms of
16 avoiding pairings. And we have the proposal that
17 everyone has for how to handle the seven counties, and
18 we've been looking through that and seeing what work --
19 we think works and doesn't work for us in that
20 proposal.

21 We have not yet implemented that, but but
22 we're [inaudible] using it. We're doing the House

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1 first. And so, we have not yet tackled the Senate
2 issues. To the degree possible, we've tried to keep
3 those in mind as we worked on the House, but we have
4 not done any in-depth Senate work yet.

5 MR. MCDONALD: I would just add that this has
6 been a good exercise not just for resolving incumbent
7 pairings, but this has forced us to take another look
8 at the map. And as we are resolving these incumbency
9 pairings, I would say -- my impression is, is that the
10 overall character of the map is that it is now
11 splitting fewer counties, fewer local jurisdictions,
12 and is more compact in its character.

13 MR. JOHNSON: Yes. And to Senator Huffman's
14 point the other day or -- and I believe others have
15 made it -- Ohio has the most -- some of the most
16 complicated geographic challenges, certainly the most
17 strict geographic rules, and also the most complicated
18 Senate rules for how this process is handled. So we are
19 getting through those as fast as we can, but it is a
20 slow process.

21 SEN. SYKES: What is your -- what is your
22 expectation to complete the incumbency issues in the

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1 House and the Senate?

2 MR. JOHNSON: It's probably still a couple of
3 hours, at least. The Senate has an advantage of having
4 many fewer individuals that we need to address. But in
5 addition to avoiding pairings, we also have the very
6 tough issue of the percentage of the district
7 triggering the assignment of numbers issue, which
8 greatly complicates that process. And we won't know how
9 much of a challenge we have there until we can run that
10 analysis for the first time. So we're certainly a
11 couple of hours away, if it goes smoothly.

12 SEN. SYKES: Are there any questions or
13 comments from members of the Commission or any other
14 additional suggestions? At this particular time, we
15 have a unified map that we're making adjustments to,
16 edits to, suggestions and input from the Commission as
17 we move forward to our -- to cross the finish line
18 here. Yes. Senator Huffman.

19 SEN. HUFFMAN: Thank you, Mr. Co-Chair. So
20 again, my job, I guess, is the Senate caucus --
21 Republican caucus designee is to look at this from the
22 Senate perspective. And I think you just said what I'm

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1 about to say, but I have not seen what I'm going to say
2 is a final Senate map. And there is no such animal at
3 the moment; right?

4 MR. MCDONALD: Correct.

5 SEN. HUFFMAN: Right. Okay. There was some
6 version of a map that we received about 12:15 today,
7 and there has been no other updated versions of a
8 Senate map since then; is that correct?

9 MR. MCDONALD: Correct. And that would have
10 been the map that existed last night. So it would have
11 been sort of the first merged map that we have.

12 SEN. HUFFMAN: Okay.

13 MR. MCDONALD: It's -- yeah.

14 SEN. HUFFMAN: Yeah. Okay. I was just, you
15 know -- we're -- as I -- when I came down and visited
16 with you about the Section 5 issues and as we're
17 supposed to do to try to -- the map at 12:15 had
18 misaligned House districts on it as it related to the
19 Senate. I can't give you the specifics of that, and
20 maybe it's not relevant at this point, since apparently
21 the House map has changed a few times since 12:15
22 today. But that, of course, would make at least the map

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1 -- the Senate version map that has been created so far
2 unconstitutional. So I guess I'm pointing that out so
3 that you all know about that.

4 The other I guess -- I'll call it a criticism,
5 but as I've mentioned to you in our previous
6 conversations, there are these constitutional
7 requirements about district number and representing the
8 largest population. And it sounds like you're working
9 on that to see if you can get that done.

10 Then there are -- there are incumbency
11 problems unique to the Senate. And in the -- again, the
12 only map that we -- proposed map or working version is
13 probably a better way to do it, we looked at that and,
14 again, acknowledging that this is not a constitutional
15 requirement but I would argue a public policy issue, of
16 the 16 senators who are in midterm, eight or half of
17 them would live outside the district that they
18 represent.

19 Now, sometimes that's, you know -- in drawing
20 a map that happens. Usually, there's one. I think the
21 last time in 2011 there was one senator, but eight
22 seems to me to be excessive. And to us folks here,

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1 maybe in the General Assembly and to others, it's it's
2 kind of a, well, what's the difference? You get to be
3 in the Senate, but the public really cares that the
4 person that they elected is -- lives where they live or
5 at least in some version of it. So when you have 8 out
6 of 16 living outside the district, I think that's
7 clearly excessive.

8 I think perhaps Senator Sykes correctly argued
9 that there's no right to run for reelection because you
10 are an incumbent. But there are public policy reasons
11 to do that, especially the public policy reason that
12 exists now that usually doesn't exist, which is
13 petitions were filed in February. People have raised
14 and spent money in our campaigning. The public has been
15 informed. There have been public meetings and door-to-
16 door efforts and media purchased and all the things
17 that go on in campaign. And to dislodge folks so that
18 they can't run again I think is a significant -- also
19 significant public policy issue.

20 Again, I'm not arguing it's a constitutional
21 issue, but it's something we should avoid. So there are
22 senators -- and I would point specifically to Senator

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1 Antonio under your map, who happens to be the assistant
2 minority leader in the Senate, who will be unable to
3 run in her district or be unable to run. Now, she,
4 again, filed her petitions in February, I assume been
5 campaigning and doing other things that folks -- but
6 there's no constitutional guarantee.

7 So I'd ask that that be taken into account
8 when considering the working version of the Senate map.

9 A couple of other things that I just wanted to
10 maybe ask and if you're able to answer because I saw
11 one version of a house map and I'm not sure which -- I
12 think that was also the 12:15 version, that it looked
13 like it had a population that was in excess of the 5
14 percent. And I'm never really sure whether it's 5
15 percent qualifies or it has to be 5.01 percent to not
16 qualify. You can tell me.

17 But is it your representation -- professional
18 representation that the district maps -- and again, I
19 know we have working versions, but the district maps
20 that you have now that you're working on and will
21 propose will be between 95 percent -- no more than --
22 no less than 95 percent and no more than 105 percent?

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1 MR. JOHNSON: Certainly. Yes.

2 SEN. HUFFMAN: Okay.

3 MR. JOHNSON: And I think we -- maybe
4 technically exactly 5.0 percent would be okay, but
5 we've both been working on the 4.99 is as far as we
6 want to go.

7 SEN. HUFFMAN: Okay. And you also -- pardon?

8 MR. MCDONALD: But we -- it's -- the magic
9 number here is for equal populations, plus or 5,959
10 people and all the districts that we're going to draw.
11 And I think we caught that issue after we provided you
12 with that map. So I think our working map should not
13 currently have any districts outside of that allowed
14 population deviation.

15 SEN. HUFFMAN: Well, I get asked my opinion
16 sometimes in my other job, and I say, well, I think so.
17 And usually, my client says, well, I don't want you
18 telling me what you think. I want you to tell me what
19 you know.

20 So I guess I'm -- I need for you to rep- --
21 and if you can't right now because you're still working
22 on these things, fine. But I guess I need for you to be

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1 able to represent that that's going -- that that is, in
2 fact, met.

3 MR. JOHNSON: 100 percent it will be met in
4 the maps -- the map we present for your consideration.

5 SEN. HUFFMAN: Okay. And similarly, the
6 requirement that every district shall be composed of
7 contiguous territory and boundary of each district
8 shall be a single non-intersecting continuous line?

9 MR. JOHNSON: Yes.

10 SEN. HUFFMAN: Okay. This is in the future. At
11 the moment, you can't represent or you can represent
12 with a map -- the current version of your working map?

13 MR. JOHNSON: Actually, we haven't run this in
14 the version we sent to you about an hour ago, but we
15 have run -- since then run the computer analysis of the
16 contiguity, and our current working map that's on the
17 key computer is completely contiguous.

18 SEN. HUFFMAN: Okay. But that -- what you've
19 done is a House map. It's not a Senate map; is that
20 right?

21 MR. JOHNSON: Correct.

22 SEN. HUFFMAN: Because we don't have a Senate

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1 map since 12:15; right?

2 MR. JOHNSON: Correct.

3 SEN. HUFFMAN: Okay. And the requirement that
4 no county -- or let me say this. It's not a
5 requirement. It is, where feasible -- interesting
6 language -- no county shall be split more than once. I
7 guess since it's a where feasible, doesn't -- it
8 doesn't mean it's not important. It's kind of like some
9 of the other things, but can you comment generally on
10 not splitting counties, where feasible, more than once?

11 MR. JOHNSON: Yes. I believe we have no
12 counties that we have intentionally split more than
13 once. And Dr. McDonald did do a visual review this
14 morning to confirm that. There is a computer report
15 that we will run and that we can walk through to
16 confirm yes or no on that. But that is -- certainly our
17 belief is at this point that we have not and our goal
18 is to not but we have not run the computer reports that
19 made sure we didn't have one stray census block or
20 something like that.

21 SEN. HUFFMAN: Okay. The additional
22 requirement is that not more than one municipal

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1 corporation or township may be split per representative
2 district. Is that also, I guess, you think so, but
3 we're waiting to run the final report?

4 MR. JOHNSON: Correct. Our intention has been
5 to completely comply with that. And we believe at this
6 point we have, but we have not done the kind of things
7 too small to see with your eye or that we may have
8 missed checks yet, but that is certainly something we
9 plan to do.

10 SEN. HUFFMAN: Okay. That's all the questions
11 I have right now, Senator.

12 SEN. SYKES: Leader Russo.

13 MS. RUSSO: Thank you, Co-Chair. I would just
14 like to ask the mapmakers. I mean, we are at -- it
15 seems to me we've got seven and a half hours at least
16 until midnight. I know I'm committed to staying here as
17 long as it takes.

18 You guys have made tremendous progress. It
19 seems to me that you feel confident that you can
20 continue to go through, at least in a couple of hours,
21 get us a map to consider. Am I incorrect in that
22 assessment? We just need to give you the time to keep

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1 working; correct?

2 MR. JOHNSON: We are plugging away as fast as
3 we can, definitely.

4 MS. RUSSO: Thank you.

5 MR. JOHNSON: Dedicated to getting it done.

6 SEN. SYKES: Any additional questions or
7 comments at this time?

8 Well, we want to make sure we give you the
9 time that you need to move forward, and we'll keep
10 posted. Let's set a time, Co-Chair.

11 MR. MCDONALD: I do have one more thing to
12 add. Per our agreement that when I came on to do this
13 work, I must leave at 5:00 to teach class in person
14 tomorrow on the campus. I'm contractually obligated to
15 do so.

16 And so, Doug Johnson and I have discussed the
17 major issues and will -- I feel confident that we --
18 we're down to issues that should not affect the
19 constitutionality issues in terms of the
20 proportionality and the symmetry. And so, I feel
21 confident that he should be able to complete whatever
22 work needs to be done. And if there's an issue, we can

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1 converse by phone or video. I should arrive home late.
2 So probably around 11:00 p.m. or so that I'll have
3 access to a computer to join in a Zoom.

4 MALE: If we need to, we can -- once he lands,
5 we can share screens. We will likely still be going at
6 11:00 p.m.

7 SEN. FABER: I was going to say, with that in
8 mind, I do have some questions specifically that maybe
9 both you need to chime in to.

10 One of the concerns I've repeatedly asked is
11 with regard to compactness. And specifically, when you
12 guys are making decisions and when we've been listening
13 in to your conversations, it appears and it was
14 specifically said yesterday that compactness was a
15 secondary concern to hitting the proportionality. And I
16 think the term symmetry, although I notice symmetry is
17 a new addition from the Court, it is not in the
18 Constitution. It is, I think, part of their
19 interpretation of what 6A requires.

20 But from that perspective, can you tell me, do
21 you believe that this map has drawn as compacted
22 districts as you possibly could, all things being

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1 considered?

2 MR. MCDONALD: I mean, is it as -- I mean,
3 that's a loaded question because there are infinite
4 ways, essentially, of drawing -- redistricting plans in
5 a finite amount of time. I'm certain that there is a
6 map that would be more compact than what we're doing.

7 Our intention is to respect compactness as
8 much as we can while balancing the other goals. So
9 we're not intentionally drawing the least compact plan
10 possible as we're doing this. We're trying as the best
11 humanly possible in a finite amount of time to draw a
12 plan that complies with all of the goals.

13 SEN. FABER: So if you had a choice between
14 drawing a proportional district or a compact district,
15 did you err on the side of proportionality or
16 compactness?

17 MR. JOHNSON: So we had many debates. Those
18 that have been listening in through all of it have
19 heard us debating exactly this question. And this is --
20 what we ended up doing was bringing these questions to
21 the Commission yesterday.

22 So the areas where we've really seen where and

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1 we have a disagreement opinion. So I'll speak just for
2 myself. Where I had concerns about this were the issues
3 that we raised to the Commission yesterday, and then we
4 have -- it was a tentative indications of the direction
5 we should continue following without an official sign-
6 off from the Commission. But it is a trade-off, and I
7 think we've laid out where we had those concerns. You
8 saw you saw them yesterday. And we're proceeding per
9 the sense of the Commission yesterday. Is that
10 accurate?

11 MR. MCDONALD: Yeah. I mean, generally, I
12 believe that we've drawn districts that are compact and
13 complying with the other requirements that have been
14 set forth in the Constitution and interpreted by the
15 Courts. So I think we're in good faith, trying our best
16 as we can to balance these competing goals. We're not
17 trying to sacrifice compactness solely in our decision
18 making.

19 SEN. FABER: Another concern I have and that
20 I've expressed is it looks like in each one of the
21 urban core center areas, you guys have adopted what has
22 sometimes become the hub and spoke model, where you

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1 take the hub and you take the urban core center and you
2 divide it out in spokes through the town -- through the
3 suburbs to create Democrat districts.

4 I know you're going to say you did that
5 largely for proportionality. Am I hearing you correctly
6 that in almost no circumstances in the urban core
7 centers did you try and maximize the number of
8 districts that were wholly contained within those city
9 boundaries?

10 Let me put it another way, a simpler way. You
11 didn't minimize splits within city boundaries,
12 particularly in the urban seven when you were drawing
13 districts?

14 MR. JOHNSON: So the one piece of good news I
15 will note is in the work we did today -- and I think
16 it's in the 12:15 files that you have -- down in
17 Montgomery County where there was a very funny looking
18 district, that district now -- the compactness of that
19 district is greatly improved. It does still, however,
20 divide up the large city.

21 I think the impression is, is that the
22 proportionality goals and, to be honest, we just have

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1 not had any time to go back and see if there was some
2 way to still achieve that proportionality while taking
3 one or two splits out of a given city. But we have not
4 seen that opportunity, or we would have taken it.

5 MR. MCDONALD: There's another dynamic that
6 happens here as I become more appreciative of, which is
7 that the largest city usually is the place you're going
8 to split because you can only have one -- district
9 cross one jurisdictional boundary and split it with
10 another district.

11 And so, as you're piecing together the smaller
12 pieces within a county that can fit together into
13 districts, you kind of run out. And then at the end,
14 you have this large piece that's left over.

15 And so, to try to balance the populations by
16 taking two of the smaller localities and try and only
17 go across the county splits there, it may be possible.
18 Again, there are a lot of -- we can't explore
19 everything in a limited amount of time, but it's often
20 just the obvious solution is to take the largest
21 jurisdiction and split it up because usually these --
22 and you were talking about the largest cities in the

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1 state.

2 They're so large and they're so sprawling that
3 they're -- you have to cross their boundaries at some
4 point. And so, they're just kind of naturally the place
5 that you look to to do these splits because it's -- the
6 puzzle pieces don't fit together very well to do them
7 by trying to keep the smaller cities whole, generally.

8 SEN. FABER: I go back and reiterate the
9 question, and I'll just pick one example. I could go to
10 Dayton as well because we've spent a lot of time
11 talking about that. But Dayton's population is -- do
12 you remember what the city population of Dayton is?

13 MR. JOHNSON: [inaudible]. It's larger than a
14 ratio. I know that.

15 SEN. FABER: Yeah. It's larger than one ratio.
16 It's about three ratios, isn't it? Give or take? I may
17 be a little off.

18 MR. JOHNSON: [inaudible] off the top of my
19 head. Yes.

20 SEN. FABER: But yet you have four districts
21 coming in and out of the city of Dayton. And again, it
22 looks like a hub and spoke. And generally, when people

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1 talk about packing and cracking, that would sometimes
2 be called cracking a population to try and divide those
3 voters across multiple districts to reach an achieved
4 result. And I'm not implying motive or ill will. I'm
5 just saying that's a reality what you're doing.

6 MR. JOHNSON: Yes. I think I agree with it.

7 SEN. FAVER: I'll go and talk about Toledo,
8 and that's an area that I asked you specifically about
9 when we are in together today. In Toledo, the
10 population is roughly two and a half districts, give or
11 take. You draw no districts solely contained within the
12 city of Toledo, and instead you run districts across
13 multiple jurisdictions for the purposes of diluting the
14 city of Toledo vote across multiple districts to create
15 more Democrat districts in that area.

16 This is the first map that we've been
17 presented out of all the maps we've seen and considered
18 that effectively has no Republican districts inside
19 Lucas County. That's an interesting outcome, but it's
20 done by essentially moving urban voters into suburban
21 areas. Am I correct on my assessment as to what
22 happened here to achieve this outcome?

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1 MR. JOHNSON: I would disagree with the part
2 about the purpose being to dilute their voting
3 strength. I think your description of the result of
4 what happens is not inaccurate, but the -- we weren't
5 making choices to intentionally dilute the Toledo vote.
6 We were -- that was the dynamics that play in when
7 we're following the Constitution requirements and the
8 court order.

9 SEN. FABER: Again, but you're leaning largely
10 on Section 6B, the proportionality, to get around the
11 Section 2, 3, 4, 5, and 7 provisions that talk about
12 not splitting cities unnecessarily. And in this case,
13 you are, frankly, splitting the city of Toledo three
14 ways when you could have two wholly contained
15 districts. And I think the rules say if you're wholly
16 contained, it doesn't count as a split, within the city
17 of Toledo.

18 I can go to Columbus. How many wholly
19 contained districts are in the Franklin County,
20 Columbus that are wholly contained within the city of
21 Columbus in your map that have no other -- that have
22 only city of Columbus people in them?

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1 MR. JOHNSON: There would be zero that has
2 solely Columbus.

3 SEN. FABER: I think that's right. Out of
4 nearly a million people, you couldn't draw a single
5 state rep district that includes only the people of
6 city of Columbus.

7 I could go to Cleveland and talk about the
8 same experience. There may be -- I think you did one in
9 Cleveland. I haven't gone through the border, but in
10 Cleveland, you got one that's solely contained within
11 the city of Cleveland.

12 MR. MCDONALD: And again, for, you know, your
13 other concern about compactness, we have a district
14 that is mostly Columbus but has Grandview Heights in it
15 as an entirely contained locality that's within the
16 city of Columbus, you know adjacent to it. So it's --
17 to not do that split would create a very non-compact
18 district there.

19 SEN. FABER: I'll give you that one.

20 MR. MCDONALD: So again, we're trying to
21 balance multiple goals here. So --

22 SEN. FABER: I'll give you that one, but there

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1 are other areas that you could have put wholly within
2 120,000 people inside the city of Columbus. But again,
3 I understand what you're doing. You're erring to try
4 and hit this magical mystery ratio.

5 The city of Cleveland, you did one. Summit
6 County, I don't think Akron has a single, wholly
7 contained district within the city of Akron either. I'm
8 looking. It's tough for me to tell, but there may be
9 one in Akron. I could be wrong. Which is another
10 interesting decision.

11 How about Senate districts? I haven't seen the
12 Senate pairing map. I'm waiting for the Senate pairing
13 map. Have you done in any of these urban core cities a
14 wholly contained state Senate district? Well, the
15 obvious answer is you probably didn't, if you didn't do
16 wholly contain state rep districts.

17 MR. JOHNSON: Correct. Mathematically, that
18 would be the case. Yeah. Well, yeah. That's correct.

19 SEN. FABER: Let me switch gears about one
20 other point. And I raised this issue yesterday when I
21 went through and talked about the percentage of
22 districts -- Republican districts that were above 60

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1 percent and percentage of Democrat districts that were
2 above 60 percent.

3 I haven't had the chance to do the
4 calculations because I haven't got the splits and the
5 spreadsheets on these new districts. But yesterday,
6 when I did the math, and assuming not much has changed
7 based on how red this map is and how blue the map is in
8 different spots, roughly 80 percent of the state rep
9 districts had a voting population of Republican more
10 than 60 percent.

11 By contrast, the percentage of Democrat state
12 rep districts that had a voting population in excess of
13 60 percent was in the 25 or 20 percent ratio or less.
14 So what it looks like is that you're heavily
15 concentrating Republicans in Republican districts and
16 increase -- or lowering your percentage of
17 concentration of Democrats in Democrat districts. Is
18 that effectively what we're doing here?

19 MR. JOHNSON: I think -- follow up if you
20 disagree with any of this, but I think that is the
21 result of following the proportionality, essentially
22 the 6B piece of the Constitution as interpreted by the

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1 Court.

2 SEN. FABER: Isn't that the classic definition
3 of packing and cracking?

4 MR. MCDONALD: Just to be clear, I mean, while
5 you're focused on these cities, many of the neighboring
6 cities in these large jurisdictions are also heavily
7 democratic. And I'm just looking at our Columbus map
8 because you'd asked the question about did we entirely
9 contain Columbus.

10 And again, the county -- the city goes all
11 over the place, and there's just little pits that we're
12 picking up in some of the places. But we've got -- in
13 the central urban core of Columbus, we've got three
14 districts that are at democratic indexes of 81.9 or 82
15 percent, 81 percent and 72 percent. So I mean, they're
16 heavily packed on --

17 SEN. FABER: Again, I don't have the
18 spreadsheets to do the analysis, and we'll certainly do
19 that. Maybe it got better in this version than what you
20 had yesterday. But I go back and say, when you've got
21 80 percent of Republican districts over 60 percent, and
22 you've only got 25, 30 percent at most of Democrat

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1 districts over that ratio, you have a few. And that's
2 going to be the nature, again, as I've said, for now
3 over a year and a half.

4 Ohioans tend to live around people who think
5 and vote like them. And that's what you see when you
6 see the concentration of blue districts in the urban
7 core cities and the bright red districts in a lot of
8 other places. That's just a geographic fact of Ohio.
9 And if you're going to draw districts with precedents
10 that we heard -- and I heard testimony for over 80
11 hours from people talking about us not wanting to split
12 cities, counties, and townships.

13 If you're not going to split cities, counties,
14 and townships, and frankly, I've got plenty of
15 testimony that I could quote back to you, it's going to
16 be real tough, real tough to hit some magical ratio.
17 And that's what I go back to talking about decisions
18 that you guys have made during this process.

19 And as we've listened into your testimony and
20 listened into your process, at every single time what
21 I've heard you say and what you've done is err on the
22 side of creating Democrat districts. And the reality is

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1 that's where we're at with this map.

2 MS. RUSSO: Mr. Co-Chair.

3 MR. JOHNSON: There have been a couple of
4 occasions where we have actually created Republican
5 districts. The -- it's all in the context of the
6 proportionality rule and the symmetry -- as with the
7 symmetry definition as provided by the Court. So it's
8 certainly not universal.

9 It's just -- it's the reality. As you know,
10 it's the the distribution of the voters in the state,
11 in order to hit that magic number, it involves a lot
12 more work to draw those Democratic seats needed to hit
13 that number. But it hasn't been universally one way or
14 the other. But yes. Given the voters, that is the most
15 common challenge we face when we're required to hit
16 that number.

17 SEN. FABER: Thank you.

18 SEN. SYKES: Leader Russo.

19 MS. RUSSO: Thank you, Mr. Co-Chair. I just
20 would like to reiterate that the Ohio Constitution does
21 not require that entire cities be contained within a
22 district. That is not a requirement of the

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1 Constitution. And in fact, do -- I'm sorry. Within a
2 city. Excuse me. Within a city. And in fact, I think if
3 you attempted to do that, you would violate other
4 requirements of the Constitution, specifically 6A and
5 6B, and what the Court has ordered.

6 So you have to do all of those things on
7 balance, in the whole. Compactness does not outweigh --
8 Section 6C does not outweigh A and B, and if you can
9 meet the other technical requirements and meet 6A, B,
10 and C, then you should do it. That is what the
11 Constitution requires. It is what the Court has clearly
12 laid out.

13 So I -- you are mapmakers who have expertise
14 in this, and I assume that you were able to assess this
15 by looking at those requirements, looking at those odd
16 city boundaries. And I'll take the city of Columbus,
17 and I'll say this over and over.

18 The city of Columbus is large and sprawling.
19 It is non-contiguous. You are going to get funny
20 shapes, and you are going to get pieces of Columbus in
21 every single House district within Franklin County.
22 There hasn't been a single map produced by anyone,

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1 Republican or Democrat, that has not done that. So just
2 want to reiterate that point.

3 SEN. SYKES: Also, I'd like to say that the
4 people of the state, you know, have given us a
5 directive and some direction in how we draw lines, the
6 decisions that we make. And the determination is that
7 it is considered gerrymandering if you don't meet
8 certain goals and objectives.

9 It's the other way around. It's not that this
10 is partisan gerrymandering. This is to promote what the
11 voters have voted on as the criteria to make sure we're
12 not gerrymandered.

13 REP. CUPP: Mr. Co-Chairman, thank you. I want
14 to -- I have some of the same concerns that were were
15 raised earlier. And I don't know whether the Hamilton
16 County or House incumbents have been decoupled or not,
17 but I think at least in the draft map and I haven't
18 been able to see the new map. The data came late and
19 weren't able to get it reproduced.

20 But the Republican vote in Hamilton County is
21 over 48 percent. And at the time there was then only
22 one Republican district and two incumbents paired and -

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1 - at least I'm advised that -- although six of the
2 other districts were were Democrat leaning. And that --
3 I can go through the number of counties and do that.

4 And so, I don't -- is there an explanation of
5 why that is that in these these larger counties where
6 there is a substantial Republican vote, yet when it
7 comes to making House districts, there is one or two or
8 sometimes none districts that are Republican leaning in
9 those areas? So just throw that out to you for -- if
10 you can help me understand that.

11 MR. JOHNSON: Yes. There is very few options
12 under the proportionality and symmetry rules for how to
13 meet those goals. It really forces us in almost every
14 case -- as I noted before, it's not universal, but in
15 almost every case where you can draw a Democratic
16 leaning or a safely Democratic seat within the
17 community, county, and township and city rules, almost
18 universally have to draw that in order to hit the
19 proportionality and synergy numbers.

20 As I said, it's not universal. There are one
21 or two or maybe three spots where you can give on that
22 and still hit the proportionality numbers. But there

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1 are very few of those spots where we have those options
2 to choose between how we configure it related to the --
3 to what might be the more general community of interest
4 versus following the specific township, city, village,
5 and county lines while still hitting the, as it's been
6 referred to, the magic number and the symmetry
7 requirements.

8 REP. CUPP: And that apparently gets repeated
9 all throughout the state of Ohio in the larger
10 counties. But let me move to another area, and that is
11 -- and I'm not sure -- or if you want to respond,
12 that's fine.

13 MR. MCDONALD: Well, I'm just saying I'm going
14 to have to leave soon to get to the airport to catch my
15 flight. I apologize on that because I know this is a
16 very important hearing. So I'm just trying to make you
17 aware of that.

18 REP. CUPP: All right. I know that you've been
19 working on the asymmetry issue, and that is the number
20 of House seats that are between 50 -- 48 and 52
21 percent. And while I haven't had a time to really look
22 at this in depth, I'm advised that, while you may have

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1 made some progress there, the actual is -- question or
2 issue is whether that has actually been pushed out a
3 bit and you still have the asymmetry so that the number
4 of Democrat leaning districts, that lean from 52 to 54
5 percent has increased dramatically in order to do the
6 ones inside the 48, 52 percent.

7 And the Court did talk about that also in its
8 last opinion and whether or not this actually is a --
9 in doing that, also sacrificed compactness. So I don't
10 know if you have any comment on that or that's
11 something you want to take a look at or --

12 MR. MCDONALD: I would just say that I
13 attempted to raise that issue in prior meetings that
14 we've been at, and our direction that we had from the
15 Commission was to look at that 48 to 52 percent range.
16 And so, that's what we've been concentrating on when
17 drawing our districts.

18 MR. JOHNSON: I would add to that, too, that
19 this is part of the natural result of complying with
20 symmetry. You know, the way we got to symmetry was,
21 number one, obviously, bringing a few Republican seats
22 into that 40 to 52 range. And then once there really

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1 weren't many more options for that, pushing Democratic
2 seats that were in the range out of it to achieve
3 symmetry as described by the Court.

4 Now, anytime you're doing that, you're going
5 to push them just over the line most of the time. We
6 did, especially early on, have a real desire to have
7 symmetry across the board. But at some point, there's
8 going to be a line, and given that the natural results
9 of the other rules would have -- makes it difficult to
10 reach the democratic magic number, you're going to --
11 wherever you draw that line, you're going to end up
12 with a number of Democratic districts just over the
13 line as we attempt to achieve the symmetry and
14 proportionality requirements.

15 REP. CUPP: Mr. Co-Chair.

16 SEN. SYKES: Yes.

17 REP. CUPP: I'll move on to something else
18 here. And I know the map is still being tweaked, but I
19 would -- for some reason, I have an interest in Allen
20 County. And I noticed in drawing Allen County, instead
21 of following the historical pattern, which has been
22 over decades of sort of linking Allen County and

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1 Auglaize together, it has moved into Hardin County in
2 order to pick up the extra population.

3 And I don't know if there was a rationale for
4 that, or is that just a choice that can be tweaked?

5 MR. MCDONALD: That's one of the areas that
6 we've redrawn to accommodate incumbent interests. So
7 the map that you have would be likely out of date.
8 Where is that one?

9 REP. CUPP: Very good. Thank you. you. I know
10 this is kind of a -- still of a moving thing, which is
11 part of a difficulty that both we're having and you're
12 having in terms of it being moving. It's hard to be
13 able to get a handle on some of these things,
14 particularly because of the extraordinarily short time
15 that the Supreme Court thought all this could be done,
16 if they really thought about it. So thank you.

17 SEN. SYKES: One point I would like to make is
18 that the -- we have benefited from the experience of
19 our staffs, particularly our map drawers, and there's
20 been always some Republican, Democratic staff have been
21 in a meeting in the room all the time. But this
22 afternoon we didn't have the Republican map drawer. And

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1 I think with this crucial time that's left, I would
2 suggest that, to continue to have bipartisan input and
3 observation, that we have a -- actually have a
4 Republican map drawer in the room, too, as well, to
5 assist us in finalizing things.

6 REP. CUPP: Well, sometimes health concerns
7 get in the way of things we want to do. So --

8 SEN. SYKES: Just making a suggestion.

9 REP. CUPP: I know. I got you, but may not be
10 possible.

11 SEN. SYKES: Yeah. Okay. Yes.

12 SEN. HUFFMAN: Yeah. I have -- I don't know --
13 if Mr. McDonald needs to leave, I have a few questions
14 here, and if you need to leave, that's fine.

15 MR. MCDONALD: I do need to leave. So I do
16 deeply apologize for that. And I'd be happy to speak
17 with you via phone if you have questions -- further
18 questions of me.

19 SEN. HUFFMAN: All right. Thank you.

20 MR. MCDONALD: I apologize but -- and I do
21 appreciate appreciate all the work of the staff here. I
22 know we've argued sometimes. We're actually friends. So

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1 you know -- and so, I appreciate the work that Doug has
2 done. And I certainly appreciate the hard task that
3 you, the commissioners, have been given. And I wish we
4 could accomplish everything, but unfortunately, we're
5 given a limited amount of time. And so, we are where we
6 are, and hopefully, it'll be a product that the -- you
7 will find acceptable and the Court will find
8 acceptable.

9 SEN. SYKES: Thank you very much for your
10 service, and we'll be in touch.

11 SEN. HUFFMAN: Thank you.

12 SEN. HUFFMAN: Mr. Co-Chair.

13 SEN. SYKES: Yes.

14 SEN. HUFFMAN: If I could.

15 SEN. SYKES: Yes.

16 SEN. HUFFMAN: And I just -- Mr. DeRossi [ph]
17 is not doing well, and I asked him -- kind of had to
18 make him leave last night. And he's at the BWC
19 building. He's able to work on computer maps and things
20 like that. But he's wearing a mask, and I'm -- don't --
21 will not --

22 SEN. SYKES: Is he okay?

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1 SEN. HUFFMAN: Well, in my view, he's not
2 okay, but he's also seems to be superhuman when it
3 budget time and drawing map times. He sleeps about
4 three hours a night. So he's not going to be able to be
5 in the room. And that's not a good idea.

6 But Mr. Springette [ph] is around.

7 SEN. SYKES: Okay. That's fine.

8 SEN. HUFFMAN: And so, pardon me. And I just,
9 order of favor, indicated his staffer was there most of
10 the day also. So I don't -- I was down there to ask for
11 some specific things and talk about this Section 5
12 thing. So I don't know who all has been in and out, but
13 I just -- I want to make that clear that this isn't a
14 situation where we're not fully participating. In fact,
15 I think that we are.

16 I did want to talk a little bit about our
17 timing. Leader Russo brought up the -- and so, the
18 court order requires that we have this final product to
19 the secretary of state today, March 28th, which, if we
20 want to give ourselves a little leeway, means 11:30 in
21 case something happens, someone trips, going up the
22 stairs or whatever it may be.

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1 There are a series of things that need to be
2 done by the Commission, by their staff in order to send
3 it to the secretary of state once we have adopted a
4 map. And I'm just going to run through those real
5 quick.

6 We have to do a block assignment file for
7 House districts, which is -- includes an Excel
8 spreadsheet. Block assignment files for Senate
9 districts, an Excel spreadsheet. Statewide House
10 district map, statewide Senate district map, district
11 statistics and Senate assignments or groupings, that's
12 that Section 5 business we talked about, and finally,
13 shape files for House and Senate districts.

14 I am told that that takes our staff -- once
15 the Commission says we have a map, that takes about an
16 hour to prepare all of that. So if our goal is to get
17 it to the secretary of state by 11:30, we have to pass
18 a map by 10:30.

19 Now -- and I'm perfectly willing to work until
20 10:30 or 12:00 or 1:00 or whatever, but we're not going
21 to comply with the Court's order if we're working here
22 at 1:00 in the morning. So it has to -- and obviously,

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1 the Court is serious about the deadline, and everyone
2 else is, of course, waiting for us to get the work
3 done.

4 I just wanted to comment. So as of 5:00 today
5 -- well, before I do that, I just want to say, I think
6 that Mr. McDonald and Mr. Johnson have done
7 extraordinary work in five days, as have the staff and,
8 frankly, as has the Commission in multiple meetings,
9 not only these meetings but phone conversations back
10 and forth. And I -- particularly, the co-chairs with
11 all of the process and all of that. So that's been
12 extraordinary.

13 Perhaps the map -- the Commission mapmakers
14 would not have been as readily able to sign on if they
15 knew the fact that Ohio has one of the most complex
16 political geographies in the country, even if we're
17 only the 35th largest state, and we have the most, I
18 think, I've been told, the most complex redistricting
19 rules of any state. That's why these things take longer
20 than five days.

21 One of you remarked in the last few days, if
22 we simply would have been able to take the Republican

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1 version and the Senate version -- or Democratic version
2 and merge those, we could have got off to a better
3 start. But the -- of course, the Court required that
4 there be an entirely new map started. So that made it
5 difficult.

6 So you're taking a process that under the
7 Constitution typically would take 7 to 8 to 10 weeks
8 and trying to do that in five days. And I think that's
9 a nearly impossible feat.

10 But as of 5:00, we do not have a Senate map to
11 consider. And you're nodding, Mr. Johnson. So I want to
12 make sure I got that right. As of 5:00, we cannot
13 confirm that we have a constitutional House map, with
14 maybe five hours or so to go in our process.

15 One of the staff just pointed out to me that
16 Knox County, which is a small county of about 60,000
17 people, is actually split in three ways. I don't think
18 any of the maps submitted by the public or any of the
19 Commission members did that. We have the where feasible
20 language. No county should be split more than once, and
21 I -- why a small county is split three times, there's
22 probably a reason in all the machinations.

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1 So given that, I also want to say, obviously,
2 the Court is very, very serious about getting these
3 maps -- getting a map to them on time. And I'm
4 concerned based on the description of the process that
5 that's going to happen.

6 So I think we need a failsafe. I think we need
7 something else to -- for the Commission to be able to
8 vote on. And so, I'm going to move, Mr. Co-Chair, that
9 the Commission mapmakers be directed to work
10 individually or jointly. It may be individually at this
11 point, since Mr. McDonald isn't on staff, but work
12 individually or jointly with the staff of all the
13 commissioners who choose to participate to draft
14 constitutional changes to the map passed by the
15 Commission on February 24th. Such changes shall be done
16 in a manner to make the February 24th map plan more
17 closely comport with the decisions of the Supreme
18 Court.

19 We don't want you to stop working on this, but
20 we have to have a product to vote on.

21 And further, my motion will say the changes
22 shall be given to this Commission by 7:00 p.m. tonight

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1 for review, and we want to be able to review it, debate
2 it, vote on it. And that's my motion, Mr. Co-Chair.

3 MS. RUSSO: Objection.

4 REP. CUPP: I'll second it.

5 SEN. SYKES: Discussion. First, I'll start out
6 with that is ridiculous. All the time, money, and
7 resources we put into coming up with a constitutional
8 map. We have independent mapmakers. Each of them have
9 drawn separate and apart constitutional maps that
10 comply with the court order. They have put together a
11 unified map that just did edits that we can make in
12 this time period to comply with the requirements.

13 To distract us, the staff, and the map --
14 independent map drawer to divert to some other tasks is
15 ridiculous, contrary to the directive, contrary to the
16 spirit and the direction of the Court. Other comments?

17 MS. RUSSO: Mr. Co-Chair.

18 SEN. SYKES: Leader Russo.

19 MS. RUSSO: Thank you, Mr. Co-Chair. I'd
20 strongly object to this. I mean, this is a classic keep
21 a map in the can and bring it out at the last minute.
22 This is so disingenuous of members of this Commission

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1 to even suggest that this would be the process that we
2 would use moving forward.

3 The Court has ordered us to create a map as a
4 Commission starting from scratch. And that is what we
5 have done, and we have brought in these outside
6 independent mapmakers who have spent an enormous amount
7 of time, we as a Commission and our staff.

8 To totally undercut that at this point, number
9 one is, I think, again, a slap in the face to Ohio
10 voters and completely disregarding the court order. And
11 I will tell you that we can work as long as we need to.
12 The Court would much rather us work and finish this job
13 than to again submit another unconstitutional map that
14 is not drawn by the entire Commission and/or submit
15 nothing.

16 So I would encourage that we let our mapmaker
17 and mapmakers and our staff continue working. This is
18 an achievable thing that can be done. If you're telling
19 me that you suddenly can whip up a map and make changes
20 by 7:00, certainly, these mapmakers can get done what
21 they need to do before we need to meet at 10:30. If we
22 need to meet later than that, then we should. If we

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1 even have to go past midnight, I bet the Court will be
2 okay if we are a few hours late, as long as we get this
3 job done. Otherwise, we will be in contempt again or
4 possibly held in contempt of not following the Court's
5 order.

6 SEN. HUFFMAN: Mr. Co-Chair, can I respond?

7 SEN. SYKES: Secretary LaRose.

8 SEN. HUFFMAN: I'm sorry.

9 MR. LAROSE: Yeah. Just a practical
10 consideration. And I think going back to last year even
11 reminded all of us continuously about the logistics of
12 elections administration and some of the timelines we
13 operate under.

14 I think it's clear to all involved that have
15 been following this process at this point any map
16 passed by this Commission is not possible to put on a
17 May 3rd ballot. The time has already passed for that to
18 be accomplished.

19 And so, depending on what the desire is of the
20 General Assembly as it relates to election dates or
21 potentially if the Federal Court changed it I suppose
22 would be an option as well. But whatever is passed from

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1 this Commission, the fewer changes that are made, the
2 more likely it is that we can implement them sooner.
3 And so, it's just something to think about.

4 If there are -- if there is a desire to look
5 at the February 24th map and modify off of that, the
6 fewer changes made would be the sooner that we could
7 implement it as far as reprograming voter registration
8 systems at county boards of elections and that kind of
9 thing.

10 MS. RUSSO: Mr. Co-Chair.

11 SEN. SYKES: Yes.

12 MS. RUSSO: I will note again that in previous
13 decisions by the Court, this Commission has been
14 criticized for starting with the false premise of
15 starting from an unconstitutional map, which is what
16 two of my fellow commissioners are now asking that this
17 Commission do.

18 The Court has specifically -- I think it was
19 in the second decision, has specifically said that that
20 is a faulty premise to start from an unconstitutional
21 map. So again, here we are again, time number four
22 starting from an unconstitutional map, if this is the

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1 route that we go this evening.

2 I also believe that in our Commission rules
3 that we established in the beginning of this process,
4 if this Commission does not agree, we should go to
5 mediation. And so, I would like for us not to vote on
6 this motion until we go to mediation, and we should
7 allow our mapmaker to continue his work.

8 SEN. HUFFMAN: Mr. Co-Chair.

9 SEN. SYKES: Yes.

10 SEN. HUFFMAN: Yeah. Just a couple responses.
11 First, your statement that these mapmakers have come up
12 with a constitutional map and then they put them
13 together, well, I don't know that that's true, and I'm
14 not sure how you know it's true because we never saw
15 that.

16 These mapmakers, again, doing a tremendous job
17 in a very short period of time that was dictated by the
18 Court, have not produced a Senate map and are not able
19 to confirm that they have provided a constitutional
20 House map. And if the -- and what I'm simply saying is
21 we have a deadline today.

22 It may be that Leader Russo knows what the

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1 Supreme Court is thinking, but the order says today is
2 the day. And we know the Court means that today is the
3 day and that we have to do it by today. So that -- I
4 mean, that's simply what the order is.

5 If somehow, some way the mapmaker is able to
6 produce a constitutional map that four members of the
7 Commission will support and that is all done by 10:30,
8 then maybe. But it doesn't appear that that's going to
9 happen. So we have to have something that we can
10 provide to the Court today.

11 And I'm suggesting that this is drafting that
12 is going to take place in public, in the room. Mr.
13 Johnson can continue to work on the things that he is
14 working on. He can give suggestions back and forth, and
15 it'll all be very transparent right there, right there
16 in the room.

17 So we're not going to be able to -- if we sit
18 here until 10:30 tonight and say, well, we don't have a
19 map, then what do we do? Well, we violated the Court's
20 order. So I think -- and I appreciate Leader Russo's
21 comments about mediation and this was originally her
22 idea and we we did try to mediate. Originally, wanted

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1 to talk about the incumbent issue on Saturday, and that
2 leaked into yesterday.

3 Some of the other issues that were sent to
4 mediation we never even talked about. I'm not sure why,
5 but frankly, taking time away from trying to make
6 decisions in the next few hours is not really what -- I
7 don't think it's going to be productive in trying to
8 get to a map tonight, which is what we're ordered to
9 do.

10 SEN. SYKES: It seems to be no end to the
11 arrogance of the super majority. Any other comments?

12 We'll take a ten-minute recess.

13 Come to order. I believe we have a motion on
14 the floor. Is there any further discussion or questions
15 about the motion?

16 MS. RUSSO: Mr. Co-Chair.

17 SEN. SYKES: Leader Russo.

18 MS. RUSSO: I would just like to say one
19 thing, that in talking with our legal counsel, it is
20 clear that the Supreme Court cannot hold us in contempt
21 at 2:00, 1:00 in the morning. So I again reiterate that
22 we should continue to have our independent mapmaker who

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1 is working for the Commission move forward in creating
2 a map that we can consider as a Commission instead of
3 going to the alternative that has been proposed by
4 Senator Huffman.

5 SEN. HUFFMAN: Mr. Co-Chair.

6 SEN. SYKES: Yes.

7 SEN. HUFFMAN: Yeah. To make it clear, the
8 motion includes moving forward -- the independent or
9 the Commission's mapmaker continuing to work on this
10 very complex problem.

11 As I described, at the moment, no Senate map
12 has been produced and no confirmation of a
13 constitutional House map. Move forward with that if
14 they can. The caucus mapmakers -- won't be. Mr.
15 DeRossi, unfortunately -- can suggest changes to the --
16 so, I think we can do these -- both of these paths.

17 And I don't know when the Supreme Court would
18 hold us in contempt. It's not going to be right after
19 midnight. But at some point in the future, if we don't
20 produce a map tonight, potentially. At least there was
21 a -- there was a suggestion of that. We never got that
22 far with it. So I think the longer we sit here and

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1 debate about it, the harder it is to get anything done
2 in the next few hours.

3 SEN. SYKES: One consideration, hopefully, a
4 friendly amendment that we allow the independent map
5 drawer to continue to work. We had indicated that we
6 needed both of them in the room at the same time. So if
7 that would be acceptable, consider it a friendly
8 amendment.

9 SEN. HUFFMAN: Yeah. I think, Mr. Co-Chair,
10 and I appreciate the friendly amendment. That -- that's
11 the expected. These folks are all going to be working
12 feverishly over the next few hours, and there has to be
13 a product for the Commission to to vote out today. And
14 that's why I've suggested this path.

15 SEN. SYKES: And another suggested friendly
16 amendment is that the Commission would ask the Attorney
17 General's Office to actually make a request to the
18 Supreme Court for an extension of time of one day.

19 SEN. HUFFMAN: Well, Mr. Co-Chair, that's not
20 part of my amendment. One, if someone wants to ask the
21 Attorney General to -- we can debate that as a separate
22 question. That's not part of my amendment. And you may

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1 recall that the Supreme Court specifically stated in
2 their last order there will be no extensions.

3 And so, again, I'm trying to deal with a
4 problem that, frankly, is not the creation of anyone in
5 this room and maybe not any individual or group of
6 individuals in particular. It's under the
7 circumstances, we need some sort of safety valve here.
8 And if we're not going to land the plane, as it's said,
9 it would be nice to have a parachute. And that's what
10 the motion is intended to do.

11 If you want to make that motion and debate
12 separately, I don't -- I think it's specifically said
13 that the Supreme Court had said no extensions. It has
14 to be done today.

15 SEN. SYKES: Secretary LaRose.

16 MR. LAROSE: Appreciate President Huffman's
17 aviation reference because I was thinking along the
18 same lines here that, you know, it's only prudent to
19 have a backup plan in place. And we have a looming
20 deadline tonight. I'll be voting in favor of the
21 president's motion here because I think that, while we
22 should continue pursuing this track of the independent

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1 mapmaker and that would be the Plan A, in my mind, it
2 would be unwise of us to not be prepared with a Plan B
3 and therefore find ourselves at risk of being in
4 violation of the Court's order after midnight tonight.

5 REP. CUPP: Mr. Co-Chair.

6 SEN. SYKES: Yes.

7 REP. CUPP: I have pulled up the opinion from
8 the Court and paragraph 47. It says specifically, "No
9 request for stipulation for extension of time shall be
10 filed, and the clerk of this Court shall refuse to file
11 any requests or stipulations for extension of time." I
12 think that's pretty clear.

13 SEN. SYKES: Are there any addition --
14 additional comments or questions? Leader Russo.

15 MS. RUSSO: Mr. Co-Chair, I would just like to
16 again reemphasize that I have full confidence that our
17 independent mapmaker will be able to complete this task
18 by midnight. So I would like to reiterate that I have
19 full confidence that that is possible.

20 SEN. SYKES: Auditor Faber.

21 SEN. FABER: Yeah. I -- sticking with our
22 aviation examples, I hope we don't run out of gas as as

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1 we approach a runway. And so, for that reason, I am all
2 for having an alternative parachute, if necessary. But
3 I would just reiterate, this is supposed to be a map
4 that we draw.

5 And so far, other than looking at various
6 things, I still haven't seen a final version that I can
7 draft amendments to for -- on the map drawers' product.
8 We haven't seen a Senate map. And there are certainly
9 going to be some suggestions of things that I would
10 think that we may want to amend as we go forward.

11 And I just will reiterate that my staff has
12 been working in and out of the room all day, all week
13 with the map drawers to try and find areas that we can
14 make compromise and concessions to address some of the
15 issues. But it continues to be a, we haven't seen it.
16 So it's tough to -- tough to move past it.

17 SEN. HUFFMAN: Mr. Co-Chair.

18 SEN. SYKES: Yeah.

19 SEN. HUFFMAN: I would also ask that the
20 Democratic mapmaker, the caucus mapmaker, or the staff
21 -- and this actually goes for the staff of everyone
22 else, get your suggestions together. It may be that the

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1 changes to the third map and, again, only changes that
2 will allow, as the motion said, this -- if it comes to
3 this, will more closely comport or get closer to what
4 the Supreme Court wants.

5 So hopefully everyone will -- and perhaps they
6 can get together and talk about it among themselves.
7 And, you know, it is possible, as Leader Russo said,
8 that our mapmaker will be able to solve all of these
9 problems in the next three or four hours. But it's --
10 we -- as I said, there should be a safety valve of some
11 kind.

12 SEN. SYKES: Will the staff please call the
13 roll?

14 SECRETARY: Co-Chair Speaker Cupp.

15 REP. CUPP: Yes.

16 SECRETARY: Co-Chair Senator Sykes.

17 SEN. SYKES: No.

18 SECRETARY: Governor DeWine.

19 GOV. DEWINE: Yes.

20 SECRETARY: Auditor Faber.

21 SEN. FABER: Yes.

22 SECRETARY: President Huffman.

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1 SEN. HUFFMAN: Yes.

2 SECRETARY: Secretary LaRose.

3 MR. LAROSE: Yes.

4 SECRETARY: Leader Russo.

5 MS. RUSSO: No.

6 SECRETARY: Mr. Co-Chair, five-two.

7 SEN. SYKES: The motion is approved and so
8 ordered.

9 Why don't we take a recess for just an update
10 at 9:00? Going to update at 9:00.

11 REP. CUPP: Okay. Return at 9:00 for an
12 update.

13 SEN. SYKES: Return for an update.
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1 P R O C E E D I N G S

2 SEN. SYKES: Call the Commission -- the Ohio
3 Redistricting Commission meeting to order. First order
4 of business is an update from our independent map
5 drawer.

6 MR. JOHNSON: Are you ready?

7 SEN. SYKES: Yes.

8 MR. JOHNSON: Okay. So co-chairs, members of
9 the commission, as you've hopefully seen, about an hour
10 -- I guess about 2 hours ago now we did finish a full
11 House map and distributed that and have moved on to the
12 Senate map.

13 As you know, the Senate rules are extremely
14 complex. So we have taken a first pass, kind of hit the
15 expected roadblocks, and just 20 minutes ago, hit the
16 expected roadblocks. And I've jumped back to the House
17 plan to try to clear those roadblocks so that a Senate
18 map can be drawn that will work.

19 We do not yet have a Senate map put to -- a
20 full Senate map to show you, but we're making progress
21 as fast as humanly possible in an effort to get this
22 done this evening.

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1 But -- so, we do have a House map. It will
2 need some changes, mostly in the Northwest, we believe.
3 Well, we know there's some changes in the Northwest.
4 Dr. McDonald is gone. So I guess I don't have to keep
5 saying we. I believe that's the primary area that needs
6 to be redrawn on the House side. But I haven't finished
7 the map, so I can never say for sure.

8 And just an update. I have been talking to Dr.
9 McDonald on the phone twice already, actually. And in
10 about an hour and a half he'll land, and so I can check
11 in with him again.

12 So he's still staying in touch, but we're
13 making progress. Unfortunately, do not have a map -- a
14 Senate map to show you at this time.

15 SEN. SYKES: What is your estimated time for
16 the Senate map?

17 MR. JOHNSON: You know, if we can make these
18 House changes and then make -- and then the Senate map
19 proceeds as we think it will where we don't run into
20 any more roadblocks, I would say 45 minutes or so,
21 optimistically. But it's very hard to predict.

22 The Senate maps can fall into place. The first

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1 one -- the first one I did -- seems very long ago now -
2 - actually fell into place on the first pass, but it
3 can also take two or three passes to get the two maps
4 working together and interrelated. It's just hard to
5 say, but hopefully, if things fall into place, 45
6 minutes or an hour.

7 SEN. SYKES: Are there any questions? Senator
8 Huffman.

9 SEN. HUFFMAN: Thank you, Co-chair Sykes.
10 Could you describe the issues in Northwest Ohio we are
11 -- the changes that have to be made? Well, before that,
12 this is to the -- I guess, the map that was filed at
13 7:57 p.m., an 8:00 map?

14 MR. JOHNSON: Exactly. Yes.

15 SEN. HUFFMAN: Okay. And could you describe
16 the changes in Northwest Ohio that need to be made?

17 MR. JOHNSON: Sure. The Northwest -- the state
18 kind of gets divided. I think in the state is getting
19 divided by a line -- diagonal line from Cuyahoga down
20 to Hamilton, you know, Cuyahoga, Franklin, Hamilton.
21 There's a lot of rules in each of those areas that lock
22 in the Senate seats around them.

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1 And so, the hope is that then when we apply
2 the rules to the Northwest and to the Southeast, the
3 two will end up linking up properly. But what can
4 happen and what did happen is that the combin- -- the
5 combining of the House seats together create walls. And
6 if something links Richland to Delaware, you know, if
7 Morrow gets locked in, then there's only one path from
8 the northwest to the south -- to the Southeast.

9 And then when -- I guess it was Clark got
10 locked in as we were pairing the House seats under the
11 constitutional rules about counties that were one House
12 seat, counties that were one-plus House seats,
13 eventually, the Northwest got locked in to where there
14 were two House seats that were all alone and nothing --
15 with nothing to connect to.

16 And so, then we have to go back to the House
17 maps and remove those blocks. So then we can go back to
18 the Senate maps and get through those two corridors.

19 SEN. HUFFMAN: Okay. Our -- one of our folks
20 reviewed the 8:00 map and found some other
21 constitutional infirmities, including the -- and I
22 could describe them if we need to. But there's -- and

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1 this, of course, is the House map. We don't have a
2 Senate map at the moment.

3 The Cleveland Heights and Cleveland are both
4 split in the same House district. And that's
5 significant because we've had this problem before in
6 the last several months of doing it because, when you
7 fix that by taking one out, it's going to cause a
8 district to be more than 5 percent under the population
9 requirement, which -- and when you do that, it has
10 rippling effects throughout the rest of that northeast
11 area. And again, there are some others splits.

12 So I guess did you not catch that or did not -
13 - because you only mentioned the Northwest?

14 MR. JOHNSON: Right. So correct. The reference
15 to Northwest was where the attempt to draw a Senate map
16 from the House maps ran into what we call -- what I
17 call a brick wall, where you can't solve it and you
18 have to go back to the House map to fix it.

19 We have -- there are reports we can run in the
20 computer to look for all the city splits and city
21 pairings, and we can then go through and just verify
22 and catch things like what you described. Those reports

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1 and those reviews take time. And so, we've been trying
2 to race through and get a map that is ready for us to
3 run those reports.

4 If your team has those lists, we can certainly
5 try to address them or put them in a list that we would
6 address at the end. But yes. That is -- that is one of
7 the steps, and I'm not to that step yet.

8 SEN. HUFFMAN: Sure. So is it fair to say
9 that, with the Northwest changes that deal with the
10 brick wall that you ran into and at least with this
11 change -- there's some other ones which I think
12 probably can be solved.

13 I don't know -- we -- you first have to draw a
14 new House map and then go back to the Senate map so
15 that you can finish? You got to have a House map, I
16 guess, or at least that's the kind of the way that
17 you're approaching this?

18 MR. JOHNSON: Well, now, we're at the stage of
19 jumping -- now -- I keep saying we out of habit. Now,
20 I'm at the stage of jumping back and forth between the
21 two maps.

22 So when -- we're not at the process of needing

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1 to start back from scratch and build a new Senate map
2 from scratch to address issues like that.

3 Almost all those that we run into over the
4 last, I believe it's been almost a week now, we can
5 resolve regionally and so they don't disrupt the whole
6 map. But we never know, of course, until we fix them.

7 But that -- like Cleveland, Cleveland Heights,
8 I should be able to fix just with some regional --
9 intra-regional edits that would not impact, say, a
10 Senate map.

11 SEN. HUFFMAN: Okay. What if members of the
12 Commission have amendments to the House map that you
13 have?

14 MR. JOHNSON: If the -- if you have
15 suggestions -- or I'm sorry. If you have amendments
16 that would resolve the issues you found, I 100 percent
17 welcome those and would love those.

18 I do have some edits that the auditor has
19 asked for that are more fundamental, larger scale
20 changes. And as I told him, I'd make every effort
21 humanly possible to get this map done and then make
22 those edits.

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1 I think those maps that don't fit into the map
2 that we have now, for example, that address fairly
3 fundamental concerns that the auditor has raised with
4 the map, I don't -- there's no way I'm going to be able
5 to get to those before midnight.

6 SEN. HUFFMAN: Okay.

7 MR. JOHNSON: But if you have -- but if there
8 are edits that fit into the current kind of map schema,
9 please send those down because, if you can fix those
10 edits, I'm happy to make them.

11 SEN. HUFFMAN: Very good. Thank you.

12 REP. RUSSO: Mr. Co-Chair.

13 SEN. SYKES: Yes.

14 REP. RUSSO: Can I make a suggestion that we
15 dismiss Mr. Johnson, at least from this part of the
16 hearing tonight? This is since he's given us an update
17 so that he can be allowed to continue working and
18 finish this map.

19 It seems like he's indicating he has 30 to 45
20 minutes. I'm sure there are other things this
21 commission will talk about. Presumably, the Republicans
22 now have a map as well that they would like to explain,

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1 but I'd like Mr. Johnson to have the opportunity to
2 finish his work.

3 SEN. SYKES: No objections. Dr. Johnson, would
4 you please continue?

5 MR. JOHNSON: Will do. Thank you very much.

6 SEN. SYKES: My suggestion is that we recess
7 for one hour.

8 SEN. HUFFMAN: Yeah. Are you okay, Senator?
9 Yeah. I guess, Mr. Co-Chair, I know that there is a --
10 another working document that Mr. Springette's [ph]
11 been working on and the speaker's been working on. I
12 think that the Commission and the commissioners are
13 entitled to be able to see maps and amend them.

14 I know that Auditor Faber has some amendments,
15 and apparently, those aren't going to be available or
16 aren't going to be able to be incorporated, at least
17 tonight, as Mr. Johnson has indicated.

18 So I don't -- you know, I -- as I've said, a
19 lot of folks have done tremendous work over the last
20 five days, but this is not a five-day job. So I think
21 we should move on with our parachute.

22 REP. RUSSO: Mr. Co-Chair, may I ask with this

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1 map that is being passed out that I'm just now seeing
2 for the first time, are we going to be provided the
3 opportunity to make amendments and suggested amendments
4 as well?

5 SEN. SYKES: I think that would be the
6 prerogative of the body to do that.

7 REP. CUPP: Mr. Co-Chair.

8 SEN. SYKES: Yes.

9 REP. CUPP: I -- in spite of all the work
10 that's been done, and I know that the consultants came
11 in and they worked extremely hard, I think it is not
12 feasible to expect that we're going to have a complete
13 plan in which we're going to be able to look at all of
14 those items that need to be looked at to ensure that
15 it's a constitutional plan with all of the -- I think
16 and, particularly, the problem now is in the Senate
17 area where it has complex rules due in part to the
18 four-year terms of the members of the Senate.

19 Now, we're not going to have that in time to
20 be uploaded to the Secretary of State's office in
21 compliance with the Court's order.

22 So I would just -- so, what I'm going to do is

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1 to move, I guess, what has been referred to by the
2 upload as the 328 Cupp plan and move that the
3 commission adopt that plan.

4 REP. RUSSO: Objection.

5 SEN. HUFFMAN: Second the motion.

6 REP. CUPP: And if I might, I will explain
7 what's in the plan, at least briefly.

8 The -- before I do that, I wanted to say that
9 this commission moved fairly quickly to comply with the
10 latest decision of the sharply divided Supreme Court.
11 We started meetings -- started meetings within a very
12 short time period after the decision of the Court,
13 which came down two hours to midnight on Wednesday,
14 March the 16th, 2022.

15 The Commission moved to adopt a schedule of
16 meetings through the period of days allotted by the
17 Court. The Commission heeded the call of the Supreme
18 Court to hire independent map drawing experts as
19 quickly as possible, giving -- given the circumstances.

20 And as you recall, we were meeting on Saturday
21 evening trying to figure out who the experts could be
22 and come on such very short order. But I believe by

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1 late Sunday or Monday, we had accomplished that
2 purpose.

3 We actually hired two persons with expertise
4 in redistricting, which is a change from prior efforts
5 when the maps were drawn by House staff and a
6 consultant hired by the Democrat members.

7 In contrast to what had occurred before and
8 again in compliance with the strong suggestion or
9 referred to as a requirement or suggestion of the Court
10 that the map drawing was done in public, it was
11 conducted in full public view, both visual and audio,
12 on a live stream from --

13 FEMALE: No. It was not.

14 REP. CUPP: -- from the map drawing room and
15 broadcast by Ohio Government Television.

16 FEMALE: No. It wasn't. Liar.

17 SEN. SYKES: Order, please. Please.

18 REP. CUPP: So this was the best that could be
19 done in the time that was allotted by the Supreme
20 Court. If it had been more than ten days, perhaps some
21 different result would have occurred.

22 We have followed the Supreme Court's process

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1 directions and the time requirements, and they have led
2 us to this moment. So at this late hour, we have to
3 comply, I think, as best that we can.

4 The plan that I have moved and been seconded
5 improves the symmetry measures in both the House and
6 the Senate plan by shifting two House districts from
7 asymmetrical to Democrat leaning and one Senate
8 district from asymmetrical to Democrat leaning.

9 Modifications were made in six House districts
10 within three counties, Franklin, Clark -- Stark and
11 Columbiana and two Senate districts in Franklin County.
12 The plan splits less communities than the independent
13 map that we've seen so far and is comprised of more
14 compact districts.

15 The plan moves us closer to comporting with
16 the Court's order, and given the timeline, I recommend
17 that we adopt the plan.

18 REP. RUSSO: Mr. Co-Chair.

19 SEN. SYKES: Leader Russo.

20 REP. RUSSO: Thank you, Mr. Co-Chair. I would
21 just like to say that this process is -- and this
22 motion and this map that's been put before us is a

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1 complete farce.

2 I literally have been handed spreadsheets that
3 have population deviations on them. Nothing about
4 partisan lean, nothing about symmetry in them. This is
5 useless information. It gives me population and
6 deviations and a PDF that you can't see the districts
7 or the details of the districts.

8 I'm going to read from the Court's opinion,
9 the last court opinion just to point out how -- just
10 how far off this process is now that these maps have
11 been introduced and given to us at the last minute. And
12 make no mistake about it. They've been entirely drawn
13 by one party.

14 Just as -- this is from paragraph 30. "Just as
15 in league one and league two, the one-sided process is
16 evidence of an intent to draw a plan that favors the
17 Republican Party at the expense of the Democratic
18 Party. The Commission should retain an independent map
19 drawer who answers to all Commission members, not only
20 to the Republican legislative leaders, to draft a plan
21 through a transparent process."

22 There's been absolutely nothing transparent

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1 about this set of maps in this motion at all.

2 "In three of our opinions in these cases, we
3 have identified a flaw-" -- this is from paragraph 31.
4 "We have identified a flawed process in which the
5 general assembly district plan adopted by the
6 Commission has been the product of just one political
7 party."

8 In paragraph 32, "The evidence shows that the
9 map drawing process for all three districts plans,"
10 now, the fourth, "we have reviewed will be controlled
11 by the Republican Party or has been controlled by the
12 Republican Party. The evidence shows that the
13 individuals who controlled the map drawing process
14 exercised that control with the overriding intent to
15 maintain as much of an advantage as possible for
16 members of their political party."

17 This is exactly repeating what the Court has
18 already told us that we should not do. We have an
19 independent mapmaker. He has asked for some additional
20 time this evening. We should continue to give that to
21 him.

22 To have this Commission adopt a map, which, by

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1 the way, I'd like to ask some questions of the map
2 drawer, Mr. Springette, if he is available, or any of
3 the commissioners about this map because we've been
4 given no information about it.

5 The process has not been shared with the
6 public. Mr. Springette sat in the map room for about 45
7 minutes, clicked his mouse around a few times, and
8 called that public and transparency. That's not public
9 and transparency. This map was drawn long before this
10 evening. I guarantee it.

11 So I oppose this. This, again, is an absolute
12 slap in the face of our voters, of our Constitution,
13 and of the Court. And I am just embarrassed that this
14 is what this Commission is about to do again for a
15 fourth time.

16 SEN. SYKES: Order, please.

17 REP. CUPP: Well, Mr. Co-Chair, let me just
18 say, in terms of the assertion that this plan was
19 drafted a long time ago, that is not accurate. Mr.
20 Springette went to the map room.

21 He took the map that was before this
22 Commission multiple weeks ago and made adjustments to

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1 it to comply -- to get closer to the Court's
2 requirement, as best he could. And he did that live in
3 the map room this afternoon.

4 SEN. SYKES: It is, you know, really important
5 when we set the ground rules that the staffs -- we put
6 a lot of emphasis on our staffs, the four map drawers
7 that we have on staff and the other staffs, to guide
8 and help and provide resources to the independent map
9 drawers.

10 And it was -- and we have not received much
11 input from the majority staff to help put this
12 together. In fact, in this last day, they have not been
13 really present to assist and help in this process.

14 And so, instead of passing or adopting a
15 motion to turn their attention away from the
16 independent map drawers and trying to assist and make
17 sure that we comply with all of the requirements of the
18 Constitution, you know, they withdraw.

19 They -- the majority has just hijacked this
20 whole process and they've withdrawn from helping us to
21 get across the finish line.

22 And what we have noticed all along in this

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1 whole process is not that we don't have the ability to
2 produce these maps. Again, here in just a few hours,
3 according to the majority, they produced maps.

4 We just have not had the will to produce
5 constitutional maps that comply with the court order.
6 And I think this is, again, another insult and
7 disappointment to not just the Commission and the Court
8 but to the people of Ohio.

9 FEMALE: That's us.

10 SEN. HUFFMAN: Mr. Co-Chair.

11 SEN. SYKES: Yes.

12 SEN. HUFFMAN: Yeah. I guess I'm going to
13 point out, I guess, what I think might be some spaces
14 in your rendition of what has happened.

15 So when I spoke to the mapmakers and for
16 whatever reason, I think it's kind of how maps are
17 drawn, typically and in Ohio, the House goes first and
18 then they try to figure out the Senate map. And that's
19 just must be the way mapmakers want to do that.

20 But I spent some time yesterday with the
21 mapmakers explaining the Section 5 rules and how those
22 are applied. And in fact, one of the mapmakers said,

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1 well -- and I asked them why haven't they -- why hasn't
2 the Senate map have numbers on them?

3 And they said, well, we're just going to let
4 the computer do that later. And I explained to them the
5 problem with doing that. And that's the problem I think
6 that these mapmakers are -- have run up and that Mr.
7 Johnson is talking about right now.

8 So we have been trying to explain this. The
9 fundamental problem here is simply the combinations of
10 this extraordinary political geography over almost
11 three -- or more than 3,000 political jurisdictions in
12 Ohio. Like, I think it's something like five or six
13 times as many as the state of New York, which is a
14 bigger population state.

15 So we've got that. We also have the most
16 complex redistricting rules, and these gentlemen had
17 five days to do it. It's just going to be very
18 difficult to do that.

19 So -- and there were some issues, I think,
20 that could have been resolved early on, like this issue
21 regarding incumbents, which I raised Saturday and we
22 chose not to deal with that night and decided to do it

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1 on Sunday.

2 And I know we had initial problems with
3 picking mapmakers. The Attorney General suggested two
4 gentlemen who had worked well together in Virginia on
5 Saturday, nine days ago.

6 Leader Russo objected because one of them had
7 been involved in this litigation in a minor way before,
8 and on Sunday I know that you and Leader Russo had a
9 telephone interview with those folks, as did Speaker
10 Cupp and I. And you wanted to hire them, but then by
11 Monday you chose not to.

12 So there's been a lot of backing and forthing
13 and a lot of decision making by all of us. And the
14 reason is we had, you know, essentially 12 days to hire
15 experts, get them in, and for them to understand the
16 rules, to work with the staff, and all of that.

17 And, you know, to the suggestion that the
18 Republican staff hasn't been engaged, you know, Mr.
19 DeRossi was in his office last night with a bloody nose
20 and not really able to stand up on his own. And I told
21 him to go home for the night. And he's not on site
22 because he's sick, and I don't want him to be around

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1 other people.

2 But having said all of that, I think there's a
3 lot of folks who've put in extraordinary hours, and
4 this is just a matter of a task being given that
5 couldn't be completed within that time frame.

6 REP. RUSSO: Mr. Co-Chair.

7 SEN. SYKES: Leader Russo.

8 REP. RUSSO: Thank you. I would like to ask
9 either Senator Huffman, Speaker Cupp, or Mr.
10 Springette, the Republican map drawer, some questions
11 about the map that has been put before us.

12 SEN. SYKES: That's good.

13 REP. RUSSO: Yes? Okay. Going to ask the
14 question. First, when did the mapmakers -- the
15 Republican mapmakers start drawing these -- working on
16 these maps?

17 REP. CUPP: This afternoon when he was in the
18 room 116.

19 REP. RUSSO: When was the mapmaker directed to
20 start working on the maps and by whom?

21 REP CUPP: The staff this afternoon, when it
22 became obvious, I think earlier in the day, that it was

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1 going to be extremely unlikely that the independent
2 mapmakers would have a map that could be presented,
3 vetted, debated, and adopted before the Court's
4 deadline.

5 REP. RUSSO: And is my assumption correct that
6 the map did not start from scratch, that it is, in fact
7 -- it started with the unconstitutional map that was
8 thrown out by the courts, the February 24th map that
9 was declared unconstitutional and thrown out by the
10 Court?

11 REP. CUPP: In order to have a map in time,
12 you couldn't do it from scratch. That is absolutely
13 correct, as I think we've all seen during the week how
14 much time that takes. And so, it was a modification of
15 the map before to move closer, as much as possible
16 within the time frame, to the constitutional
17 requirements in the Court's determination.

18 REP. RUSSO: Were any of these maps or any
19 earlier versions of these maps shown to any other
20 commissioners before this meeting?

21 REP. CUPP: That I don't know. I think the
22 answer is no.

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1 REP. RUSSO: Do you have any information
2 showing the partisan breakdown, competitive districts,
3 compactness evaluation, or any other useful metrics
4 because all I've received in this handout is population
5 deviation?

6 REP. CUPP: Yes. I don't have a list of the
7 partisan change with me. I don't know. It's the -- so,
8 it has 50 -- 54 -- 54 Republican leaning districts, 45
9 Democrat leaning districts.

10 There are still some asymmetrical districts in
11 the House map, but they are less than was in the map
12 the Commission adopted some time ago. There are still -
13 - there was one fewer asymmetrical district in the
14 Senate map.

15 REP. RUSSO: So there were 19 that were in the
16 last map between 50 and 52 percent in the House maps
17 and zero on the Republican between 48 and 50 percent.
18 What is that breakdown now?

19 REP. CUPP: It's 17 asymmetrical districts in
20 the House map, as you say, down from 19 and seven
21 asymmetrical districts in the Senate map, down from
22 eight in the prior map.

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1 REP. RUSSO: And still zero for the Republican
2 in both of those?

3 REP. CUPP: Pardon?

4 REP. RUSSO: Still zero from 48 to 50 to --
5 zero seats -- Republican seats between 48 and 50
6 percent?

7 REP. CUPP: Yes. That's correct.

8 REP. RUSSO: Okay. And your assessment is that
9 this addresses the symmetry concerns by the Supreme
10 Court?

11 REP. CUPP: This moves closer to it. This is -
12 - this is obviously something that was not worked on
13 during this period of time as the independent mapmakers
14 were drawing it, which is what the Supreme Court
15 strongly suggested that be done. And so, we did that.

16 And so, because there was only a few hours
17 left when it became apparent that the other one was not
18 going to be ready in time, so it didn't move closer to
19 that plan. But understand this ten days was consumed
20 with the process that we've been going through.

21 REP. RUSSO: So as the Supreme Court has
22 indicated, we will take those, quote, unquote,

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1 competitive seats out of the count.

2 So we now have a 54 Republican safe seat -- or
3 Republican seats and 28 -- I'm just counting the House
4 side at this point -- 28 seats that can be considered
5 Democrat. Does that meet the proportionality
6 requirements 54 to 46 percent?

7 REP. CUPP: The proportionality is 54
8 Republican leaning seats and 45 --

9 REP. RUSSO: 54 percent and 46 percent.

10 REP. CUPP: I didn't. I just know it by seats.

11 REP. RUSSO: Okay. So we have 54 Republican
12 seats and now 28 Democratic seats because the Court was
13 very clear that you do not count the competitive seats,
14 those 17, in the total. So it's 54/28. Is that -- does
15 that meet the 54/46 or come close to the proportional
16 requirement of the Constitution and the Court's order?

17 REP. CUPP: It comes closer. It is the best
18 that can be done in the time that was available under
19 the Court's requirement to adopt the plan by March the
20 28th.

21 REP. RUSSO: Well, I took a lot of math in
22 college. I would disagree with that. Are you accepting

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1 amendments to this map after we've -- the Commission --
2 all Commission members because this is not a Commission
3 map.

4 The Court has been very clear that the map
5 should be -- should come from the Commission and that
6 the Commission should be working on this map, again,
7 not partisan mapmakers.

8 Will there be time in this evening to propose
9 those amendments, just like we would like to be able to
10 propose perhaps some changes to Dr. Johnson's map and
11 the independent mapmakers?

12 REP. CUPP: I assume. There's nothing that
13 prohibits anybody from offering amendments.

14 REP. RUSSO: Well, if that's the case, then I
15 would suggest that we take a recess so that each
16 commissioner has a chance to actually look at this map
17 because, to me, this appears to be the same map that's
18 already been thrown out by the Court once, with the
19 exception of one or two seat changes, and does not meet
20 the court order or the Constitution.

21 SEN. HUFFMAN: Mr. Co-Chair.

22 SEN. SYKES: Yes.

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1 SEN. HUFFMAN: As I indicated in the timeline
2 here, we have to have a set of information to the
3 secretary of state's office before midnight tonight.
4 It's going to take about an hour to prepare that, and
5 the amendments -- I don't know what amendments there
6 are, but as I understand it, these -- this change
7 that's part of this plan reduces the index for -- the
8 Republican index out of the asymmetrical area for two
9 House seats and one Senate seat.

10 And I think if we go down the path of
11 beginning to take a -- recessing and beginning to take
12 amendments, we're going to go well past what
13 essentially is a 10:30 deadline.

14 It's 10:00 now. And I don't you know -- this
15 is, as I said, a situation that is accumulated over the
16 past 11 or 12 days.

17 So I don't think it's going to help to take a
18 recess, and at some point, if the Supreme Court doesn't
19 like this and they give us additional time to prepare
20 some other map, then we do that.

21 SEN. SYKES: If you are -- Senator Huffman, if
22 you are willing to accept this proposal that we're just

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1 now looking at and haven't had a chance to have any
2 input on it, if you're willing to do that, why wouldn't
3 you be willing to work with us to complete the map that
4 we've been working on for the last 12 days to try to
5 comply and make sure we comply with the court order?

6 SEN. HUFFMAN: Because based on what the
7 mapmaker has told us, the Commission mapmaker has told
8 us, he not only has to go back and begin reworking the
9 House map, he has not yet presented us a Senate map at
10 all.

11 There is no Senate map, and that is -- and of
12 course, also has indicated there are amendments to that
13 map that Commissioners have -- Commissioner Faber in
14 particular has indicated and he said, I'm not going to
15 be able to do that by midnight. So he's told us he
16 can't do that by --

17 SEN. SYKES: And that's the point that I'm
18 trying to make.

19 SEN. HUFFMAN: Well, if I could finish, he's
20 indicated he can't do that. So we've been working with
21 him. You've been working with him. We've given these
22 folks -- and again, I think they've done an excellent

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1 job in the very short time that they've had to work on
2 this.

3 REP. RUSSO: Mr. Co-Chair.

4 SEN. SYKES: Leader Russo.

5 REP. RUSSO: So that I'm clear, so, you are
6 asking us as a Commission to vote on a map that clearly
7 violates the court order and the Constitution as
8 interpreted through the court order because you don't
9 want to give a mapmaker -- our independent mapmaker,
10 the Commission's mapmaker the additional time to do the
11 work.

12 Frankly, I'd rather be here for a couple of
13 hours longer than to have to come back and go through
14 this process again because, again, this map has been
15 declared as non-constitutional or unconstitutional and
16 has been thrown out by the court.

17 This absolutely -- what we see before us and
18 the process that this has been presented absolutely
19 does not meet the requirements of the court order. And
20 you'd rather us vote on that than have a couple more
21 hours to get this right and not have to be here again.

22 SEN. SYKES: Any additional questions or

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1 comments?

2 REP. RUSSO: Mr. Co-Chair.

3 SEN. SYKES: Yes.

4 REP. RUSSO: I would like for each of the
5 commissioners to state if they have received this map
6 before this commission meeting, and if so, when and
7 when they knew that this was going to be the plan, that
8 we were going to deviate from having an independent
9 mapmaker and have partisan mapmakers do a, quote,
10 unquote, backup plan. And I'll start first.

11 I knew it before we broke that this was the
12 plan, and I've just now seen the Republican map.

13 SEN. SYKES: This is the first time I've seen
14 the Republican map.

15 Are there other commissioners that would like
16 to respond?

17 SEN. FABER: Mr. Chairman, first of all, I
18 would just -- I'm happy to answer Leader Russo's
19 questions, but she knows it's an improper question to
20 ask other commissioners or other people on the dais.

21 I didn't see this before we got here tonight.
22 The first time we heard something about this was when

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1 the motion was offered to start this process earlier
2 today and the process of drawing maps.

3 And as you know and Leader Russo knows, me and
4 my staff were working on trying to figure out
5 amendments to the existing maps being drawn by the map
6 drawers. But I do want to emphasize one other thing.

7 As I've said from the beginning of this
8 process with the independent map drawers, the
9 independent map drawers are essentially our Scribner's.
10 They are to take instruction from us and draw -- and we
11 are the ones who under the Supreme Court order are to
12 draw the maps.

13 I think it's impossible for us to do that if
14 we haven't even seen the completed maps that have been
15 proposed as compromise or collective maps. And
16 certainly, we need to have opportunities to make
17 amendments.

18 I presented my proposed amendments to the map
19 -- to the map drawers and to the Democrat caucus
20 members earlier.

21 And as the Democrat caucus members, and I
22 believe my Republican colleagues on this panel know, my

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1 staff have -- and contrary to your statement earlier
2 today, Mr. Co-Chair, my staff have been participating
3 throughout the day in -- with the map drawing room and
4 offering suggestions and working.

5 And so, I take a little bit of umbrage when
6 you say Republicans haven't been participating today in
7 the map drawing process.

8 The other side of this from this issue to me
9 is whether or not we're going to have a map drawer map.
10 I'm happy to take a look. I've got amendments. I've got
11 issues I want to discuss on the map drawer map.

12 And frankly, if we're going to have a
13 discussion on the newly proposed back up, I think,
14 parachute map, as it was called earlier today, I'd like
15 to see the partisan breakdowns and some issues in that
16 map as well.

17 But having said that, that would be my answer
18 to Leader Russo's question that I would argue is not
19 something that I'm used to having asked by other
20 commissioners at hearings of the legislature or
21 legislative bodies.

22 GOV. DEWINE: Chairman.

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1 SEN. SYKES: Yes.

2 GOV. DEWINE: I just saw the map the same time
3 it was passed out, and I heard discussion about the
4 plan earlier today at the same time.

5 SEN. SYKES: Well, yes.

6 MR. LAROSE: Mr. Co-Chair, I saw this map when
7 it was passed out a few moments ago by the members of
8 the staff. I will say that I was, like all of us,
9 willing to give this process the best effort that we
10 could. And we have.

11 I think the Court set a timeline that was not
12 attainable and changed the rules on what we should even
13 do as a Commission with novel concepts like symmetry
14 and all these kinds of things.

15 But we've given it a good try here. I think
16 that, as I said earlier, it would have been
17 irresponsible of us to not have a plan B. And so, it
18 appears that we have this Plan B, as it also appears
19 that the independent mapmaker effort is not going to be
20 completed by the midnight deadline that we have to
21 meet.

22 SEN. SYKES: I still would ask the Commission,

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1 as I indicated in a -- before recess, that we ask the
2 Commission's lawyer to prepare an emergency motion
3 asking the Court for an extension of 12 hours.

4 I think it's appropriate at this time. In
5 previous submittals with -- and trying to comply with
6 the court order, this commission had decided not to
7 take any action at all.

8 And the Court was -- had threatened contempt
9 charges against the members of the Commission. And so I
10 don't think it's out of order at all to consider making
11 a request for an extension of 12 hours.

12 SEN. CUPP: Mr. Co-Chair, I think the Court
13 was pretty clear. Paragraph 47 of their opinion said no
14 requests or stipulations for extension of time shall be
15 filed, and the clerk of this Court shall refuse to file
16 any requests or stipulations for extension of time. I
17 don't -- I don't know how much clearer the Court could
18 be.

19 REP. RUSSO: Mr. Co-Chair.

20 SEN. SYKES: Yes.

21 REP. RUSSO: To be clear, that was about the
22 objections of the petitioners, not the commissioners

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1 and the commissioners' work. I think that the Court has
2 been very clear that they want us to complete this work
3 and do it, and produce the best map possible.

4 I strongly believe that we need to allow Mr.
5 Johnson -- again, at this point, we're less than 30
6 minutes for him to finish, so that we can also see his
7 map. At the very least, we should take a break.

8 And at least -- because what I'm hearing, from
9 at least the majority of the commissioners -- that no
10 one has really seen these maps before. We are now being
11 asked to vote on them. To at least look at the partisan
12 issue, to look at the asymmetry issues.

13 Essentially, we're being asked, as a
14 Commission, to vote on a map that no one knows anything
15 about, except that it is the third map, essentially,
16 that was already tossed out by the Supreme Court -- the
17 Ohio Supreme Court.

18 And I think, frankly, taking an additional 30
19 minutes of a recess to look over that, and also to hear
20 from Dr. Johnson -- has he finished? And be able to
21 look at his map, in comparison, is completely
22 appropriate.

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1 SEN. SYKES: In this process, you know, at
2 some point, you just get tired of being mistreated, you
3 know? You know -- again, it's not just us, you know,
4 the commissioners -- it's the people of the state.

5 You know, so many times we have been, you know
6 -- it has been submitted to us -- amendments and bills
7 and provisions -- that we have very little time to
8 contemplate. In this process, the Court has tried to
9 make sure -- to ensure that we would have a different
10 process this time, that -- that would prevent here, in
11 the last minute, the last few hours, that the majority,
12 or anyone, could just submit something to us that we
13 hadn't had a chance to digest, hadn't had a chance to
14 review, and be expected to take a vote on.

15 And here we are again, doing the same thing,
16 even though the Court has gone out of his way to
17 specify how to prevent us from getting in this
18 situation again. And you have just hijacked that whole
19 process in trying to force feed us with, again, this
20 same disrespect for the public's interest. [applause]

21 REP. RUSSO: Mr. Co-Chair, I move that we take
22 a 30-minute recess so that Commission members can at

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1 least evaluate the data from the maps that have been
2 presented before us. And we hear from Dr. Johnson if he
3 is, in fact, complete with the map -- the independent
4 mapmaking process.

5 SEN. HUFFMAN: Object. Mr. --

6 SEN. SYKES: Motion on the floor.

7 SEN. HUFFMAN: Yeah. There's currently a
8 motion on the floor.

9 SEN. SYKES: Current motion on the floor. And
10 with the -- would you allow this recess to be
11 considered before --?

12 SEN. HUFFMAN: I object to the motion.

13 SEN. SYKES: You object.

14 SEN. HUFFMAN: There's a motion on the floor
15 right now.

16 UNKNOWN: Wow.

17 SEN. SYKES: Are there any additional
18 questions?

19 REP. RUSSO: Mr. Co-Chair, I'm going to make
20 one more motion. I move that we -- the Commission
21 directs Eric Clark [ph], who is the Commission's
22 attorney with the attorney general's office, to prepare

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1 an emergency motion asking the Court for an extension
2 of 12 hours.

3 SEN. SYKES: Seconded. We have a pending -- we
4 have a pending -- but we have a pending motion.

5 SEN. HUFFMAN: Yeah. Yeah. I object, Mr. Co-
6 Chair. We have a motion on the floor regarding it. If -
7 - if -- I don't even know if Mr. Clark's available, but
8 we've already had this -- several times -- read from
9 the Supreme Court's decision. So.

10 SEN. SYKES: Would the staff please call the
11 roll?

12 SECRETARY: Co-Chair Speaker Cupp.

13 SEN. CUPP: Yes.

14 SECRETARY: Co-Chair Senator Sykes.

15 SEN. SYKES: No.

16 MALE: Point of order. Can you tell me what
17 we're voting on?

18 SECRETARY: This is a motion to adopt a
19 revised 3-28 Cupp [ph] map.

20 SPECTATORS: No. No. No. No. No. No. No.

21 SECRETARY: Governor DeWine.

22 SPECTATORS: Shame on you. Cheaters. Shame on

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1 you. Cheaters.

2 SEN. SYKES: Quiet down, please. Please. Let's
3 have -- we still have to have order here, please. This
4 being a live stream, and people need to be able to hear
5 what the -- the proceedings here. They need to be able
6 to hear what's going on. Would the staff please call
7 the roll?

8 SECRETARY: A continuation or to restart?

9 SEN. SYKES: Restart. So.

10 REP. RUSSO: Mr. Cochair, can I please request
11 a recess? Even if it's not a formal motion, I am
12 requesting a recess of 30 minutes so that Commission
13 members have an opportunity to review the information
14 about the maps that we are now being asked to vote on.

15 SEN. HUFFMAN: Mr. Co-Chair, I object. We --
16 we -- in order to comply with the Court's timeline, we
17 need to pass this map now. And it needs to go to the --
18 you know, we need to prepare all the documents that
19 have to go to the Secretary of State, as we explained
20 earlier today.

21 REP. RUSSO: Mr. Co-Chair, it is 10:17. And I
22 believe the cutoff point that you gave earlier, Senator

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1 -- or President Huffman, was 10:30. I'm sure we can
2 spare an additional 15 minutes.

3 SEN. HUFFMAN: There are other items, too,
4 that we have to do, including the 8(C)(2) Statement. I
5 don't know if there'll be a discussion or argument
6 about that.

7 SEN. SYKES: Will the staff call the roll?

8 SECRETARY: Co-Chair Speaker Cupp.

9 SEN. CUPP: Yes.

10 SECRETARY: Co-chair Senator Sykes.

11 SEN. SYKES: No.

12 SECRETARY: Governor DeWine.

13 GOV. DEWINE: Yes.

14 SECRETARY: Auditor Faber.

15 SEN. FABER: No.

16 SECRETARY: President Huffman.

17 SEN. HUFFMAN: Yes.

18 SECRETARY: Secretary LaRose.

19 MR. LAROSE: Yes.

20 SECRETARY: Leader Russo.

21 REP. RUSSO: No.

22 SECRETARY: With four yays, three nays, the

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1 Commission has approved a 3-28 Cupp revised map.

2 SEN. HUFFMAN: Mr. Co-Chair.

3 SEN. SYKES: At this time, I would like to ask
4 for a recess. It's been asked for a recess, and that
5 was the motion pending. And now we can deal with that
6 issue of the recess.

7 SEN. HUFFMAN: Well, Mr. Co-Chair, that's
8 fine. I guess we have this 8(C)(2) motion that the
9 Constitution requires us to adopt, and I think the
10 staff is going to hand it out.

11 Is that right? What? I just have a copy. So I
12 guess I'd like to have -- at least have that handed out
13 to the members of the Commission.

14 So. Mr. -- Mr. Co-Chair, the -- this
15 statement, which is, as I said, constitutionally
16 required -- I'm going to spare the Commission the live
17 reading of that. It's -- it's there for everybody to
18 review.

19 I'm going to move that the -- the statement be
20 adopted. Obviously, Commission members may want to take
21 some time to review that. So if, now that they have it,
22 if we want to take a recess and come back to adopt the

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1 statement. But again, if -- if we can do that so that
2 we can get busy on the work -- getting the information
3 to the Secretary of State.

4 SEN. SYKES: Then I would -- I will say we
5 need to prepare a statement as well. It's -- during
6 this time period. So let's take a half hour -- half
7 hour recess. Hearing no objections, we are recessed for
8 a half hour.

9 SEN. SYKES: Believe there's a motion pending.
10 Everyone has had an opportunity to review the
11 statement. Would the staff please call the roll.

12 SEN. HUFFMAN: I'll second it. I don't know
13 there's been a second, so I'll second.

14 SEN. SYKES: Hasn't been a second? Okay.

15 SEN. HUFFMAN: I don't thinks so.

16 SEN. SYKES: Okay. We'll take the second from
17 Speaker Cupp. Secretary -- staff, please call the roll.

18 SECRETARY: Yes, sir. Co-Chair Speaker Cupp.

19 SEN. CUPP: Yes.

20 SECRETARY: Co-Chair Senator Sykes.

21 SEN. SYKES: No.

22 SECRETARY: Governor DeWine.

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1 GOV. DEWINE: Yes.

2 SECRETARY: Auditor Faber.

3 SEN. FABER: Abstain.

4 SECRETARY: President Huffman.

5 SEN. HUFFMAN: No. I support the statement,
6 but [inaudible] go for maps.

7 SEN. SYKES: Okay.

8 MALE: Yes. I got you. I got you.

9 SECRETARY: Secretary LaRose.

10 MR. LAROSE: Yes.

11 SECRETARY: Leader Russo.

12 REP. RUSSO: No.

13 SECRETARY: We're four yays, two nos, and
14 abstain.

15 SEN. SYKES: The motion is adopted. I would
16 move that the Commission adopt and pass the maps
17 completed by Dr. Johnson and allow, if necessary,
18 additional work to be conducted through an updated map
19 that the Commission -- and the Commission does not
20 dissolve for four weeks and can work on further
21 improvements to the map. Is there a second.

22 REP. RUSSO: Second.

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1 SEN. CUPP: I object to the motion, Mr.
2 Chairman.

3 SEN. SYKES: Okay.

4 MALE: Yes.

5 MR. LAROSE: So the question would be, when
6 would we know -- if this motion were to pass -- when
7 will we know that maps are final, so that I can direct
8 boards of elections to start programing it?

9 SEN. SYKES: They're final right now.

10 MR. LAROSE: No. No. If -- you said the motion
11 would be that we pass this map that Dr. Johnson drew,
12 but that we continue making changes to it.

13 SEN. SYKES: If necessary.

14 MR. LAROSE: Okay.

15 SEN. SYKES: The maps have been distributed to
16 you. Dr. Johnson has completed his work. They're also -
17 - it's posted on the website. It has the constitutional
18 partisan proportionality goals of 45 Democratic House
19 seats and leaning Democratic, and 54 leaning
20 Republican, with 15 Democratic seats in the Senate and
21 18 leaning Republican in the Senate.

22 REP. RUSSO: Mr. Co-Chair.

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1 SEN. SYKES: Yes.

2 REP. RUSSO: I would support us accepting this
3 map. I would also add that it also addresses the
4 symmetry concerns of the Court, and that the House
5 seats have three competitive Democratic seats, three
6 competitive Republican seats.

7 In the Senate, there are two competitive
8 Democratic seats, and zero Republican seats. So
9 substantially better in terms of symmetry than the map
10 that the Commission previously adopted.

11 There is nothing that stops this commission
12 from adopting another map. The work of this Commission
13 and the map is not final until the files have been
14 transmitted to the Secretary of State.

15 My understanding is that the files, if they
16 are not already completed, can be within the next 15 to
17 20 minutes. So again, you know, I -- I think that this
18 is a better set of maps. It meets the court's order.

19 And I know some commissioners will have
20 concerns about not seeing this beforehand, but I would
21 note that we just adopted -- some members of this
22 Commission just voted to accept a previous map that

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1 they, too, had only seen at the start of the meeting.

2 SEN. SYKES: In addition, I'd like to say that
3 the Commission -- this is -- these are maps that we've
4 been working on for the last several days. And the
5 Commission is more familiar with -- our staffs are more
6 familiar with the map, and the public is more familiar
7 with these maps that we've been working on over the
8 last several days.

9 SEN. HUFFMAN: Mr. Co-Chair.

10 SEN. SYKES: Yes.

11 SEN. HUFFMAN: You -- there were a few things
12 in your motion, and one of them said something about
13 four weeks -- part of your motion. Could you explain
14 that?

15 SEN. SYKES: Yes. That is simply to allow, if
16 necessary, for the Commission to continue to work to
17 make any improvements on the map.

18 SEN. HUFFMAN: Could I continue?

19 SEN. SYKES: Yes.

20 SEN. HUFFMAN: Co-Chair. So at least as of --
21 I guess about an hour ago or so, Mr. -- there were
22 several problems with the House map, and the Senate map

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1 had not yet been prepared.

2 And I appreciate the -- Leader Russo's
3 statement about just getting these. And as the -- I
4 guess the Senate -- one of the Senate representatives
5 here, I am concerned that the map is just now showing
6 up. And this does look substantially different, at
7 least on the eye test, than what we previously looked
8 at. Maybe not.

9 But the -- and I would just add that the
10 concern about seeing the previous map that the
11 Commission has passed -- part of my motion was amend
12 the February 24th map, which we're all very familiar
13 with. I mean, we -- whether -- it went through
14 litigation. And there are only minor changes.

15 So about -- probably 97 percent of that map we
16 were familiar with, and there were -- there were
17 changes. And just, I guess, two House districts and the
18 Senate district. This is an entirely new proposal and,
19 by the Commission mapmakers' statements, likely has
20 multiple flaws. So I can't support it.

21 REP. RUSSO: Mr. Co-Chair.

22 SEN. SYKES: Just for clarification, too, it's

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1 the same process that maps would be transmitted to the
2 Secretary of State. So it's not taking four -- tonight,
3 not taking four weeks to do it -- to do the work.

4 SEN. HUFFMAN: What would we do for four
5 weeks?

6 REP. RUSSO: Mr. Co-Chair.

7 SEN. SYKES: The Commission would not
8 dissolve, and be available to make any -- if needed --
9 any necessary adjustments to the map. Leader Russo.

10 REP. RUSSO: I was also going to clarify that
11 we don't necessarily need four weeks, just noting that
12 the Commission doesn't officially dissolve for four
13 weeks. If necessary, if there is still small tweaks
14 that need to be made, they can be fixed if needed.

15 The requirement right now -- we would still be
16 able to transmit some of these files to the Secretary
17 of State, certainly to meet the Court's requirement.
18 And if we need to make additional tweaks, we could do
19 that over the next day or so.

20 SEN. CUPP: I'm not sure I understand what the
21 motion is. Is it to also adopt this map and upload it
22 to the Secretary of State, in addition to the one we've

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1 already done this evening?

2 SEN. SYKES: Yes.

3 SEN. CUPP: So the Commission itself, I don't
4 think, dissolves for four weeks anyway. So we're --
5 we're going to upload two maps in to the Secretary of
6 State?

7 SEN. SYKES: In place of. In place of.

8 SEN. CUPP: Oh, okay. All right. I got you. I
9 got you. Well, I'm not comfortable with this map. It --
10 I notice there are some egregious compactness issues,
11 like district 85, for example; district 92, for
12 example; and some others in there. In the Senate map,
13 there's District 7, District 30, 31, Horseshoe. So I --
14 I -- I can't.

15 SEN. SYKES: Speaker. It's a miracle. Your
16 vision has improved.

17 SEN. CUPP: Well, you've helped me to see
18 things more clearly.

19 SEN. SYKES: Any additional questions on the
20 motion?

21 GOV. DEWINE: Mr. Chairman.

22 SEN. SYKES: Yes.

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1 GOV. DEWINE: Mr. Chairman, just a couple
2 additional comments besides what's already been said.
3 First, I want to thank the two independent map drawers.
4 They worked exceedingly hard. Very talented people.

5 I think, though, that in their attempt to hit
6 the proportionality and have a similar number of
7 Republican and Democrat competitive districts, there is
8 a few other things that were lost. And these few other
9 things go to the Constitution.

10 The map that they've presented, compared with
11 the map that we just approved -- the map that they just
12 presented has a compact district problem. They have a
13 lot more -- fewer compact districts.

14 Districts that have more -- that are not.
15 There's fewer communities of interest that are actually
16 kept together. There's more split cities, and certainly
17 there are fewer competitive districts.

18 If you go back -- I went back and looked at
19 some of the editorials that were written when this
20 Commission was created, this constitutional amendment
21 was passed. And I looked at what was said as far as
22 what the goals were.

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1 And I think the first thing you look at is a
2 summary of the constitutional amendment. Proposed
3 amendment would end the partisan process for drawing
4 House, Senate, and -- House and Senate districts and
5 replace it with a bipartisan process with the goal of
6 having district boundaries that are more compact and
7 politically competitive.

8 Toledo Blade stated in their editorial
9 endorsing the amendment that the amendment would create
10 legis- -- I quote, "Legislative districts that are more
11 geographically compact, politically competitive, and
12 reflective of voters' party preferences."

13 Cincinnati Enquirer stated the new mapping
14 criteria would emphasize, and I quote, "keeping
15 communities together by not splitting cities,
16 townships, and counties when -- when possible."

17 The mapmakers talked very clearly, and I think
18 it was instructive to listen to them. They talked about
19 how difficult it is, how unique Ohio is, how tough Ohio
20 is with all the different criteria.

21 So I don't fault them for not being able to do
22 all this. But I think it's important for the record to

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1 note that what they produced did -- yes, it did hit
2 proportionality and it did have a similar number of
3 competitive districts, Rs and Ds.

4 But less compact districts, fewer communities
5 of interest being kept together, more split cities, and
6 fewer competitive districts. And I think you can't --
7 you can't ignore that.

8 And we have an obligation not to ignore that.
9 Three of those four, written into the into the
10 Constitution, and that we have to follow. Thank you.

11 SEN. SYKES: Auditor Faber.

12 SEN. FABER: Thank you. I -- I'll just do both
13 of my comments now as well, because I think it goes
14 directly to this map and where we're at with these
15 maps.

16 And I would just start out by saying, look,
17 I'm not sure how you pass a map and then say, "But we
18 want to keep working on it." If we had a map that was
19 final and -- and -- and that we could look at in
20 conclusion and know that the issues, what it was, it
21 would be one thing.

22 But look, I said all along, the fact that we

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1 have a map drawer who produces a map that we haven't
2 yet had a chance to see or -- or discuss in length. I
3 had some amendments to this that we never got to offer
4 because they wouldn't have been done in time. I'm all
5 for continuing to work on something, but if we have a
6 deadline that's hard and fast, that's not possible.

7 So I don't think this is where any of us
8 wanted to be tonight. The process over the last ten-
9 plus days, and certainly the last five days, has been
10 enlightening for so many Ohioans.

11 For much of that time, we had Republicans and
12 Democrats sitting together in a room, live streamed
13 across the state. We've seen firsthand the geographic
14 complexities Ohio offers map drawers, and the struggle
15 that accompanies -- accompanies this in the
16 redistricting process.

17 We heard over and over from our independent --
18 I would say professional -- map drawers that this is
19 not an easy task.

20 I think all sides worked hard on the maps.
21 I've consistently said that I've been impressed by the
22 Commission staff members.

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1 While much of their work has gone unrewarded,
2 their work ethic and their willingness to work the
3 numerous -- impossible task has not gone unnoticed by
4 the members of the Commission, by the people of Ohio.
5 And from my perspective, I want to thank them.

6 I want to also include the two independent
7 mass -- mapmakers. I think that it was impossible to do
8 everything that the Constitution and demands of the
9 Court asked in the time period the Court allowed us to
10 do it.

11 I think they were doing exactly what the Court
12 asked, and I think that's why too many of their
13 conversations started with the premise of eliminating
14 Republicans where they could be eliminated.

15 And I think that's why the maps that we've
16 seen took every state to eradicate suburban Republican
17 representatives in Ohio. They used the classic spoke
18 and hub technique on the maps to drive cities into
19 districts with suburban areas. They cracked and packed
20 to concentrate Republicans and divide Democrats and to
21 make -- simply, to make more Democrat districts.

22 I talked about the concentration. Nearly --

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1 nearly 80 percent of the Republican districts were more
2 than 60 percent, while a mere 20 to 30 percent of the
3 Democrats were more than 60 percent. At every turn, the
4 map draws erred towards drawing more Democrat
5 districts, often at the expense of compactness.

6 I'm a broken record by now, and I'm grateful
7 to have been vindicated by these two expert map drawers
8 that Ohioans -- this is a truism -- tend to live and
9 vote around people that think like them. This leads to
10 a natural division of political affiliation based on
11 geography.

12 The one place that that does not necessarily
13 ring true is in the suburbs -- suburbs in Ohio. In the
14 suburbs, we can and should have competition in our
15 elections. Sadly, few maps we have seen from the
16 independent map drawers get us there.

17 I continue to believe that the districts that
18 split communities where they could otherwise keep them
19 together violates the Constitution. As the governor
20 mentioned, when this constitutional amendment was sold
21 to the public, it was sold on increasing
22 competitiveness.

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1 We had a debate in this Commission, a debate
2 that really didn't resolve much, about whether it was
3 required to keep cities whole, and whether or not, if
4 you could draw a whole district in the city, you
5 should, or had to.

6 I'm just going to direct your attention to
7 Article III, Section D (3), that specifically says,
8 "Where the requirements of this -- of these divisions --
9 -- B, C and D -- section cannot be feasibly obtained by
10 forming a representative district from whole municipal
11 corporations, then -- and townships, not more than one
12 municipal corporation or township may be split."

13 That clearly leads to the presumption that
14 where you can draw a whole city or township into a
15 congre- -- I'm sorry, into a legislative district,
16 you're supposed to do that.

17 But yet at every -- and by the way, I also
18 agree with my Democrat colleague who brought this up.
19 This wasn't new to these map drawers. This is something
20 the map drawers had been doing before.

21 And yes, there are going to be times when you
22 have to split cities. You have to split large cities.

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1 But in the maps that were proposed, as I pointed out,
2 every large city is split in a hub and spoke technique
3 to essentially drive those seats to the Democrat
4 column, packing and cracking.

5 Now, we heard hours of testimony throughout
6 this process. We heard Kathleen -- a League of Women
7 Voters from Greater Youngstown -- told us, and I quote,
8 "Districts that include communities with common
9 interests and are geographically compact, regardless of
10 the political philosophies of the voters who live in
11 these districts, are districts that lead to compe- --
12 to competitive elections and accountability of elected
13 officials and their constituents."

14 We heard Mark, from Columbia Tusculum in
15 Cincinnati, ask this Commission, and I quote, "Follow
16 both the letter and the spirit of the citizen-passed
17 redistricting reforms passed in 2015 and 2018 to create
18 districts that are compact, keep communities, towns,
19 and cities intact, and don't split neighborhoods. And
20 take into account a citizen input."

21 August with the United Way of Greater
22 Cleveland asked us for districts that, and I quote,

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1 "Accurately reflect communities are compact, keep
2 county, cities, and villages and townships together
3 within one district."

4 There are other real divides across the state
5 that are left behind when we consider only partisan
6 labels. Few Democrats in Bellaire would feel
7 represented by a Columbus Democrat, and few Republicans
8 in Millersburg would feel represented by a Strongsville
9 Republican.

10 It has nothing to do with the partisan label
11 and everything to do with the way local issues affect
12 our politics. Local issues which are not divided as
13 contentious -- locally that we often see on the
14 national stage. I believe that compromise was once
15 possible.

16 I think if we continued down the path we were
17 on the past five days, we would have seen that
18 proportionality, in its strictest sense, was not
19 attainable within the bonds of the Constitution and
20 that eventually we would have arrived at a compromise.

21 I know I talked with Leader Russo and Senator
22 Sykes about that possibility for some time. I regret

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1 that we were not able to come to an agreement. Ten days
2 ago, the Court created a new timeline, and ordered new
3 procedures for this Commission to comply with.

4 There simply was not enough time for us to
5 actually meet those requirements. In their order, they
6 took the unusual step of declaring that they would
7 refuse to even file -- or accept for filing -- any
8 requests for extensions, leaving the
9 Commission with no choice but to come to the solution
10 that it came to this evening.

11 We have begun this process with the assumption
12 that equity of outcomes equals fairness. I don't
13 believe that to be accurate. I expect -- I expressed
14 significant concerns about the timeliness and the
15 urgency of this process.

16 Until just a few seconds ago, I hadn't even
17 seen the final House, and the Senate maps were not able
18 to be reviewed at all. I hadn't been given a chance to
19 offer an amendments and was told that, specifically, if
20 we wanted to offer amendments tonight, there would be
21 no ability to get those done.

22 Ultimately, my concerns about timeliness, and

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1 the ability to complete this task, and the limited
2 timeframe allotted to this Commission were
3 unfortunately correct. Where we are now, and where we
4 could have been, are two different positions.

5 Hopefully this matter is behind us. I'm not
6 sure it is.

7 SEN. SYKES: Any other comments? Will the
8 staff please call the roll.

9 SECRETARY: Co-Chair Speaker Cupp.

10 SEN. CUPP: No.

11 SECRETARY: Co-Chair Senator Sykes.

12 SEN. SYKES: Yes.

13 SECRETARY: Governor DeWine.

14 GOV. DEWINE: No.

15 SECRETARY: Auditor Faber.

16 SEN. FABER: No.

17 SECRETARY: President Huffman.

18 SEN. HUFFMAN: No.

19 SECRETARY: Secretary LaRose.

20 MR. LAROSE: No.

21 SECRETARY: Leader Russo.

22 REP. RUSSO: Yes.

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1 SECRETARY: Five yays, two nays. Or two nays,
2 five yays. Sorry about that.

3 SEN. SYKES: Thank you. The motion fails. At
4 this time, the minority would like to submit a minority
5 report. I believe copies are available.

6 REP. RUSSO: Thank you.

7 SEN. SYKES: This is -- this is to be added to
8 the record. But I believe Leader Russo would like to
9 read the statement.

10 REP. RUSSO: Thank you, Mr. Co-Chair. The Ohio
11 Constitution is clear. The Supreme Court of Ohio is
12 precise.

13 The voters of Ohio are adamant. Fair and
14 proportional maps are required under the Constitution.
15 Gross disparity and the distribution of competitive
16 districts is barred, and voters deserve to have their
17 voices heard in their State House.

18 The guidelines to draw state legislative
19 district maps are not a mystery, nor are they open to
20 interpretation. This process should be easy and
21 straightforward. Yet here we are again.

22 More than six months have passed since the

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1 first minor -- minority report was filed regarding the
2 passage of an unconstitutional General Assembly
3 District plan. The minority commissioners of the Ohio
4 Redistricting Commission could very well write this
5 statement in their sleep.

6 The commissioners have been down this road
7 very often -- so often that the motions are stilted and
8 the storyline is stale. The majority commissioners
9 refuse to bend to current reality and court rulings.

10 Rather they pull the same tired tricks. The
11 process and tactics have not changed since we started
12 this process seven months ago, despite three court
13 orders telling this Commission otherwise.

14 Majority Commissioners have again adopted a
15 General Assembly District plan that was drawn in
16 secret, does not reflect the statewide preferences of
17 Ohio voters, and is ultimately unconstitutional. N

18 o amount of pressure from the Supreme Court of
19 Ohio or help from nationally renowned experts will sway
20 the majority commissioners in their mission to retain
21 an unjustifiable and unconstitutional monopoly on
22 power.

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1 From March 16th, 2022 to March 28th, the
2 minority commissioners made every attempt to move this
3 process along to comply with the Supreme Court's clear
4 orders.

5 The minority commissioners pushed for frequent
6 hearings, as strongly suggested by the Court. In fact,
7 the minority commissioners tried to convene the
8 Commission every day, including on Sunday, March 20th,
9 to propose independent mapmakers, and the Republicans
10 demurred.

11 The minority commissioners met their
12 obligations on Monday, March 21st, through their
13 thoroughness and persistence. The minority
14 commissioners pushed the majority commissioners to stop
15 purposely delaying and decide on a team of highly
16 skilled, independent mapmakers to draw new district
17 lines from scratch.

18 The minority commissioners fought for an open
19 and transparent process. The map drawing was done
20 entirely on a live stream, complete with audio, for
21 everyone to observe.

22 Yet -- perhaps yet again, in a bunker at the

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1 Bureau of Workers Compensation Building, a secret map
2 has been developed at some unknown time, in violation
3 of the orders of the state's highest judicial
4 authority.

5 The process and outcome, despite all the
6 efforts for public viewing, expert input, and
7 bipartisan oversight, was still, again, conducted in
8 the shadows.

9 The majority commissioners, through President
10 Huffman, announced their secret efforts late on the
11 last day as a parachute. They have apparently planned
12 on, for at least the last several days, perhaps much of
13 this process.

14 This places the Commission where we began,
15 with an unconstitutional General Assembly District
16 plan.

17 And while the Supreme Court of Ohio has
18 directed the redistricting Commission -- not parties,
19 the redistricting Commission -- to create an entirely
20 new map.

21 The plan passed out of this Commission with no
22 input from the minority Commission members -- and,

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1 frankly, the majority of the Commission members -- or
2 scrutiny from the public, is nothing more than a
3 tweaked version of a previous unconstitutional General
4 Assembly plan.

5 The majority commissioners have now left an
6 entirely new plan sitting on the table, drawn by two
7 independent mapmaking experts at considerable expense
8 to Ohio taxpayers.

9 Instead, Ohioans are once again subjected to a
10 map that runs afoul of Ohio Constitution Article XI,
11 Section -- Section 6 (A), and Section 6 (B). Sect- --
12 Section 6 (A) provides state legislative district --
13 prohibits state legislative district maps from being
14 drawn primarily to favor or disfavor a political party.
15 The evidence from tonight's hearing is consistent with
16 the evidence used in prior Supreme Court rulings on
17 violations of Section 6 (A).

18 The Supreme Court of Ohio held in League of
19 Wom- -- Women Voters of Ohio versus the Ohio
20 Redistricting Commission that maps adopted -- but not
21 drafted -- by the Commission favor one party over the
22 other.

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1 The court held that draw- -- drawing
2 controlled by the majority to the exclusion of the
3 minority party favors one party over the other.

4 Once again, it is the Republican Senate
5 president's map drawer who was sequestered in a secret
6 location, drawing the map. The map was neither drafted
7 by the commission, nor does it have the input of
8 minority commissioners.

9 In the third unconstitutional plan, the
10 minority commissioners were given a copy of the map at
11 12:30 p.m.. In this latest charade, the minority
12 commissioners -- and again, most of the commissioners
13 here -- had been given a copy of the map after 9 p.m.
14 for a vote that took pla- -- place just under an hour
15 later.

16 The majority commissioners have purposely
17 wasted another opportunity to adopt constitutionally-
18 compliant maps that have been drawn in public and with
19 a team of independent, bipartisan mapmakers.

20 This is, once again, a slap in the face to
21 Ohioans who have voted for fair maps, and a dangerous
22 and irresponsible erosion of our democratic processes

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1 that we have been entrusted with.

2 Despite only receiving this plan mere minutes
3 before we were expected to vote, a cursory glance shows
4 that this plan still contains the asymmetry issues that
5 plagued the third, invalidated map.

6 The last-minute plan dumped on minority
7 commissioners contains an astounding 17 Democratic
8 toss-up seats in the House, between 50 and 52 percent
9 partisan share, and 0 Republicans in the same range.

10 The Senate map is equally lopsided, with six
11 Democratic Senate seats falling between 50 and 52
12 percent, and zero Republicans in the same range. The
13 absurd asymmetry found in the latest plan is nearly
14 identical to the plan overturned by the Supreme Court
15 of Ohio just 12 days ago.

16 The unconstitutional distribution of toss-up
17 seats is exactly the kind of partisan chicanery the
18 Court found problematic in their numerous decisions.

19 In short, nothing has changed. Once again, a
20 secret plan that violates Article XI, Section 6 (A) and
21 6 (B) has been adopted by this Commission without
22 minority party input, or even proper time for review.

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1 And every unconstitutional fault in the last
2 plan is found in the latest plan. And we suspect that
3 the latest ruse will suffer the same fate as its
4 predecessors.

5 That said, in spite of everything that we have
6 witnessed, that has happened in the last several hours,
7 I still have hope. And I believe that we still have
8 time to get this right. Thank you.

9 SEN. SYKES: I believe, again, it does not
10 require a vote. It's just for the -- for information
11 purposes, for the record. Are there any other comments
12 or statements? Any other business to be brought before
13 the Commission?

14 SEN. FABER: I -- just for the record, I do
15 not concur in the Minority Report.

16 SEN. SYKES: Hearing none, the meeting is
17 adjourned.

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CERTIFICATE OF TRANSCRIBER

I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability from the audio recordings and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome, the above 69 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.



March 30, 2022

Chris Naaden

(443129, Ohio Redistricting Committee, 3-28-22, second part)

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EXHIBIT 6

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IN THE SUPREME COURT OF OHIO

**LEAGUE OF WOMEN VOTERS OF
OHIO, et al.,**

Petitioners,

v.

**OHIO REDISTRICTING COMMISSION,
et al.,**

Respondents.

Case No. 2021-1193

**Original Action Filed Pursuant to
Ohio Constitution, Article XI**

EXHIBITS TO OBJECTIONS — VOLUME 2 OF 2

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Warshaw Affidavit.pdf

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E-Signature Summary

E-Signature 1: Christopher Warshaw (CSW)

March 29, 2022 11:44:08 -8:00 [C0ADED CDC25C] [24.126.11.158]
warshaw@email.gwu.edu (Principal) (Personally Known)

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March 29, 2022 11:44:08 -8:00 [87FEA97709D2] [65.60.141.105]
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I, Theresa M Sabo, did witness the participants named above electronically sign this document.



IN THE SUPREME COURT OF OHIO

LEAGUE OF WOMEN VOTERS OF
OHIO, et al.,

Petitioners

v.

OHIO REDISTRICTING COMMISSION,
et al.,

Respondents.

Case No. 2021-1193

Original Action Pursuant to
Ohio Const., Art. XI

AFFIDAVIT OF CHRISTOPHER WARSHAW

Franklin County

/ss

State of Ohio

Now comes affiant Christopher Warshaw, having been first duly cautioned and sworn, deposes and states as follows:

1. I am over the age of 18 and fully competent to make this declaration. I have personal knowledge of the statements and facts contained herein.
2. For the purposes of this litigation, I have been asked by counsel for Relators to analyze relevant data and provide my expert opinions.
3. To that end, I have personally prepared the report attached to this affidavit as Exhibit A, and swear to its authenticity and to the faithfulness of the opinions expressed and, to the best of my knowledge, the accuracy of the factual statements made therein.

FURTHER AFFIANT SAYETH NAUGHT.

Executed on 03/29/2022, 2022.

Christopher Warshaw

Signed on 2022/03/29 11:44:08 -8:00

Christopher Warshaw

Sworn and subscribed before me this 03/29/2022, 2022.



Notary Stamp 2022/03/29 11:44:08 PST

87FEAF9F09D2

Notarized and performed by audio-visual communication



Exhibit A

RETRIEVED FROM DEMOCRACYDOCKET.COM

An Evaluation of the Partisan Fairness of Ohio's March 28, 2022 State Legislative Districting Plan

Christopher Warshaw*

March 29, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

*Associate Professor, Department of Political Science, George Washington University. warshaw@gwu.edu. Note that the analyses and views in this report are my own, and do not represent the views of George Washington University.

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1 Introduction

My name is Christopher Warshaw. I am an Associate Professor of Political Science at George Washington University. Previously, I was an Associate Professor at the Massachusetts Institute of Technology (MIT) from July 2016 - July 2017, and an Assistant Professor at MIT from July 2012 - July 2016.

I have been asked by counsel representing the League of Women Voters plaintiffs in this case to analyze relevant data and provide my expert opinions about whether the number of close districts in Ohio's enacted March 28, 2022 state legislative districting plans are roughly proportional between the two parties. I have also been asked to compare the March 28 and February 24 plans. Specifically, I have been asked to examine:

- The number of seats on each plan where each party is expected to receive between 50 and 51% of the vote.
- The number of seats on each plan where each party is expected to receive between 51 and 52% of the vote.
- The geographic overlap between the March 28 and February 24 plans.

2 Qualifications, Publications and Compensation

My Ph.D. is in Political Science, from Stanford University, where my graduate training included courses in political science and statistics. I also have a J.D. from Stanford Law School. My academic research focuses on public opinion, representation, elections, and polarization in American Politics. I have written multiple papers that focus on elections and two published articles that focus specifically on partisan gerrymandering. I also have a forthcoming book that includes an extensive analysis on the causes and consequences of partisan gerrymandering in state governments.

My curriculum vitae is attached to this report. All publications that I have authored and published appear in my curriculum vitae. My work is published or forthcoming in peer-reviewed journals such as: the *American Political Science Review*, the *American Journal of Political Science*, the *Journal of Politics*, *Political Analysis*, *Political Science Research and Methods*, the *British Journal of Political Science*, *Political Behavior*, *Science Advances*, the *Election Law Journal*, *Nature Energy*, *Public Choice*, and edited volumes from Cambridge University Press and Oxford University Press. My book entitled *Dynamic Democracy in the American States* is forthcoming from the University of Chicago Press. My non-academic writing has been published in the *New York Times* and the *Washington*

Post. My work has also been discussed in the *Economist* and many other prominent media outlets.

My opinions in this case are based on the knowledge I have amassed over my education, training and experience, including a detailed review of the relevant academic literature. They also follow from statistical analysis of precinct-level data on recent statewide Ohio elections. Specifically, I use precinct-level data on Ohio's statewide elections between 2016-20 from the Voting and Election Science Team (University of Florida, Wichita State University). I obtained these data from the Harvard Dataverse.¹ I merge the precinct-level returns to the proposed plans by assigning precincts to the district that has the greatest overlap with it.² I also use data on each Census block's land area and population.³

I have previously provided expert reports in this case, as well as eight other redistricting-related cases and several Census-related cases (see my CV for a current list). I am being compensated at a rate of \$325 per hour. The opinions in this report are my own, and do not represent the views of George Washington University.

3 Summary

This report examines whether Ohio's enacted March 28, 2022 state legislative maps appear to meet the criteria in the Ohio Constitution. Specifically, it examines whether the close seats in the plans are roughly proportional between the parties.

It finds that the close seats are not proportional between the parties. Based on the Commission's approach of aggregating the raw votes in elections from 2016-2020, there are 6 Senate districts where Democrats are expected to receive between 50 and 52% of the vote, and no Senate districts where Republicans are expected to win between 50 and 52% of the vote. Moreover, there are 17 House districts where Democrats are expected to receive between 50 and 52% of the vote and zero-Republican leaning districts in this range. The fact that all of the close seats are Democratic-leaning and none are Republican-leaning gives the Republican party a substantial advantage in the translation of votes to seats in Ohio.

The disproportionate distribution of the close seats on the March 28 plan is nearly identical as the February 24 plan that was struck down by the Ohio Supreme Court.

1. See <https://dataverse.harvard.edu/dataverse/electionscience>.

2. This approach is slightly different from the one I used in my initial report, which joined precincts to the district where the geographic center of the precinct was located. There is very little substantive difference between the two approaches. But my current approach appears to better match the methodology used by the Commission in its analysis.

3. I obtained these data from <https://redistrictingdatahub.org/>.

Under that plan, there were 19 Democratic-leaning House Seats in the 50-52% range and 7 Senate seats in that range. There were no Republican-leaning state senate seat and no Republican-leaning state house seats in the 50-52% range.

In fact, the February 24 and March 28 plans are geographically, nearly identical to one another. They have nearly identical assignment of Census blocks to districts. They have nearly identical assignment of population to districts. And the actual voting patterns across districts are extremely similar across plans.

Overall, my analysis echos the findings in my earlier reports. Like the Commission's three earlier plans, the March 28 plan appears to be drawn to favor the Republican political party.

4 Proportionality Results

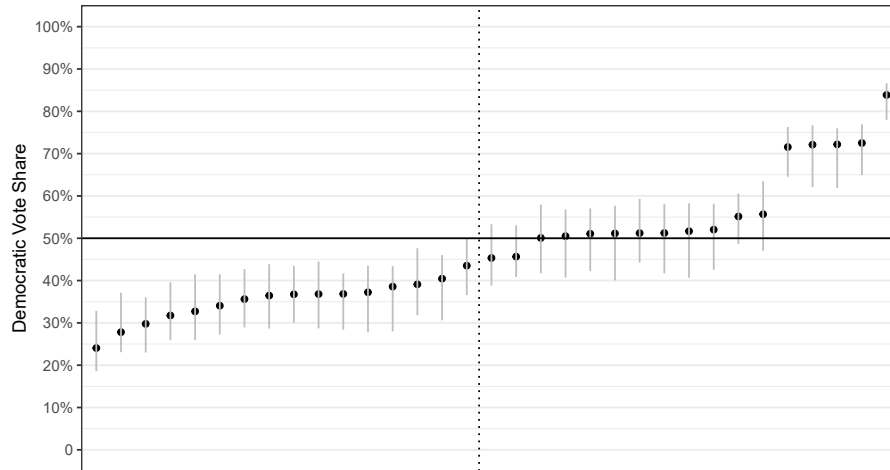
In this section, I analyze the proportionality of the close seats on the Commission's February 24 state legislative plans. In order to do this, it is necessary to estimate each party's share of the votes in each district. While the Ohio Constitution clearly states that the past decade of elections shall be used for this analysis, it does not provide guidance on how these elections should be aggregated. For my analysis here, I focus on the approach used by the Commission. Their analysis appears to sum the raw votes in each district for the 9 statewide elections between 2016 and 2020 (see the Commission's Section 8(C)(2) Statement). Based on these summed votes, they determine whether Democrats or Republicans would win each district on a plan.⁴

4.1 Close Districts on State Senate plan

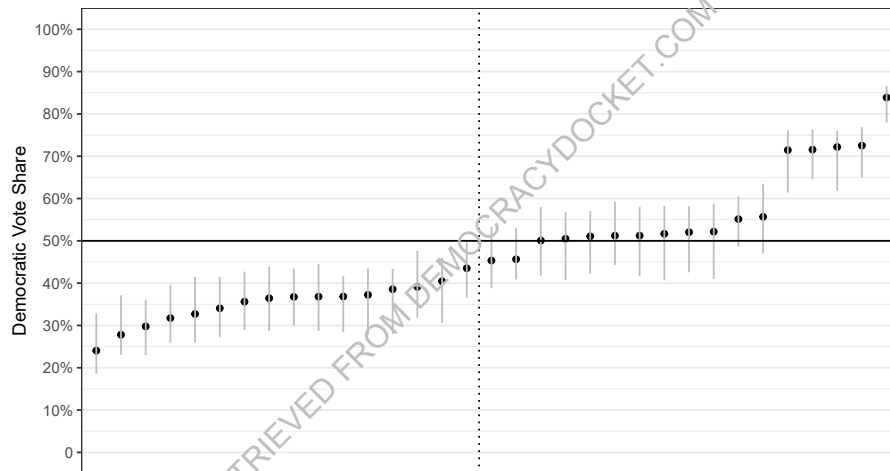
First, I analyze the proportionality of the close seats on the Commission's March 28 state Senate plan. Figure 1 shows the district-level vote shares using the aggregation approach used by the Commission. It indicates that distribution of votes across districts in these

4. As I discussed in a previous report, it is important to note that there are three important weaknesses of this approach. First, it only includes three election years. Moreover, it implicitly overweights the 2018 election cycle, since six of the nine election contests in this composite occurred during this cycle. This was a very strong election year for Democrats. So this is likely to over-estimate Democratic performance in future elections. This could be addressed by weighting each election year equally or including the 2012 and 2014 election years to capture the full range of elections over the past decade. Third, the Commission's approach yields a single, deterministic estimate of the winner of each district. So a district that one party is projected to win by .01% of the vote would count the same as one they are projected to win by 10%. In reality, however, the district where one party is projected to win by .01% is likely to be won by each party about half the time. In my previous report, I discussed other approaches that address these weaknesses.

plans is almost identical.



(a) February 24 Plan



(b) March 28 Plan

Figure 1: District-level Vote Shares on Commission's February 24 and March 28 State Senate plans based on the aggregation approach used by the Commission. The vertical lines around each dot show the range of statewide election results in that district. The dotted line shows the number of seats required for the majority.

Just as on the February 24 plan, the close districts are extremely disproportionate. There are 6 districts where Democrats are expected to receive between 50 and 52% of the vote, and no districts where Republicans are expected to win between 50 and 52% of the vote. This is only one less competitive Democratic-leaning district than on the February 24 plan. As a result, while the February 24 plan had 7 Senate seats in the 50-52% range of Democratic vote share, the March 28 plan has 6 Senate seats in that range and no competitive Republican seats.

The asymmetric distribution of close Senate seats gives Republicans a large advantage

in the translation of votes to seats. All 18 Republican-leaning districts are safe seats with a composite Republican vote share of 52% or more. In contrast, only 9 of the 15 Democratic-leaning districts are safe seats with a composite Democratic vote share of 52% or more. As a result, Republicans are likely to win 66% of the non-competitive seats on this plan.

More specifically, on the Commission's March 28 state senate plan there are:

- 2 districts where Democrats are expected to receive between 50 and 51% of the vote.
- 4 districts where Democrats are expected to receive between 51 and 52% of the vote

In contrast, there are:

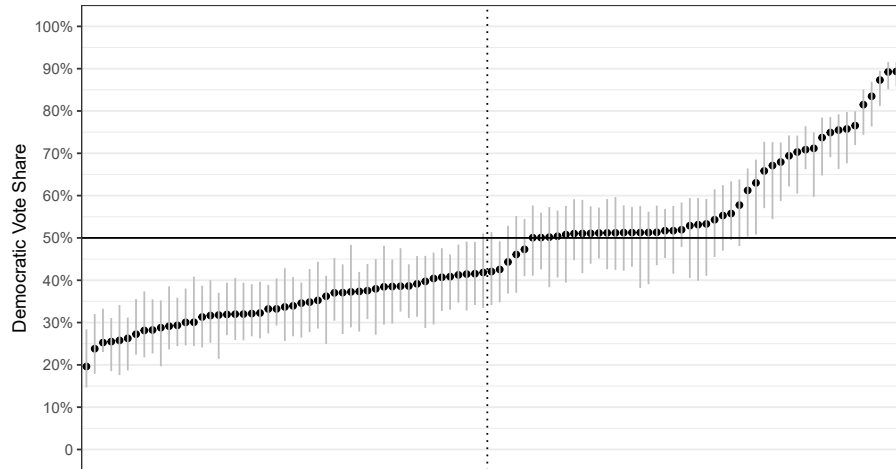
- no districts where Republicans are expected to win between 50 and 51% of the vote.
- no districts where Republicans are expected to win between 51 and 52% of the vote.
- no districts where Republicans are expected to win between 52 and 53% of the vote.
- no districts where Republicans are expected to win between 53 and 54% of the vote.

4.2 Close Districts on State House plan

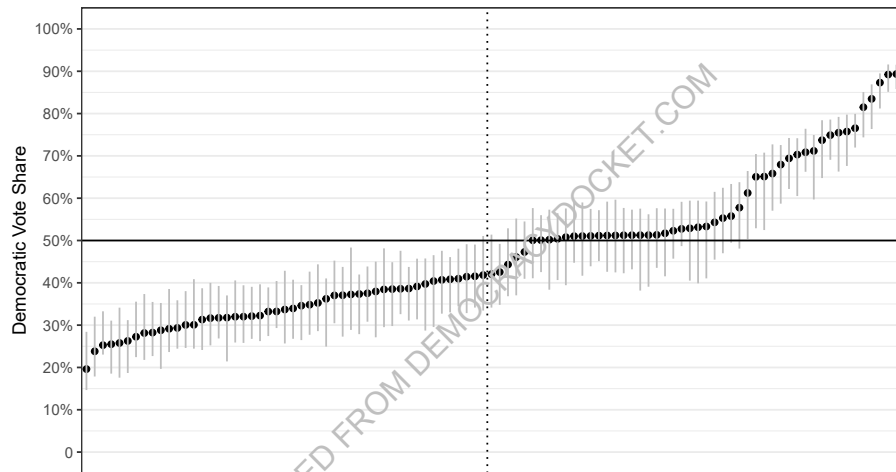
Next, I analyze the proportionality of the close seats on the Commission's March 28 state House plan. Figure 2 shows the district-level vote shares using the aggregation approach used by the Commission. It indicates that distribution of votes across districts in these plans is nearly identical to the naked eye.

Just as on the February 24 plan, the close districts are extremely disproportionate. There are 17 districts where Democrats are expected to receive between 50 and 52% of the vote, and no districts where Republicans are expected to win between 50 and 52% of the vote. This is only two less competitive Democratic-leaning districts than on the February 24 plan. As a result, while the February 24 plan had 19 House seats in the 50-52% range of Democratic vote share, the March 28 plan has 17 House Democratic seats in that range and no competitive Republican seats.

Moreover, the asymmetric distribution of close House seats gives Republicans a large advantage in the translation of votes to seats. This asymmetry means that Republicans are likely to win far more than 54 seats in most elections on this plan. In fact, all 54 Republican-leaning districts are safe seats with a composite Republican vote share of 52% or more. In contrast, only 28 of the 45 Democratic-leaning districts are safe seats with a



(a) February 24 Plan



(b) March 28 Plan

Figure 2: District-level Vote Shares on Commission's February 24 and March 28 State House plans based on the aggregation approach used by the Commission. The vertical lines around each dot show the range of statewide election results in that district. The dotted line shows the number of seats required for the majority.

composite Democratic vote share of 52% or more. So Republicans are likely to win 66% of the safe seats on this plan.

More specifically, on the Commission's March 28 House plan there are:

- 5 districts where Democrats are expected to receive between 50 and 51% of the vote.
- 12 districts where Democrats are expected to receive between 51 and 52% of the vote

In contrast, there are:

- no districts where Republicans are expected to win between 50 and 51% of the vote.
- no districts where Republicans are expected to win between 51 and 52% of the vote.

5 Geographic Overlap between Plans

In this section, I analyze the overlap between the February 24 plans and the most recent plans passed on March 28. I use three approaches to determine how much the March 28 plans differ from the February 24 plans. First, I examine the number of Census blocks and the percentage of Ohio's land area assigned to new districts on the March 28 plans. Second, I examine the number of people in the Census blocks assigned to a different district across maps. Finally, I examine how many districts changed across the plans based on the composite voting data I discussed earlier.

5.1 Overlap across Senate plans

The March 28 Senate plan only assigns 270 Census blocks to a new district between the February 24 plan and March 28 plans (0.1% of the 276,428 census blocks in Ohio). Put differently, only .01% of the land area of Ohio changed districts across these plans. Moreover, the March 28 plan only assigns 23,823 people (0.2% of Ohio's population) into a new Senate district compared with the February 24 plan. Finally, 31 out of 33 districts are exactly the same under the two plans.

5.2 Overlap across House plans

The March 28 House plan only assigns 451 Census blocks to a new district between the February 24 plan and March 28 plans (0.16% of the 276,428 census blocks in Ohio). Only .11% of the land area of Ohio changed districts across these plans. In addition, the March 28 plan only assigns 31,244 people (0.26% of Ohio's population) into a new House district compared with the February 24 plan. Finally, 92 out of 99 districts are exactly the same under the two plans.

5.3 Summary

Overall, the February 24 and March 28 plans appear to be geographically, nearly identical. They have nearly identical assignment of Census blocks to districts. They have nearly identical assignment of population to districts. And the actual voting patterns across districts are extremely similar across plans.

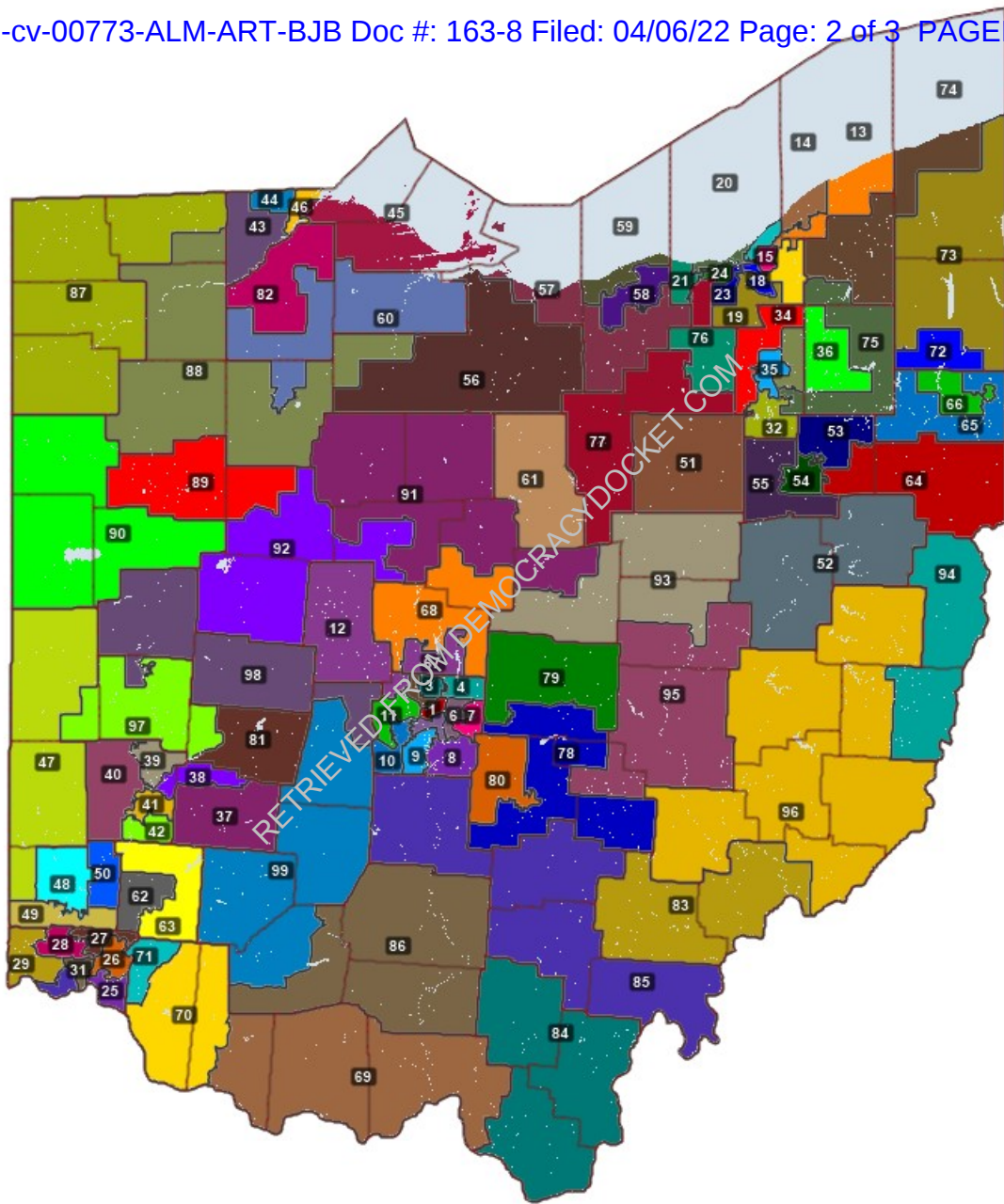
6 Conclusion

Based on my evaluations of the Commission's March 28 enacted plans, I reach the conclusion that the close seats on these plans are not proportionate between the parties. Instead, all the close seats slightly lean toward Democrats. There are no close Republican-leaning seats. This means that Republicans are very likely to win far more than 55% of the seats on both plans. Moreover, the plans are geographically, nearly identical to the February 24 ones struck down by the Ohio Supreme Court. Thus, the new plans appear to have again been drawn to favor the Republican Party.

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EXHIBIT 7

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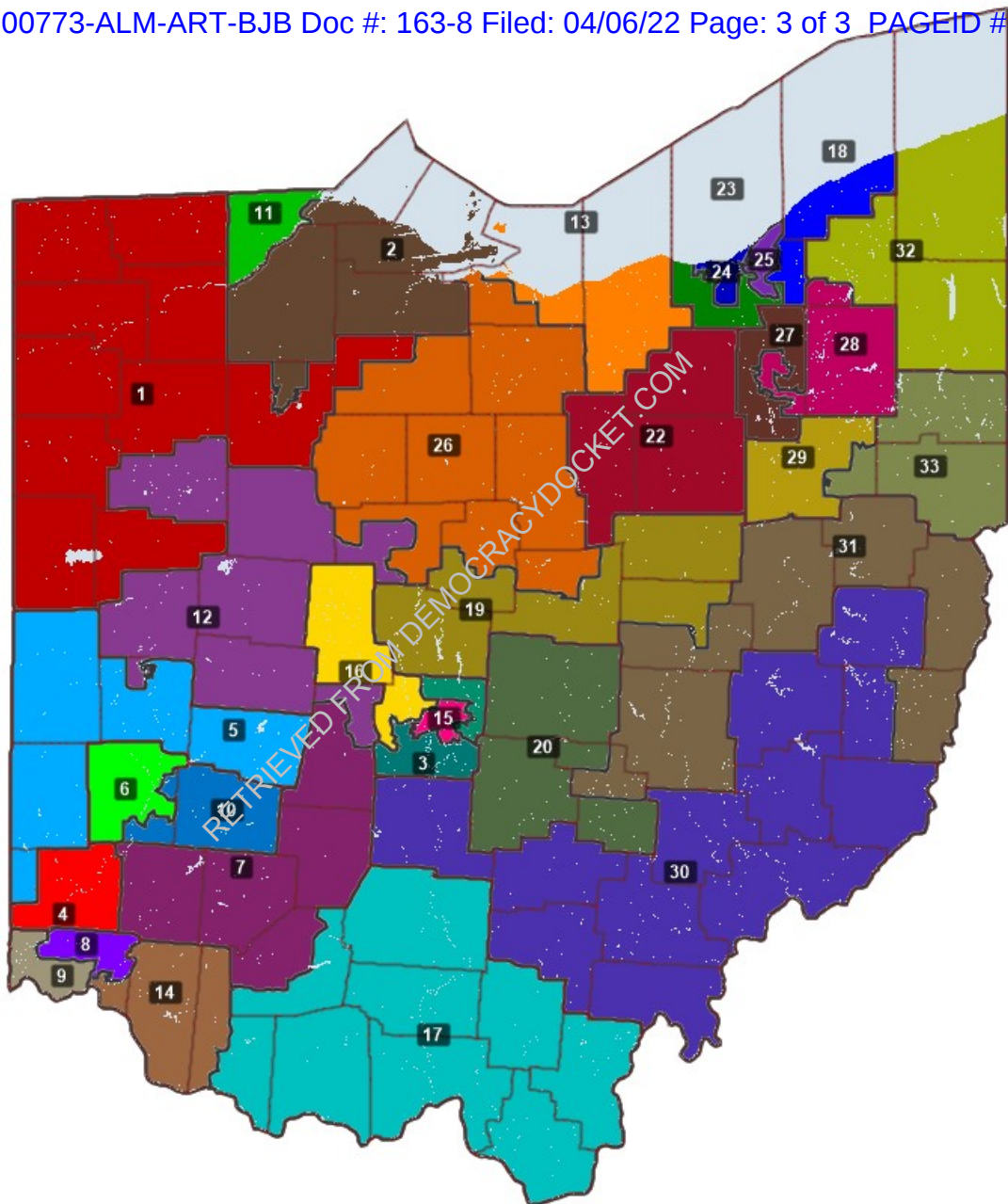


EXHIBIT 8

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EXHIBIT 9

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Ohio Redistricting Commission 03-21-2022

<http://ohiochannel.org/video/ohio-redistricting-commission-3-21-2022>

Co-Chair Speaker Bob Cupp [00:00:03] The staff please call the roll

Clerk [00:00:05] Co-chair Speaker Cupp.

Co-Chair Speaker Bob Cupp [00:00:06] Present.

Clerk [00:00:06] Co-chair Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:00:08] Present.

Clerk [00:00:08] Governor DeWine.

Governor Mike DeWine [00:00:10] Here.

Clerk [00:00:10] Auditor Faber

Auditor of State Keith Faber [00:00:11] Here.

Clerk [00:00:11] President Huffman.

Senate President Matt Huffman [00:00:13] Here.

Clerk [00:00:13] Secretary LaRose.

Secretary of State Frank LaRose [00:00:14] Here.

Clerk [00:00:14] Leader Russo.

House Minority Leader Allison Russo [00:00:15] Here.

Clerk [00:00:16] Mr. co-chair a quorum is present.

Co-Chair Speaker Bob Cupp [00:00:19] A quorum is present. All members are present in your folders are the minutes of the last meeting on March the 19th 2022. Is there a motion to accept the minutes?

Senate President Matt Huffman [00:00:31] Motion.

Co-Chair Sen. Vernon Sykes [00:00:31] Second.

[00:00:32] It's been moved and seconded that the minutes be adopted as presented. Are there any objections or amendments to the minutes? Hearing and seeing none, the minutes be accepted without objection? Is there further business to come before this meeting of the Ohio Redistricting Commission? Chair recognizes Co-Chair Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:00:53] Thank you, co-chair. Ladies and gentlemen, we have the responsibility have made a decision that we were going to hire, retain

independent map drawers and to come to some agreement on it. We had decided in our last meeting that that each side would be able to recommend. Each co-chair would recommend to the body and the body would consider approving the recommendations being made. And at this time, I would like to offer up Professor Michael McDonald. He has a bachelor's in economics and political science. He's an expert in redistricting elections and methodology. He is a professor at the University of Florida, and he has been a consultant or considered an expert witness in redistricting issues in Alaska, Arizona, California, Georgia, Michigan, New Jersey, New York, Ohio, Oklahoma, Texas and Virginia. And he is available to come to Ohio right away to work on this project. And we have disseminated this information, distribute his more detailed resumé for the benefit of all of the members of the commission, and we would offer this as our suggestion or recommendation to the body.

Co-Chair Speaker Bob Cupp [00:02:39] Thank you, co-chair. So we also, I also took a look at finding independent consultant and interviewed several people. The one that seems to me to be suitable would be a Douglas Johnson, president of National Demographics Corporation, and he has consulted on redistricting both at the state and local level in numerous jurisdictions. He is also available to come to Ohio, unlike others that were have been discussed. And he is actually there are multiple people that work for him, so he has a capability of producing suggestions or map or analyzing maps, whichever the commission should decide that, that we want. And so that would be my recommendation to the commission is to hire or retain Douglas Johnson to help us with this project and process. I will let me just before we do that, I will also say that I have endeavored to find a person that would be available to be a mediator. There was also what we talked about. I contacted the Ohio State Bar Association as and asked for some, some some names, as I predicted Saturday evening that it was going to be difficult to be able to find somebody over the weekend. And while I do have, I had two names and one of them suddenly indicated they were not interested, I have not had an opportunity to contact the other. So just as a report on progress on that front.

Co-Chair Sen. Vernon Sykes [00:04:55] Mr. Co-Chair, I also have some progress. I did as well talk with several people. I was able to be successful with them in particular. I've been recently confirmed with the and approved by the Chief Judge Sutton of the United States Court of Appeals, the Sixth Circuit, that the mediators that they use would be available to us to help us in this venture. They'd be available immediately and it would not cost us anything.

Co-Chair Speaker Bob Cupp [00:05:33] Mediators provided by the federal court system is that?

Co-Chair Sen. Vernon Sykes [00:05:36] Yes, that work in the United States Court of Appeals, the Sixth Circuit.

Co-Chair Speaker Bob Cupp [00:05:47] So there you have it. That's our report.

Co-Chair Sen. Vernon Sykes [00:05:56] Mr. Co-chair, if I may, then I would make a motion that we did this by the commission, approved the two map drawers that we have recommended as we were instructed in our last meeting so that they can start working together to provide us with a map so that we map for the commission so that we can comply with the court order.

Co-Chair Speaker Bob Cupp [00:06:23] The motion, is there a second?

House Minority Leader Allison Russo [00:06:26] Second.

Co-Chair Speaker Bob Cupp [00:06:26] It's been seconded by Leader Russo. I will say that this is coming in here. Tonight is the first time that I've seen the resume for the Mr. McDonald, I think it is. So it was. I know we had several experts that were floated and I will admit that I was involved in other matters today. And so whenever the resumé came, I wasn't available to to look at it. So. So I don't really know much about him.

Senate President Matt Huffman [00:07:07] It's under discussion? So, Mr. Co-Chair?

Co-Chair Speaker Bob Cupp [00:07:14] Senator Huffman,

Senate President Matt Huffman [00:07:15] Yeah, certainly I didn't I don't know anything about Mr. McDonald, but I certainly accept the suggestions of co-chair Sykes. I would note for those who did not have an opportunity to talk to the suggested mapmakers by Attorney General Yost that they are not available for most of the time. They would be working at least after Friday, and I think one of them did not want to come to Ohio. So this gentleman who apparently are willing to come to Ohio and be here for this eight days that we have left, I think are preferable. But do we have, I guess, in complying with the court's order? The mapmaking is supposed to be done in public. And I mean, I say literally that means a room accessible to the public and is, I guess, what kind of instructions are going to be given to these folks in terms of who they can communicate with? Are they only communicating with our staff and or commission members, the members of the media, members of the Legislature, et cetera? I just think that needs to get clarified so that there's not kind of a confusion about that. And I'm not sure that we I don't think they're going to work tonight, but perhaps that's the subject of a of another meeting. But I think we need to clarify how those how that's going to happen.

Co-Chair Sen. Vernon Sykes [00:08:58] I think we had some discussion in our last meeting about the meeting with our map drawers, we had identified four of them as well that the staffs of the commission, at least one from each of the commissioners, those persons that we hold it in a public place that we possibly live stream the deliberations in that we would offer a place, a public place, one of our committee hearing rooms, possibly or theater that would be available and accessible to the public. As with most of these meetings, the co-chairs have worked out the details, but I think it's important, as you've mentioned, to have some general idea of how this will be conducted.

Co-Chair Speaker Bob Cupp [00:10:09] Chair recognizes Auditor Faber.

Auditor of State Keith Faber [00:10:11] Along those same lines, I just want to make sure we're all clear on what the obligations and goals are of what our map makers are going to do because it's going to change my concerns about who the quote unquote map makers are. My understanding is, is that what we're looking for is people essentially to move stuff around the map that we tell them to move. I don't I'm not looking for and I don't think the court suggested that we look for somebody to draw a map and then we we get to say, that's the map or that's the map were presented with. I think the court said we're going to draw a map. And so if the process is other than that, that these map makers are coming here to say, here's here's the map that we think you guys should adopt. I don't want to hear it. And candidly, that's not what I think our obligation is in this process. So if we're

picking people that are essentially going to sit around a table and say, OK, this is how you comply with two, three, four, five and seven, and then this is what you get to on Article six, and these are the options you can move left or right that we discussed last time working with our Gang of Seven, our gang of four, then that's fine. If it's going to be anything other than that, then I've got some questions, frankly, about both of these individuals who I know nothing about. And I would just start out with this one. Mr. McDonald was referenced is participating in a number of lawsuits as an expert witness. Did he or was he ever retained by any of the individuals involved as an expert witness that are involved in this set of litigation by any of the organizations or their affiliated entities and suing us? And who did he testify for? If he's going to hold himself out as an expert witness? And I'd ask the same thing of Douglas Johnson. I just looked at Mr. McDonald's résumé. He has a very interesting resume. But he has testified in redistricting cases all up and down. And so my guess is he has some opinions and I guessing those opinions are probably consistent with people on one side of this case or another. We heard objections that came from Leader Russo that may be a person who had done an analysis on the maps for for the Attorney General's Office may not be qualified or should not be allowed to do this. I'm questioning that in this capacity. Those concerns are much more mitigated and much, much less in the forefront of my concerns. If essentially we're bringing people in that know how to use Maptitude and know how to move districts around and know how to tell us what precincts can go where and not violate two, three, four, five and seven. I just want to make sure we're all clear on what the goal of the map drawers are and that they understand what their goal and roles are so that when we come in and say, Hey, we want to move this here, we want to move that there, we want to know what happens if that happens. It's a much different scenario. That's what I ask for a discussion on.

Co-Chair Sen. Vernon Sykes [00:13:19] I would if I could. I think it's clear that the court has made it clear that it should be a map that's produced by the commission and any map makers that we hire, retain are supposed to produce something for us. And we of course, always have the right and privilege to make any edits or any other requirements that we would like to have made during this during this process. I think that the court and the attorney general recognize that it could be beneficial to us to have some independent people assist us with this process and make a recommendation to us. And we still have the authority to make the final decisions or edits or tweaks to whatever's being presented by the outside independent consultants.

Auditor of State Keith Faber [00:14:25] My only response to be that is, OK. And I accept what you said because I generally agree that we're drawing the map. But my reading of the court's opinion was the court really wanted the commission to hire somebody to run the computers and do that, that work that before we had relied on either the staff that worked for the Democrat Legislative Caucus or the Republican legislative caucuses. OK, whether this is the person you hire and again, I'm much less concerned as long as we're hiring somebody to do the technical and that understand how maptitude works and understand the distinctions of the loading problems that we've heard about maptitude versus Dave's Redistricting in the precinct splits and all that stuff. That's all technical stuff that frankly, none of us are ever going to master. But if the person is coming in to give us some outside expertise on the foibles or joy of this concept in redistricting or another concept, I'm sorry that that's something that we hire experts to testify to us about, not to draw maps for us. And so to me, that's a very different analysis. So as long as that's the understanding, I don't object to either one of these two individuals who I know nothing about. But if we're coming with some other expertise in some other idea that I need to know a lot more about both of these two individuals.

Co-Chair Speaker Bob Cupp [00:15:47] Leader Russo,

House Minority Leader Allison Russo [00:15:50] Thank you, Mr. Chair. I think, you know, to echo what I think I'm hearing from the auditor, just to say that, you know, certainly my expectation is not that we give both the Constitution and the court decisions which should guide any mapmaker, regardless of whether they're independent mapmakers or ones that we are part of our staff, that they go off, produce a map in a black box and they come back to us to report. I don't think that that is neither what any of us seek to achieve, nor is it in the spirit of the court's decision that very clearly laid out that this should be happening in public. So I personally have envisioned this, and I'm not sure if this is in line with the rest of the commission is that this is number one. These two individuals are working together. They come with the technical expertise they are following with the Constitution and the court order have directed. But there will be decision points in discussion that they will need us to weigh in and and there will be multiple as I suspect there are multiple ways to accomplish this. And there, as we've seen in various iterations of maps that have been presented to this commission, that we will need to weigh in on. So I don't think that this is just sending them off to make a map and come back to us. I think that this is very much a they are helping us implement as a commission and coming with their technical expertise, but using the Constitution and the court decision as the guidance.

Co-Chair Speaker Bob Cupp [00:17:32] Further discussion. Secretary LaRose.

Secretary of State Frank LaRose [00:17:48] Yeah, thanks, Baker. And just something to add, and I think that the two individuals that have been recommended, I'm sure, are highly qualified and very purposeful and hardworking and all of that. That doesn't change the fact that we have an enormously complex process with enormously complex rules here in Ohio that are, you know, require a specialized skill. We've got four people that have that specialized skill. Those are the the two very hardworking staffers that have been working for the Republicans and the two very hardworking staffers that have been working for the Democrats. I think that those four individuals are skilled and know this process better than really anybody. And I think that whoever the outside map makers are that we hire should also work together with the four staffers that we have maybe even all six of them in a room together, quite honestly, because I think that's the best possibility, and I remain skeptical that this is going to yield a workable result, but that's the best possibility that we could get that done.

Co-Chair Speaker Bob Cupp [00:18:53] Further discussion.

Governor Mike DeWine [00:18:56] Mr. Chairman?

Co-Chair Speaker Bob Cupp [00:18:57] Governor DeWine.

Governor Mike DeWine [00:19:00] What do you think as both the chairs i the timing of these two individuals hitting Ohio and being able to start work? And I'm I'm curious about that, obviously, because we're in a hurry. But second, you know, we may want to before they really get too far into it to have them actually in front of this panel or commission? So there is an understanding of how this is going to work. I mean, I guess I would understand it to be that it's it's a continuous process that they would come back to us with different issues at the appropriate at the appropriate time and that we certainly should have the ability to go into the map room at any time and check on how they're doing and what the

progress is and what they foresee the issues to be. So I guess the question is what what is the timing and if, if, if the two of you if you know, I mean, I know.

Co-Chair Sen. Vernon Sykes [00:20:16] If I could co-chair, I have also distributed a suggested timetable for our meetings. And I believe a copy was sent to everyone. If not, let's make sure we have that? and on Wednesday, at five o'clock was the time that I thought would be give them time to get in here and get to get together in time for our meeting at that particular meeting, for them to make initial presentations, introductions for us to to exchange expectations and so forth.

Co-Chair Speaker Bob Cupp [00:21:04] OK, I think the proposal was just being circulated now. I have not seen it. I'm just thinking out loud while it's being distributed, whether we want to have a written description of what we were expecting them to do so that they know and we know what it is that we are asking the experts to do.

Co-Chair Sen. Vernon Sykes [00:21:35] I think that would be appropriate on the for the meeting on Wednesday to to have them as well. I think that would be good.

Co-Chair Speaker Bob Cupp [00:21:45] It might be better to have it before then. So they know if whatever it is, if that's something they're willing to live with, I guess. So I mean, I I don't know how they'll come thinking about this. I do know that Mr. Johnson indicated that he was available for a variety of ways that we wanted to do it. So I did. Since I've had a discussion with him, my I think I understand that Mr. McDonald, I do not know, of course.

Co-Chair Sen. Vernon Sykes [00:22:17] And one suggestion I might have co-chair is that on tomorrow morning for our meeting tomorrow morning, it could be a part of it could be a work session of where we actually put that statement together based on some, I'm sure, in advance each of us or may have some ideas of that we can exchange of ideas in advance. But to have a work session tomorrow morning for our regular scheduled meeting time at 9:00 a.m. to kind of work out that that arrangement.

Co-Chair Speaker Bob Cupp [00:23:01] It's certainly a possibility.

Senate President Matt Huffman [00:23:09] Mr. Co-chair. I guess I'm I'm wondering about the governor's question is, is are the map makers are, I assume, are even though this paper says tomorrow morning at nine co-chair Sykes, you're suggesting they'll be here Wednesday?

Co-Chair Sen. Vernon Sykes [00:23:26] Wednesday.

Senate President Matt Huffman [00:23:27] OK. All right. So that, I think, answers the governor's question, right? We're talking about the map makers being here Wednesday.

Governor Mike DeWine [00:23:34] The answer is they cannot be here till Wednesday. Is that what I think?

Senate President Matt Huffman [00:23:37] I think that's

Co-Chair Sen. Vernon Sykes [00:23:40] From what we've been able to figure out so far. Yes. OK.

Senate President Matt Huffman [00:23:44] One in Florida and one in California, right? I believe, right?

Co-Chair Sen. Vernon Sykes [00:23:50] I believe so. OK.

Co-Chair Speaker Bob Cupp [00:23:52] Leader Russo.

House Minority Leader Allison Russo [00:23:54] So I think my understanding is probably tomorrow as a travel day for Italy. Mr McDonnell, given that it is eight o'clock now on a Monday evening, so they will, I assume, probably both be arriving tomorrow. So I think it's fair to expect that on Wednesday they would be available in front of this commission. But certainly that does not prevent us from meeting in the morning to talk about, you know, specifically what our expectations are for each of them, at least in my conversations with Mr MacDonald. I think he is very flexible, has worked in a variety of different circumstances. So whatever the expectations are of this commission, he is adaptable to because he has worked in several different settings and scenarios to be able to do this kind of work.

Co-Chair Speaker Bob Cupp [00:24:46] I did not ask Mr. Johnson when he could arrive here. I asked him whether if he if he was willing and able to come to Ohio, and he said he was. So, I'd have to follow up with to see what timetable might be. I'm just checking your

Auditor of State Keith Faber [00:25:13] While we're looking at our schedules. And maybe it's because the auditor in me has some fiscal questions. I first question who's retaining these folks and what are they charging us? Those people who are coming in generally aren't doing it for the goodness of their heart. And if they are, then I have a question about that because usually they're they have some other interest. And then secondly, who's responsible for paying them? And then do we have a state contracting issue? I assume these are likely going to be fairly expensive items. And do we have a controlling board issue or how are we going to get this approved? I'm just curious whether anybody run those traps to ground. Whether we have to do an RFQ, an RFP usually if it's under \$50,000, we don't, but do we have to run it past controlling board for approval? Do we have to? And, and, and so I just asked that question before we agree to commit to something that we may or may not have authority to do.

Co-Chair Sen. Vernon Sykes [00:26:20] I can help you co-chair. Leader Russo,

House Minority Leader Allison Russo [00:26:27] Thank you and thank you, Auditor Faber, for that question. I have actually looked into this a little bit and we do have some experience actually as a commission approving staff and expenses. We've got about \$70,000 that is left for this commission. So, you know, again, we can vote to approve this expense and we've got that remaining in this commission's budget. We also have close to \$4 million that is left in the task force budget. I've already spoken with my co-chair, Senator McColley. And you know, if there are needs of this commission, we can very quickly issue the allocation of necessary funds. We have actually done a contract through that process that was fairly quick and we can certainly set the limit at forty nine thousand from each of those components if necessary. So I'm saying all of that to say that we can issue those contracts fairly quickly. Have LSC take a look at it, which is what we've done before when we hired our consultant and get the necessary funds allocated.

Auditor of State Keith Faber [00:27:47] I would just like, again, those funds may be there, I have no idea. Again, we've had no role other than the co-chairs in allocating funds in this process. I just want to make sure I mean, as I've been reminded, apparently we passed good government legislation to make certain exemptions for some of these contracting requirements for the General Assembly. There's a General Assembly is the one that's making the contracts through the the task force budget or wherever you have some authority and discretion. Regular state agencies do not. So I just want to make sure whatever we're doing, we're doing in a transparent manner and we're making sure we're doing it correctly. And then frankly, I don't have a clue of what these people expect to be paid. But for somebody getting on a plane from Florida or California and bring a team here or whatever they need is not going to be inexpensive because it is a short duration, even inexpensive, maybe relatively affordable. But I just want to make sure that's transparent and that we all know what that is. The other thing I would ask is that both of these two individuals. Make a conflicts disclosure specifically about and frankly, we can hire them knowing they have a conflict, but we need to know what those conflicts are. It's just been handed to me that one of these gentlemen testified in a case as an expert witness for the League of Women Voters who was a party in this action. And I go, I just ask that question because we need to know those conflicts as all lawyer friends on this board know we can waive conflicts, but you can't waive a conflict you don't know about. And in that regard, I just ask that we have a conflict disclosure from the two individuals.

Co-Chair Sen. Vernon Sykes [00:29:27] We can consider it a friendly amendment, we'll add to it, for sure.

Co-Chair Sen. Vernon Sykes [00:29:43] So Leader Russo.

Co-Chair Sen. Vernon Sykes [00:29:44] Sure, just as a quick follow up to that and to let you know that we have reached out also to LSC just to make sure that, you know, the proper procedures are followed so that we get this these contracts and make sure that the payment is is all certainly appropriate. Regarding, you know, the the rates. We do have some idea based on what the attorney general with the two potential options that they had that he had reached out to. We at least have an idea of what was negotiated with those individuals, so we at least have a threshold. I would say, I dare say that probably neither of the co-chairs has yet talked about rates with these individuals. So I hesitate to even throw anything out there at this point without having that discussion first. But we at least know from the attorney general's previous discussions what I think would be reasonable to expect from these individuals.

Auditor of State Keith Faber [00:30:54] I don't know what that is.

Senate President Matt Huffman [00:30:56] You know, Mr. Chair, Co-Chair, I don't. Auditor just mentioned I don't know what those suggested rates either were. But just just to be clear. Speaker Cupp and I had a conversation with these two individuals yesterday afternoon, and I believe leader Russo and Senator Sykes did. Also, just to be clear, those two individuals, one was in California and made it clear he's not traveling to Ohio for this. So I just know the out of town rate is usually not as much as the, I'm going to sit in my kitchen and work on my computer rate, the other individual who happens to be local, from nearby Delaware County. He was not able to work after three o'clock for a variety of reasons, and both of them after Friday were not available. So. And I also, after kind of some inquiry, believe that they were not really familiar with the frankly extraordinary constitutional requirements that we have in Ohio that I I think you might ask Mr. Glassburn

or some of the others that really other states don't have. They weren't really familiar with that, nor the details of the Supreme Court decisions. So whatever it is that they were quoted, they probably like a lot of things, sometimes you get quoted prices and they say, Oh, I didn't know you wanted five bathrooms. I quoted you only two bathrooms in this house, so. But the point remains, I guess, that we we should try to figure out what the cost is and the contracting complexities and those things. So but you know, just I want to make that point.

Co-Chair Sen. Vernon Sykes [00:32:46] Additional point. I'm glad you raised that issue. Those issues have been delegated to the co-chairs. Previous contracts and we will do our due diligence to make sure we comply with all the necessary requirements.

Co-Chair Speaker Bob Cupp [00:33:05] It would seem to me that would be prudent that rather than proceeding with the resolution today that we ought to try to get the answers to these questions and bring them back to the commission tomorrow with the what the cost is, when can they be here? What is the the technical requirements for signing the contract? Where does the the the money appropriately come from? What kind of conflicts disclosure should we have? And as well as what is in these some written description of what it is we're asking them to do. So I don't know that we can determine all of that right now. I'm not sure how best to do it by nine o'clock tomorrow, but I mean, it's a lot of a lot of information now. Maybe, maybe you've already done some and LSC can provide that fairly quickly. But it would seem to me that it would be better to have all this in order before we proceed with actually hiring anybody.

Governor Mike DeWine [00:34:14] Chairman.

Co-Chair Speaker Bob Cupp [00:34:15] Governor?

Governor Mike DeWine [00:34:15] I certainly understand all that. I just I hope that we're able to communicate to them that all likelihood they're going to be hired. I'd hate to lose another day. I mean, if we're into tomorrow and we don't know until whatever time, then they've got to make flights and then we push it back another day. I'm just I'm just concerned about the time here, so.

Co-Chair Sen. Vernon Sykes [00:34:44] I agree with the governor, I am concerned about the time on a very short fuse and we have the funds, the ability and guidance. And I think we should move posthaste ahead. I think it's important for us to keep on schedule so that we can comply with a court order.

Governor Mike DeWine [00:35:09] Mr. Chairman, I did not mean to say that we should not do this, wait until 9:00 to do it, but I just hope that we're in contact with both of them and make sure that we're getting flights booked in or they're getting flights booked. And we're we're moving forward. I'm just I'm concerned about losing another day. That's my concern. So I don't mind waiting till tomorrow to voting on it. That's fine. But I just don't want I don't want to lose another day here.

Co-Chair Speaker Bob Cupp [00:35:37] So I was suggesting they you try to gather as much of that this evening as possible and so that we're ready tomorrow. If we if we can be and I guess we're going to meet tomorrow to maybe review what it is their scope of work is which we've talked about in generalities, but not in really any kind of specific. Leader Russo?

House Minority Leader Allison Russo [00:36:00] Mr. chair. Yes. You know, I I would say I'm not in agreement that we should delay at least voting on the selection of these two individuals. I think certainly by tomorrow morning, we can talk about the specifics of what our expectations are. But you know, I feel like we sort of punted this a little bit on Saturday. We didn't meet yesterday to talk about this. We're now going to punt this again to tomorrow morning. Don't know if we're going to vote on this tomorrow morning and move forward with this. We need these individuals to begin to make plans to be here so that we can begin work on a map. We now are one week out from the deadline and the more we turn our wheels here. You know, the more. I just think this delay is not a wise move. Let's at least vote. There's a motion on the floor to agree with who the vote selections from the co-chairs will be. And then we can move forward with some of the details in the morning so that we have everything lined up. But I think that it is important that we keep moving forward in this.

Senate President Matt Huffman [00:37:17] Mr. Co-chair. Just a suggestion we can contact these individuals tonight, say we expect to approve them tomorrow morning at nine o'clock with an expectation that they're going to be here Wednesday at 5:00. But for the formal approval tomorrow, we need to have some information what they're going to charge. And sometimes if you hire somebody and they get to say how much you're going to charge, you know, but but we need to know these things. We need to know about conflicts that the auditor raised. We'd like to have all that information. We expect to formally approve the contract based on the information we are likely to get, which is a reasonable price. No conflicts that are significant that they can be here in person on Wednesday to present to the commission or answer questions. You know, with the folks that the attorney general suggested, that sounded like a good idea until we talked to them and we found out they couldn't be here for most of the time. So if there's going to be conversations with these gentlemen tonight or shortly and we can affirm the information that we're thinking is likely that they're we want to pay what they want to do, that they can be here, that there aren't any significant conflicts that they're. And I understand the charge, so to speak. So I don't think something's going to happen between now and tomorrow anyway, and we don't expect them to be here till Wednesday at 5:00, so.

Co-Chair Speaker Bob Cupp [00:38:58] Leader Russo,.

Co-Chair Speaker Bob Cupp [00:38:59] Thank you, Mr. Chair. Is there a reason that we can't recess for about 45 minutes to have these conversations? I think both of us, both co-chair Sykes and you are probably in very direct communication with each of these individuals to be available to clarify some of these questions pretty immediately.

Senate President Matt Huffman [00:39:22] Not me,

Co-Chair Speaker Bob Cupp [00:39:24] We could try. I had a phone conversation earlier in the day with Mr. Johnson. I can certainly see if he's available. But I mean, there's no way to know whether he really is or not. If we want to recess, I mean, I have no objection, anybody else have a thought on it.

Auditor of State Keith Faber [00:39:52] My only thought on the recesses are we really do anything by recessing tonight and talking to them versus coming back tomorrow morning, talking to them. I'm more concerned. I mean, frankly, I'd ask them to get in here Wednesday morning and start working with our Gang of four Gang of Seven to maybe give

us some draft ideas so we can start the process of looking at central Ohio and then looking at northeast Ohio and then looking at other places, maybe at our meeting on Wednesday to make that more productive Wednesday evening. But I think certainly. The conversations tonight would be, but for something that doesn't work out in this, we anticipate finalizing the request to hire you tomorrow. We expect you to be here Wednesday morning with the expectation that Wednesday night we can have a meaningful discussion. I think we could do that just as easily tomorrow's breaking today, but I don't care if we can get an answer in 45 minutes. We can come back, but I doubt you're going to get an answer on the conflicts. I doubt you're going to get an answer on some of those things until they have a chance to pull all that together. But but I maybe I'm willing to stay to midnight tonight, I don't care.

Co-Chair Sen. Vernon Sykes [00:41:00] And that's unless we take the recess.

Co-Chair Speaker Bob Cupp [00:41:04] All right. If without objection, we will recess for when we just recess for an hour. See if we can get in touch with it. And in the meantime, maybe anybody whose office has some forms, a conflict disclosure form try to get some information on what their requirements are for actually contracting, what kind of documents and time. To do list of things that you. Yep. So Commission will recess till nine 9:30.

Co-Chair Speaker Bob Cupp [00:41:40] Redistricting commission will come back to order. I would ask. Well, first of all, report that I was able to get a hold of Mr. Johnson and he is able to arrive here Wednesday, subject to airline schedules as to particularly when on Wednesday and willing to sign a disclosure of conflicts form that we talked about and compensation was was suitable. So at this point, we have a motion pending. Could we have the motion restated?

Clerk [00:42:19] Restate the motion for the two mapmakers?

Co-Chair Speaker Bob Cupp [00:42:20] Yes, please. Go ahead. Go ahead.

Clerk [00:42:25] Co-Chair, Speaker Cupp

Co-Chair Speaker Bob Cupp [00:42:27] what can you say? So what is the motion? It's for understand that's that's all right. You're doing fine.

Clerk [00:42:34] I'm learning this. It's great. The motion was to have the two makers, sorry,.

Co-Chair Sen. Vernon Sykes [00:42:45] The motion was to approve the recommendations of the two map drawers recommendations of the co-chairs to be retained by the commission to complete the work that we have ahead of us.

Co-Chair Speaker Bob Cupp [00:42:57] And there was a second to that. Is there further discussion on the motion? Secretary LeRose.

Secretary of State Frank LaRose [00:43:08] Yeah, so thank you, co-chair. As I'm trying to learn more about these folks that we're talking about here, it got me curious to dig in. It seems as though Michael McDonald has some affiliation. Maybe he's a on retainer with or has some affiliation with Marc Elias. That's deeply concerning to me. Basically, anybody who's affiliated with that person, somebody I don't want to do business with, but it tells me that we don't know a lot about these people. For one, I guess go back to the comment that

I'd made earlier that we've got for really good map drivers that know this work. And when I was looking at what the court order said, it says the commission should should, shall whatever. The commission should retain an independent map driver who answers to all commission members. It seems to me that we could take the four people we've got, put them on the commission payroll and get them to work tomorrow morning. They already know the process and they could pick up their computers, move them into a room somewhere in this building and start working together and be paid by the commission for the next seven days or whatever else. Just a just a thought. I want to put out there for conversation.

Co-Chair Sen. Vernon Sykes [00:44:23] Leader Russo.

House Minority Leader Allison Russo [00:44:24] Yes. Thank you, Mr. Chair. I just want to clarify that we have specifically asked Mr. McDonald about any potential conflicts. He has confirmed that he has no current conflicts with the current litigants in the Ohio redistricting cases. There may be some confusion. He is working with the Florida League of Women Voters on a state election law issue, not on a redistricting case there and not with the Ohio League of Women Voters. I will also note we actually didn't know this until we were just talking with Mr. McDonald or Dr. McDonald. Rather, that actually he and Doug Johnson, who is who you all have put forward, have actually worked together in Arizona for the independent commission to defend Republican crafted maps. In fact, he's worked for both Republicans and Democrats, specifically defending Republican maps in Maryland and Virginia. And then, of course, in Arizona with Mr. Doug Johnson. So I actually was pleasantly surprised to find out that these two have worked together before in the past. And I think certainly if we started digging down, I think, you know, even with Mr. Johnson, I believe that he's been a consultant with one of the attorneys retained in this case as well. So again, as I said yesterday, I think we're going to have a hard time finding any single person to do this who doesn't have some bias coming into this. The point of us each being able to make recommendations is to balance that. And again, I remind you that these individuals work for the commission and they will be working with all commissioners and at the direction of the entire commission.

Co-Chair Speaker Bob Cupp [00:46:17] Further discussion?

Co-Chair Speaker Bob Cupp [00:46:19] Again, I would just reiterate my request that we have a complete conflict disclosure of any and all law firms, any times that they work for any of the law firms involved in the current litigation or any of the times they work for any of the parties to litigation or the people funding the part of this litigation, including specifically the League of Women Voters, the ACLU, the Holder Group and the like. The fact of the matter is as long as everybody comes into this with the understanding that these these gentlemen are only going to be executing the suggestions of this committee and will not be independently operating or communicating with outside parties. Once they start working for us. If I were to hear they talk to any of these outside law firms or any of the parties, I would consider that a first level conflict of interest. And from that perspective, as long as we're under that clear assumption that they're independently working for this commission, I will. We'll go for it. But I have real concerns hearing somebody is working and has a history of working for the parties that are suing us and their purported to be independent. I would love as a lawyer to have my former experts be the ones that are called on by my opponent in the litigation. What a great concept.

Co-Chair Sen. Vernon Sykes [00:47:44] Co-Chair, I would also say that in talking with Mr. McDonald, what we found is he confirmed that he has no current conflicts with the current litigants at all and is willing to and of course will sign any conflict disclosure statement at the time of who we contract with him.

Co-Chair Speaker Bob Cupp [00:48:14] So is our standard current conflict with any of the current parties as opposed to having had employment or arrangements with the parties before they became current? We saw before the litigation, so the case so that I think that's an important point here, and I have no idea know whether there's any conflict or not. I'm just.

Co-Chair Sen. Vernon Sykes [00:48:51] Well, Mr. Co-chair, I think it's important we had an hour recess, in this time we were able to answer any questions that we could bring about polls to him, but also was willing to sign a disclosure conflict disclosure statement that would be more comprehensive. Yeah, know. Usually that's what happens when you have a contract, you'd have documents that are required that you have to comply with, and he's willing to do that.

Co-Chair Speaker Bob Cupp [00:49:21] So and I think that's fine. I don't have a I don't have a problem with that. We have a full and complete disclosure.

Co-Chair Sen. Vernon Sykes [00:49:31] I think we have that.

Senate President Matt Huffman [00:49:34] Yeah, I mean, on the issue of conflict there, I think there are different standards. For example, attorneys who have represented a party in the past may represent a party against that party if the cases are unaligned or if there is a waiver by their client that they formally represented. I don't think there's that kind of restriction and this is in the legal world. I know this is a unique process, but because an expert witness was was my expert witness in the past and this has happened doesn't mean they can't be someone else's expert witness. Now if it's an expert witnesses, as the Auditor has mentioned many, many times. You know that that's is interesting. I do have the same expert CPA in Lima, Ohio. He's testified for me many times in many different kinds of cases, but in other expert witnesses who have testified, but it doesn't mean they can't go testify for the other side. So I think the key here is that that they disclose. And ultimately, I suppose the commission and if we need to, we could ask them about this Wednesday when they're here right at five o'clock Wednesday, I think is what we're talking about the time being. And we can ask them and see if there's anything that we think would be disqualifying at that time. But you know, we're going to recognize that if you're going to get people who are very good at this, they probably have a pretty extensive background and they've worked for for a lot of different people. So I think we just let that question pend for a while or until they're here and we can ask those specific questions. But good question by the speaker. We can't just be. Is there a current conflict? Is there a disqualifying conflict in some time in their background and, you know, if it's years ago? Well, what difference does that make now if it was six months ago? Maybe it does make a difference, so we just have to ask those questions.

Co-Chair Speaker Bob Cupp [00:51:39] Further discussion on the motion. Auditor Faber.

Auditor of State Keith Faber [00:51:42] And again, while I want to know about the conflicts, my primary goal towards getting to a point where we can overlook the conflicts is having these two gentlemen both understand that they work for the commission as a

whole. One of them, I'm told, sent a Twitter message out that he was about to be hired by the Democrat members on the Redistricting Commission. We're not hiring a Democrat and a Republican. We're supposed to hire independent. And the independents are supposed to work collectively for the group. And as long as that's our understanding, as long as we all have access to them, as long as we can continue to go forward in that capacity, I'm less concerned. As long as I'm assured that we're not having backroom conversations with the litigants, that we're not having other discussions that they truly, oh. I hate to use this term, but their employment loyalty feel, what is it?

Senate President Matt Huffman [00:52:33] Fealty.

Auditor of State Keith Faber [00:52:33] Fealty to the commission? I'm less concerned, but I just want to make sure we're clear on that. Based on the information that's already been out in the I guess we call it the metaverse,

Co-Chair Sen. Vernon Sykes [00:52:46] we have an additional hand out. We kind of outlined some of those issues.

Senate President Matt Huffman [00:52:50] Could I just make a comment or ask a question, I guess?

Co-Chair Speaker Bob Cupp [00:52:54] Senator Huffman.

Senate President Matt Huffman [00:52:56] Do I? I don't have Twitter on my phone. I know I'm supposed to, but I don't have time to keep up. I just read newspapers like guys my age do. If I understand what the auditors said. One of these folks tweeted out tonight that tonight that they were been hired by the Democratic members. Is that the.

Auditor of State Keith Faber [00:53:25] Personal News, I've been put forward as a map drawer of Democrat members of the Ohio Redistricting Commission. The Republican member put forward is Doug Johnson.

Senate President Matt Huffman [00:53:33] OK, well, so that's probably accurate, right? Put forward by the Democrat members. So that's probably accurate. I guess, I guess that's the other thing I would ask is during this process. How about if nobody tweets what's going on unless it's completely public process and they should be tweeting, I don't know. But we ought to have those ground rules figured out the next the next day or so. This is why I should have Twitter on my phone, right?

Co-Chair Speaker Bob Cupp [00:54:08] All right, there's a further discussion on the motion to hire these two experts? Hearing none, hearing no additional discussion. Is there any objection to hiring them? Without objection, the motion will be agreed to the next item is the schedule. Several members have asked me if they could have until tomorrow morning to look over the schedule to see how it compares with their schedule and adopt it at that time, if that's OK. Tomorrow at 9:00. All right.

Co-Chair Sen. Vernon Sykes [00:54:48] Mr. Co-chair the other item is the dealing with the mediators. The chief mediator of the Circuit Court, could be available tomorrow at our meeting just to ask questions or give us information about mediation in general or what kind of services could be offered through their organization, if you if it could be helpful.

Co-Chair Speaker Bob Cupp [00:55:17] Are they willing to come here? Are you suggesting we see if they're able to come,

Co-Chair Sen. Vernon Sykes [00:55:23] They're able to come.

Co-Chair Speaker Bob Cupp [00:55:24] All right. I think that would be fine if they want to provide information on what they do. Any objection to that,.

Senate President Matt Huffman [00:55:31] I could... [inaudible]

Co-Chair Speaker Bob Cupp [00:55:33] Would you want to restate?

Co-Chair Sen. Vernon Sykes [00:55:35] The chief of the mediators for the Circuit Court is available tomorrow morning at 9:00 to come in and just make a brief presentation about the services that could be offered.

Senate President Matt Huffman [00:55:50] OK.

Co-Chair Sen. Vernon Sykes [00:55:53] Without objection. If you want to contact them and invite them in, that would be that would be fine. And you've also passed out a draft description of the scope of map drawers. I think members can look at this till tomorrow morning. We'll talk about it then. All right. Is there any further business to come before the redistricting commission at this time? I think we are scheduled to reconvene tomorrow at nine a.m. and without objection. The commission is adjourned until 9:00 a.m. tomorrow.

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EXHIBIT 10

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IN THE SUPREME COURT OF OHIO

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

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 : **Case No. 2021-1198**
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 : **Prac. R. 14.03]**
Respondents. :

The Ohio Organizing Collaborative, *et al.*, :
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Respondents. :

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

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House Speaker Robert Cupp**

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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 am the State Senator for Ohio's 28th Senate District.

2. I serve as a commissioner on, and co-chair of, the Ohio Redistricting Commission ("Commission"). I am the only Black person and person of color on the Commission. I serve as a representative of the Democratic Party, along with House Minority Leader Allison Russo (together, the "Democratic Commissioners"). The remaining five Commissioners are Republicans (together, the "Republican Commissioners"). I was sued in the above-captioned case and am a named Respondent. The Ohio Supreme Court, however, has recognized that my interests align more with the Petitioners than that of the Commission or the Republican Commissioners. Opinion 2022-Ohio-65, ¶ 66.

3. I submit this affidavit in response to the Court's March 16, 2022 order to respond to the Petitioners' renewed motions for an order directing Respondents to show cause as to why the Commission and Respondents should not be held in contempt.

4. In addition to this affidavit, I have filed three other affidavits in these proceedings, each of which detail my efforts throughout the redistricting process to comply with the Ohio Constitution and all the orders of this Court, which are incorporated by reference. *See* March 3, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Petitioners' Objections; February 23, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Court's February 18 Show Cause Order; Jan. 28, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Petitioner's Objections.

Introduction

5. It is with great disappointment that I file this affidavit with the Court. Yet again, because of the actions of my Republican colleagues, I find myself asking this Court not to hold me in contempt.

6. At every step I have worked diligently to comply with the Constitution and this Court's orders. Among other things, described in greater detail below, I took the following actions: (1) pushed the Commission to meet early and often; (2) encouraged the Commission to utilize independent mapmakers and mediators; (3) pressed for a transparent process; (4) voted for the independent maps because they satisfy all the constitutional requirements; and (5) resisted—albeit unsuccessfully—the hijacking of the process by Republican Commissioners, all of which disparaged the independent mapmakers' efforts and four of whom adopted an unconstitutional map over my dissent.

7. In many ways, the Commission's process following this Court's March 16, 2022 order was a model of cooperation and transparency—one that should have transpired from the outset, but, even if belated, was still an encapsulation of the fair mapping process the Ohio voters mandated in Article XI of the Ohio Constitution. The Court made several strong suggestions in its March 16 order: hire an independent mapdrawer to draw the maps, draw the maps in public, and do not let the partisan mapdrawers control the mouse. Opinion, 2022-Ohio-789 ¶¶ 30, 44 (“*LWV III*”).

8. And the Commission listened. The Commission hired independent mapdrawers to work on behalf of *the Commission*, not any party. The Commission (at least at first) ordered those mapdrawers to follow only Article XI and this Court's orders. And those independent mapdrawers

worked in public—their every discussion with staff or Commissioners, click of the mouse, and late-night work sessions viewable via livestream on the Ohio Channel.

9. Through these collaborative efforts, the independent mapdrawers drew General Assembly maps that satisfied the Constitution, as delineated in this Court’s orders.

10. As detailed below, I both led and supported all of these efforts to have independent maps, even in the face of the Republican Commissioners’ stall tactics and pessimism regarding the independent mapdrawers’ ability to complete the task. And I voted for the independent mapdrawers’ plans.

11. But the Republican Commissioners were more concerned with protecting their supermajority than following the Constitution, this Court’s orders, and their duty to the public. Rather than adopting the independent mapdrawers’ plans, four of the Republican Commissioners unilaterally adopted new General Assembly maps on March 28, 2022 (the “Fourth Plan”) that is nearly identical to the last one (the “Third Plan”) that this Court found unconstitutional on March 16, 2022. *LWV III* ¶ 44. I did not vote to adopt those maps because I believe they violate Article XI of the Ohio Constitution, as well as the Ohio Supreme Court’s orders.

12. It is with sadness that I report that this Court’s suggestion—to hire independent mapmakers who draw the maps in public—and clear orders regarding proportionality and symmetry, were not enough for my Republican colleagues. But I am also hopeful that, with an aggressive order from this Court, we can return to the independent mapdrawers’ plans, finalize them quickly (to the extent any finalizing is even necessary), and have a constitutional plan for Ohio’s voters. We have made so much progress, and I still hope that—with this Court’s further guidance—we can deliver constitutional maps to the people of Ohio.

The Democratic Commissioners Worked Diligently to Schedule Frequent Meetings and Hire Independent Mapdrawers and Mediators Upon Receiving the March 16 Order.

13. **Wednesday, March 16, 2022.** As urged by the Democratic Commissioners, the Ohio Supreme Court invalidated the Third Plan in an opinion and order published at approximately 9:45pm on March 16, 2022.

14. That order, as I understand it, set forth important mandates and guidance to the Commission that I diligently worked to follow throughout the process.

15. *First*, it invalidated the Third Plan in part because of the “gross and unnecessary disparity in the allocation of close districts,” as the Third Plan had 19 so-called Democratic-leaning House districts and 7 so-called Democratic-leaning Senate districts that were in the 50 – 52% margin, and no such Republican-leaning House or Senate districts. *LWV III* ¶ 43. That meant, going forward, the Commission needed to draw a plan that met the 45-54 proportionality ratio, as close as possible while complying with Article XI, §§ 2, 3, 4, 5, and 7—but in doing so, competitive seats of between 50 and 52% needed to be symmetrically allocated and not be so one-sided against either party.

16. *Second*, the Court ordered the Commission “to be reconstituted and to convene and that the commission draft and adopt an entirely new General Assembly-district plan that conforms with the Ohio Constitution, including Article XI, Sections 6(A) and 6(B).” *LWV III* ¶ 44. Based on the Court’s reasoning, I understood this to be a command that the Commission as a body, rather than partisan staff, draft the General Assembly plan.

17. *Third*, the Court told the Commission that we “should retain an independent mapdrawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan.” *LWV III* ¶ 30. I thought this was an excellent way to move forward and

could take the partisan influence out of the process—an independent person (or persons) could “draft a plan.”

18. *Fourth*, the Court mandated a “transparent process,” including that “drafting should occur in public” and that “the commissioners should convene frequent meetings.” *LWV III* ¶ 44.

19. The Court gave the Commission a deadline of March 28 to file a new plan with the Secretary of State and until March 29 at 9:00am to file the plan with the Court. *LWV III* ¶ 45.

20. **Thursday, March 17, 2022.** First thing in the morning, I spoke with the Senate Minority’s legal counsel to discuss the opinion and asked them to work with me in getting the Commission to comply with the Court’s order. Then I attempted to reach Co-Chair Speaker Cupp to discuss reconvening the commission, setting frequent meetings, hiring independent mapdrawers, and otherwise work to comply with the Court’s March 16 order. When I finally reached Co-Chair Cupp in the afternoon, he was noncommittal as to taking any steps, including the basic step of when he would agree to call a first meeting of the Commission.

21. Later that afternoon I sent a formal letter to Co-Chair Cupp and the rest of the Commission reiterating the points I had made in our phone conversation; namely, that we should have frequent meetings, that the public should be notified in advance of those meetings, and that the process should be transparent. I specifically suggested that we retain independent mapdrawers and mediators. That March 17 letter is attached as Exhibit A.

22. **Friday, March 18, 2022.** In the late morning, I spoke with Co-Chair Cupp, and he agreed to schedule a Commission meeting for Saturday at 2:00pm.

23. That day, we also received a letter from Attorney General Yost discussing his suggestions for “steps forward” given the March 16 Order. Specifically, Yost encouraged daily meetings and drafting maps in public. He also stated that “[t]he Court directed the commission to

hire new mapmakers not beholden to either political caucus,” and, to that end, explained that he had retained Sean Trende, a Republican analyst, and Bernie Grofman, a Democratic professor of political science, to help in the mapdrawing process. Attorney General Yost’s letter is attached as Exhibit B.

24. The Attorney General, as “chief legal officer of the state” also articulated what was and was not permissible in drawing a new map. He explained to us that the Court “established <52% as the threshold for a ‘leaning’ district; any index less than that is viewed by the Court as a competitive district,” and are “excluded[d]” from the proportionality calculation. And he told us that “efforts to protect incumbents are improper” and, citing the Court’s opinions, ““can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A).”” *Id.*

25. **Saturday, March 19, 2022.** The Commission met for the first time after the order on March 19, 2022. At that meeting, the Commissioners discussed several possibilities of moving forward; some appeared to want to move forward solely with the partisan staff drawing. I pushed for hiring independent mapdrawers, in accordance with the Court’s suggestion. However, I was concerned that the Commission would not agree on a single mapdrawer and agreed that we could hire two independent mapdrawers, one selected by each caucus of the Commission. Though each mapdrawer would be selected by a caucus, they would both be independent and work for the Commission as a whole. I also suggested hiring a mediator in case disagreements arose.

26. President Huffman noted that one advantage of having independent mapdrawers is that they are not “beholden to anyone in particular” and do not know where any incumbents live. Acknowledging that the Court had singled him out for his previous prioritizing of incumbency, President Huffman stated: “I think [prioritizing incumbency] was also criticized by the court [and]

that we should not consider incumbency in drawing these maps. So, I just want to kind of get that out.” Tr. 3/19/2022 at 46:22.

27. Co-Chair Cupp expressed that he was “skeptical” regarding mediation, pointed out a number of “practical concerns” regarding the process, and hoped that Commission “members aren’t being overly optimistic.” Tr. 3/19/2022 at 1:00:44

28. At the conclusion of the meeting, the Commission authorized the co-chairs to make recommendations to the Commission regarding hiring independent mapdrawers and mediators. And the Commission scheduled three upcoming meetings: Sunday, March 20 at 7:00pm (if needed); Monday, March 21 at 7:00pm, and Tuesday, March 22 at 9:00am.

29. **Sunday, March 20, 2022.** I immediately began the work of securing independent mapmakers. On Sunday, March 20, my staff or I had calls with four different mapmakers.

30. Along with Leader Russo and several of our staff, I also had a Zoom call that morning with Professor Michal McDonald about his availability to participate in the mapdrawing process as an independent mapdrawer.

31. In the afternoon, I spoke with Nate Persily, a professor at Stanford Law School. Dr. Persily was only willing to undertake this project if he were selected as the only mapdrawer by the leadership from both caucuses.

32. At approximately 1:00pm, I had a telephonic meeting with Mr. Grofman and Mr. Trende. Attorney General Yost, Leader Russo, and several staff members were also present. I understood from Yost that President Huffman and Co-Chair Speaker Cupp were having a similar call with Mr. Grofman and Mr. Trende later that afternoon. Although I had concerns about Mr. Trende, given his previous involvement in this matter as an expert for the Republican Commissioners, I agreed to go forward with these two independent mapdrawers. Given that the

Attorney General had already vetted these two mapdrawers and given that they had worked together successfully in Virginia, I felt it most important that we start the drafting process immediately, so I agreed with these recommendations.

33. I also moved forward with getting suggestions for a mediator. I reached out to Nancy Rogers, esteemed former dean of The Ohio State University Moritz College of Law and former Attorney General, for her suggestions for potential mediators. She provided me with a list of nationally acclaimed mediators and also said she would contact the chief mediator at the Sixth Circuit's mediation office. The chief judge of the Sixth Circuit gave permission to the mediators for the Commission to use their services. Chief Judge Sutton's letter regarding mediation is attached as Exhibit C. Subsequently, the Commissioners unanimously agreed to those mediators.

34. At approximately 3:00pm, Co-Chair Cupp informed me that he did not want to go forward with the 7:00pm meeting that night. He had suggested as much at an 11:00 call earlier that morning, when he said he had not heard back from the other Republican Commissioners about their availability for the scheduled 7:00pm meeting. But I had stressed the need for the Commission meeting. In the 3:00pm call, Co-Chair Cupp said he had a 4:30pm meeting scheduled with Mr. Grofman and Mr. Trende and did not know if a 7:00pm meeting was feasible. I suggested delaying the meeting to 8:00pm if necessary. Ultimately, at approximately 4:15pm, Co-Chair Cupp called me again to say it was not feasible to go forward with the meeting and that the Republican Commissioners, even after two days, did not have sufficient information about Mr. Grofman and Mr. Trende. The meeting was canceled.

35. That evening, I requested that the Senate Minority legal counsel draft a letter to the Commission announcing that Leader Russo and I supported hiring Mr. Grofman and Mr. Trende

in the interests of time and compromise. That letter, attached as Exhibit D, was sent to all the Commissioners at approximately 6:30pm.

36. **Monday, March 21, 2022.** Given that Co-Chair Cupp had told me that the Sunday meeting was not feasible, I was determined to ensure that the Commission, going forward, met every day. Along with Leader Russo, I sent a letter to the other Commissioners proposing a daily meeting schedule through March 28. That letter is attached as Exhibit E.

37. Despite my and Leader Russo's agreement to using Mr. Grofman and Mr. Trende, at the Monday, March 21 Commission hearing, the Republican Commissioners announced that they did not want to move forward with that team, but instead proposed Dr. Douglas Johnson from the National Demographics Corporation, as their selected independent mapdrawer. Given that Mr. Grofman expressed that his availability during the week may be limited for personal reasons, Leader Russo and I suggested Dr. Michael McDonald, a professor from the University of Florida, as our selected independent mapdrawer. The two would work together in drafting a new plan for the Commission's consideration, with the assistance of the Commissioners' staff.

38. Although the two had been selected, Co-Chair Cupp still wanted to delay. Rather than formally approve these two independent mapdrawers—so that they could get on flights to Columbus the next morning—Co-Chair Cupp suggested talking to the proposed mapdrawers over the next couple days about the specific details of an arrangement and learning the precise rules for the state signing a contract (which the Auditor did not offer), and settling other details. Tr. 3/21/2022 at 33:05. To avoid delay, Leader Russo and I formally moved and pushed for a recess so that members could study the choices and get the answers to Co-Chair Cupp's questions. Republican members suggested that they should instead wait until the morning. *Id.* at 39:52. But upon our urging, the Commission recessed for an hour.

39. Upon resuming the meeting, the Commission approved hiring the two independent mapmakers.

40. **Tuesday, March 22, 2022.** At the 9:00am meeting, the Commission established a daily meeting schedule through March 28, which the public could attend virtually or in person. Additionally, upon my request, the Sixth Circuit's mediation office presented to the Commission about their services and mediation in general.

41. Throughout the rest of the day, I directed my staff to work on ensuring that everything was ready for the mediators to get to work when they arrived. (Dr. McDonald arrived late Tuesday night, and Dr. Johnson arrived mid-day on Wednesday.) Democratic staff sought input on contracts and conflicts from the Legislative Service Commission and the Ohio Attorney General's Office and, with input from House Majority Counsel, later drafted a retention letter for Dr. McDonald and Dr. Johnson. Democratic staff worked on other logistical arrangements, such as for appropriate technology, room reservations, and livestreaming.

42. **Wednesday, March 23, 2022.** At my direction, on the morning of March 23, my staff worked to finalize the engagement letters for the independent mapdrawers and, with Co-Chair Cupp's consent, emailed the independent mapdrawers formalizing their engagement, clarifying expectations for appearance at that evening's Commission meeting, and offering to answer questions and provide them with any assistance. These engagement letters are attached as Exhibit F.

43. Prior to the 5:00pm meeting, the Republican Commissioners circulated proposed ground rules for the independent mapdrawing process. Leader Russo and I examined that proposal and made some suggestions.

44. At the meeting that evening, Dr. McDonald and Dr. Johnson spoke to the Commission about their needs and preferences for undertaking the mapdrawing process—including on topics about data sets, numbers of computers, and mapdrawing software. With their input, the Commissioners discussed and voted on each ground rule. The finalized ground rules are attached as Exhibit G. Among others, the ground rules required the independent mapdrawers, using Maptitude software and new computers provided by the Commission, to: draft an entirely new General Assembly district plan at the direction of the Commission and in accordance with the Ohio Constitution and the Court’s orders; answer to the Commission members; and not consider district plans or work product produced before March 23.

45. Finally, at about 7:40pm—a full week after the Supreme Court’s order—the independent mapdrawers were hired and authorized to get to work.

The Independent Mapdrawers, following a Transparent and Collaborative Process, Worked Diligently to Complete a Constitutional Map.

46. **Thursday, March 24, 2022.** The mapdrawers commenced their work on Thursday, March 24 first thing in the morning. At approximately 8:00am, the Ohio Channel began to livestream the “workroom”—a committee room at the Capitol that was set up for the mapdrawers. Legislative staff set up computers and downloaded the necessary software. There were some delays in getting the proper data in the software program, as the Commission’s ground rules required data that did not have any race-based statistics. Once these issues were resolved, the mapmakers got to work.

47. Though belated, the independent mapdrawing process occurred in a collaborative and transparent fashion. I observed their work both by visiting the workroom and via the livestream. Dr. McDonald and Dr. Johnson each had separate computers where they could draft and try out ideas. They sat next to each other and chatted frequently. They suggested different

ideas, each pursuing different suggestions not based on partisan advantage or hidden motives, but in a pure attempt to see what would work. Sometimes they encountered dead ends and would have to try to draw parts of the map again, though they relied on the Commissioners' previously hired mapdrawers—Mr. Chris Glassburn and Mr. Randall Routt from the Democrats, and Mr. Ray DiRossi and Mr. Blake Springhetti from the Republicans—to help avoid pitfalls. They were developing a truly independent map, in public, with no single party pulling strings behind the scenes.

48. At the Commission's 7:00pm meeting, the independent mapdrawers provided an update on their progress to the Commission and then got back to work.

49. **Friday, March 25, 2022.** On Friday, March 25, 2022, the independent mapdrawers continued to work diligently and made progress toward completing a plan. There was no indication that they would not finish on time or would be unable to comply with the Court's orders.

50. The Commission met at 2:00pm. The mapdrawers provided the Commission with an update, and the Commission discussed specifics, including alternatives for Franklin County pairing. Yet the Republican Commissioners bogged down the process by repeatedly stressing compliance with sections of the Ohio Constitution already being adhered to and by emphasizing compactness and diminishing section 6(B), which demands proportional representation based on ten years of statewide election results.

51. Following the meeting, I received a memo from Co-Chair Cupp regarding new instructions that the Republican Commissioners wanted to give to the mapdrawers from the Co-Chairs. To me, the proposal read like a mechanism to slow down the mapdrawing process, was unnecessarily redundant of what had already been requested in the last Commission meeting, and gave more power to the majority to slow the process down. So, I opposed it. My response in

opposition to the Republican Commissioners' proposals is attached as Exhibit H. The Republican's rules would have:

- Required the mapmakers to provide multiple different options for Franklin County because President Huffman wanted alternatives to what they had drawn.
- Required mapmakers to provide notice of any areas they wanted feedback on 90 minutes before the scheduled meeting.
- Prior to drafting a singular plan from both of the mapdrawers together, the mapdrawers would have to present multiple different individual full plans to the Commission and receive feedback before being allowed to present a merged plan.

The Republican Commissioners included this proposal in the minutes at the start of the Commission's next meeting and, although the Commission never formally adopted this proposal, the mapdrawers always attempted to give the Commission as much notice as possible, at least an hour before a meeting, of areas that they wanted guidance on and sent the relevant map files to the Commissioners' staff. And the mapdrawers always welcomed feedback and suggestions about alternatives; indeed, Commissioners would stop by and ask that certain areas be drawn in specific ways if possible.

Over My Objection, the Republican Commissioners Prioritized Protecting Incumbents and Attempted to Derail the Independent Mapdrawers' Progress.

52. **Saturday, March 26, 2022.** By Saturday, March 26—with two full days left before our deadline—each of the mapdrawers had completed a draft House map to present to the Commission. (House maps were completed first because Senate districts are combinations of three House districts.) Both plans had 45 Democratic-leaning House districts and 54 Republican-leaning House districts. Not only had both the Republican-selected and the Democratic-selected independent mapdrawers achieved partisan proportionality, but they had achieved almost perfect

partisan symmetry for competitive districts. Both maps had three Democratic-leaning districts between 50% and 52%; the Johnson map had two such Republican districts and the McDonald map had three.

53. At the 4:00pm Commission meeting, the independent mapdrawers requested feedback from the Commission so that they had guidance before they merged their two maps. For instance, the maps diverged on how they treated Montgomery County and the map drawers sought the Commission's preference. The Commission did not give direct feedback, even after a long recess.

54. By this point it was clear that the independent mapdrawers, if given the guidance needed by the Commission, could timely complete the task. Each had drawn proportional and symmetrical maps, and there were not too many disagreements between the two. The prospect of completion of fair maps seemed to rattle the Republican Commissioners, and they started to impede and discredit the process. They started to complain that the maps were not compact (they were) and that there was insufficient time for public input (which they had never prioritized before).

55. President Huffman's main complaint was that the maps double bunked Republican incumbents. Apparently, he had already forgotten what he had told us at the first Commission meeting on March 19—that we shouldn't consider or prioritize incumbents. Up to that point, the maps had been drawn without any incumbency data, so any resulting districts that had multiple incumbents living within them was a by-product of drawing a constitutional map. But President Huffman would not allow it. He proposed that, before a merged clean map was even drawn, incumbency data be added and that the mapdrawers be directed to avoid placing multiple incumbents in the same district to the extent possible. Though President Huffman's concern started

out targeted at Senators who were in the middle of their terms, it expanded to wanting, to the extent possible, all House and Senate incumbents protected by the new maps.

56. I immediately objected, as did Leader Russo. I was concerned that adding incumbency data would slow down the process and make the maps less compact and symmetrical. Additionally, the Court had warned us about using incumbency data, and the Attorney General, following that opinion, told us it was “improper.” I suggested that the issue go to mediation. At approximately 7:30pm, we began mediating these issues about incumbency.

57. **Sunday, March 27, 2022.** The Commissioners continued to work with the mediator to try to reach a resolution on the incumbency issue. Though I did not want any incumbency data used, I also had to face the reality that the Republican Commissioners have the majority, and they wanted to require the independent mapdrawers to incorporate incumbency into their maps *even before* they had created a single constitutional map without incumbent consideration. To move the process forward, we agreed to a resolution that would allow the independent mapdrawers to draw a clean map first, before tainting it with trying to protect all the incumbents.

58. The final resolution of our mediation was an agreement to instruct the mapmakers, which we did, as follows: “Upon completion of the independent map drawers’ merger of their independent versions of the House and Senate maps and prior to any presentation to the Commission, the independent mapdrawers shall consider the residence locations of non-term limited House and Senate incumbents, and Senate incumbents in mid-term, in drafting a Commission map, and where possible without violating constitutional principles, avoid pairing incumbents and also drawing districts such that Senators protected under Section 5 of Article 11 no longer live in the district they represent. Incumbents will be identified as House or Senate and

no other identifying information shall be used.” See Mediation Agreement—Instructions to Mapdrawers with Regard to Incumbents, as adopted March 27, 2022.

59. At the March 27 hearing, each independent mapdrawer also presented their complete maps. Before combining them, they again sought the Commission’s input. For example, they wanted the Commission’s decision—as they had asked the previous day—as to whether a district drawn that included some of Montgomery County should extend to Green County or to Preble County. The Commission recessed to evaluate the different plans. Yet, even after recess, the Republican Commissioners expressed their opposition to voting to give clear guidance on these issues to the mapdrawers. Several of the Commissioners expressed their informal views, and Leader Russo asked that the mapdrawers move forward with their understanding based on that discussion.

60. That night, after the meeting, my staff informed me that the independent mapdrawers had agreed on a merged plan and were working on cleaning it up for any minor errors (the “Pre-Incumbent Independent Plan”).

The Republican Commissioners Hijacked the Independent Mapdrawing Process and Passed an Unconstitutional Map Drawn by Republican Staff.

61. **Monday, March 28, 2022.** By Monday mid-morning, the independent mapdrawers had completed cleaning up the Pre-Incumbent Independent Plan. As they explained to the Commission at the 11:00am meeting, that plan achieved perfect partisan proportionality in both the House and Senate. It also was symmetrical with respect to competitive seats; there were three Democratic-leaning and three Republican-leaning House seats between 50% and 52% in the House; and two Democratic-leaning and no Republican-leaning Senate seats between 50% and 52%. That plan was posted on the Commission’s website.

62. The mapdrawers stated that they would then add the incumbent data, which was being loaded into their computers.

63. When the Commission reconvened in the afternoon, I was pleased when Dr. Johnson and Dr. McDonald announced that they were just a couple of hours away from completing their map, having adjusted district lines (per the Republicans) to protect incumbents.

64. But what I took as a sign of success, was a sign of danger to my Republican colleagues—we could have a fair and independent map. President Huffman announced, for the first time, that to comply with the Court’s midnight deadline, the map actually had to be completed and adopted by 10:30pm so there was enough time to email the data files to the Secretary of State. Then he suggested, because he was concerned that the independent mapdrawers would not meet this deadline, that he would have the Republican mapdrawers tweak the Third Plan so that the Commission could pass that. Though he presented it as a backup “parachute,” in case the independent mapdrawers failed to meet the deadline, it became clear that it was far from just a backup. President Huffman stated that he spoke to Mr. DiRossi and that Mr. DiRossi, despite being sick, was able to work on a separate map. While presented as a last-minute backup plan, President Huffman later admitted to hatching the plan three days earlier.

65. I immediately objected, as did Leader Russo. We explained that such a process would contravene this Court’s orders and the Constitution. I suggested that if we needed more time, we should ask for an extension—not pass another unconstitutional map drawn in a bunker by a partisan Republican mapdrawer. What President Huffman was proposing was, as I said, “ridiculous.” As I stated at the meeting:

“[A]ll the time, money and resources we’ve put into coming up with a constitutional map. We have independent mapmakers. Each of them have drawn separate and apart constitutional maps that comply with the court order. They’ve put together a unified map that just need edits that we can make in this time period to comply with the requirements.

To distract us, the staff, and the independent mapdrawer to divert to some other tasks is ridiculous, contrary to the directive, contrary to the spirit and the direction of the court.

Tr. 3/28/2022 at 50:16

66. The Republican Commissioners were not willing to ask the Court for extra time, even though they passed the Third Plan over a week late. Over my and Leader Russo's dissent, the Commission voted to adopt President Huffman's proposal.

67. Meanwhile, Dr. Johnson worked on completing the plan incorporating the incumbency data. (Dr. McDonald left at 5:00pm because of a class he had to teach the next morning in person in Florida.) At approximately 9:30pm, when the Commission reconvened, Dr. Johnson stated that he needed about 45 minutes to complete the Senate map, and the House map was already done. Therefore, I asked that the Commission recess for one hour to allow Dr. Johnson to complete his work so that we could consider his final plan.

68. But the Republican Commissioners refused. President Huffman announced that Mr. Springhetti—the Republican mapdrawer—had been working on a map (the “Fourth Plan”) and said the Commission should go with that “parachute.” A Republican staff member handed out printouts of the Fourth Plan; the printout included no partisanship data. This was the first time I had seen the plan. Other Commissioners also said it was the first time they had seen the plan. At first glance, it appeared to be a repeat of the Third Plan, and President Huffman explained that it changed the Third Plan only minimally. Despite Leader Russo and my requests, the Republican Commissioners would not recess to allow us to review the map and suggest amendments. The Commission then proceeded to adopt the Fourth Plan by a 4-3 vote, despite the fact that there was no opportunity for any Commissioner to provide amendments, ask questions, or view analyses of the plan.

69. At approximately 10:30pm, minutes after the Commission adopted the Fourth Plan, Dr. Johnson finished the independent map.

70. After adopting the Fourth Plan but with the motion to adopt the majority's 8(C)(2) statement, I recessed the Commission for 30 minutes to prepare the minority's Section 8(C)(2) statement.

71. Upon returning, at approximately 11:00pm, the Commission approved the majority's 8(C)(2) statement. I then moved to adopt the independent mapmakers' final map (the "Incumbent Independent Plan") and have it supersede the Fourth Plan. The Fourth Plan had not yet been sent to the Secretary of State, so it was not effective. (And it was clear by then that, despite President Huffman's earlier statements, it did not take over an hour to prepare files to email to the Secretary of State. Either map's files could be emailed to the Secretary of State at that time.) Looking at the independent mapdrawers' plan, the Republican Commissioners said baldly that they were not compact even though they have a greater compactness score than the Fourth Plan. They said they did not have enough time to review the Incumbent Independent Plan; but they had just voted for the Fourth Plan sight-unseen and had been receiving updates about the independent plan and were able to view its drafting for days. The Commission rejected my proposal to adopt the Incumbent Independent Plan 5-2; only Leader Russo and I voted to complete the independent, transparent, fair process that this Court urged.

Conclusion

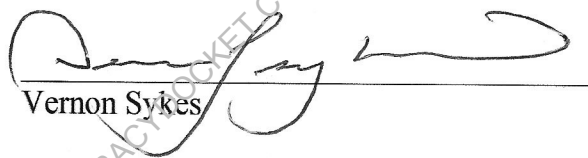
72. I worked diligently to get the Commission to adopt a constitutional map, drawn by independent mapdrawers, through a transparent process, alongside Leader Russo. But we only have two votes on this seven-member Commission. Despite our efforts, we were not able to prevent President Huffman and the Republican Commissioners from hijacking the process. I

ultimately voted for the independent mapmakers' plan and against the unconstitutional Fourth Plan. I believe that my efforts, described above, demonstrate that I did not violate the Court's March 16 order and should not be held in contempt.

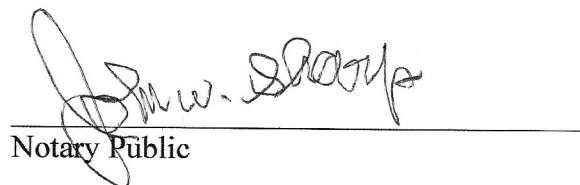
73. I am hopeful, however, that with strong mandates from this Court we can resume the process with the independent mapmakers and adopt constitutional maps before the federal court takes over on April 20, 2022. I do not believe that the Republican Commissioners, without strong mandates from this Court to give them cover in their party, will abide by their constitutional duty. And I respectfully ask the Court to take such action to protect the Ohio Constitution.

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF OHIO - SS
COUNTY of SUMMIT


Vernon Sykes

Sworn to before me and subscribed in my presence this 3 day of April, 2022.


Notary Public



**Exhibit A
to Affidavit of
Respondent Vernon Sykes**

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STATE SENATOR VERNON SYKES
28th District

March 17, 2022

The Honorable Robert Cupp
Ohio House of Representatives
Columbus, Ohio 43215

Dear Co-Chair Speaker Cupp:

I write today to reiterate what I suggested on our phone call earlier today, that the Ohio Redistricting Commission meet as soon as possible in order to develop a transparent path forward to pass bipartisan, fair, and constitutional state legislative maps.

The Ohio Supreme Court has directed the Ohio Redistricting Commission to start fresh and draw maps that meet constitutional muster. We must do this by March 28. Leader Russo and I stand at the ready and believe following the Court's order is possible if we work together and do not waste time.

It is essential that we call a meeting of the Redistricting Commission as soon as possible to start the map drawing process. The Court has rightly criticized the Commission for its previous delays and inefficient use of time. I hope that we will not repeat that mistake this time – our fourth attempt. I will note that the Commission recently amended its procedural rules to also allow for any three members to call for a meeting of the Commission, rather than only the Co-Chairs. Leader Russo and I are available at any time and would welcome any other Commissioner in calling for a meeting.

The Court also ordered the Commission to meet “frequently” in order to have an open and transparent process to the public. I have suggested to you that we set a schedule and meet at least every other day in order to meet this directive and I offer that suggestion once again. It is critical that we conduct our deliberations and make map-drawing decisions in the light of day and with the opportunity for the public to provide input.

Further, I suggest that the Commission work in a bipartisan manner and hire an independent map-drawer – or alternatively, a mediator – to aid us in our efforts. I believe our staff could work together to identify a list of mutually agreeable individuals to serve in this role.

Ultimately, now is the time for us to work together in order to fulfill the wishes of Ohio voters who overwhelmingly approved these reforms to our redistricting process.

Sincerely,

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission

CC: Members, Ohio Redistricting Commission

Exhibit B
to Affidavit of
Respondent Vernon Sykes

RETRIEVED FROM DEMOCRACYDOCKET.COM



DAVE YOST
OHIO ATTORNEY GENERAL

Administration
Office: 614-466-4320

MEMORANDUM

TO: Members of the Ohio Redistricting Commission

FROM: Attorney General Dave Yost

DATE: March 18, 2022

RE: Steps forward following the decisions in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al. III* and companion cases

=====

Late in the evening of March 16, the Ohio Supreme Court struck down the third set of state legislative maps. Whether I, or you, agree with the majority in this most recent decision is irrelevant. Four justices have decreed what the rules for this round of redistricting shall be. You are left with little choice but to abide by them. Accordingly, this memorandum outlines a set of steps calculated to address the perceived deficiencies raised by the majority of the Court.

I offer this framework as the chief legal officer of the state, having neither a vote nor a veto over your work. This is not a map of all possible roads to the objective of complying with the elements of the Supreme Court's decisions, but one suggested route. The Commission may choose to devise another. This is offered as a means to commence your discussions.

Meetings

The Court made much of the relatively modest number of meetings held before the February 4, 2022 Plan was enacted, and the lateness of their calling. In its most recent order, the Court only gave the Commission ten days to produce a new map, two days of which have already expired.

The Commission apparently has scheduled a meeting for tomorrow--an excellent first step. I suggest that the commission agree at that first meeting on a schedule of meetings, and to publish it. Given that only seven days remain, daily meetings would not be excessive to respond to what some of you have correctly termed a constitutional crisis. I understand one of you has already cancelled an out-of-state trip so as to be available during this period--a commendable and appropriate sacrifice in view of the seriousness of this moment. One or more members may also arrange to participate remotely by electronic means if necessary and agreeable to the commission.

Staffing

The Court directed the commission to hire new mapmakers not beholden to either political caucus. “The commission should retain an independent map drawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan through a transparent process.” (at paragraph 30) I note that Court used “should” and not “shall,” but given that this matter is heard in the Supreme Court without meaningful appeal regarding the limits of its authority, it would be wise to treat this suggestion with the degree of deference one might pay to the suggestions of one's spouse.

To assist the commission in this effort, I have retained a bipartisan duo of consulting experts through my office, who together can achieve the level of independent evaluation the court is requiring. I will make them available to the commission as a whole.

Sean Trende, a Republican analyst well-known to the readers of *Real Clear Politics*, or even causal viewers of cable news, and Bernie Grofman, a Democratic professor of political science at the University of California-Irvine, recently collaborated to produce maps for the State of Virginia. Their work was unanimously adopted by the Virginia Supreme Court.

Their charge should be simply to produce a map that complies with the Ohio Constitution and the orders of the Ohio Supreme Court. They understand the time limits of the court, the terms of the Constitution and the decisions regarding it and are prepared to go to work immediately.

Of course, you are not required to use them; I have undertaken to retain them because of the exigent circumstances created by the very short time allowed by the Court. Nor are you required to adopt their maps. It is my hope, however, that you will--their success in Virginia strongly commends them and their work to your consideration.

Drafting in Public

The Court further wrote that the map-making should be done in public. “To promote transparency and increase public trust, the drafting should occur in public.” (at paragraph 44)

The actual map-making is highly technical and performed on a single work-station. I do not read the Court's opinion to say that seven people should be jockeying in a public room to direct the operator of the mouse to do this or that conflicting action.

To comply with the Court's direction, I suggest that the Commission take public actions that achieve the clause seeking transparency and public trust. To that end the Commission could publish any maps at least 24 hours before a vote; meet in public, and receive a progress reports in public from the mapmakers prior to the completion of a map, and discuss in public any sticking points between map drafts or particular districts permutations. I believe a process like this is compliant with the public map making directive issued by the Court.

Additional Criteria

- The Court has now established <52% as the threshold for a "leaning" district; any index less than that is viewed by the Court as a competitive district. The Court will exclude competitive districts from its partisanship calculation. That is, if there are 32 competitive districts, then the remaining 100 districts must closely correspond to the 54 Republican to 46 Democrat ratio the majority has established.
- The Court wrote that efforts to protect incumbents are improper. Such efforts "...can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A)." (at paragraph 37)
- While competitive districts will not be counted in overall partisan balance, the Court in *dicta* was bothered by the imbalance in the number competitive districts (meaning those with an expected favorable margin of less than 52%) leaning Democratic versus those leaning Republican. While the clustering of Democrats in urban enclaves creates challenges to making Republican-leaning districts more competitive, I would be remiss if I failed to note the Court's observation.

This is meant to be a summary of the major objections in *League III*. The Constitution and the Court's actual opinions are controlling, of course, and my office stands ready to assist the Commission in navigating the multiple and sometimes competing objectives.

Finally, a note about process. I have served on several multi-member bodies, and I've learned it is always a temptation to love too much my own advice, and my own theory of law. I keep this passage from the Ohio Jury Instructions handy, and often review it before meetings:

It is not wise to immediately express a determination to insist upon a certain verdict, because if your sense of pride is aroused, you may hesitate to change your position even if you later decide you are wrong.

Consult with one another, consider each other's views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment.

Each of you must decide... for yourself, but you should do so only after a discussion and consideration of the case with (the others).

Do not hesitate to change an opinion if convinced that it is wrong. However, you should not surrender honest convictions in order to be congenial or to reach a verdict solely because of the opinion of other(s).

The hour is late, and I do not envy your task. I hope this memorandum has made it easier to "begin again."

**Exhibit C
to Affidavit of
Respondent Vernon Sykes**

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**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

CHAMBERS OF
JEFFREY S. SUTTON
CHIEF JUDGE



TELEPHONE
(614) 849-0134
FACSIMILE
(614) 849-0124

March 22, 2022

VIA EMAIL

The Honorable Robert R. Cupp
The Honorable Vernon Sykes
Co-Chairs, Ohio Redistricting Commission

Dear Co-Chair Cupp and Co-Chair Sykes:

This letter is to confirm that the Ohio Redistricting Commission has engaged the services of the Office of the Circuit Mediators of the United States Court of Appeals for the Sixth Circuit to provide mediation services. Mediators Catherine Geyer and Scott Coburn will assist the Commission in negotiations to develop a state legislative district map. The expected timeframe of this engagement will begin immediately and continue through the conclusion of the approval process. Mediation services are provided as part of the mediators' services to the Court. There are no fees or expenses to the Ohio Redistricting Commission.

Consistent with the mediation practices of the Sixth Circuit, the Circuit Mediators will not share mediation communications with any judges within the Sixth Circuit, including district judges.

Sincerely,

/s/

Jeffrey S. Sutton

cc: Marc Theriault, Circuit Executive
Catherine C. Geyer, Chief Circuit Mediator
Scott Coburn, Circuit Mediator

**Exhibit D
to Affidavit of
Respondent Vernon Sykes**

RETRIEVED FROM DEMOCRACYDOCKET.COM



March 20, 2022

Dear Commissioners,

In our meeting yesterday, this commission set out a straightforward task to reconvene, possibly tonight, with recommendations for independent map drawers that could produce constitutional legislative districts. In an effort to aid our work as a commission, Attorney General Dave Yost retained two well-known, independent map drawers of national note, Bernard Grofman and Sean Trende.

The Democratic commission members today spoke with Grofman and Trende, as well as other highly qualified map drawing experts. We are in favor of the commission engaging the Attorney General's suggested mapmakers. We have also been in touch with nationally renowned mediators who could serve later in this process to help the commission finalize a bipartisan, constitutional set of legislative maps.

It is unfortunate that our colleagues were not prepared for a meeting tonight, which was tentatively scheduled for 7 p.m. As the deadline imposed on us by the Supreme Court of Ohio looms, time is of the essence. However, we remain confident that these issues can be resolved at our next meeting, scheduled for Monday, March 21 at 7 p.m., and the map drawing may immediately begin. There is still time for this process to result in the bipartisan, constitutional maps that the people of Ohio expect and anticipate from the commission.

Respectfully,

A handwritten signature in black ink, appearing to read "Vernon Sykes".

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

A handwritten signature in black ink, appearing to read "C. Allison Russo".

C. Allison Russo
House Minority Leader
Commissioner, Ohio Redistricting Commission
House District 24

**Exhibit E
to Affidavit of
Respondent Vernon Sykes**

RETRIEVED FROM DEMOCRACYDOCKET.COM



March 21, 2022

Dear Commissioners,

As every member of the Ohio Redistricting Commission is aware, the Supreme Court of Ohio gave us a deadline of next Monday, March 28 to complete our constitutional duty to produce state legislative maps in accordance with the Ohio Constitution and the Supreme Court's orders.

Our Attorney General has offered his opinion that to meet the Court's demand of frequent meetings, that "daily meetings would not be excessive." In that spirit, we propose the following daily schedule for the Ohio Redistricting Commission:

- *The previously scheduled Tuesday, March 22 meeting at 9:00 AM*
- *Wednesday, March 23 at 5 PM*
- *Thursday, March 24 at 4 PM*
- *Friday, March 25 at 10 AM*
- *Saturday, March 26 at 1 PM*
- *Sunday, March 27 at 4 PM*
- *Monday, March 28 at 10 AM*

The above proposal is fair and meets the obligations set forth by the Supreme Court of Ohio and reiterated by the Attorney General.

Respectfully,

A handwritten signature in black ink, appearing to read "Vernon Sykes".

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

A handwritten signature in black ink, appearing to read "C. Allison Russo".

C. Allison Russo
House Minority Leader
Commissioner, Ohio Redistricting Commission
House District 24

**Exhibit F
to Affidavit of
Respondent Vernon Sykes**

RETRIEVED FROM DEMOCRACYDOCKET.COM



OHIO REDISTRICTING COMMISSION

March 23, 2022

Michael McDonald
Professor, University of Florida
Department of Political Science
222 Anderson Hall
P.O. Box 117325
Gainesville, FL 32611

Dear Dr. McDonald:

This letter confirms that the Ohio Redistricting Commission has approved the use of your professional services to assist the Commission, and its designated staff, in the timely production of state legislative district maps pursuant to directions provided to you by the Commission.

Your hourly rate is \$450 plus related expenses for all state legislative district map work through March 28, 2022. The wages and expenses are capped at \$49,000.

Sincerely,

A handwritten signature in black ink, reading "Robert R. Cupp".

Speaker Robert R. Cupp, Co-Chair

A handwritten signature in black ink, reading "Vernon Sykes".

Senator Vernon Sykes, Co-Chair



OHIO REDISTRICTING COMMISSION

March 23, 2022

Douglas Johnson
National Demographics Corporation
P.O. Box 5271
Glendale, CA 91221

Dear Mr. Johnson:

This letter confirms that the Ohio Redistricting Commission has approved the use of your professional services to assist the Commission, and its designated staff, in the timely production of state legislative district maps pursuant to directions provided to you by the Commission.

Your hourly rate is \$450 plus related expenses for all state legislative district map work through March 28, 2022. The wages and expenses are capped at \$49,000.

Sincerely,

A handwritten signature in black ink, reading "Robert R. Cupp".

Speaker Robert R. Cupp, Co-Chair

A handwritten signature in black ink, reading "Vernon Sykes".

Senator Vernon Sykes, Co-Chair

Exhibit G
to Affidavit of
Respondent Vernon Sykes



OHIO REDISTRICTING COMMISSION
Ground Rules for Map Drawers – As Adopted on 3.23.2022

- 1.) The map drawers shall include the two independent map drawers hired by the Redistricting Commission and Commissioners' staff/contractor map drawers.
- 2.) The independent map drawers shall draft any General Assembly district plan at the direction of the Redistricting Commission and in accordance with the Ohio Constitution and Supreme Court of Ohio's orders.
- 3.) The independent map drawers shall answer to each of the Redistricting Commission members. However, any conflicting direction from the Redistricting Commission members shall be resolved via the mediation process described below. (See Rules 12-16)
- 4.) The independent map drawers shall produce an entirely new general assembly district plan that has not been previously submitted to the Redistricting Commission. The independent map drawers shall not include or consider any general assembly plan proposals or work product produced prior to Wednesday, March 23, 2022 when drafting the entirely new general assembly district plan.
- 5.) The map drawers shall utilize statewide election results and geography from 2016, 2018, and 2020 for the purpose of measuring the partisan lean of individual districts.
- 6.) When considering the election results, Republican votes cast plus Democratic vote casts shall equal 100% of the total vote.
- 7.) Any General Assembly district plan shall be drawn in Mapitude.
- 8.) The independent map drawers shall utilize one computer purchased by the Redistricting Commission to draft any general assembly district plan. Two additional computers may be used for preparation purposes by the independent map makers on site.
- 9.) Racial data will neither be loaded onto the computers nor shall it be utilized by the map drawers in any way.
- 10.) The independent map drawers shall draw a general assembly district plan that conforms with the Ohio Constitution including Article 11, Sections 1, 2, 3, 4, 5, 6, and 7, the Constitution of the United States and applicable federal laws.
- 11.) The independent map drawers shall draw a general assembly district plan that conforms with the opinions of the Ohio Supreme Court and the United States Supreme Court.
- 12.) Should the independent map drawers encounter a disagreement between themselves regarding the application of Art. 11 of the Ohio Constitution and/or the opinions of the Ohio Supreme Court, the issue shall be referred to the full Commission.

- 13.) Should the full Redistricting Commission reach a unanimous consensus, the independent map drawers shall implement the instructions of the full Redistricting Commission.
- 14.) Should the full Redistricting Commission not be able to resolve the issue by unanimous consensus, the issue shall be referred to mediation.
- 15.) Should mediation fail to resolve the issue, the issue shall be presented to the full Redistricting commission for a vote. A majority vote of the Commission shall resolve the issue.
- 16.) The map drawers will then implement the decision of the Commission regarding the disputed issue.
- 17.) Upon adoption of a general assembly district plan the independent map drawers shall complete and file with the Secretary of State, a geographical legal description of each House and Senate district, shape files, equivalency files and county population and filing location for the most populous county in each district, and any applicable Art 11, Sec. 5 Senate assignments in a manner requested by the Secretary of State within ten days.
- 18.) The independent map drawers agree that they have been hired by the Ohio Redistricting Commission, and as such, they owe a duty of fidelity to the Ohio Redistricting Commission. Accordingly, the independent map drawers shall not discuss or communicate with any person, organization, or group – aside from the Ohio Redistricting Commission and the Commission members’ staffs—regarding any aspect of the substance of any redistricting plan. Failure to abide by this requirement may result in the immediate termination of the independent map drawer’s contract along with all available remedial measures caused by the independent map drawer’s breach of their duty of fidelity to the Ohio Redistricting Commission.
- 19.) The meetings of independent map drawers will be held in Room 116 in the Ohio Statehouse. This will be the designated work space for the independent map drawers. No materials shall be taken off site.
- 20.) The Statehouse’s Ohio Government TV will livestream the map making process in Room 116. OGT will stream the map drawers whenever they are working in the room.
- 21.) Commissioners or their designated staff shall have unlimited access to the map drawers, but shall contact both Dr. McDonald and Mr. Johnson simultaneously.
- 22.) The independent map drawers will provide regular progress updates to the Commission at each of the Commission’s scheduled meetings.
- 23.) Commissioners can expect to provide feedback and guidance to the independent map drawers in these meetings in addition to their individual outreach to the independent map drawers as provided in Rule 21.
- 24.) Public access will be only be available in a nearby room where video from the work room will be broadcast.

**Exhibit H
to Affidavit of
Respondent Vernon Sykes**

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: Rowe, Mike Mike.Rowe@ohiosenate.gov
Subject: Response from Co-Chair Sykes
Date: March 26, 2022 at 1:50 PM
To: Christine.Morrison@ohiohouse.gov
Cc: Paul.Disantis@ohiohouse.gov

MR

Hello Christine,

Here is the response from Senator Sykes to the memo from Speaker Cupp.

Mike Rowe
Senate Minority Chief of Staff

Dear Co-Chair Speaker Cupp,

This letter serves as a follow up to our phone conversation earlier today.

First, I do not believe the proposed memo I received on March 25, 2022 regarding the independent mapmakers is appropriate at this time.

The independent mapmakers have previously agreed to provide different options for Franklin County and President Huffman is welcome to follow up with them any hearing. Under the independent map drawer ground rules adopted by the Commission, each Commissioner has the right to express their views or make requests to the map drawers. They can do so at a meeting or whenever else they want, so long as the Commissioner addresses both map drawers at the same time.

I do agree it is reasonable for the Commission to get information from the map drawers in advance of each Commission meeting. But rather than interrupt the map drawers themselves, I think the map drawers should work with the designated staff of Commissioners to determine how to provide updated information to the Commissioners in advance of meetings. I suggest we present and adopt this revised procedure at the next meeting.

Finally, the map drawers have our instructions and requirements from the ground rules, and I do not believe we should unnecessarily emphasize some instructions or requirements over others. I believe any change to the ground rules is unnecessary at this time.

Sincerely,

Senator Vernon Sykes, Co-Chair
Ohio Redistricting Commission

EXHIBIT 11

RETRIEVED FROM DEMOCRACYDOCKET.COM

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
 : **Case No. 2021-1193**
Petitioners, :
 : **Original Action Filed Pursuant to**
v. : **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**
Petitioners, :
 : **Original Action Filed Pursuant to**
v. : **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**
Petitioners, :
 : **Original Action Filed Pursuant to**
v. : **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 C. ALLISON RUSSO TO PETITIONERS' OBJECTIONS**

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**Counsel for Respondents
Senate President Matt Huffman and
House Speaker Robert Cupp**

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
: Case No. 2021-1193
Petitioners, :
: Original Action Filed Pursuant to
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Ohio Redistricting Commission, *et al.*, : Prac. R. 14.03]
: Respondents. :
:

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

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

Introductory Information

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. I serve as a Commissioner on the Ohio Redistricting Commission ("Commission"). I am the only woman on the Commission. I serve as a representative from the Democratic Party, along with Co-Chair Senator Vernon Sykes (together, the "Democratic Commissioners"). The remaining five Commissioners are Republicans (together, the "Republican Commissioners").
4. I was sued in the above-captioned case and am a named Respondent. The Ohio Supreme Court, however, has recognized that my interests align more with the Petitioners than that of the Commission or the Republican Commissioners. Opinion 2022-Ohio-65, ¶ 66. I have urged the Supreme Court to invalidate the Commission's previous General Assembly maps because they violated Section 6, Article XI of the Ohio Constitution.
5. On March 16, 2022, the Ohio Supreme Court declared the Commission's third General Assembly plan (the "Third Plan") invalid and directed the Commission to create a new plan by March 28, 2022. Opinion, 2022-Ohio-789 (*LWW III*).
6. On March 30, 2022, the Supreme Court ordered that "responses, if any," to "petitioners' motion for an order directing respondents to show cause for why they should not be

held in contempt of the court’s March 16, 2022 order,” be filed by April 4, 2022. I submit this affidavit in response to that order. I have filed three affidavits in this case previously, each detailing my efforts to comply with the Ohio Constitution and this Court’s orders. I incorporate those by reference. *See* March 2, 2022 Affidavit of C. Allison Russo; February 23, 2022 Affidavit of C. Allison Russo; January 28, 2022 Affidavit of C. Allison Russo.

7. The Petitioners’ motions for an order to show cause accurately describes the Commission’s process and actions following the March 16 order. As described, the Commission hired independent mapdrawers (one selected by each caucus), who were drawing maps from scratch, in public, with direction from the Commission which was meeting almost daily. But, just days before that transparent, independent process to develop a constitutional plan concluded—when my Republican colleagues could see that an independent plan would emerge—they attempted to undermine the entire process.

8. The result: just minutes before the independent mapdrawers completed the most final version of their map, Co-chairman Cupp with Senator Huffman’s second proposed adopting maps, drawn by the Republican mapdrawers alone, that were over 97% the same as the Third Plan this Court already held unconstitutional. The Republicans would not allow any amendments or even time to review. And, with a vote of four of the Republican Commissioners, the Commission adopted that plan (the “Fourth Plan”). I voted against that plan and instead for the independent mapdrawers’ plan.

9. I understand that Petitioners again seek to have this Court hold the Commission and/or Commissioners in contempt. Last time that Petitioners made such a request, the Commission (over my dissent) failed to adopt a map at all even though the Democratic Commissioners and Petitioners had presented constitutional maps that could have been adopted.

This time there is a plan, but, as I said in our March 28, 2022 Commission meeting as the Republican Commissioners again violated their duty to adopt a constitutional map, it was a “farce.” As before, the Republican Commissioners could have adopted a constitutional plan. They had been observing, monitoring, and guiding the independent mapdrawers for days. But they chose not to because it would weaken their supermajority.

10. As detailed below, since this Court’s March 16 order, I worked diligently alongside Co-Chair Sykes to comply with the order. Together, we (1) requested that the Commission meet immediately and often; (2) identified and procured independent mapdrawers and mediators; (3) were willing to work collaboratively with the other Commissioners and their staff on any plans or ideas had they been proposed; and (4) moved to adopt a new constitutional plan prepared in public by the independent mapdrawers. Because I worked diligently to help the Commission produce a constitutional plan, voted for that constitutional plan, and opposed the Republican Commissioners’ last-minute takeover and unconstitutional Fourth Plan, I respectfully request that the Court does not order me to show cause or hold me in contempt.

11. But I do ask the Court to take strong action to ensure that the Commission adopt a constitutional map before the federal court usurps our constitutional process and selects a plan on April 20, 2022. Indeed, that court has indicated that it is even entertaining mandating plans that this Court has held are unconstitutional. With Article XI, the voters of Ohio asked for the Commission to draw fair maps and entrusted the Ohio Supreme Court with both the power and responsibility to protect that choice. It is still my hope that, with this Court’s help, we can fulfill that responsibility to the people of Ohio.

Immediately After the Court's Order, the Democratic Commissioners Worked Diligently to Arrange for Frequent Meetings and for a New Plan to be Drawn in Public by Independent Experts.

12. **Wednesday, March 16, 2022.** As urged by the Democratic Commissioners, the Ohio Supreme Court invalidated the Third Plan in an opinion and order published at approximately 9:45pm on March 16, 2022. Having received notice of the Court's order on Wednesday evening, I hoped that a notice of the Commission's next meeting would be issued post haste, but was prepared to call for one if not, as the Commission needed to reconvene to, once again, adopt new maps.

13. The March 16 order set forth clear rules and guidance for the Commission that I diligently worked to follow throughout the process. After holding the Third Map invalid, the Court described a process that should be followed. It held that the Commission "be reconstituted" and that "the commission draft and adopt an entirely new General Assembly-district plan." *LWV III* ¶ 44. Based on the Court's explanations, I took this to mean that the Commission itself, rather than the partisan staff who had been drawing maps, had to oversee the mapdrawing process. The map had to be "entirely new"—that is, not start from one of the previous unconstitutional versions. And the Court said that we should hire an "independent" mapdrawer that answers to the entire Commission—not just some Commissioners—"to draft a plan" for the Commission. *LWV III* ¶¶ 30, 44. And it stated that the process should be "transparent," that "drafting should occur in public," and that "the commissioners should convene frequent meetings." *LWV III* ¶ 44.

14. The March 16 order also made clear the substantive requirements for adopting a constitutional map. It invalidated the Third Plan in part because of the "gross and unnecessary disparity in the allocation of close districts," as the Third Plan had 19 so-called Democratic-leaning House districts and 7 so-called Democratic-leaning Senate districts that were in the 50 – 52%

margin, and no such Republican-leaning House or Senate districts. *LWV III* ¶ 43. That meant, going forward, the Commission needed to draw a plan that met the 45-54 proportionality ratio, as close as possible while complying with Article XI, §§ 2, 3, 4, 5, and 7—but in doing so, competitive seats of between 50 and 52% needed to be symmetrically allocated and not be so one-sided against either party.

15. The Court gave the Commission a deadline of March 28 to file a new plan with the Secretary of State and until March 29 at 9am to file the plan with the Court.

16. **Thursday, March 17, 2022.** The morning after receiving the Ohio Supreme Court's decision that the Commission's maps were unconstitutional and the order for the Commission to draw new constitutional maps, I directed my staff to follow the Court's order, prepare for the Commission to adopt constitutional maps, and make themselves available to the other Commission members and their staff.

17. Because I had not yet seen a notice of a scheduled meeting, I sent a letter to my fellow Commissioners urging that we meet frequently and hire independent map drawers. A copy of that letter is attached as Exhibit A. I received a letter that day from Co-Chair Sykes calling for immediate and frequent meetings as well.

18. I also wrote to Senator Robert McColley on March 17 to arrange for the Legislative Task Force on Redistricting Co-chairs to allocate whatever funding might be necessary to the Commission to engage independent map drawers. Senator McColley and I serve as co-chairs of that Task Force, and from that role I knew (as I had said at multiple Commission meetings) that there were ample funds to hire experts and other support for the Commission.

19. **Friday, March 18, 2022.** On Friday, March 18, I was pleased to see that the Commission co-chairs had noticed a Commission meeting at 2:00pm the next day.

20. I also received a memo sent to all Commissioners by the Attorney General that evening, which is attached as Exhibit B. The Attorney General, in his role as “chief legal officer of the state,” took the opportunity to explain the March 16 order to the Commissioners and make recommendations about “steps forward.” Yost encouraged daily meetings and drafting in public. He also states that “[t]he Court directed the commission to hire new mapmakers not beholden to either political caucus,” and, to that end, explained that he had retained Sean Trende, a Republican analyst, and Bernie Grofman, a Democratic professor of political science, to help in the mapdrawing process. The pair had just completed state legislative maps that are now being implemented in Virginia.

21. As to the substance of drawing a plan, the Attorney General also told us that districts that were drawn to have between 50% and 52% partisan slant were considered “competitive” districts and could not be counted as Democratic or Republican leaning; they are “exclude[d]” from the proportionality calculation. He also warned that “efforts to protect incumbents are improper.”

22. I was encouraged by this memorandum, as I believed it set forth some important steps the Commission needed to take and provided a clear and faithful interpretation of the Court’s order. If the Republican Commissioners were willing to follow their own Attorney General’s advice and interpretation, we could adopt a constitutional map.

23. **Saturday, March 19, 2022.** On Saturday, March 19, 2022, the Commission reconvened for the first time since the Court’s order invalidating the Third Plan. The Commission tentatively agreed to retain independent mapdrawers—one selected by each caucus—who would be charged with drawing a plan that was compliant with the Ohio Constitution and this Court’s orders. And there was consensus, including several statements from Governor DeWine, that the

independent mapdrawers should just be ordered to follow the Ohio Constitution and the Court's three decisions, Tr. 3/19/2022 at 00:40:14, 01:15:47, nothing else. President Huffman, acknowledging that the Court had singled him out for his previous prioritizing of incumbency, stated: "I think [prioritizing incumbency] was also criticized by the court [and] that we should not consider incumbency in drawing these maps. So I just want to kind of get that out." Tr. 3/19/2022 at 46:22.

24. The Commission decided to empower the co-chairs to prepare a recommendation for a pair of mapdrawers. I expressed concern that the Commission itself, rather than the Attorney General, should hire independent mapdrawers; as it was our duty in the Constitution and as articulated by the Court. I also expressed concern that Mr. Trende, one of the experts the Attorney General had selected, had already appeared as an expert witness for the Republican Commissioners in this very case. While I explained that any expert was going to have bias and have appeared in the past for previous political parties or advocacy groups, I was concerned about direct conflicts of interest in this same matter. But I did not close the door on the Attorney General's recommendation and kept an open mind; it was important that we move quickly to get independent mapdrawers working.

25. Also at the March 19 meeting, the Commission scheduled meetings each day through Tuesday, March 22, and the Commission directed all the Commissioners' staff to work together over the weekend until independent mapdrawers were hired.

26. I believed the Commission meeting went well, but I was concerned by Co-chair Cupp's comments that other Commissioners seemed excessively optimistic. Tr. 3/19/2022 at 1:00:44. Likewise, while I was encouraged by Governor DeWine's comments emphasizing the Commission's duty to adopt maps and follow the Court's orders, I was also concerned by the

Governor's comments suggesting that it might not be possible to draw a constitutional map. I believed and still believe that maps complying with Article XI, Sections 2, 3, 4, 5, and 7, and 6 can be created in a relatively short period of time and well within the time frames ordered by the Court. The record clearly shows it is achievable. But I felt apprehensive because of the three previous refusals of Republican Commissioners to follow the dictates of our state constitution. And even at this first meeting, the Republican Commissioners were planting the seeds for the process to fail; saying that there would not be enough time (there was) or that a constitutional map satisfying the Court's orders was impossible (it's not). But I also felt excited to try again, finally with a process the people deserved: independent mapdrawers whose work would be livestreamed to the public. I knew we could adopt constitutional maps and pressed forward despite signals from some Republican Commissioners that they might run the same playbook of denial, delay, and dereliction.

27. I asked my staff to identify potential independent mapdrawers and attempt to set up meetings so we could have multiple options.

28. After the Commission meeting, at around 6:00pm, Mr. Randall Routt contacted all Commissioners' staff letting them know he, Democratic contractor Chris Glassburn, and my staff were available to meet over the weekend as the Commission had just directed.

29. **Sunday, March 20, 2022.** I proceeded with identifying and meeting with potential independent mapdrawers, as I wanted the Commission to retain a pair of mapdrawers to start as soon as possible. My staff set up calls with Nathaniel Persily and Michael McDonald in the morning. The Attorney General scheduled a call for Co-Chair Sykes and me to meet his recommended experts Bernard Grofman and Sean Trende in the afternoon. Dr. Persily indicated that he was available but only as a solo independent mapdrawer. Dr. McDonald indicated he would

be available and could work in a pair and in public with another mapping professional selected by the other Commission members if needed. Mr. Grofman and Mr. Trende indicated that they could work well together and complete Ohio maps in a short time, but they had some schedule limitations and Mr. Grofman could not be in Ohio in person.

30. Despite my concerns, Senator Sykes and I agreed that we would recommend proceeding with the Attorney General Grofman/Trende recommendation because we wanted to move quickly and, given that they had been recommended by the Attorney General, we thought it might be the most acceptable pair to the other Commissioners. We expressed such agreement in a letter we sent to the other Commissioners that day, attached as Exhibit C. We hoped that our agreeability would speed up the process by allowing the Commission to approve hiring experts that night. If the Commission decided against the initial pair, we would proceed with recommending Dr. McDonald.

31. Additionally, my staff reported to me that they met with the other Commissioners' staff for about 90 minutes on this Sunday to discuss what the independent mapdrawers would need to begin and complete their process. My staff described it as an agreeable meeting, and we were ready for the 6:00pm Commission meeting that evening to make our recommendations for mapdrawers. We had an abundance of options and the direction that we as a Commission would give to the mapdrawers seemed clear.

32. Unfortunately, later that afternoon, Co-Chair Sykes informed me that Co-Chair Cupp wanted to cancel that night's meeting because he was not prepared with a mapdrawer recommendation and because many of the Republican Commissioners were not available. I felt confident that independent mapdrawers could complete maps for Ohio quickly, but I was

concerned about what I viewed as an unnecessary delay in getting them started. Senator Sykes and I decided the next morning to insist that all scheduled meetings go forward.

33. **Monday, March 21, 2022 — Wednesday, March 23, 2022.** During the early part of the week, the Commission made progress on setting up an independent and transparent mapdrawing process. It made progress in several ways:

34. *First*, the Commission retained two independent mapdrawers; one selected by each caucus. On Monday, March 21, 2022, I learned that the Republicans had decided not to go along with the Attorney General's Grofman/Trende recommendation and instead chose Dr. Douglas Johnson. Co-Chair Sykes and I selected Dr. McDonald, who could arrive in Columbus the next day. The Commission approved hiring these two experts to work together to draft a plan. The Commission also agreed to ground rules for the independent mapdrawers during a meeting on Wednesday, March 23. By those rules, the mapdrawers were instructed to draw maps from scratch (not based on previous plans) that complied with the Ohio Constitution and the Court's orders—no other considerations were included. The rules set up a transparent process where Democratic and Republican staff could always be present, and the public could view the workroom via livestream.

35. *Second*, the Commission decided to utilize mediators. Co-Chair Sykes had been working on identifying potential mediators to aid the Commission in case of disagreements between the members or disagreements between the mapdrawers. At the Monday, March 21, 2022 meeting, at Co-Chair Sykes' invitation, the Commission heard a presentation from the Sixth Circuit's Chief Mediator, and the next day the Commission decided to utilize the Sixth Circuit's mediation office to resolve disputes should any arise. My staff and I met with the mediators to have introductory conversations and learn about the mediation process.

36. *Third*, the Commission adopted a schedule of daily meetings extending the Court's March 28 deadline. The Commission also engaged the Sixth Circuit mediators to assist the Commission where needed in the days ahead. Later that evening, Dr. McDonald arrived in Ohio.

37. Throughout each of these days, my goal was to keep the process moving as quickly as possible while complying with the constitution and this Court's orders. That meant while I may have preferred different ground rules or different processes, I held my objections to a minimum to facilitate the completion of this process. I truly believed that the Commission could adopt a constitutional map through a transparent process with independent mapmakers. At the same time, however, based on their past actions, I was worried that my fellow commissioners might sabotage or abandon this new process at any time.

**The Independent Mapdrawers, following a Transparent and Collaborative Process,
Worked Diligently to Complete a Constitutional Map.**

38. **Thursday, March 24, 2022.** The mapdrawers commenced their work on Thursday, March 24. At approximately 8:00am, the Ohio Channel began to livestream the "workroom"—a committee room at the Capitol that was set up for the mapdrawers. Legislative staff set up computers and installed the necessary software. There were some delays in getting the proper data in the software program, and my staff reported to me that the Republican mapmakers were not being helpful in resolving these issues. But once these issues were resolved, the mapmakers got to work.

39. I directed my staff to make sure that either Mr. Glassburn or Mr. Routt were always in the workroom with the independent mapdrawers to provide any assistance requested.

40. At the Commission's 7:00pm meeting, the mapdrawers provided an update on their progress to the Commission, then got back to work.

41. **Friday, March 25, 2022.** The independent mapdrawers continued to work diligently and made progress toward completing a plan. There was no indication that they would not finish on time or would be unable to comply with the Court's orders. Quite the opposite, though belated, I was finally seeing an independent and transparent process to draw maps that were compliant with the constitution and not designed to entrench the Republicans' supermajority. The fair process that Ohio voters had asked for was taking shape. I observed the independent mapmaking process both by visiting the workroom and via the livestream. Dr. McDonald and Dr. Johnson each had separate computers where they could draft and try out ideas. They sat next to each other and chatted frequently. They suggested different ideas, each pursuing different suggestions not based on partisan advantage or hidden motives, but in a pure attempt to just see what would work. They were developing a truly independent map, in public, with no single party pulling strings behind the scenes.

42. While the independent mapdrawers were making good progress and following the Commission's ground rules, it was clear that my Republican colleagues were becoming frustrated by the possibility that it would be successful. Our Commission meetings became filled with Republican complaints about printouts not being large enough, maps not being shared long enough in advance before meetings, not enough options for each region being provided, and not enough Commissioner input. Yet, each time the independent mapdrawers asked for guidance, the Commission refused to give it. Even if we recessed to have more time to look at proposed options, the Commissioners still refused to provide the requested guidance.

Over My Objection, the Republican Commissioners Prioritized Protecting Incumbents and Attempted to Derail the Independent Mapdrawers' Progress.

43. **Saturday, March 26, 2022.** By Saturday, March 26—with two full days left before our deadline—each of the mapdrawers had completed a draft House map to present to the

Commission. (House maps were completed first because Senate districts are combinations of three House districts.) Both plans had 45 Democratic-leaning House districts and 54 Republican-leaning House districts. Not only had both the Republican-selected and the Democratic-selected independent mapdrawers achieved partisan proportionality, but they had achieved almost perfect partisan symmetry for competitive districts. Both maps had three Democratic-leaning districts between 50% and 52%; the Johnson map had two such Republican districts; and the McDonald map had three.

44. At the 4:00pm Commission meeting, after hearing the update from the independent mapdrawers, it was clear that they could timely complete the task. Each had drawn proportional and symmetrical maps, and there were not too many disagreements between the two.

45. The Republican Commissioners, however, seemed to want to obstruct and discredit the independent process in any way possible. The Republican Commissioners, for example, started to complain that the maps were not compact (they were). And President Huffman's main complaint was that the maps placed several Republican incumbents in the same district (a practice he called "double bunking"). At that point, the independent mapdrawers did not have access to any addresses for incumbents; so any double bunking was inadvertent and a byproduct of drawing constitutional maps. But President Huffman and the Republican Commissioners indicated that they would never support a map that did not protect their colleagues. President Huffman had apparently already forgotten what he had told us at the first Commission meeting on March 19—that we shouldn't consider or prioritize incumbents. He proposed that, before a merged clean map was even drawn, incumbency data be added and that the mapdrawers be directed to avoid placing multiple incumbents in the same district to the extent possible. Though President Huffman's

concern started out targeted at Senators who were in the middle of their terms, it expanded to wanting, to the extent possible, all House and Senate incumbents protected by the new maps.

46. I immediately objected, as did Co-Chair Sykes. I was concerned that adding in incumbency data would slow down the process and make the maps less compact and symmetrical. The goal was to produce constitutional maps; that was our top priority, not protecting incumbents. And the Court had warned us about using incumbency data and the Attorney General, following that opinion, told us it was “improper.” Co-Chair Sykes suggested that the issue go to mediation.

47. **Sunday, March 27, 2022.** On Sunday, March 27, we worked with the mediator on coming to a resolution of the incumbency issue. Though I did not want any incumbency data used, we also had to face the reality that the Republican Commissioners have the majority, and they wanted—as they stated at the Commission meetings—to require the independent mapdrawers to incorporate incumbency into their maps *even before* they had created a single constitutional map without incumbent consideration. To move the process forward, we agreed to a resolution that would allow the independent mapdrawers to draw a clean map first, before tainting it with trying to protect all the incumbents.

48. The final resolution of our mediation was an agreement to instruct the mapmakers, which we did, as follows: “Upon completion of the independent map drawers’ merger of their independent versions of the House and Senate maps and prior to any presentation to the Commission, the independent mapdrawers shall consider the residence locations of non-term limited House and Senate incumbents, and Senate incumbents in mid-term, in drafting a Commission map, and where possible without violating constitutional principles, avoid pairing incumbents and also drawing districts such that Senators protected under Section 5 of Article 11 no longer live in the district they represent. Incumbents will be identified as House or Senate and

no other identifying information shall be used.” *See* Mediation Agreement—Instructions to Mapdrawers with Regard to Incumbents, as adopted March 27, 2022.

49. At the March 27 hearing, each independent mapdrawer also presented their plans. Before combining them and producing a unified set of maps, they sought the Commission’s input again. There were multiple different options the Commission could select and get a constitutional result, and the Commission could choose. For example, they wanted the Commission’s decision—as they had asked the previous day—as to whether a district drawn that included some of Montgomery County should extend to Greene County or to Preble County. The Commission recessed to evaluate the different plans. Upon returning from the recess, I moved that the Commission provide direction to the independent mapdrawers about the various areas they had given us choices about.

50. Yet, even after recess and time to consider the various proposals, the Republican Commissioners opposed voting to give clear guidance on these issues to the mapmakers. Several of the Commissioners expressed their informal views, and then I asked that the mapmakers move forward with their understanding based on that discussion. In my view, it was hypocritical that the Commissioners had been asking for options and choices, and then when presented with options and choices that would be constitutional, the Republican Commissioners would not provide feedback. But I did not want these choices—or lack thereof—to delay the independent mapdrawers’ work, so I asked them to continue.

The Republican Commissioners Abandoned the Independent Process and Refused to Fulfill Their Obligation to Adopt a Constitutional Map.

51. **Monday, March 28, 2022.** On Monday morning, my staff informed me that the independent mapmakers had decided on a unified plan and were working to ensure that it did not have any technical errors. As they explained to the Commission at the 11:00am meeting, that plan

achieved perfect partisan proportionality in both the House and Senate. It also was symmetrical with respect to competitive seats; there were three Democratic-leaning and three Republican-leaning House seats between 50% and 52%; and two Democratic-leaning and no Republican-leaning Senate seats between 50% and 52%. That plan (the “Pre-Incumbent Independent Plan”) was posted on the Commission’s website.

52. The goal of creating a constitutional map had been achieved. And the mapmakers stated that, before the Court’s deadline, they would add the incumbent data, which was being loaded into their computers, and alter the map to unpair as many incumbents as possible without violating any of the constitutional requirements.

53. The Commission met again in the afternoon to review the independent mapdrawers’ progress. Dr. Johnson and Dr. McDonald announced that they were just a couple of hours away from completing the new maps that adjusted district lines to protect incumbents.

54. The prospect of the independent mapdrawers’ success was not welcome by my Republican colleagues. Rather than encourage the mapdrawers to finish and let them complete the task of protecting all the incumbents (as the Republican Commissioners had asked), the Republicans—led by President Huffman—pulled a bait-and-switch. President Huffman announced for the first time that to comply with the Court’s midnight deadline, the map actually had to be completed and adopted by 10:30 so there was enough time to email the data files to the Secretary of State. Then he suggested, because he was concerned that the independent mapdrawers would not meet this new deadline, that Republican mapdrawers (Mr. DiRossi and Mr. Springhetti) tweak the Third Plan so that the Commission could pass that. Though he presented it as a backup “parachute” in case the independent mapdrawers failed to meet the deadline, it was clear that it was far from just a backup plan. Indeed, President Huffman had already spoken to an infirm Mr.

DiRossi, who was holed up at the BWC building and able to work on a separate map. And while he presented it as a last-minute backup plan, President Huffman later admitted to hatching the plan three days earlier.

55. Co-chair Sykes immediately objected, and I echoed his outrage. We explained that such a process would contravene this Court's orders and the Constitution. I suggested that if we needed more time, we should ask for an extension—not pass another unconstitutional map drawn in a bunker by a Republican mapdrawer. The Republicans were not willing to ask the Court for extra time, even though they passed the Third Plan over a week late. Over Co-chair Sykes' and my emphatic dissent, the Commission voted to adopt President Huffman's proposal.

56. Meanwhile, Dr. Johnson worked on completing the plan incorporating the incumbency data. (Dr. McDonald left at 5:00pm because of a class he had to teach the next morning in person in Florida.)

57. Later in the evening, I visited the workroom to inquire as to when the independent map would be complete. I was surprised to see that Mr. Springhetti was now working on a computer at the independent mapdrawers' table. He appeared to be working on the Third Plan and moving precincts around, but it did not look like much was changing. Mr. Springhetti was not interacting with anyone about whatever he was doing with the map on his screen.

58. At approximately 9:30pm, when the Commission reconvened, Dr. Johnson stated that he needed about 45 minutes to complete the Senate map, and the House map was already done. Therefore, the Democratic Commissioners asked that the Commission recess for one hour to allow Mr. Johnson to complete his work so that we could consider his final plan. But the Republican Commissioners refused. We again asked that the Commission request more time from the Court, noting that the language that the Republican Commissioners had read saying that no

extensions were allowed was applicable to the objections. Certainly, I felt, the Court would want us to have another few hours to work (indeed, at least until the Court opened in the morning) rather than have the Commission adopt yet another unconstitutional map. But the Republicans refused.

59. President Huffman announced that Mr. Springhetti—the Republican mapdrawer—had been working on a map (the “Fourth Plan”) and said the Commission should go with that “parachute.” A Republican staff member passed out printouts of the Fourth Plan; the printout included only information about population deviation in each district. It included no partisanship information or compactness information. This was the first time I had seen the plan. I asked the other Commissioners when they had received this Fourth Plan; other Commissioners also said it was the first time they had seen the plan.

60. President Huffman and Co-Chair Cupp explained that this Fourth Plan changed the Third Plan only minimally; they admitted that it was 97% to 98% similar. The Republican Commissioners would not recess so that the Democratic Commissioners could review the map and suggest amendments. As I said at the meeting, it was a “farce.” In the Third Plan there were 19 competitive districts that the Republicans erroneously counted as “Democratic-leaning” (and no competitive Republican-leaning seats) In the Fourth Plan, there were 17—it was still grossly asymmetrical. None of the Republican Commissioners would even attest that the Fourth Plan was constitutional. Co-Chair Cupp’s defense was it was the “best that can be done in the time that is available.” But that was patently false—the mapmakers had already drawn a constitutional Pre-Incumbent Independent Plan and would be ready in a matter of minutes with the Incumbent Independent Plan. The Commission then proceeded to adopt the Fourth Plan by a 4-3 vote. Co-Chair Sykes and I voted against it.

61. At approximately 10:20pm, minutes after the Commission adopted the Fourth Plan, Dr. Johnson finished the independent map. I learned that Dr. Johnson had completed the Incumbent Independent Plan during the Commission's 30-minute recess after the Fourth Plan was adopted, so that the parties could prepare or review Section 8(C)(2) statements.

62. When the Commission meeting resumed at approximately 11:00pm, the Commission approved the majority's 8(C)(2) statement. Co-Chair Sykes then moved to adopt the independent mapmakers' final map (the "Incumbent Independent Plan") and have it supersede the Fourth Plan. I seconded. I explained that the Fourth Plan had not yet been sent to the Secretary of State, so it was not effective. (And it was clear by then that, despite President Huffman's earlier statements, it did not take over an hour to prepare files to email to the Secretary of State. Either map's files could be emailed to the Secretary of State at that time.) I also explained that the Commission did not dissolve immediately after a map is submitted, so if there were any errors that needed to be corrected (no one identified any), that could be accomplished in the following days.

63. The Republican Commissioners launched various unsupported attacks at the independent mapdrawers' plan, attempting to provide cover for failing to vote for a constitutional map borne of an independent and transparent process. Some Republican Commissioners said baldly that the districts were not compact even though they have a greater compactness score than the Fourth Plan. They said they did not have enough time to review the Incumbent Independent Plan; but they had just voted for the Fourth Plan sight-unseen and had been receiving updates about the independent plan and were able to view its drafting for days. The Commission voted against the Incumbent Independent Plan 5-2; only Co-Chair Sykes and I voted to complete the independent, transparent, fair process that this Court urged.

64. The Republican Commissioners have made no meritorious constitutional objection to the independent mapdrawers' maps.

65. As the evening ended, I directed my staff to rest up. We need to be ready to try again. The Fourth Plan is clearly unconstitutional, just like the Third. We need to pick up where we left off with the independent mapdrawers' map. And I have been informed that Dr. McDonald is available to continue the work if any changes are needed to the plans he produced with Dr. Johnson. With this Court's assistance, we can adopt a constitutional plan.

Conclusion

66. Should the Ohio Supreme Court again order me to show cause why I should not be held in contempt, I believe the facts in this affidavit show that Co-Chair Sykes and I honored the Court's orders by doing everything in our power to advance the Commission toward fulfilling its duty to adopt a constitutional map. The facts also show that the Commission could easily have satisfied the Court's order if only the Republican Commissioners had been willing to comply.

67. Since Monday, March 28, no Republican Commissioner or their staff has contacted me or my staff to discuss maps, work on maps, or share any map proposals. They seem sure that, regardless of what this Court does, the federal court will allow them to go forward with an unconstitutional map on April 20. All they must do is continue to breach their duty to follow the Ohio Constitution and this Court's orders while the clock runs out. I firmly believe in the rule of law and the Constitution. The Court should not allow the Republican Commissioners to get away with such dereliction.

FURTHER AFFIANT SAYETH NAUGHT.

C. Allison Russo
C. Allison Russo

Sworn to before me and subscribed in my presence this 3rd day of April 2022.

Kelly Boggs Lape (inactive 10/21)
Notary Public

Sec. 147.03 R.C.
My commission has no expiration date
Attorney At Law
STATE OF OHIO



Kelly Boggs Lape, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

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**Exhibit A
to Affidavit of
Respondent Allison Russo**

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STATE SENATOR VERNON SYKES
28th District

March 17, 2022

The Honorable Robert Cupp
Ohio House of Representatives
Columbus, Ohio 43215

Dear Co-Chair Speaker Cupp:

I write today to reiterate what I suggested on our phone call earlier today, that the Ohio Redistricting Commission meet as soon as possible in order to develop a transparent path forward to pass bipartisan, fair, and constitutional state legislative maps.

The Ohio Supreme Court has directed the Ohio Redistricting Commission to start fresh and draw maps that meet constitutional muster. We must do this by March 28. Leader Russo and I stand at the ready and believe following the Court's order is possible if we work together and do not waste time.

It is essential that we call a meeting of the Redistricting Commission as soon as possible to start the map drawing process. The Court has rightly criticized the Commission for its previous delays and inefficient use of time. I hope that we will not repeat that mistake this time – our fourth attempt. I will note that the Commission recently amended its procedural rules to also allow for any three members to call for a meeting of the Commission, rather than only the Co-Chairs. Leader Russo and I are available at any time and would welcome any other Commissioner in calling for a meeting.

The Court also ordered the Commission to meet “frequently” in order to have an open and transparent process to the public. I have suggested to you that we set a schedule and meet at least every other day in order to meet this directive and I offer that suggestion once again. It is critical that we conduct our deliberations and make map-drawing decisions in the light of day and with the opportunity for the public to provide input.

Further, I suggest that the Commission work in a bipartisan manner and hire an independent map-drawer – or alternatively, a mediator – to aid us in our efforts. I believe our staff could work together to identify a list of mutually agreeable individuals to serve in this role.

Ultimately, now is the time for us to work together in order to fulfill the wishes of Ohio voters who overwhelmingly approved these reforms to our redistricting process.

Sincerely,

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission

CC: Members, Ohio Redistricting Commission

Exhibit B
to Affidavit of
Respondent Allison Russo

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DAVE YOST
OHIO ATTORNEY GENERAL

Administration
Office: 614-466-4320

MEMORANDUM

TO: Members of the Ohio Redistricting Commission

FROM: Attorney General Dave Yost

DATE: March 18, 2022

RE: Steps forward following the decisions in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al. III* and companion cases

=====

Late in the evening of March 16, the Ohio Supreme Court struck down the third set of state legislative maps. Whether I, or you, agree with the majority in this most recent decision is irrelevant. Four justices have decreed what the rules for this round of redistricting shall be. You are left with little choice but to abide by them. Accordingly, this memorandum outlines a set of steps calculated to address the perceived deficiencies raised by the majority of the Court.

I offer this framework as the chief legal officer of the state, having neither a vote nor a veto over your work. This is not a map of all possible roads to the objective of complying with the elements of the Supreme Court's decisions, but one suggested route. The Commission may choose to devise another. This is offered as a means to commence your discussions.

Meetings

The Court made much of the relatively modest number of meetings held before the February 4, 2022 Plan was enacted, and the lateness of their calling. In its most recent order, the Court only gave the Commission ten days to produce a new map, two days of which have already expired.

The Commission apparently has scheduled a meeting for tomorrow--an excellent first step. I suggest that the commission agree at that first meeting on a schedule of meetings, and to publish it. Given that only seven days remain, daily meetings would not be excessive to respond to what some of you have correctly termed a constitutional crisis. I understand one of you has already cancelled an out-of-state trip so as to be available during this period--a commendable and appropriate sacrifice in view of the seriousness of this moment. One or more members may also arrange to participate remotely by electronic means if necessary and agreeable to the commission.

Staffing

The Court directed the commission to hire new mapmakers not beholden to either political caucus. “The commission should retain an independent map drawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan through a transparent process.” (at paragraph 30) I note that Court used “should” and not “shall,” but given that this matter is heard in the Supreme Court without meaningful appeal regarding the limits of its authority, it would be wise to treat this suggestion with the degree of deference one might pay to the suggestions of one's spouse.

To assist the commission in this effort, I have retained a bipartisan duo of consulting experts through my office, who together can achieve the level of independent evaluation the court is requiring. I will make them available to the commission as a whole.

Sean Trende, a Republican analyst well-known to the readers of *Real Clear Politics*, or even causal viewers of cable news, and Bernie Grofman, a Democratic professor of political science at the University of California-Irvine, recently collaborated to produce maps for the State of Virginia. Their work was unanimously adopted by the Virginia Supreme Court.

Their charge should be simply to produce a map that complies with the Ohio Constitution and the orders of the Ohio Supreme Court. They understand the time limits of the court, the terms of the Constitution and the decisions regarding it and are prepared to go to work immediately.

Of course, you are not required to use them; I have undertaken to retain them because of the exigent circumstances created by the very short time allowed by the Court. Nor are you required to adopt their maps. It is my hope, however, that you will--their success in Virginia strongly commends them and their work to your consideration.

Drafting in Public

The Court further wrote that the map-making should be done in public. “To promote transparency and increase public trust, the drafting should occur in public.” (at paragraph 44)

The actual map-making is highly technical and performed on a single work-station. I do not read the Court's opinion to say that seven people should be jockeying in a public room to direct the operator of the mouse to do this or that conflicting action.

To comply with the Court's direction, I suggest that the Commission take public actions that achieve the clause seeking transparency and public trust. To that end the Commission could publish any maps at least 24 hours before a vote; meet in public, and receive a progress reports in public from the mapmakers prior to the completion of a map, and discuss in public any sticking points between map drafts or particular districts permutations. I believe a process like this is compliant with the public map making directive issued by the Court.

Additional Criteria

- The Court has now established <52% as the threshold for a "leaning" district; any index less than that is viewed by the Court as a competitive district. The Court will exclude competitive districts from its partisanship calculation. That is, if there are 32 competitive districts, then the remaining 100 districts must closely correspond to the 54 Republican to 46 Democrat ratio the majority has established.
- The Court wrote that efforts to protect incumbents are improper. Such efforts "...can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A)." (at paragraph 37)
- While competitive districts will not be counted in overall partisan balance, the Court in *dicta* was bothered by the imbalance in the number competitive districts (meaning those with an expected favorable margin of less than 52%) leaning Democratic versus those leaning Republican. While the clustering of Democrats in urban enclaves creates challenges to making Republican-leaning districts more competitive, I would be remiss if I failed to note the Court's observation.

This is meant to be a summary of the major objections in *League III*. The Constitution and the Court's actual opinions are controlling, of course, and my office stands ready to assist the Commission in navigating the multiple and sometimes competing objectives.

Finally, a note about process. I have served on several multi-member bodies, and I've learned it is always a temptation to love too much my own advice, and my own theory of law. I keep this passage from the Ohio Jury Instructions handy, and often review it before meetings:

It is not wise to immediately express a determination to insist upon a certain verdict, because if your sense of pride is aroused, you may hesitate to change your position even if you later decide you are wrong.

Consult with one another, consider each other's views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment.

Each of you must decide... for yourself, but you should do so only after a discussion and consideration of the case with (the others).

Do not hesitate to change an opinion if convinced that it is wrong. However, you should not surrender honest convictions in order to be congenial or to reach a verdict solely because of the opinion of other(s).

The hour is late, and I do not envy your task. I hope this memorandum has made it easier to "begin again."

**Exhibit C
to Affidavit of
Respondent Allison Russo**

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March 20, 2022

Dear Commissioners,

In our meeting yesterday, this commission set out a straightforward task to reconvene, possibly tonight, with recommendations for independent map drawers that could produce constitutional legislative districts. In an effort to aid our work as a commission, Attorney General Dave Yost retained two well-known, independent map drawers of national note, Bernard Grofman and Sean Trende.

The Democratic commission members today spoke with Grofman and Trende, as well as other highly qualified map drawing experts. We are in favor of the commission engaging the Attorney General's suggested mapmakers. We have also been in touch with nationally renowned mediators who could serve later in this process to help the commission finalize a bipartisan, constitutional set of legislative maps.

It is unfortunate that our colleagues were not prepared for a meeting tonight, which was tentatively scheduled for 7 p.m. As the deadline imposed on us by the Supreme Court of Ohio looms, time is of the essence. However, we remain confident that these issues can be resolved at our next meeting, scheduled for Monday, March 21 at 7 p.m., and the map drawing may immediately begin. There is still time for this process to result in the bipartisan, constitutional maps that the people of Ohio expect and anticipate from the commission.

Respectfully,

A handwritten signature in black ink, appearing to read "Vernon Sykes".

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

A handwritten signature in black ink, appearing to read "C. Allison Russo".

C. Allison Russo
House Minority Leader
Commissioner, Ohio Redistricting Commission
House District 24

EXHIBIT 12

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
 : **Case No. 2021-1193**
Petitioners, :
 : **Original Action Filed Pursuant to**
v. : **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**
Petitioners, :
 : **Original Action Filed Pursuant to**
v. : **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**
Petitioners, :
 : **Original Action Filed Pursuant to**
v. : **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 C. ALLISON RUSSO TO PETITIONERS' OBJECTIONS**

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House Minority Leader C. Allison Russo

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
 : Case No. 2021-1193
 Petitioners, :
 : Original Action Filed Pursuant to
 v. : 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
 Petitioners, :
 : Original Action Filed Pursuant to
 v. : 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
 Petitioners, :
 : Original Action Filed Pursuant to
 v. : 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 CHRIS GLASSBURN

State of Ohio
County of Cuyahoga, 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 the information below. I am over 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 and to provide additional services as needed.
3. I previously provided affidavits in this case on January 28, 2022, and February 22, 2022, detailing my efforts, at the direction of Co-Chair Sykes and Leader Russo, to aid the Commission in adopting constitutional maps. I incorporate those affidavits by reference.

Leader Russo and Senator Sykes Directed Me to Aid the Independent Mapmakers.

4. After the Ohio Supreme Court's March 16, 2022 Order, Co-Chair Sykes and Leader Russo instructed me to work with their staff and all the Republican Commissioners' staff in responding to the Court's order that the Commission draft and adopt a constitutional map. I, along with Senate Democratic staff member Randall Routt, provided as much mapping support as possible to the Democratic Commissioners as they worked diligently to adopt a constitutional map.
5. The main support that I provided since the March 16 order was to aid the independent mapdrawers while they conducted their work in drawing new General Assembly maps from scratch. Because the Republican mapdrawers (Mr. Ray DiRossi and Mr. Blake Springhetti) and the Democratic mapdrawers (myself and Mr. Routt) have experience with Ohio's political geography and the Ohio Constitution's mapdrawing requirements, the Commission represented at

its early meetings that it would be helpful for Republican and Democratic mapdrawing staff to be present to aid the new independent mapdrawers. Leader Russo and Co-Chair Sykes instructed me to be in the workroom as much as possible with the independent mapdrawers, answer any questions they had, and provide them with any assistance they requested. That means that I spent from approximately 8:00am to approximately midnight (or even after) each day that the independent mapdrawers worked in the workroom with them, supporting their work.

6. All throughout this time, I was available to answer questions from the mapdrawers in accordance with the ground rules adopted by the Commission on Wednesday, March 23. The rules ensured that all substantive communications about the maps were made in a bipartisan way, with staff from each party present—and all was livestreamed for the public to see.

7. Additionally, I answered questions about mapdrawing and proposed maps from the Democratic Commissioners and their staff.

8. Because I was present at almost all Commission meetings that took place from March 19 through March 28 and at all work sessions of the independent mapdrawers that took place Thursday, March 24 through Monday, March 28, I have personal knowledge of the vast array of events and conversations that transpired during this period. I observed the creation of all maps produced by the independent mapdrawers.

The Independent Mapdrawers Created a Unified Constitutional Map Without Regard to Incumbents Well Before the Court Deadline.

9. The independent mapdrawers retained by the Commission—Dr. Michael McDonald and Dr. Douglas Johnson—started work on March 24, 2022, in the morning. The Legislature’s staff set up House Committee Room No. 116 with new computers and a livestream for the public to view all work done.

10. A full week had passed since this Court invalidated the Commission's February 24 legislative maps. But I believed the mapdrawers could complete Ohio House and Senate maps that complied with Article XI, Sections 2, 3, 4, 5, and 7, and 6 in the time left before the Commission's deadline. I was concerned about any delays or obstacles that might arise going forward, and I intended to minimize disruptions to the extent I could by working collaboratively with Commissioners' staff and trying to be helpful to everyone involved.

11. From Thursday, March 24 through Sunday March 27, Dr. Johnson and Dr. McDonald sat side-by-side, just a few feet apart. They worked on separate computers, testing out ideas and familiarizing themselves with Ohio's geography. They were in constant communication with each other. They would discuss ideas. They almost always agreed. They would collaborate on which of them would try different ideas and discuss with one another the results of such attempts.

12. Dr. McDonald and Dr. Johnson provided maps to Democratic and Republican Commissioners' staff whenever either of them had a completed map to share. These maps were uploaded to the Ohio Redistricting Commission's website and supporting documents providing data about the maps were also uploaded to the website. See <https://redistricting.ohio.gov/maps> and <https://redistricting.ohio.gov/meetings>.

13. Based on my observations, the mapmakers worked quickly, diligently, and made good progress. They were both committed to adhering to the Ohio Constitution, the Court's orders, and the Commission's ground rules.

14. By Sunday, March 27, both mapmakers had completed House and Senate maps without any consideration of incumbency data. They were working toward a unified plan.

15. By the evening of Sunday, March 27, Dr. Johnson and Dr. McDonald had made sufficient progress and had received sufficient feedback from the Commission that they decided on a unified plan to work from going forward. They worked into Monday morning cleaning up that map to ensure that there were no technical errors and to make it more compact. The Pre-Incumbent Independent Plan is available here: <https://redistricting.ohio.gov/assets/district-maps/district-map-1173.zip>. This plan met the Ohio Constitution and this Court's proportionality and symmetry requirements to comply with Section 6 while abiding with Sections 2, 3, 4, 5, and 7. The House map had 54 Republican-leaning districts and 45 Democratic-leaning districts. It had 3 Democratic-leaning tossups and 3 Republican-leaning tossups. The Senate map contained 18 Republican-leaning districts and 15 Democratic-leaning districts with 2 Democratic-leaning districts in the 50-52% tossup range.

Republican Commissioners Directed the Independent Mapdrawers to Incorporate Incumbency Data.

16. On March 28, following the Commission's direction, the independent mapdrawers worked on altering their unified map to protect incumbents from "double bunking" as much as possible without violating other constitutional rules. Dr. McDonald and Dr. Johnson—after receiving the list of all incumbent addresses from Mr. Springhetti—worked on "geocoding" it such that every incumbent's address would appear as a dot on the map. According to the Commission's rules, the incumbents were supposed to be anonymous, without the independent mapdrawers knowing the name or party associated with any incumbent's address. Only the chamber—House or Senate—was indicated.

17. Strangely, on Monday, March 28, neither Mr. Springhetti nor Mr. DiRossi were in the workroom much, especially in the early part of the day. The independent mapdrawers asked for them to be there as they were the Republican staff with the most mapping knowledge. Dr.

McDonald and Dr. Johnson seemed more comfortable when either Mr. Springhetti or Mr. DiRossi were there so they would have observers from both political parties with detailed knowledge of mapping Ohio, and so when they had any questions, they could get feedback from experienced mapdrawers from both parties. This held up the independent mapdrawers' work.

18. Senator Huffman stopped by mid-day on March 28 and spoke briefly to the mapdrawers. He told them that he and Speaker Cupp lived in Lima and that he himself represented Senate District 12.

19. At approximately 5:00 p.m. on March 28, Dr. McDonald had to leave to make it home to teach the next morning. Also at about that time, Mr. Springhetti came back to the workroom and began to work at the computer station next to Dr. Johnson. Mr. Springhetti, even upon a question from Democratic staff, did not explain what he was doing. He did not speak much with anyone about his work. I remained focused on the independent mapdrawers' work. Mr. Springhetti was present for approximately 45 minutes before he took a thumb drive out of the computer and left.

20. Meanwhile, Dr. Johnson continued his work altering the unified map to protect incumbents. He reported to the Commission at approximately 9:30 p.m. that he needed 45 more minutes. The Commission dismissed him from the meeting to continue working. He then completed the independent mapdrawers' maps (both for the House and Senate) with the incumbency alterations at 10:18 p.m. (the "Incumbent Independent Plan"). I informed Democratic staff that he had finished. There was time to spare before the midnight deadline. We did not have the Commission meeting playing in Room 116, and I did not know then that the Commission was adopting the Fourth Map in a room two floors above us at virtually the same time. That final

Incumbent Independent Plan can be found here: <https://redistricting.ohio.gov/assets/district-maps/district-map-1178.zip>.

21. I emailed the block assignment files and data files showing population and partisan indexes of districts of the Incumbent Independent Plan to the staff of all the Commissioners at 10:32 p.m. Shortly after, I emailed to the same group images of the maps, and shortly after that, I sent a document listing the assignments of House districts to Senate districts and, in accordance with Article XI, Section 5, the assignments of Senate districts to Senators whose terms do not end in 2022. Mr. Routt uploaded all these files to the Commission website at 11:30 p.m.

22. For the vast majority of the dozens of hours spent in Room 116, from my perspective, the atmosphere was friendly and collaborative and highly productive in spite of what I believe were some unnecessary interruptions and delays.

23. The independent mapdrawers created at least two complete plans that satisfy the Ohio Constitution and this Court's orders with respect to proportionality, symmetry, and sections 2, 3, 4, 5, and 7. They are:

(1) The Pre-Incumbent Independent Plan:

<https://redistricting.ohio.gov/assets/district-maps/district-map-1173.zip>

(2) The Incumbent Independent Plan: [https://redistricting.ohio.gov/assets/district-](https://redistricting.ohio.gov/assets/district-maps/district-map-1178.zip)

[maps/district-map-1178.zip](https://redistricting.ohio.gov/assets/district-maps/district-map-1178.zip)

24. Mapping workroom video archives can be found here:
[https://www.ohiochannel.org/collection-files/ohio-redistricting-commission?collections=110486&keywords=workroom&pageSize=48&start=1&sort=creationD
ate&dir=asc](https://www.ohiochannel.org/collection-files/ohio-redistricting-commission?collections=110486&keywords=workroom&pageSize=48&start=1&sort=creationDate&dir=asc).

The Independent Mapdrawers' Maps Meet this Court's Proportionality and Symmetry Requirements While Abiding with Sections 2, 3, 4, 5, and 7.

25. The Fourth Map, which the Commission adopted, is not constitutional. It is nearly identical to the Third Map and would insulate a Republican majority in extremely safe seats. It is not proportional and lacks partisan symmetry. The Third Map contained 19 Democratic-leaning House districts and 7 Democratic-leaning Senate districts in the range of 50 – 52%, and zero Republican-leaning House or Senate districts in that same tossup range. The Fourth Map also contains tossup districts in this range only on the Democratic side of the ledger—17 in the House and 6 in the Senate.

26. The Incumbent Independent Plan that Senator Sykes and Leader Russo voted for, by contrast, meets the Ohio Constitution and this Court's proportionality and symmetry requirements to comply with section 6 while abiding sections 2, 3, 4, 5, and 7. The independent House map has 54 Republican-leaning districts and 45 Democratic-leaning districts. There are 3 Democratic-leaning tossups and 3 Republican-leaning tossups. The independent Senate map contains two Democratic-leaning districts in the 50 – 52% tossup range.

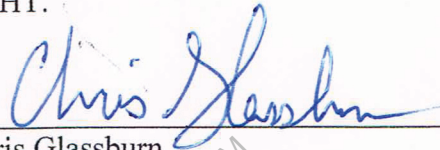
27. Beyond vague aspersions about compactness, no Commissioner alleged that the independent mapdrawers' maps violated Article XI, Sections 2, 3, 4, 5, 6, or 7. In fact, the Incumbent Independent Plan is more compact than the Fourth Plan. It scores as more compact than the Fourth Map on the Reock and Polsby-Popper scales, two common methods of the dozens of methods used to measure compactness of an area.

Further Action

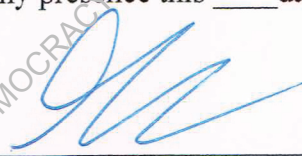
28. I remain open to working collaboratively with any Commissioner, their staff, or member of the public, or the Commission's independent mapdrawers in addressing any actual constitutional violations with the independent mapdrawers' maps. To the extent there are any

technical flaws in the independent mapdrawers' plans (I am aware of none), I believe they could be remedied easily in a matter of hours. There is no reason, from a technical mapdrawing perspective, that the Commission would need more than a single day to review the independent mapdrawers' final plan, assure that there are no technical flaws (or fix any that hypothetically exist), and adopt it.

FURTHER AFFIANT SAYETH NAUGHT.


Chris Glassburn

Sworn to before me and subscribed in my presence this 3rd day of April 2022.


Notary Public



GRANT W. MACKAY
NOTARY PUBLIC-OHIO
MY COMMISSION NEVER EXPIRES

EXHIBIT 13

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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]*

**EXHIBITS TO PETITIONERS' OBJECTIONS TO GENERAL ASSEMBLY DISTRICT
PLAN ADOPTED ON MARCH 28, 2022 – VOLUME II
(Expert Affidavit of Dr. Jonathan Rodden)**

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Constitution, Article XI, Section 9(A)

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

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 third revised redistricting plan for the Ohio State House of Representatives and Ohio Senate, adopted by the Ohio Redistricting Commission on March 28, 2022 (attached as Exhibits A and B) (“Third Revised Plan”). In previous reports, I have addressed the standards set forth in Article XI, Section 6, namely, that (A) “No general assembly district plan shall be drawn primarily to favor or disfavor a political party,” (B) “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,” and (C) “General assembly districts shall be compact.”
2. Additionally, I have been asked to assess an additional redistricting plan created by the independent map drawers appointed by the Ohio Redistricting Commission and submitted to the Commission on March 28, 2022 (“Independent Map Drawers’ Plan”).
3. 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.*, Slip Opinion No. 2022-Ohio-65 at ¶ 88.
4. The Third Revised Plan is nearly identical to the Second Revised Plan, with 99.7 percent of Ohio residents placed in the same district as in the Second Revised Plan. In total, the Third Revised Plan changes only 451 census blocks, accounting for 31,244 people out of the state’s

population of nearly 11.8 million, which amounts to a change affecting less than 0.3 percent of Ohio's population. As with the Second Revised Plan, the distribution of support for the two parties across districts in the Third Revised Plan is extremely unusual, indicating that Commissioners attempted to achieve nominal statewide partisan proportionality by generating a large number of districts with very slim Democratic majorities, while creating 0 districts with similarly slim Republican majorities. Under the Second Revised Plan, virtually all the majority-Republican seats are quite safe: 52 of 54 seats with Republican majorities in the Ohio House of Representatives would have Republican vote shares above 55 percent, and the same is true for 16 of 18 seats with Republican majorities in the Senate. The situation is starkly different for Democrats. Of 45 seats with nominal Democratic majorities, fewer than half—only 22—would have Democratic vote shares above 55 percent in the House, and the same would be true of only 7 of 15 “Democratic” seats in the Senate. These numbers are exactly the same as in the Second Revised Plan. This striking asymmetry in the distribution of competitive and non-competitive seats has the effect of creating what is likely to be a very hard ceiling on the number of seats that can possibly be won by Democratic candidates, preserving a comfortable Republican legislative majority even in the event of an exceedingly strong statewide performance by Democrats.

5. In my previous reports submitted in this matter, I discussed and analyzed “toss-up” districts: those seats where the expected vote share for a party is between 48 and 52 percent. The same asymmetry in the Third Revised Plan is obvious even when looking at only the narrowest toss-up districts for each party. Under the Third Revised Plan, every majority-Republican House seat would have a Republican vote share above 52 percent: all 54 seats in the House and all 18 seats in the Senate. On the other hand, only 28 of 45 majority-Democratic seats in the House (2 more than in the Second Revised Plan), and only 9 majority-Democratic seats (1 more than in the Second Revised Plan) in the Senate have Democratic vote shares above 52 percent. As a result, there are, as in the Second Revised Plan, a large number of ultra-competitive districts, which monolithically “lean” Democrat.
6. Using the Ohio Supreme Court's guidance on proportionality, “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 of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-342 at ¶ 62. Accordingly, the Third Revised Plan is far from proportional.
7. If these toss-up seats are excluded, the Third Revised Plan reflects a 28D/54R advantage in the House, or an advantage of 34.1 percent to 65.9 percent of allocated seats in favor of Republicans. In the Senate, it reflects a 18R/9D advantage, which corresponds to a 33.3% percent to 66.7% percent advantage in Republicans' favor.
8. Moreover, like its predecessor, the Third Revised Plan produces an unusually large number of districts with Democratic vote shares of around 51 percent, indicating the application of a specific target. This is to say, it appears that the drawers of the Second Revised Plan were instructed to draw as many of the Democratic-leaning districts as possible to be as close as possible to 51 percent, and this unusual feature remains in the Third Revised Plan. Only 2 House districts and 1 Senate district have been altered in the Third Revised Plan so as to bump their Democratic vote share above 52 percent.

9. In order to ascertain whether 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 submit my own alternative maps (with images attached as Exhibits C and D and submitted as native files to the Court on February 18, 2022).
10. The alternative maps attached as Exhibits C and D 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 far more compact districts than those in the Third Revised Plan. They also split fewer counties and vote tabulation districts and are far more reflective of communities of interest. Moreover, these maps reveal that there is nothing about the political geography of Ohio that might explain an unusual bunching of districts with Democratic vote shares between 50 and 52 percent, or right at the 51 percent mark in particular, while simultaneously resulting in all Republican districts exceeding 52 percent.
11. I have not yet had the opportunity to assess whether the Independent Map Drawers' Plan meets all the criteria of the Ohio Constitution, specifically with respect to the issue of municipal splits. However, I have been asked to place this plan in comparative perspective with respect to compactness, splits of counties and vote tabulation districts, and the distribution of support for the two parties across districts. I conclude that the plan performs very well in reflecting the statewide preferences of Ohio voters. Like the Rodden Plan and Third Revised Plan, the Independent Map Drawers' Plan achieves nominal proportionality in both houses. It also allocates toss-up seats in a much more even-handed fashion than the Third Revised Plan. Excluding toss-up seats from the calculus, the Independent Map Drawers' Plan reflects a 42D/51R split in the House and a 13D/18R split in the Senate, corresponding to a 45.2 percent Democratic/54.8 percent Republican split in the House and 41.9 percent Democratic/58.1 percent Republican split in the Senate.
12. When it comes to traditional redistricting criteria, the Independent Map Drawers' Plan outperforms the Third Revised Plan on almost all dimensions. For example, the Independent Map Drawers' Plan has higher plan wide compactness scores than the Third Revised Plan in the House and Senate on every single measure, and splits the same number of counties and fewer Vote Tabulation Districts in the House; in the Senate, it splits fewer Vote Tabulation Districts as well, although it splits somewhat more counties. On traditional redistricting criteria, the plan I have submitted to the Court outperforms both the Third Revised Plan and the Independent Map Drawers' Plan.

II. QUALIFICATIONS

13. 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 E.

14. 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.”
15. 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 have recently completed 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.
16. 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.
17. I have 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). 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. I recently drew a Pennsylvania Congressional redistricting plan, known as the “Carter Plan,” that was chosen by the Pennsylvania Supreme Court for implementation. *Carter v. Chapman*, No. 7 MM 2022, 2022 WL 549106 (Pa. Feb. 23, 2022).

III. DATA SOURCES

18. I have collected statewide election data for 2012 to 2020 from the Ohio Secretary of State. I also accessed precinct-level election results from the Ohio Secretary of State for statewide elections from 2016 to 2020 that were matched to 2020 Ohio vote tabulation districts by a team at Harvard University called the Algorithm-Assisted Redistricting Methodology Project.¹ Additionally, I accessed the Third Revised Plan approved by the Commission and uploaded to the web page of the Ohio Redistricting Commission, true copies of which are attached as Exhibits A and B, as well as the Independent Map Drawers’ Plan, true copies of which are attached as Exhibits G and H.² For the analysis conducted in this report, I use two software packages: Stata and Maptitude for Redistricting. In creating my maps, I used the same U.S. Census redistricting data used by the Ohio Redistricting Commission, as archived in the “Ohio University Common and Unified Redistricting Database.”³

IV. WHAT HAS CHANGED IN THE THIRD REVISED PLAN?

19. The first thing to notice about the Third Revised Plan is that it is virtually identical to the Second Revised Plan. I have added up the block-level population that falls into the same district in both plans, as well as the population that has been moved to a different district. For the Ohio House of Representatives, 99.74 percent of the population remains in the same district in the two plans. The boundaries for the House districts in the Third Revised Plan are exactly the same as in the Second Revised Plan throughout the state, with two very small exceptions. Figure 1 below provides a map of the boundaries of the Second Revised Plan in red, and the Third Revised Plan in black. When looking at the entire state, it is very difficult to appreciate any differences. To see the slight changes, it is necessary to zoom in on the northern part of Franklin County (Figure 2) and on the Canton area (Figure 3).
20. First, there has been a very minor movement of a boundary in the area of Worthington and Upper Arlington in Northern Franklin County. In Figure 2 also, the boundaries of the Second Revised Plan are shown in red, and the boundaries of the Third Revised Plan are shown in black. Only a handful of census blocks are involved in this change. This small change did not alter any of the partisan metrics discussed in this report for the House—both Districts 7 and 8 are extremely Democratic districts. However, for the Senate, this small maneuver brought Senate District 16 from an average Democratic vote share of 51.1 percent in the Second Revised Plan to 52.1 percent in the Third Revised Plan.
21. Figure 3 shows that some small changes were also made near Canton. First, District 49 gained a very small sliver of urban population and shed a small number of rural voters. This

¹ <https://alarm-redist.github.io/posts/2021-08-10-census-2020/>

² <https://redistricting.ohio.gov/maps>

³ <https://www.redistricting.ohio.gov/resources>

maneuver brough District 49 from an average Democratic vote share of 51.6 percent to 52.2 percent. Additionally, District 59, which combines Youngstown with surrounding rural areas, simply shed a few rural voters, bringing the average Democratic vote share from 51.9 percent to 52.8 percent. These changes did not have any implications for the Senate districts. Other than these very small changes, the Second and Third Revised Plans are identical.

Figure 1: Boundaries of Second and Third Revised Plans

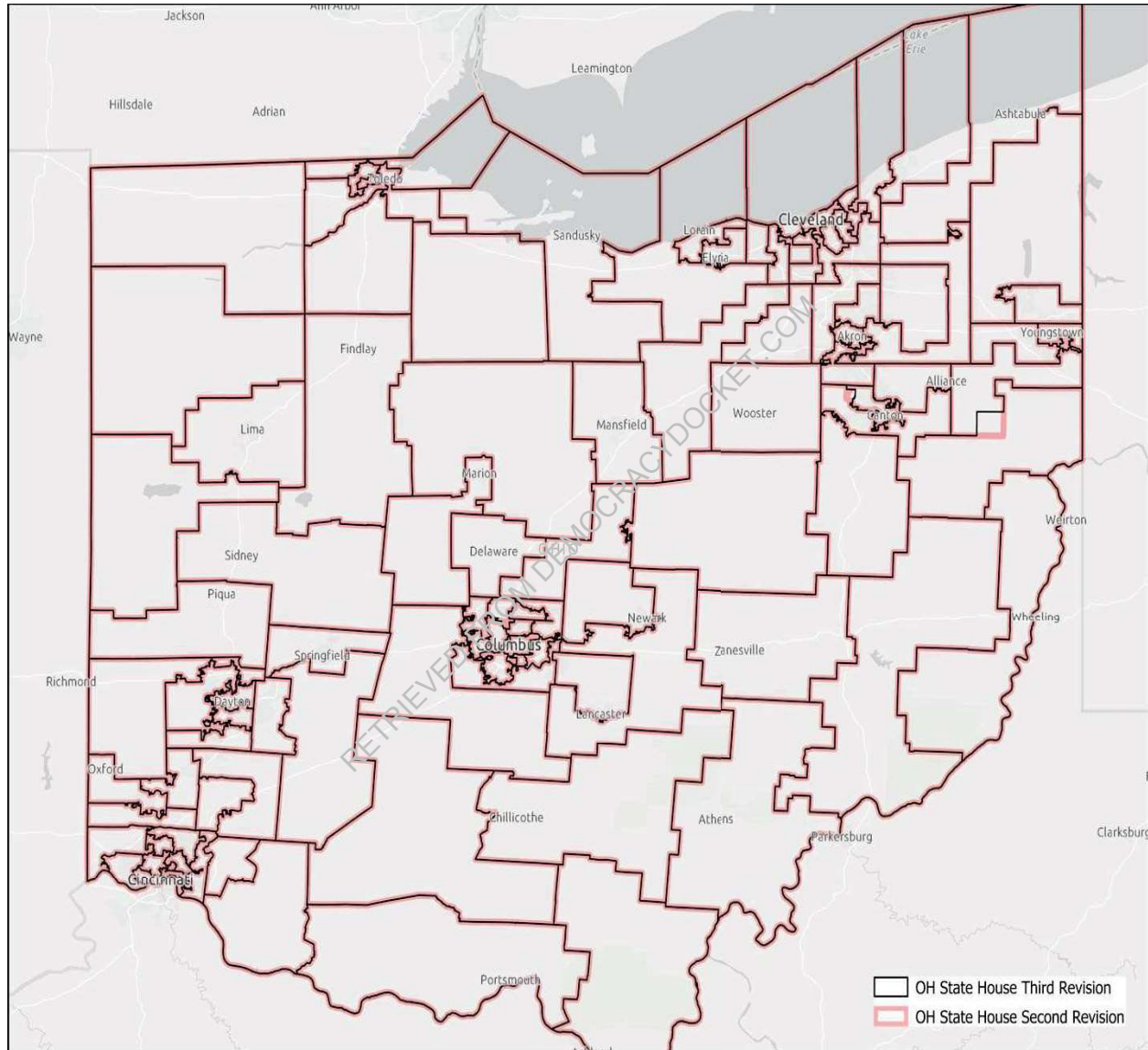


Figure 2: Northern Franklin County

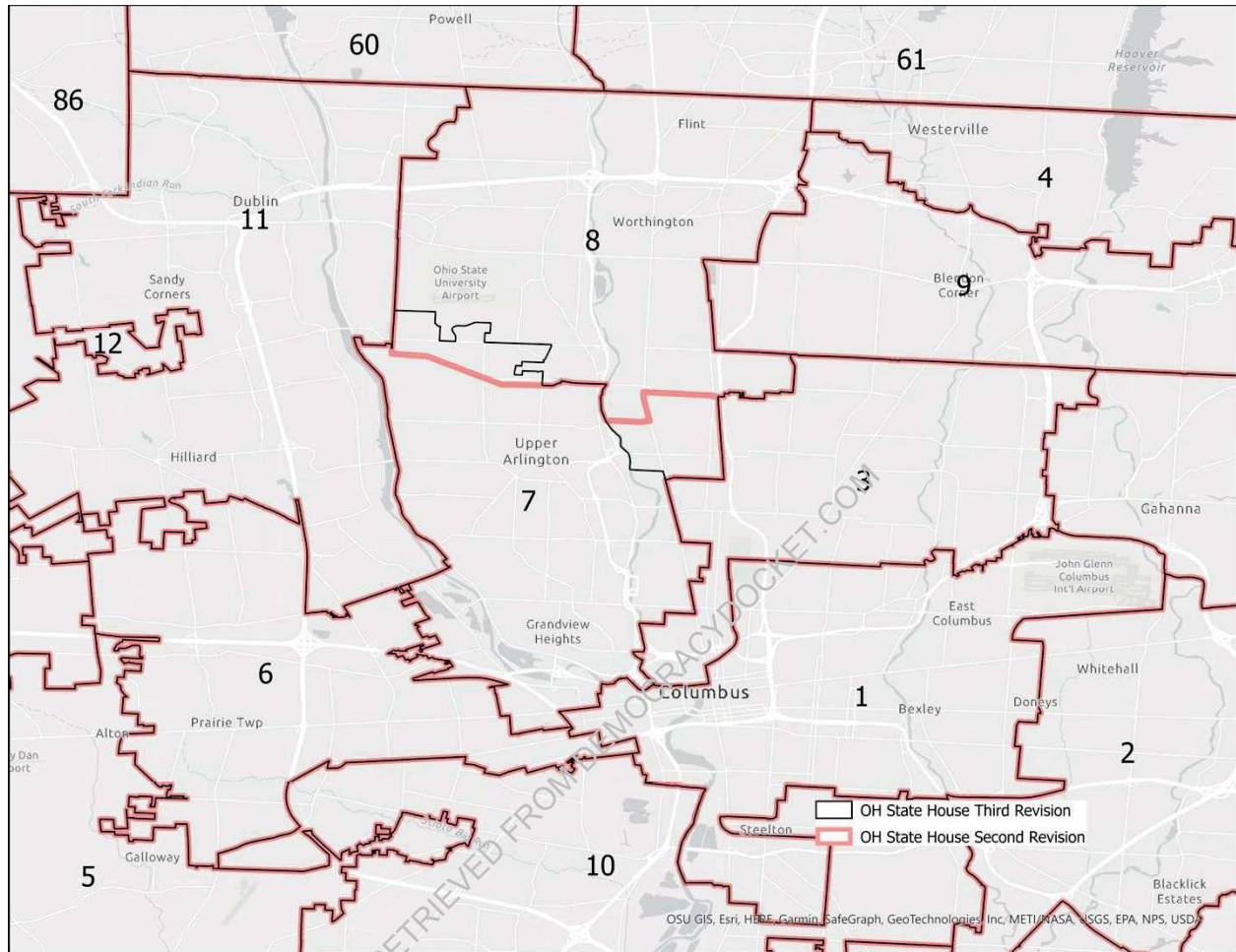
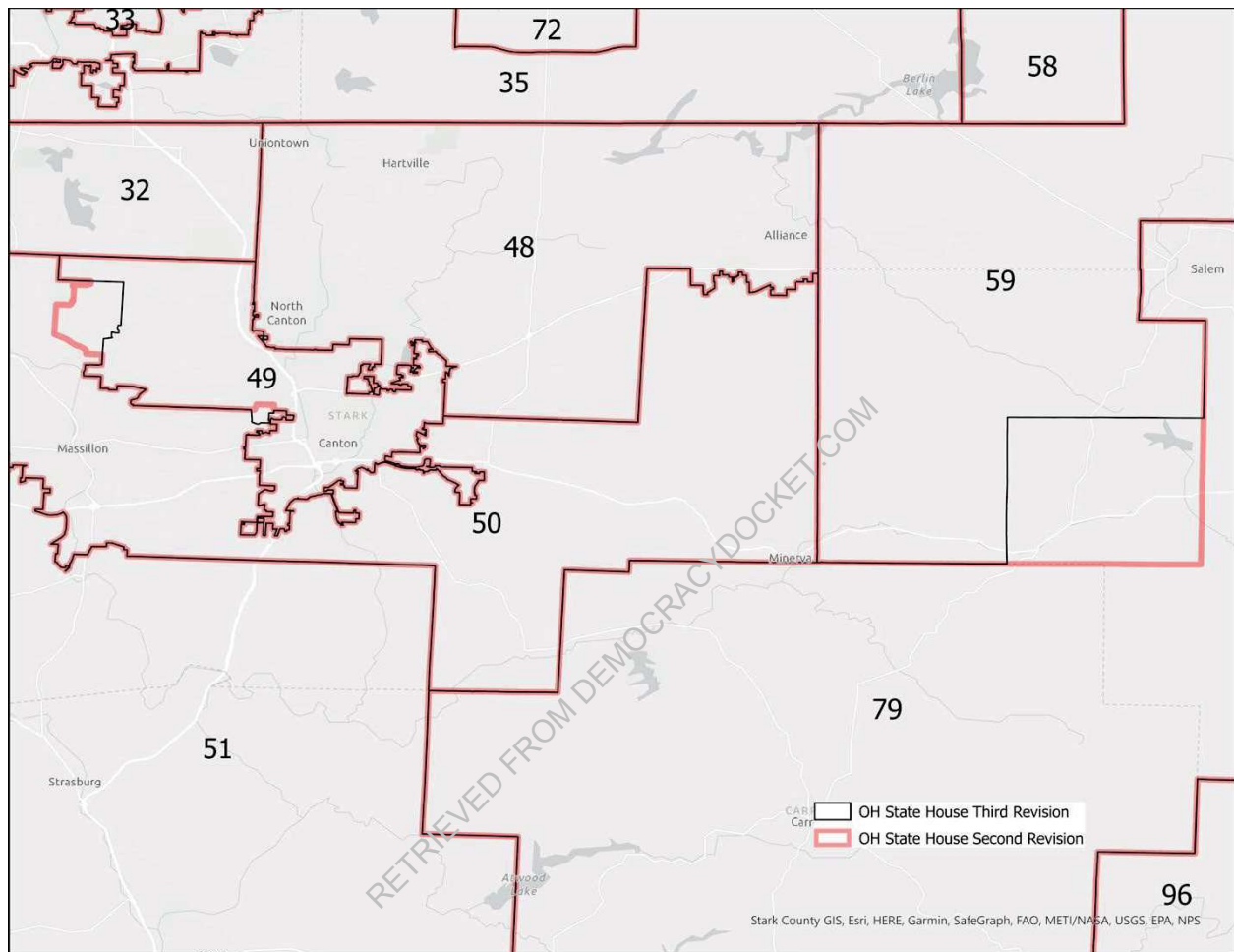


Figure 3: Canton Area



V. CONTRASTING THE REVISED PLANS, THE RODDEN III PLAN, AND THE INDEPENDENT MAP DRAWERS' PLAN

22. According to *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-65 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 of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-342 at ¶ 62.

23. Determining the proportion of districts that favor each party, based on consideration of the relevant elections identified in Article XI, Section 6, 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, as the Commission itself acknowledged in its initial Article XI, Section 8(C)(2) Statement (accompanying the since-struck down September 16, 2021 General Assembly plan), attached as Exhibit F. 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.
24. 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.⁴ I have calculated this measure of district-level partisanship for each district in the Third Revised Plan. In Table 1, I include these metrics for the Commission's First Revised Plan, the Second Revised Plan, the Third Revised Plan, the plan that I have submitted to the Commission and the Court (the "Rodden Plan"), and the Independent Map Drawers' Plan. Table 2 provides the same information for the Ohio Senate.
25. For each plan, Figure 4 also provide histograms that allow one to visualize the distribution of support for the two parties across the House districts in each proposed plan. That is, the districts are divided into bins according to a specific narrow range of average Democratic vote share, and the height of the bin corresponds to the number of districts that fall into that bin. Figure 5 displays the same information for the Ohio Senate.

⁴ In my reports concerning the first two plans approved by the Commission, I calculated vote shares of the two major parties in each election in each district, and then took an average across all 9 statewide elections. This approach gives equal weight to each election, regardless of turnout, whereas the approach taken by the Commission, and reproduced here for purposes of comparability, gives greater weight to presidential election years with higher turnout. The two approaches yield very similar results, and lead to very similar inferences, but exact numbers of seats above and below certain thresholds can sometimes vary by a single seat.

Table 1: Plan Statistics, Ohio House of Representatives

	Commission First Revised Plan	Commission Second Revised Plan	Commission Third Revised Plan	Rodden Plan	Independent Map Drawers' Plan
Average compactness scores					
(Higher scores = more compact)					
Reock	0.40	0.39	0.39	0.41	0.41
Polsby-Popper	0.30	0.31	0.31	0.36	0.33
Area/Convex Hull	0.74	0.75	0.74	0.79	0.77
Number of split counties	37	38	38	32	38
Number of split VTDs	112	135	135	96	118
# of seats with two-party Democratic vote share >.5					
	42	45	45	42	45
Expressed as percentage of seats	42.4%	45.45%	45.45%	42.4%	45.45%
# of seats with two-party Republican vote share >.5					
	57	54	54	57	54
Expressed as percentage of seats	57.6%	54.5%	54.5%	57.6%	54.5%
# of seats with two-party Democratic vote share >.52					
	28	26	28	40	42
Expressed as a percentage of seats	28.3%	26.3%	28.28%	40.4%	42.4%
# of seats with two-party Democratic vote share <.48					
	57	54	54	56	51
Expressed as percentage of seats	57.6%	54.55%	54.55%	56.6%	51.5%
# of seats with two-party Democratic vote share between .48 and .5					
	0	0	0	1	3
Expressed as percentage of seats	0.0%	0.0%	0.0%	1.0%	3.0%
# of seats with two-party Democratic vote share between .5 and .52					
	14	19	17	2	3
Expressed as percentage of seats	14.1%	19.19%	17.17%	2.0%	3.0%
# of seats with two-party Democratic vote share >.55					
	24	22	22	29	24
Expressed as a percentage of seats	24.2%	22.22%	22.22%	29.3%	24.2%

# of seats with two-party Democratic vote share <.45	54	52	52	51	48
Expressed as percentage of seats	54.5%	52.53%	52.53%	51.5%	48.5%
# of seats with two-party Democratic vote share between .5 and .55	18	23	23	13	21
Expressed as percentage of seats	18.2%	23.23%	23.23%	13.1%	21.2%
# of seats with two-party Democratic vote share between .45 and .5	3	2	2	6	6
Expressed as percentage of seats	3.0%	2.02%	2.02%	6.1%	6.1%

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Figure 4: Histograms of Democratic Vote Share, House Plans

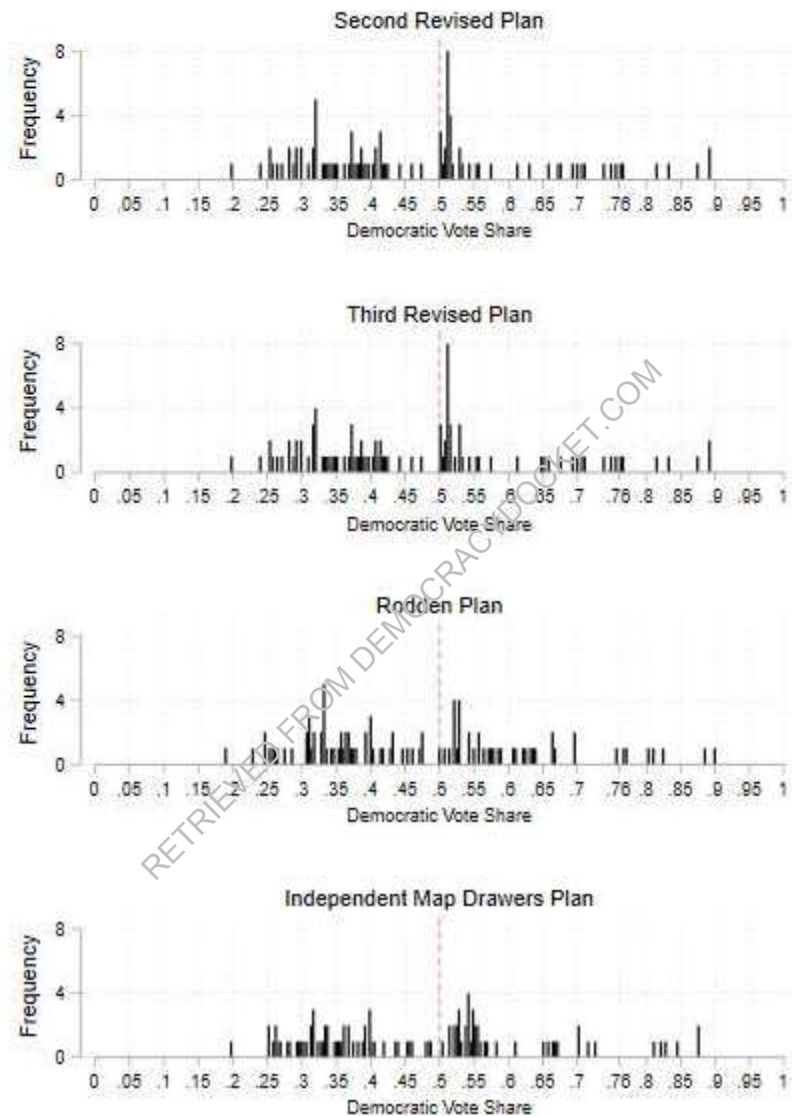


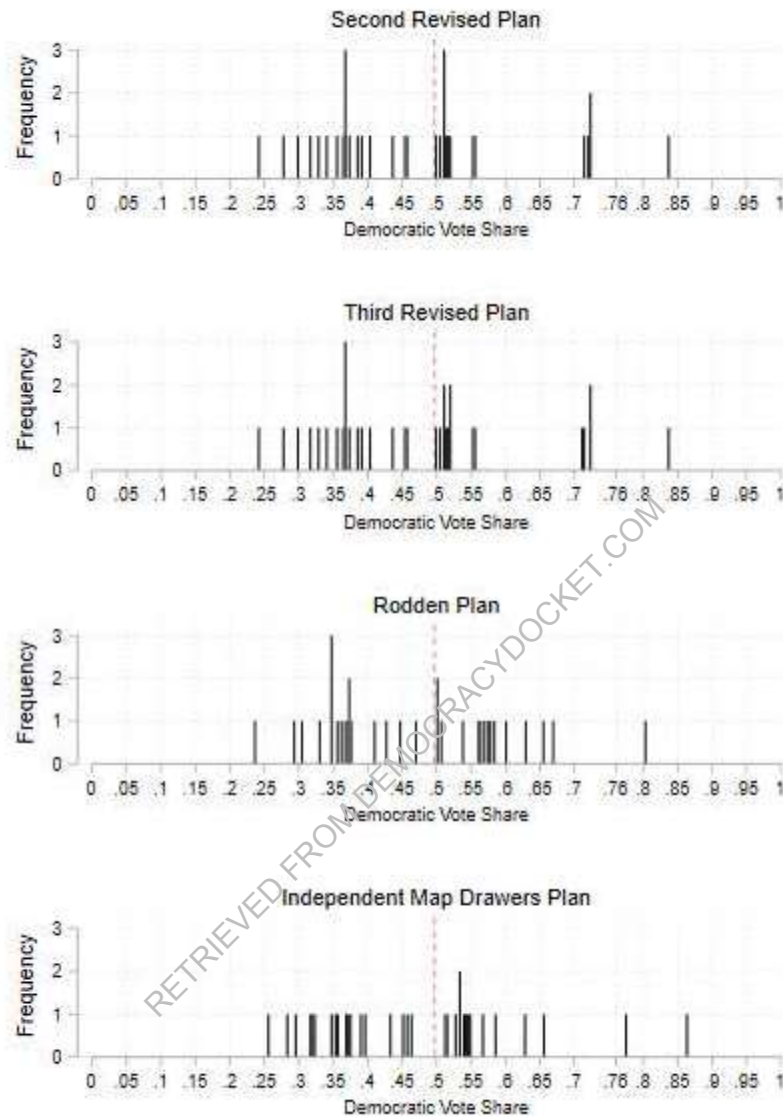
Table 2: Plan Statistics, Ohio Senate

	Commission First Revised Plan	Commission Second Revised Plan	Commission Third Revised Plan	Rodden Plan	Independent Map Drawers' Plan
Average compactness scores					
(Higher scores = more compact)					
Reock	0.41	0.38	0.38	0.44	0.42
Polsby-Popper	0.3	0.28	0.28	0.37	0.31
Area/Convex Hull	0.74	0.73	0.73	0.78	0.76
Number of split counties	17	15	15	15	22
Number of split VTDS	41	57	58	22	46
# of seats with two-party Democratic vote share >.5					
Expressed as percentage of seats	13	15	15	15	15
	39.4%	45.45%	45.45%	45.5%	45.5%
# of seats with two-party Republican vote share >.5					
Expressed as percentage of seats	20	18	18	18	18
	60.6%	54.5%	54.5%	54.5%	54.5%
# of seats with two-party Democratic vote share >.52					
Expressed as a percentage of seats	8	8	9	12	13
	24.2%	24.2%	27.3%	36.4%	39.4%
# of seats with two-party Democratic vote share <.48					
Expressed as percentage of seats	19	18	18	18	18
	57.6%	54.55%	54.55%	54.5%	54.5%
# of seats with two-party Democratic vote share between .48 and .5					
Expressed as percentage of seats	1	0	0	0	0
	3.0%	0.0%	0.0%	0.0%	0.0%
# of seats with two-party Democratic vote share between .5 and .52					
Expressed as percentage of seats	5	7	6	3	2
	15.2%	21.21%	18.18%	9.1%	6.1%

# of seats with two-party Democratic vote share >.55	7	7	7	11	6
Expressed as a percentage of seats	21.2%	21.21%	21.21%	33.3%	18.2%
# of seats with two-party Democratic vote share <.45	18	16	16	17	15
Expressed as percentage of seats	54.5%	48.48%	48.48%	51.5%	45.5%
# of seats with two-party Democratic vote share between .5 and .55	6	8	8	4	9
Expressed as percentage of seats	18.2%	24.24%	24.24%	12.1%	27.3%
# of seats with two-party Democratic vote share between .45 and .5	2	2	2	1	3
Expressed as percentage of seats	6.1%	6.06%	6.06%	3.0%	9.1%

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Figure 5: Histograms of Democratic Vote Share, Senate Plans



26. Reviewing the data above, a few things are immediately apparent. Since the Second and Third Revised Plans are, again, virtually identical, with only the small changes mentioned above, the number of seats in each vote share range (e.g., 50-52 percent Democratic, greater than 52% Democratic) remains the same with the exceptions of only the two seats in the House mentioned above (49 and 59), and the one in the Senate (16). In each case, the seats were moved from around 51 percent Democratic to just above 52 percent.
27. The similarity between the Second and Third Revised Plans is also clear from the histograms representing the number of seats at each level of Democratic vote share, which shows that the Third Revised Plan continues the Second Revised Plan's strategy of bunching Democratic seats very close to the 50% line. Once again, this reflects a conscious attempt to

achieve the appearance of partisan proportionality, while in actuality ensuring disproportionate Republican majorities.

28. Both the Rodden Plan and the Independent Map Drawers' Plan help to confirm that this bunching of Democratic seats in the toss-up range was not the result of Article XI's requirements or Ohio's political geography. In both alternative plans, in both the House and Senate, there is a much more even distribution of seats across the histogram.
29. 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 of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-342 at ¶ 62. Under either approach, the Third Revised Plan, like its predecessor, is highly disproportionate. If competitive districts are excluded (i.e., if any seats between 48 and 52 percent Democratic vote share are excluded from the analysis), the Third Revised Plan produces a breakdown of 9D/18R in the Senate (or 33.3 percent Democratic/66.7 percent Republican) and 28D/54R in the House (or 34.1 percent Democratic/65.9 percent Republican). Nor are competitive seats allocated to each party in proportion to their vote share. The Third Revised Plan contains 17 Democratic-leaning toss-ups and no Republican leaning toss-ups in the House, and 6 Democratic-leaning toss-ups and no Republican-leaning toss-ups in the Senate. In both houses, the Third Revised Plan contains *more* Democratic-leaning toss-up districts than the First Revised Plan, which was struck down by this Court for its disparate allocation of toss-up seats.
30. The Rodden Plan and Independent Map Drawers' Plan, by contrast, distribute toss-up districts more evenly. In the House, the Rodden Plan contains fewer toss-up districts overall, with 1 Republican-leaning toss-up district and 2 Democratic-leaning toss-up district in the House and 0 Republican-leaning and 3 Democratic-leaning toss-up districts in the Senate. The Independent Map Drawers Plan contains 3 Republican-leaning toss-ups and 3 Democratic-leaning toss-ups in the House and 0 Republican-leaning toss-ups and 2 Democratic-leaning toss-ups in the Senate. Excluding these toss-up districts, both come much closer to proportionality. For the Rodden Plan, the non-toss-up seat count amounts to a 41.7%/58.3% split in the House and a 40%/60% split in the Senate. For the Independent Map Drawers' Plan, this comes to a 45.2%/54.8% split in the House and a 41.9%/58.1% split in the Senate.
31. As discussed in my previous submissions to this Court, the disparity in the allocation of toss-up districts between Democrats and Republicans in the Third Remedial Plan (similar to its predecessors), ensures Republicans will attain disproportionate success in General Assembly elections. Imagine a massive uniform swing across all districts of 5 percentage points in favor of the Republican Party. Assuming that the partisanship score being considered here is a perfect predictor of legislative victories, this would yield an additional 23 House seats, providing the Republican Party with 78 percent of the seats. However, a similar swing toward the Democratic Party—providing it with a statewide majority of votes—would yield a pickup of only 2 seats. That is to say, a vote share of around 51 percent in favor of Democrats would generate a seat share of only 47 percent, and that is only if we make the very unrealistic assumption that Democratic candidates win *every single one* of the 17 House districts with a

Democratic vote share between 50 and 52 percent. This striking asymmetry in the treatment of the two parties emerges from an effort to create a large number of bare majority Democratic seats while taking care to avoid the creation of competitive Republican-leaning seats, ensuring that Republican-leaning seats are very comfortable.

32. Thus, just like its predecessors, the purported Democratic seat count in the Third Remedial Plan constitutes a ceiling for Democrats, while the purported Republican seat count constitutes a floor. Even in the best electoral environments, Democrats cannot hope to win more than their proportional seat count, while Republicans are nearly guaranteed to exceed their proportional seat count across almost all electoral environments.
33. Tables 2 and 3 also include information about traditional redistricting criteria, including splits of counties and voting tabulation districts (VTDs) as well as average planwide compactness metrics. The Rodden Plan outperforms the Third Revised Plan on every single traditional redistricting criterion, while the Independent Map Drawers' Plan outperforms the Third Revised Plan on most. On compactness, the Rodden Plan is superior to both the Third Revised Plan and Independent Map Drawers' Plan in both the House and Senate under all three measures I analyzed (Reock, Polsby-Popper and Area/Convex Hull). The Independent Map Drawers' Plan also outperforms the Third Revised Plan on all three measures in both houses.
34. Another relevant redistricting criterion is the number of split counties or voting tabulation districts. As in my previous submissions to the Court, 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 three plans, the Rodden Plan splits fewer counties and Vote Tabulation Districts in the House than any of the other plans. In the Senate, the Rodden Plan ties the Third Revised Plan on county splits, but splits substantially fewer Voter Tabulation Districts. The Independent Map Drawers' Plan splits the same numbers of counties in the House as the Third Revised Plan, but a few more counties in the Senate. It splits fewer Vote Tabulation Districts than the Third Revised Plan in both houses.

V. CONCLUSION

35. The Third Revised Plan is nearly identical to the Second Revised Plan, already invalidated by this Court in *LWV III*. With the exception of moving a very small number of voters in order to move a total of three seats in the entire General Assembly from around 51 percent to just above 52 percent Democratic vote share, the Second and Third Revised Plans are in fact the same. Like the Second Revised Plan, the Third Revised Plan disparately allocates toss-up seats between Democrats and Republicans, thereby ensuring Republicans a disproportionate share of the seats in almost all foreseeable electoral environments. The Third Revised Plan therefore contains nearly precisely the same features as those identified by this Court as reasons it invalidated the Second Revised Plan in *LWV III*.


State of Texas

County of Travis

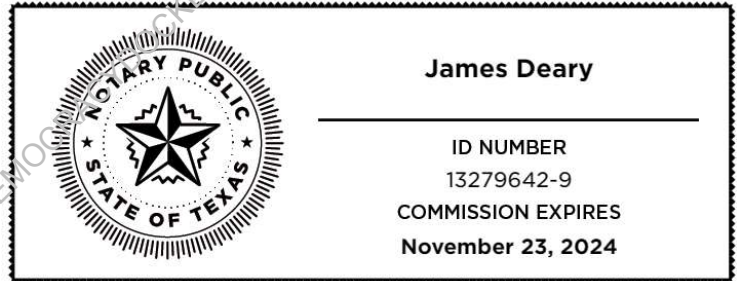
Jonathan Rodden

Jonathan Rodden

Sworn to before me this 30th day of March 2022.



Notary Public



My commission expires 11/23/2024

Notary Public, State of Texas

Notarized online using audio-video communication

Exhibit A

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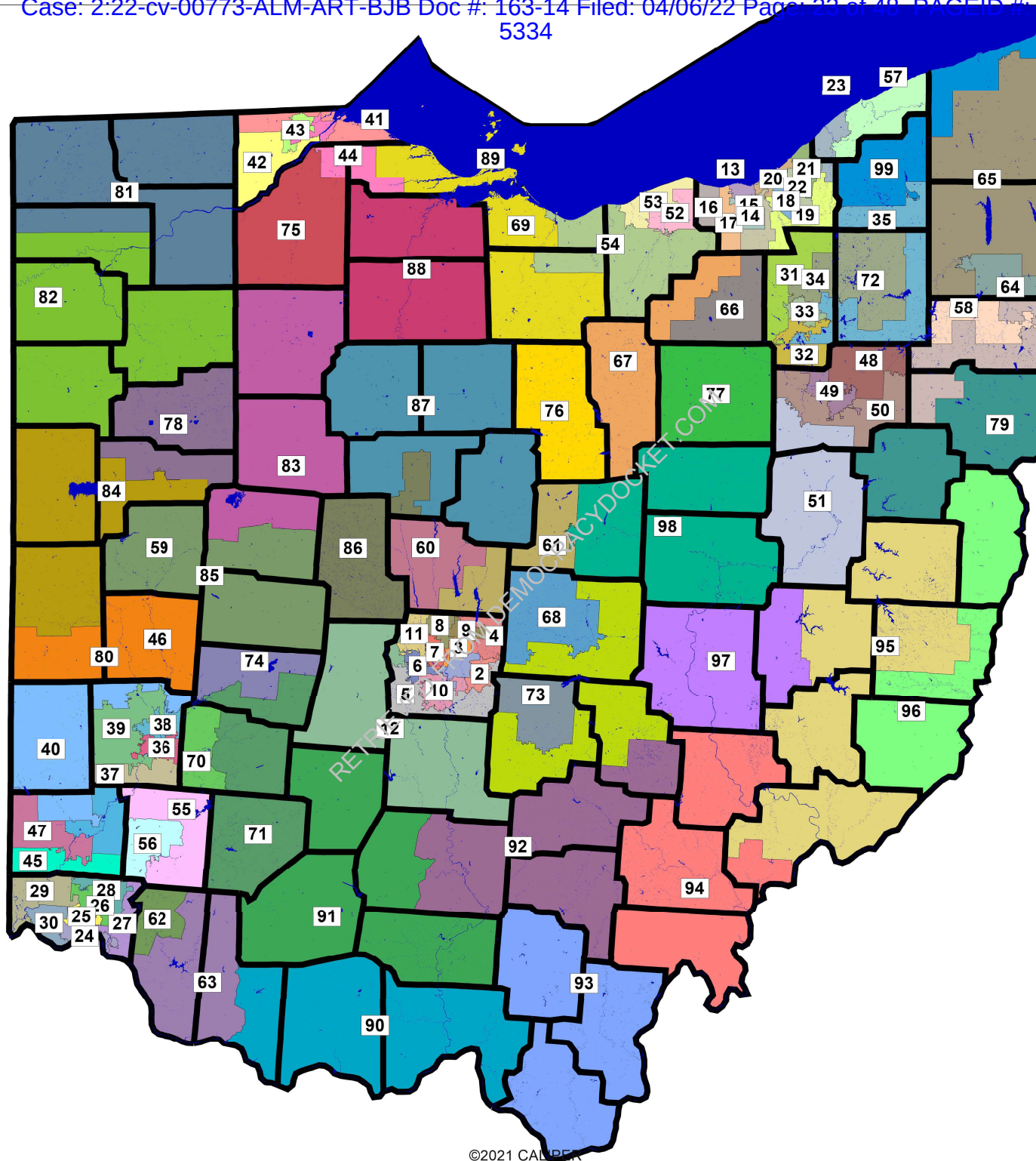


Exhibit B

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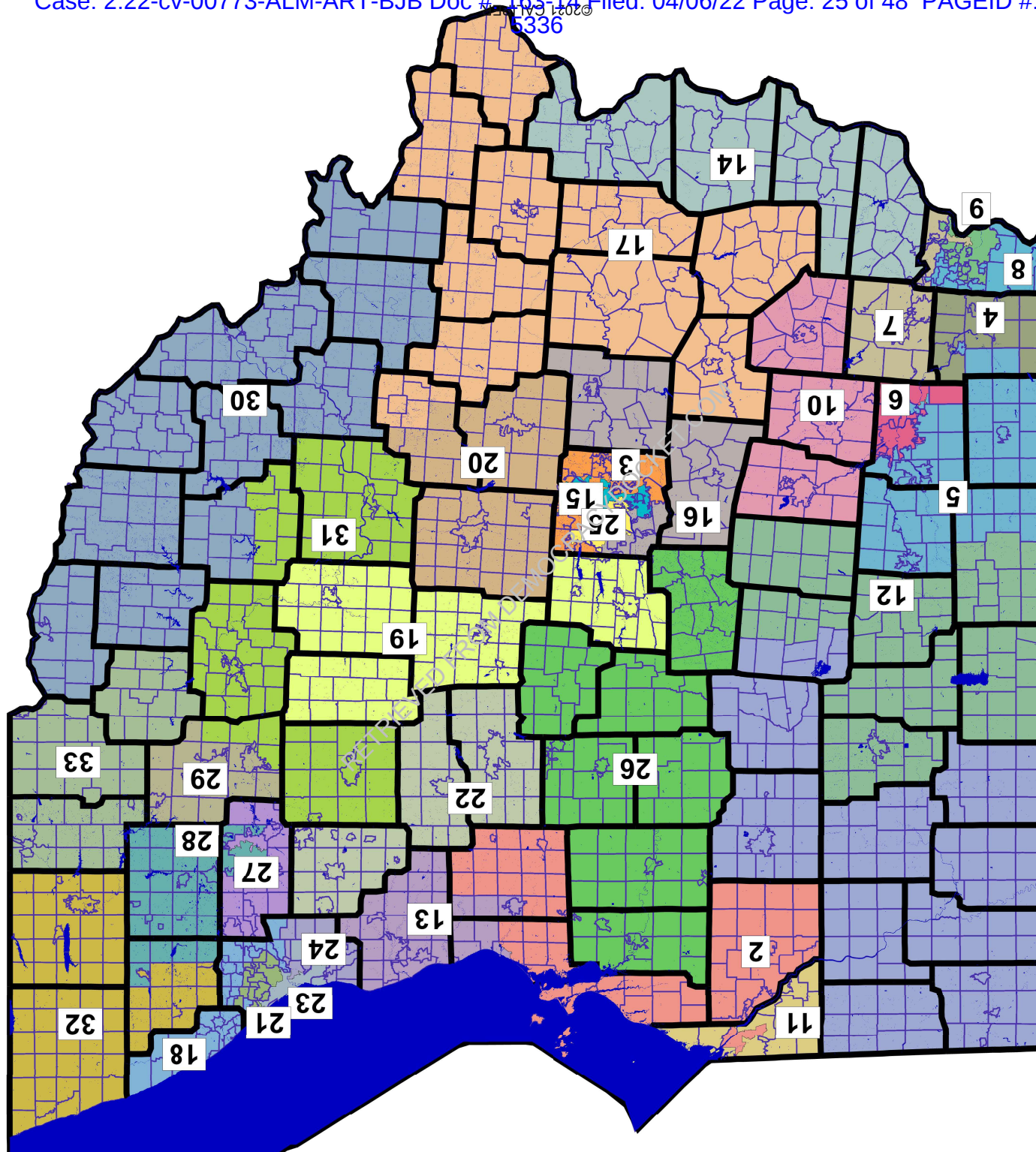


Exhibit C

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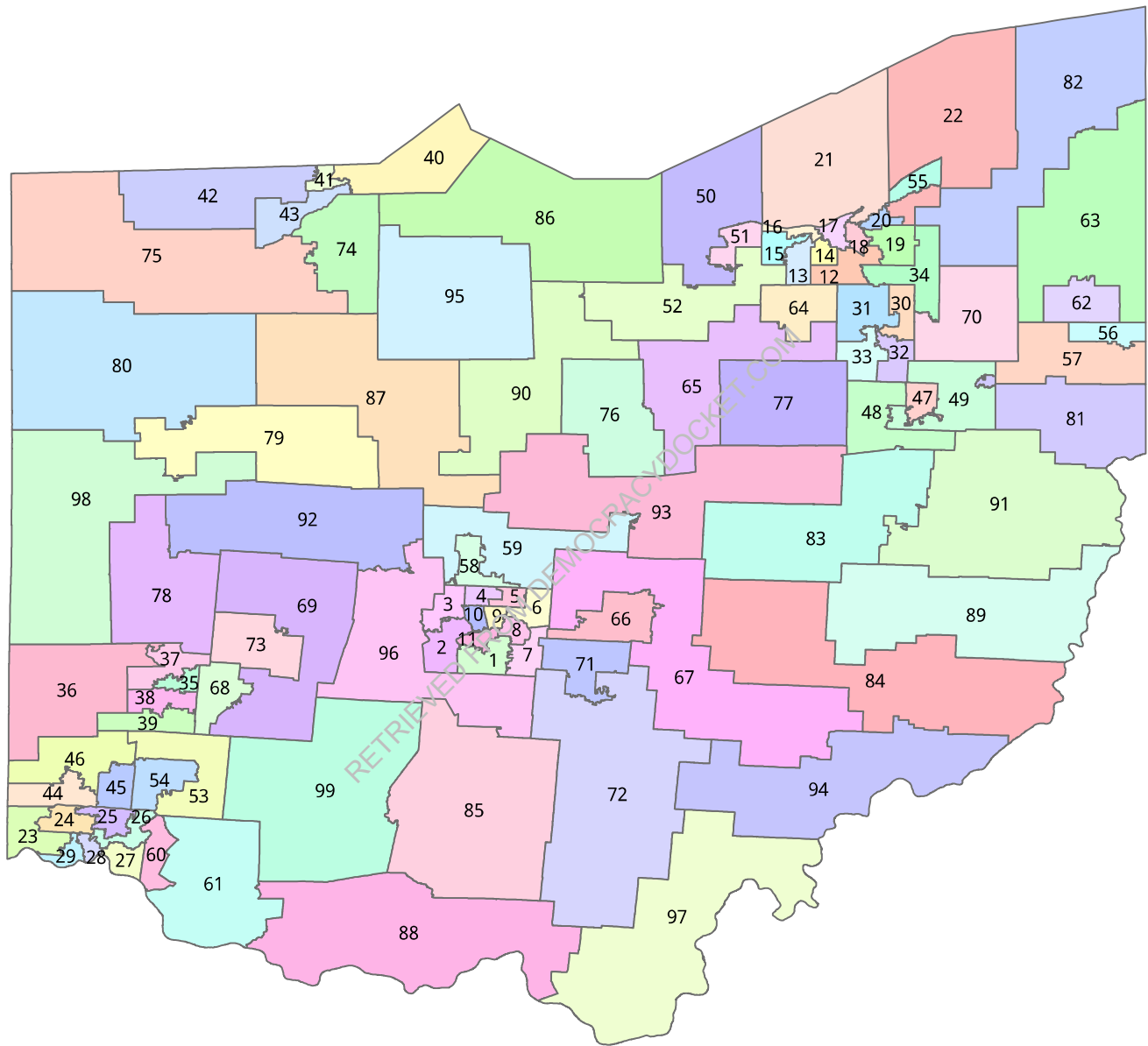


Exhibit D

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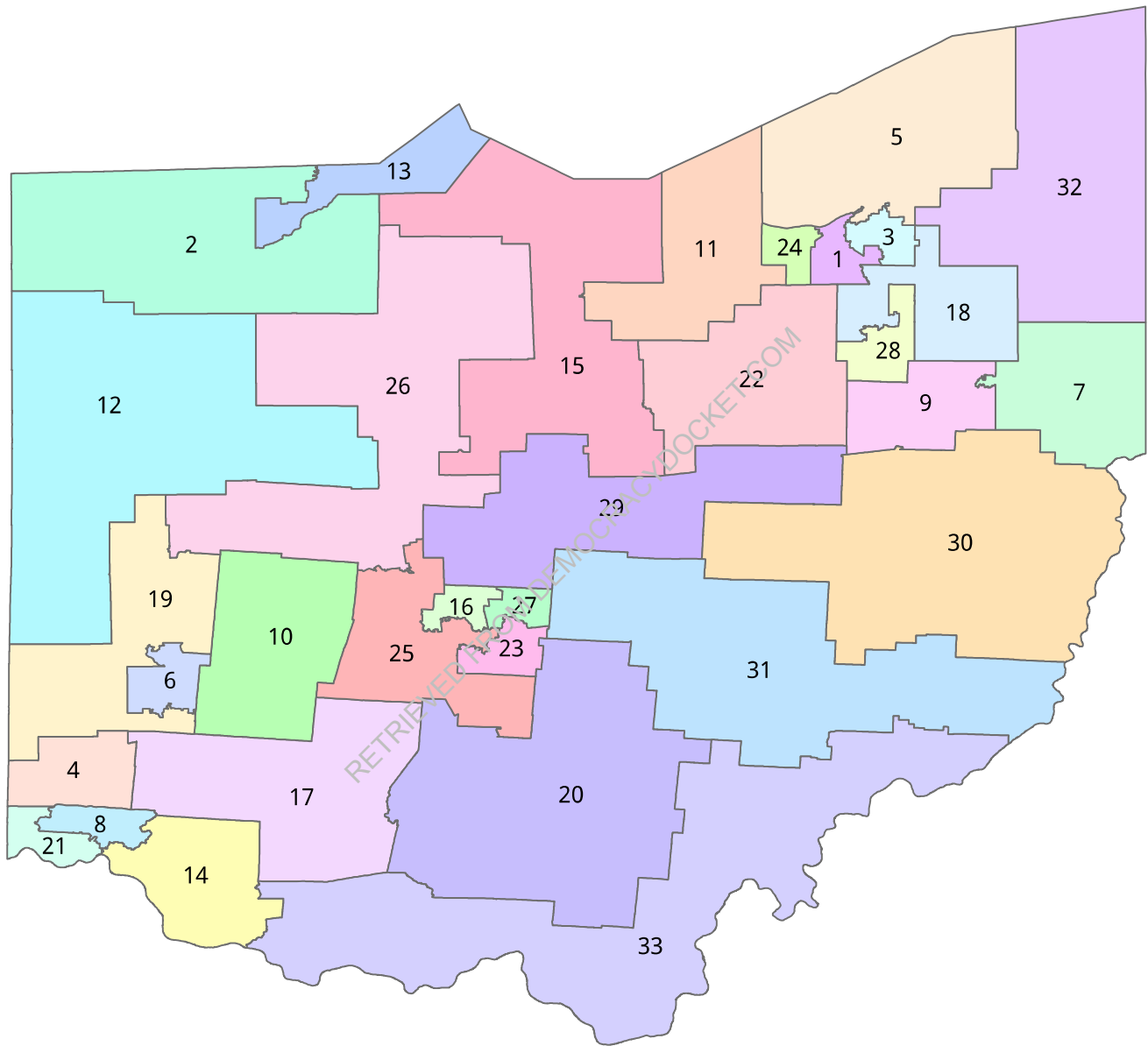


Exhibit E

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Personal

Born on August 18, 1971, St. Louis, MO.

United States Citizen.

Education

Ph.D. Political Science, Yale University, 2000.

Fulbright Scholar, University of Leipzig, Germany, 1993–1994.

B.A., Political Science, University of Michigan, 1993.

Academic Positions

Professor, Department of Political Science, Stanford University, 2012–present.

Senior Fellow, Stanford Institute for Economic Policy Research, 2020–present.

Senior Fellow, Hoover Institution, Stanford University, 2012–present.

Director, Spatial Social Science Lab, Stanford University, 2012–present.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, 2010–2012.

Associate Professor, Department of Political Science, Stanford University, 2007–2012.

Fellow, Center for Advanced Study in the Behavioral Sciences, Palo Alto, CA, 2006–2007.

Ford Career Development Associate Professor of Political Science, MIT, 2003–2006.

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.

Hamilton's Paradox: The Promise and Peril of Fiscal Federalism, Cambridge University Press, 2006. Winner, Gregory Luebbert Award for Best Book in Comparative Politics, 2007; Martha Derthick Award for lasting contribution to the study of federalism, 2021.

Fiscal Decentralization and the Challenge of Hard Budget Constraints, MIT Press, 2003. Co-edited with Gunnar Eskeland and Jennie Litvack.

Peer Reviewed Journal Articles

Who Registers? Village Networks, Household Dynamics, and Voter Registration in Rural Uganda, 2021, *Comparative Political Studies* forthcoming (with Romain Ferrali, Guy Grossman, and Melina Platas).

Partisan Dislocation: A Precinct-Level Measure of Representation and Gerrymandering, 2021, *Political Analysis* forthcoming (with Daryl DeFord Nick Eubank).

Who is my Neighbor? The Spatial Efficiency of Partisanship, 2020, *Statistics and Public Policy* 7(1):87-100 (with Nick Eubank).

Handgun Ownership and Suicide in California, 2020, *New England Journal of Medicine* 382:2220-2229 (with David M. Studdert, Yifan Zhang, Sonja A. Swanson, Lea Prince, Erin E. Holsinger, Matthew J. Spittal, Garen J. Wintemute, and Matthew Miller).

Viral Voting: Social Networks and Political Participation, 2020, *Quarterly Journal of Political Science* (with Nick Eubank, Guy Grossman, and Melina Platas).

It Takes a Village: Peer Effects and Externalities in Technology Adoption, 2020, *American Journal of Political Science* (with Romain Ferrali, Guy Grossman, and Melina Platas). Winner, 2020 Best Conference Paper Award, American Political Science Association Network Section.

Assembly of the LongSHOT Cohort: Public Record Linkage on a Grand Scale, 2019, *Injury Prevention* (with Yifan Zhang, Erin Holsinger, Lea Prince, Sonja Swanson, Matthew Miller, Garen Wintemute, and David Studdert).

Crowdsourcing Accountability: ICT for Service Delivery, 2018, *World Development* 112: 74-87 (with Guy Grossman and Melina Platas).

Geography, Uncertainty, and Polarization, 2018, *Political Science Research and Methods* doi:10.1017/psrm.2018.12 (with Nolan McCarty, Boris Shor, Chris Tausanovitch, and Chris Warshaw).

Handgun Acquisitions in California after Two Mass Shootings, 2017, *Annals of Internal Medicine* 166(10):698-706. (with David Studdert, Yifan Zhang, Rob Hyndman, and Garen Wintemute).

Cutting Through the Thicket: Redistricting Simulations and the Detection of Partisan Gerrymanders, 2015, *Election Law Journal* 14,4:1-15 (with Jowei Chen).

The Achilles Heel of Plurality Systems: Geography and Representation in Multi-Party Democracies, 2015, *American Journal of Political Science* 59,4: 789-805 (with Ernesto Calvo). Winner, Michael Wallerstein Award for best paper in political economy, American Political Science Association.

Why has U.S. Policy Uncertainty Risen Since 1960?, 2014, *American Economic Review: Papers and Proceedings* May 2014 (with Nicholas Bloom, Brandice Canes-Wrone, Scott Baker, and Steven Davis).

Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures, 2013, *Quarterly Journal of Political Science* 8: 239-269 (with Jowei Chen).

How Should We Measure District-Level Public Opinion on Individual Issues?, 2012, *Journal of Politics* 74, 1: 203-219 (with Chris Warshaw).

Representation and Redistribution in Federations, 2011, *Proceedings of the National Academy of Sciences* 108, 21:8601-8604 (with Tiberiu Dragu).

Dual Accountability and the Nationalization of Party Competition: Evidence from Four Federations, 2011, *Party Politics* 17, 5: 629-653 (with Erik Wibbels).

The Geographic Distribution of Political Preferences, 2010, *Annual Review of Political Science* 13: 297-340.

Fiscal Decentralization and the Business Cycle: An Empirical Study of Seven Federations, 2009, *Economics and Politics* 22,1: 37-67 (with Erik Wibbels).

Getting into the Game: Legislative Bargaining, Distributive Politics, and EU Enlargement, 2009, *Public Finance and Management* 9, 4 (with Deniz Aksoy).

The Strength of Issues: Using Multiple Measures to Gauge Preference Stability, Ideological Constraint, and Issue Voting, 2008. *American Political Science Review* 102, 2: 215-232 (with Stephen Ansolabehere and James Snyder).

Does Religion Distract the Poor? Income and Issue Voting Around the World, 2008, *Comparative Political Studies* 41, 4: 437-476 (with Ana Lorena De La O).

Purple America, 2006, *Journal of Economic Perspectives* 20,2 (Spring): 97-118 (with Stephen Ansolabehere and James Snyder).

Economic Geography and Economic Voting: Evidence from the U.S. States, 2006, *British Journal of Political Science* 36, 3: 527-47 (with Michael Ebeid).

Distributive Politics in a Federation: Electoral Strategies, Legislative Bargaining, and Government Coalitions, 2004, *Dados* 47, 3 (with Marta Arretche, in Portuguese).

Comparative Federalism and Decentralization: On Meaning and Measurement, 2004, *Comparative Politics* 36, 4: 481-500. (Portuguese version, 2005, in *Revista de Sociologia e Politica* 25).

Reviving Leviathan: Fiscal Federalism and the Growth of Government, 2003, *International Organization* 57 (Fall), 695-729.

Beyond the Fiction of Federalism: Macroeconomic Management in Multi-tiered Systems, 2003, *World Politics* 54, 4 (July): 494-531 (with Erik Wibbels).

The Dilemma of Fiscal Federalism: Grants and Fiscal Performance around the World, 2002, *American Journal of Political Science* 46(3): 670-687.

Strength in Numbers: Representation and Redistribution in the European Union, 2002, *European Union Politics* 3, 2: 151-175.

Does Federalism Preserve Markets? *Virginia Law Review* 83, 7 (with Susan Rose-Ackerman). Spanish version, 1999, in *Quorum* 68.

Working Papers

Elections, Political Polarization, and Economic Uncertainty, NBER Working Paper 27961 (with Scott Baker, Aniket Baksy, Nicholas Bloom, and Steven Davis).

Federalism and Inter-regional Redistribution, Working Paper 2009/3, Institut d'Economia de Barcelona.

Representation and Regional Redistribution in Federations, Working Paper 2010/16, Institut d'Economia de Barcelona (with Tiberiu Dragu).

Chapters in Books

Political Geography and Representation: A Case Study of Districting in Pennsylvania (with Thomas Weighill), in *Political Geometry*, edited by Moon Duchin and Olivia Walch, forthcoming 2021, Springer.

Keeping Your Enemies Close: Electoral Rules and Partisan Polarization, in *The New Politics of Insecurity*, edited by Frances Rosenbluth and Margaret Weir, forthcoming 2021, Cambridge University Press.

Decentralized Rule and Revenue, 2019, in Jonathan Rodden and Erik Wibbels, eds., *Decentralized Governance and Accountability*, Cambridge University Press.

Geography and Gridlock in the United States, 2014, in Nathaniel Persily, ed. *Solutions to Political Polarization in America*, Cambridge University Press.

Can Market Discipline Survive in the U.S. Federation?, 2013, in Daniel Nadler and Paul Peterson, eds, *The Global Debt Crisis: Haunting U.S. and European Federalism*, Brookings Press.

Market Discipline and U.S. Federalism, 2012, in Peter Conti-Brown and David A. Skeel, Jr., eds, *When States Go Broke: The Origins, Context, and Solutions for the American States in Fiscal Crisis*, Cambridge University Press.

Federalism and Inter-Regional Redistribution, 2010, in Nuria Bosch, Marta Espasa, and Albert Sole Olle, eds., *The Political Economy of Inter-Regional Fiscal Flows*, Edward Elgar.

Back to the Future: Endogenous Institutions and Comparative Politics, 2009, in Mark Lichbach and Alan Zuckerman, eds., *Comparative Politics: Rationality, Culture, and Structure* (Second Edition), Cambridge University Press.

The Political Economy of Federalism, 2006, in Barry Weingast and Donald Wittman, eds., *Oxford Handbook of Political Economy*, Oxford University Press.

Fiscal Discipline in Federations: Germany and the EMU, 2006, in Peter Wierds, Servaas Deroose, Elena Flores and Alessandro Turrini, eds., *Fiscal Policy Surveillance in Europe*, Palgrave MacMillan.

The Political Economy of Pro-cyclical Decentralised Finance (with Erik Wibbels), 2006, in Peter Wierds, Servaas Deroose, Elena Flores and Alessandro Turrini, eds., *Fiscal Policy Surveillance in Europe*, Palgrave MacMillan.

Globalization and Fiscal Decentralization, (with Geoffrey Garrett), 2003, in Miles Kahler and David Lake, eds., *Governance in a Global Economy: Political Authority in Transition*, Princeton University Press: 87-109. (Updated version, 2007, in David Cameron, Gustav Ranis, and Annalisa Zinn, eds., *Globalization and Self-Determination: Is the Nation-State under Siege?* Routledge.)

Introduction and Overview (Chapter 1), 2003, in Rodden et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Soft Budget Constraints and German Federalism (Chapter 5), 2003, in Rodden, et al, *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Federalism and Bailouts in Brazil (Chapter 7), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Lessons and Conclusions (Chapter 13), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Online Interactive Visualization

Stanford Election Atlas, 2012 (collaboration with Stephen Ansolabehere at Harvard and Jim Herries at ESRI)

Other Publications

Supporting Advanced Manufacturing in Alabama, Report to the Alabama Innovation Commission, Hoover Institution, 2021.

How America's Urban-Rural Divide has Shaped the Pandemic, 2020, *Foreign Affairs*, April 20, 2020.

An Evolutionary Path for the European Monetary Fund? A Comparative Perspective, 2017, Briefing paper for the Economic and Financial Affairs Committee of the European Parliament.

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

On the Migration of Fiscal Sovereignty, 2004, *PS: Political Science and Politics* July, 2004: 427-431.

Decentralization and the Challenge of Hard Budget Constraints, *PREM Note* 41, Poverty Reduction and Economic Management Unit, World Bank, Washington, D.C. (July).

Decentralization and Hard Budget Constraints, *APSA-CP* (Newsletter of the Organized Section in Comparative Politics, American Political Science Association) 11:1 (with Jennie Litvack).

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 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.

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).

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.

Last updated: September 23, 2021

Exhibit F

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Article XI, Section 8(C)(2) Statement

Pursuant to Article XI, Section 8(C)(2) of the Ohio Constitution, the Ohio Redistricting Commission issues the following statement:

The Commission determined that the statewide preferences of the voters of Ohio predominately favor Republican candidates.

The Commission considered statewide state and federal partisan general election results during the last ten years. There were sixteen such contests. When considering the results of each of those elections, the Commission determined that Republican candidates won thirteen out of sixteen of those elections resulting in a statewide proportion of voters favoring statewide Republican candidates of 81% and a statewide proportion of voters favoring statewide Democratic candidates of 19%. When considering the number of votes cast in each of those elections for Republican and Democratic candidates, the statewide proportion of voters favoring statewide Republican candidates is 54% and the statewide proportion of voters favoring statewide Democratic candidates is 46%. Thus, the statewide proportion of voters favoring statewide Republican candidates is between 54% and 81% and the statewide proportion of voters favoring statewide Democratic candidates is between 19% and 46%. The Commission obtained publicly available geographic data for statewide partisan elections in 2016, 2018, and 2020. Publicly available geographic data for those elections was not available for elections in 2012 and 2014. Using this data, the Commission adopted the final general assembly district plan, which contains 85 districts (64.4%) favoring Republican candidates and 47 districts (35.6%) favoring Democratic candidates out of a total of 132 districts. Accordingly, the statewide proportion of districts whose voters favor each political party corresponds closely to the statewide preferences of the voters of Ohio.

The final general assembly district plan adopted by the Commission complies with all of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution. The Commission's attempt to meet the aspirational standards of Article XI, Section 6 of the Ohio Constitution did not result in any violation of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution.

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Exhibit G

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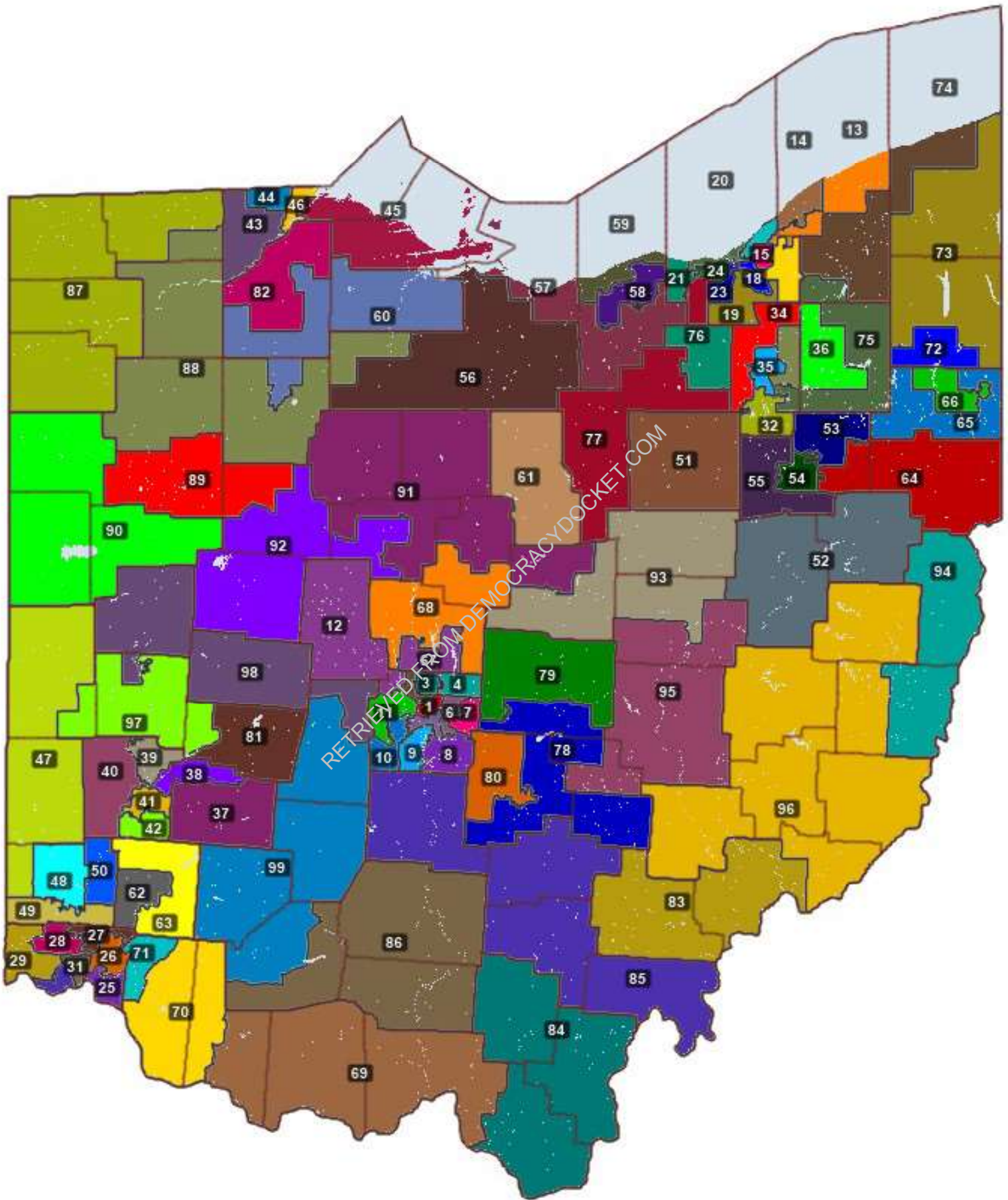
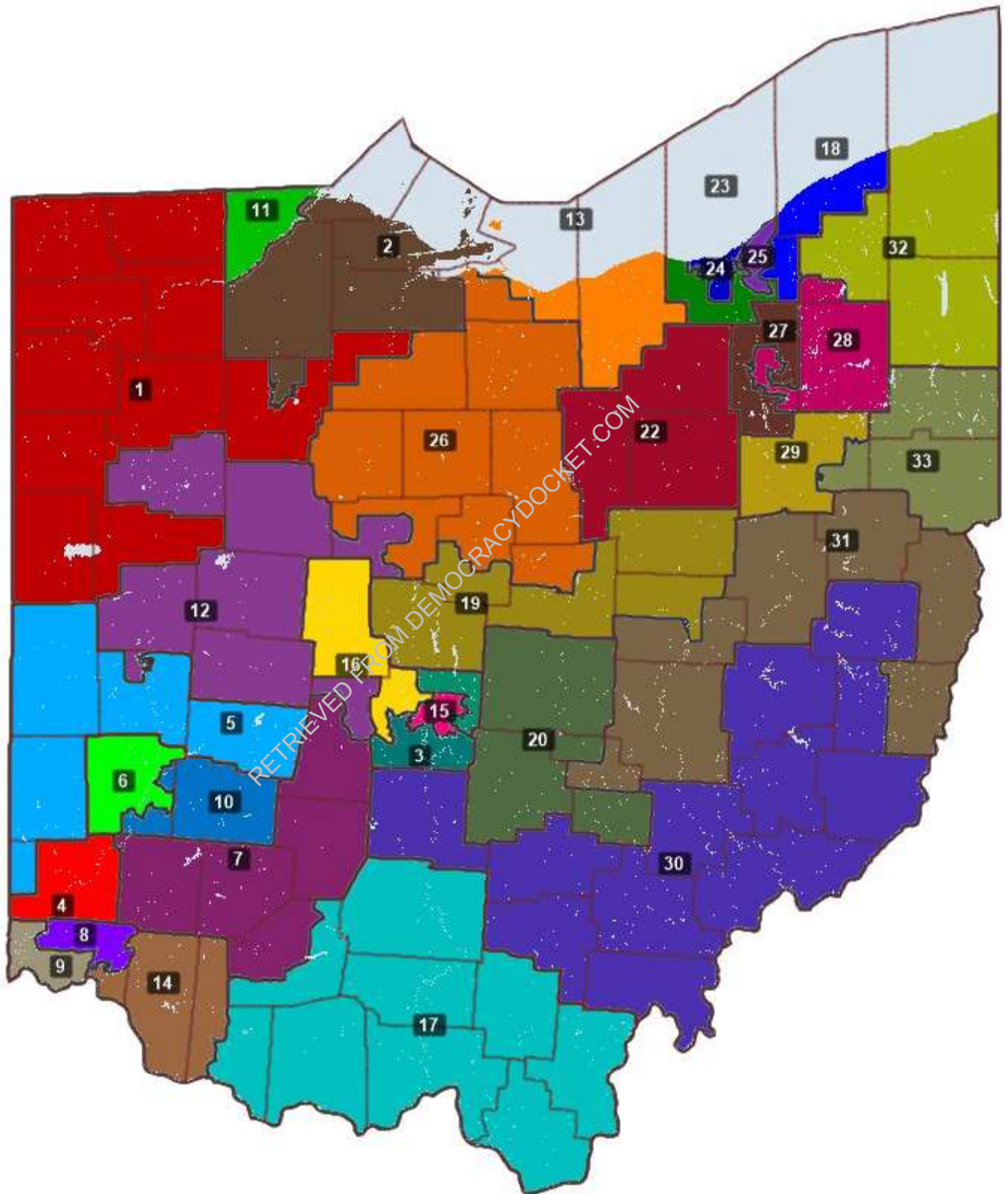


Exhibit H

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served via email on April 1, 2022

upon the following:

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EXHIBIT 14

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IN THE SUPREME COURT OF OHIO

THE OHIO ORGANIZING
COLLABORATIVE, *et al.*,

Petitioners,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

: Case No. 2021-1210

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APPORTIONMENT CASE

Filed pursuant to S.Ct.Prac.R. 14.03(A)
and Section 9 of Article XI of the Ohio
Constitution to challenge a plan of
apportionment promulgated pursuant to
Article XI.

OBJECTIONS AND REQUEST FOR REMEDIES

OF PETITIONERS THE OHIO ORGANIZING COLLABORATIVE, ET AL.

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IN THE SUPREME COURT OF OHIO

THE OHIO ORGANIZING
COLLABORATIVE, *et al.*,

Petitioners,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

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Case No. 2021-1210

APPORTIONMENT CASE

Filed pursuant to S.Ct.Prac.R. 14.03(A)
and section 9 of Article XI of the Ohio
Constitution to challenge a plan of
apportionment promulgated pursuant to
Article XI.

AFFIDAVIT OF MICHAEL S. LATNER

IN SUPPORT OF OBJECTIONS

I, Michael S. Latner, 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 as 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:

1. I am a Professor in the Political Science Department at California Polytechnic State University. My qualifications, teaching and research experience, and knowledge and understanding of redistricting is detailed in my prior submission to this Court on October 22, 2021.

2. I am familiar with and have studied Article XI of the Ohio Constitution. I am also familiar with this Court's opinions in this case, *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-65, Slip Opinion No. 2022-Ohio-342, and Slip Opinion No. 2022-Ohio-789.

3. I have previously submitted an affidavit and expert report to this Court concerning the compliance of the General Assembly district plan adopted by the Ohio Redistricting Commission on September 15, 2021 (the “Original Plan”), an affidavit regarding the revised General Assembly district plan adopted by the Ohio Redistricting Commission on January 22, 2022 (the “First Revised Plan”), and an affidavit regarding the revised General Assembly district plan adopted by the Ohio Redistricting Commission on February 24, 2022 (the “Second Revised Plan”). I now submit a subsequent affidavit to assess the third revised General Assembly district plan adopted by the Ohio Redistricting Commission on March 28, 2022 (the “Third Revised Plan”) and the General Assembly district plan adopted during the previous redistricting cycle by the Ohio Apportionment Board, which was “the body then responsible for drawing Ohio’s legislative-district maps[,]”¹ on September 30, 2011 (“2011 Plan”).²

4. Specifically, I have been asked to analyze the Third Revised Plan for compliance with Article XI of the Ohio Constitution. To conduct this analysis, I rely on total population data from the 2010 and 2020 Decennial Census and 2016-2020 election data from the Voting and Election Science Team (VEST) datahub.³ These data, including shapefile data, are publicly available through several repositories and mapping projects.⁴ I have also reviewed several other plans for comparison, including a plan submitted on March 28, 2022 by two independent map drawers hired by the Commission, Douglas Johnson and Michael McDonald (“Johnson/McDonald”), and a plan submitted on February 15, 2022 by Ms. Bria Bennett, one of

¹ Slip Opinion No. 2022-Ohio-65, ¶ 340.

² These plans both include maps for the state House and Senate. References below to these individual maps will retain this nomenclature, e.g., “Original House,” “First Revised Senate” and “Second Revised House”.

³ <https://dataverse.harvard.edu/dataverse/electionscience>.

⁴ I obtained data from the following:

Redistricting Data Hub: <https://redistrictingdatahub.org/data/about-our-data/#pl>.

Dave’s Redistricting App: <https://davesredistricting.org/>.

the named petitioners in *Bennett, et al. v. Ohio Redistricting Commission, et al.*, No. 2021-1198, which was the third plan prepared by Dr. Jonathan Rodden in this litigation (“Rodden III”). In a letter to the Ohio Redistricting Commission dated February 15, 2022, counsel for the petitioners in *Bennett* and *League of Women Voters* stated that the Rodden III plan “fully complies” with Article XI, Section 3’s line-drawing requirements and Article XI, Section 5’s requirements for the numbering of state Senate districts. I have also independently reviewed the Rodden III plan for constitutional compliance. I have not identified any deviations from these line-drawing and numbering requirements. The February 15, 2022 letter, and all of the above-referenced plans, are available for download on the Ohio Redistricting Commission’s website.⁵

5. I have also been asked to analyze the 2011 Plan to determine whether the Plan reflects equipopulous districts when applied to Ohio’s current demographic configuration, *i.e.*, whether the Plan is malapportioned. For this analysis, I used 2020 Census population data and overlaid the 2020 state legislative House plan TIGRIS redistricting files provided by the US Census, *i.e.* last decade’s House plan that was used in the 2020 election.

6. I am receiving compensation for my study and testimony at an hourly rate of \$250 per hour. My compensation is in no way dependent on the outcome of the dispute.

SUMMARY OF MY OPINIONS

7. The Third Revised Plan continues to run afoul of principles of proportionality and symmetry, in a manner that is very similar to the Ohio Supreme Court’s recent findings with respect to the Second Revised Plan. Indeed, the two plans are virtually identical: a comparison of the Second and Third Revised Plans’ House districts reveals that only 0.265 percent of the population changed districts at all. The continuity between the two plans results in similar

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

partisan performance. Alternative plans, including Johnson/McDonald and Rodden III, achieve substantially greater proportionality and partisan symmetry.

8. Like the invalidated Second Revised Plan, the Third Revised Plan nominally creates 54 Republican leaning House districts and 45 Democratic leaning House districts. However, this summary statistic is misleading because 17 of the seats that favor Democrats are actually toss-up districts, while *none* of the seats that favor Republicans fall into this category. In other words, 17 out of the 45 Democratic-leaning districts have been drawn to be between 50 and 52 percent or less Democratic, while there are *zero* Republican-leaning districts that fall into this toss-up category. Excluding toss-ups, 34 percent of the House seats favor Democrats, while 66 percent of those seats favor Republicans, yielding a difference in proportionality from statewide vote shares of 12 percent. Compared to the First Revised Plan, which created 14 such toss-ups, the Third Revised House map actually performs worse with a two-point vote swing, as a result of the three additional toss-ups.

9. The Senate map functions similarly. The Third Revised Plan nominally creates 18 Republican leaning districts and 15 Democratic leaning districts, but 6 of the Democratic districts are toss-ups, while once again *none* of the Republican districts fall into that category. Excluding toss-ups, 33 percent of the Third Revised Senate seats favor Democrats, while 67 percent of those seats favor Republicans, creating a disproportionality from statewide voting averages of 13 percent. Like the House map, the Third Revised Senate map performs worse than the First Revised Plan with a two-point vote swing.

10. A truly proportional districting plan yields proportional shares of seats for votes across a range of possible outcomes. The Third Revised Plan is designed to approximate proportionality for a single election outcome, i.e., one in which Democrats earn 46 percent of

the statewide vote, while Republicans earn 54 percent. But statistically speaking, the likelihood of an election with that exact result is small. Rather, ebbs and flows in partisan vote share are to be expected. A small two percentage point shift in the electorate in favor of Republicans would be expected to wipe out 17 Democratic House seats and 6 Democratic Senate seats, giving Republicans 72% percent of House seats and 73% percent of Senate seats—a supermajority in both chambers. Equivalent shifts among voters in favor of Democrats would not yield *any* additional seats, much less the extreme gains that Republicans would see. Because of the Third Revised Plan Plan’s asymmetric reliance on toss-up districts, it sets a performance ceiling for Democrats and a performance floor for Republicans. Thus, similar to the First and Second Revised Plans, the Third Revised Plan performs like a “winner-take-all” gerrymander but with only a one-way ratchet in favor of Republicans.

11. The Third Revised Plan also produces significant asymmetry, and therefore continues to systemically disfavor Democratic voters. The Third Revised Plan does little to improve on the significant asymmetry of either the Original Plan, the First Revised Plan, or the Second Revised Plan, which is a direct outgrowth of what appears to be a minimalist approach to meeting proportionality standards in Section 6(B).

12. Viable comparison plans submitted to the Commission, including the Johnson/McDonald and Rodden III plans, create at least 42 percent Democratic House and Senate districts, including toss-ups, and would not generate extreme disproportionalities under two-point swing election scenarios. These comparison plans also achieve substantially greater partisan symmetry in both the House and Senate.

13. I also conclude that the 2011 Plan is malapportioned. Of the 99 House districts, 40 exceed 5 percent population deviations. Five House districts are below ideal population

estimates by more than 10 percent, with an average deviation of -12.3 percent. Twenty one districts are five to ten percent below population requirements, with an average deviation of -7.2 percent. Seven districts exceed population requirements by 5 to 10 percent, with an average deviation of +7.5 percent, and seven districts exceed population requirements by more than 10 percent, with an average population deviation of +13.5 percent. The maximum deviation for the 2011 House Plan using 2020 population estimates is 34.2 percent. There are currently over 4.5 million Ohio residents living in over-populated districts, meaning that they would be underrepresented by living in districts with more constituents per representative relative to other Ohioans.

ANALYSIS AND OPINIONS

I. The Proportion of Districts in the Third Revised Plan That Favor Each Political Party Does Not Correspond with the Statewide Preferences of the Voters of Ohio

14. To conduct the proportionality analysis, I employed the same methodology and used the same data sources as those I employed in my earlier affidavits and expert report, as modified by guidance from the Ohio Supreme Court in its February 7, 2022 opinion:

“[C]ompetitive districts . . . must either be excluded from the proportionality assessment or be allocated to each party in close proportion to its statewide vote share.” Slip Op. 2022-Ohio-342, ¶ 62; see also Slip Opinion No. 2022-Ohio-789, ¶ 38 (reaffirming this guidance).

15. I proceeded in four steps. First, I calculated the statewide preferences of the voters of Ohio, based on available statewide state and federal partisan general election results during the last ten years. Second, I calculated the statewide proportion of districts whose voters favor each political party, as well as the proportion of toss-up districts, based on the same set of statewide elections. I did this for the House and the Senate maps in the Third Revised Plan, as well as for the Second Revised Plan, First Revised Plan, the Original Plan, and alternative plans

submitted to the Commission (Johnson/McDonald, Rodden III). Then, to determine whether the statewide election figures “closely correspond” to the partisan seat shares from the plans, I calculated the difference between those two figures. Finally, I compared the difference between statewide election figures and partisan seat shares in the prior plans and alternative plans.

a. Proportionality When Toss-Up Districts Are Excluded

16. Tables 1 and 2 display statewide vote share. The tables lay out the Democratic (DEM) and Republican (GOP) seats and seat share for the respective House and Senate Third Revised Plan, as well as the toss-up districts that are estimated to yield vote shares from 48 to 52 percent for either party.⁶ Excluding the toss-up districts, the Third Revised House Plan yields respective Democratic and Republican seat shares of 34 and 66 percent. Compared to statewide vote shares, these seat shares produce a disproportionality of 12 percent. For the Third Revised Senate Plan, once toss-up districts are removed, the respective Democratic and Republican seat shares of 33 and 67 percent produce a disproportionality of 13 percent.

⁶ In the Court’s most recent opinion, it stated that districts within this range are “‘competitive’ . . . and . . . must be excluded when assessing [a] plan’s overall proportionality.” Slip Opinion No. 2022-Ohio-789, ¶ 42.

TABLE 1

Proportionality of Third Revised House Plan

	VOTE SHARE	SEATS	SEAT SHARE	SEAT SHARE WITHOUT TOSS-UPS	DIFFERENCE
DEM	46%	28	28%	34%	-12%
GOP	54%	54	55%	66%	12%
Toss-ups (48-52%)		17	17%		
Disproportionality without toss-ups:					12%

TABLE 2

Proportionality of Third Revised Senate Plan

	VOTE SHARE	SEATS	SEAT SHARE	SEAT SHARE WITHOUT TOSS-UPS	DIFFERENCE
DEM	46%	9	27%	33%	-13%
GOP	54%	18	55%	67%	13%
Toss-ups (48-52%)		6	18%		
Disproportionality without toss-ups:					13%

b. Proportionality When Toss-Up Districts Are Included

17. As noted above, the Third Revised Plan has a significant and unusually large number of House and Senate districts that lean Democratic by razor-thin margins.⁷ If the “lean” of the districts is unbiased, or randomly distributed between the two parties, it is reasonable to expect the parties to split these districts roughly 50/50 over the course of elections due to ebbs and flows in voter support. However, the design of the toss-up districts in the Third Revised Plan—just like the design of the First and Second Revised Plans—looks anything but random.

⁷ Under a normal distribution, about 7 percent of districts would fall into this “toss-up” range, *i.e.*, 7 House seats and 2 Senate seats.

18. Tables 3 and 4 display the results of my analysis when toss-up districts are allocated to each party, including the impact of minor (2 percent) uniform vote swings for the Third Revised Plan, Second Revised Plan, the First Revised Plan, the Original Plan, the Johnson/McDonald plan, and the Rodden III plan. For the Third Revised House Plan, the number of toss-up districts is extremely large (17). See Table 3. Note that alternative plans contain only 3 to 6 toss-ups, closer to what would be expected across a normal distribution.

19. Subtracting 2 percent from the expected Republican vote shares in each district and adding it to the Democratic vote shows that such a vote swing would result in *zero* additional Democratic seats, because Democrats are already favored to win all 17 toss-ups in the Third Revised Plan. However, the same minor vote swing toward Republicans would give them all 17 seats, or a 72 percent supermajority of seats with 56 percent of the vote. This is the same underlying design found in the Second Revised Plan and the First Revised Plan. Notably, under either the Johnson/McDonald or Rodden III plans, both parties would benefit from minor vote swings in their favor, as should be the case under a fair plan.

TABLE 3

Swing Analysis of Original, Revised, and Alternative House Plans

PLAN	SEAT SHARES WITH TOSS-UP (D/R)	TOSS-UPS (D/R)	+2%D	SEAT SHARES WITH D SWING	+2%R	SEAT SHARES WITH R SWING
3rd Revised	45%/55%	17/0	no change	45%/55%	+17R	23%/72%
2nd Revised	45%/55%	19/0	no change	45%/55%	+19R	26%/74%
1st Revised	42%/58%	14/0	no change	42%/58%	+14R	28%/72%
Original	35%/65%	3/2	+2D	37%/63%	+3R	34%/66%
Johnson/McDonald	45%/55%	3/3	+3D	49%/51%	+3R	42%/58%
Rodden III	43%/57%	2/1	+1D	44%/56%	+2R	41%/59%

20. The same pattern is revealed in the Third Revised Senate Plan. See Table 4. Indeed, I find that the Third Revised Senate Plan, which has 6 districts that barely lean

Democratic and no corresponding Republican toss-up districts, performs worse than the First Revised Plan. Both the number and partisan lean of these districts is designed to benefit Republicans. With a two-point swing in favor of Republicans, Republicans are expected to win a 73 percent supermajority of Senate seats. By contrast, the Democratic Senate seat share would remain at 55 percent with an analogous 2 percent vote swing in their favor.

TABLE 4

Swing Analysis of Original, Revised, and Alternative Senate Plans

PLAN	SEAT SHARES WITH TOSS-UP (D/R)	TOSS-UPS (D/R)	+2%D	SEAT SHARES WITH D SWING	+2%R	SEAT SHARES WITH R SWING
3rd Revised	45%/55%	6/0	no change	45%/55%	+6R	27%/73%
2nd Revised	45%/55%	8/0	no change	45%/55%	+8R	21%/79%
1st Revised	39%/61%	3/2	+2D	45%/55%	+3R	30%/70%
Original	27%/73%	0/2	+2D	33%/64%	no change	27%/73%
Johnson/McDonald	45%/55%	2/0	no change	45%/55%	+2R	39%/61%
Rodden III	42%/58%	2/1	+1D	44%/56%	+2R	41%/59%

21. A comparison between the Second and Third Revised House plans illustrates how this “one winner takes all, one winner takes none” works, and how little has changed between the two plans. Figure 1 displays the Democratic vote shares for the 99 House districts, in order of increasing vote share or party lean, for both plans. First, note that both plans have an identical gap just before the 50 percent support line, where Democrats start winning seats. That absence of Republican-leaning toss-up seats is what prevents Democrats from making any gains from a 2-point vote swing. On the other side of that line, Republicans stand to gain the 17 seats ranging from 50 and 52 percent. This is a major source of asymmetry in the plans. Additionally, you can see that Democrats are packed into five districts that are 80 percent-plus Democratic, with no corresponding packed Republican districts. This is another source of asymmetry, as it allows map drawers to allocate fewer safe seats to Democrats.

22. Second, you can only see a handful of Third Revised House Plan districts (hollow dots), because these are the only districts where voters were placed in different districts, changing their partisan support. With the exception of those six districts, the two plans are identical. As a result, the two plans perform similarly.

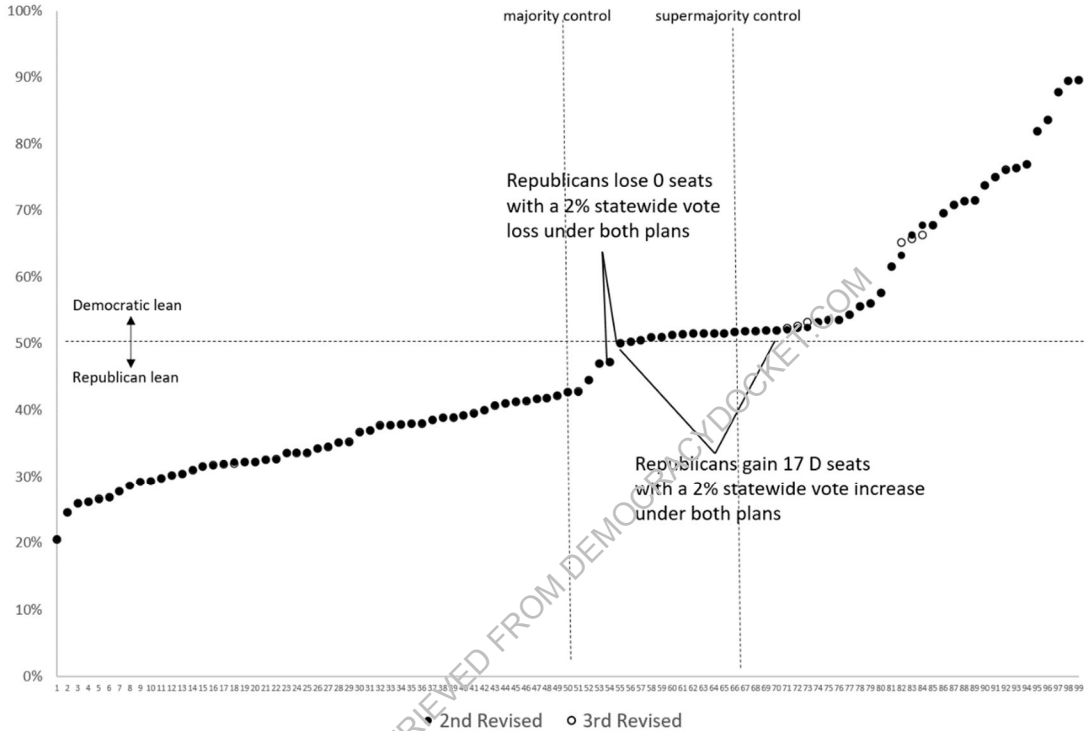


Figure 1: District Level Vote Shares in House Plans

23. One can observe that only a small number of district populations changed between the Second and Third Revised Plans. There was only a change of 451 census blocks out of 276,478 (0.0016 percent of census blocks), which impacts only 0.265 percent of the total population.. Otherwise, the Second and Third Revised Plans are identical, which explains their similar performance.

24. As was the case in the Second Revised Plan, this unusual pattern of district allocations suggests that the Commission again intended to use toss-up districts that are

nominally Democratic to create an illusion of increased proportionality without producing a map that would produce proportionate outcomes. That this was a deliberate choice by the Commission is underscored by existence of alternative plans, including Johnson/McDonald and Rodden III, that achieve proportionality without relying on an unusually high number of Democratic toss-up districts, as well as by the persistent asymmetry and failure of the Third Revised Plan to meet partisan fairness, which is discussed further below.

II. The Third Revised Plan Favors Republican Voters and Disfavors Democratic Voters

25. To conduct the partisan fairness analysis, I used the same statistical and comparative partisan symmetry analysis as in my prior affidavits and expert reports.

26. First, I determined the degree to which the Third Revised Plan exhibits asymmetry in the allocation of votes to seats between the parties. Second, I compared asymmetries across the above-mentioned comparison plans. Such comparison is helpful because it demonstrates that the Commission could have introduced and adopted a less biased remedial plan.

27. Partisan symmetry is a broadly accepted metric used by political scientists to measure partisan bias.⁸ The principle of partisan symmetry requires that a districting system award the same number of seats to each party's candidates for the same share of statewide votes that they receive. The question posed by a partisan symmetry analysis, in other words, is how

⁸ Barry Burden and Corwin Smidt, "Evaluating Legislative Districts Using Measures of Partisan Bias and Simulations," *Sage Open*, 10, 4, 2020; <https://doi.org/10.1177/2158244020981054>; Anthony J McGann, Charles Anthony Smith, Michael Latner, Alex Keena, "A Discernable and Manageable Standard for Partisan Gerrymandering" *Election Law Journal*, 14, 4, 2015; John F. Nagle, "Measures of Partisan Bias for Legislating Fair Elections", *Election Law Journal*: 2015. pp. 346-36; <http://doi.org/10.1089/elj.2015.0311>.

many more (or fewer) seats does one party get for some share of the statewide vote as compared to what another party gets for that same statewide vote share.

28. Scientifically, accepted measures of partisan symmetry follow logically from the principle that an electoral system should treat the parties and their voters equally and that the party that wins the most votes should win the most seats.⁹ As before, I estimate symmetry in two ways: (1) a simple numeric formula (S) that can be calculated by hand,¹⁰ and (2) a computational model of symmetry with statistical confidence intervals. The computational symmetry models estimate symmetry in the seats-votes function across a range of vote shares, which in this case is between 45 and 55 percent, while S measures symmetry in the distribution of support for parties across the districts that each party wins.

29. To calculate the simple measure of symmetry, S , I take the districts that are 5 percent above or below the statewide average of party support and determine what proportion of those districts favor Democrats and what proportion favor Republicans. That is, a plan's bias under S equals the proportion of seats with Democratic vote share above five percent of the Democratic average minus the proportion of seats with Republican vote share above five percent of the Republican average. Put simply, S tells you whether a districting plan creates more Republican or Democratic leaning districts relative to the party's statewide average. A negative value for S means Republicans are advantaged while a positive value means Democrats are advantaged. In this report, simple S symmetry is charted graphically in the form of histograms. A symmetrical plan would show similar distributions of districts on either side of the vertical line denoting the average vote share; an asymmetrical plan would give the favored party more districts past the line denoting the average vote share for the party.

⁹ McGann, et.al., "A Discernable and Manageable Standard for Partisan Gerrymandering".

¹⁰ This metric was first developed by Anthony McGann during the writing of *Gerrymandering the States*, p. 30.

30. For the computational models, I calculate partisan symmetry for the plans, but instead of assuming uniform vote swing across districts, I impute random “noise” (up to five points) in 1,000 simulations of district vote distributions to reflect the idiosyncrasies and perturbations that occur in real elections over time. The procedure also allows me to calculate confidence intervals to provide estimates of statistical significance. In this report, the computational model is charted as a seats/votes *S*-curve function.

31. Figure 2 below displays a histogram of the allocation of seats for the Third Revised House Plan, as well as the estimated seats/votes function. The histogram illustrates the skew in the allocation of seats, where more Democratic seats are won in overwhelmingly Democratic districts (80 percent vote share and above) with virtually no corollary Republican districts. This results in more wasted votes for Democrats. As a result, under the Third Revised House Plan, Democratic voters would only expect to win approximately 44% percent of House seats with 50 percent of statewide votes, as shown in the seats/votes function. By contrast, Republicans would expect to win approximately 53 percent of House seats with 50 percent of the statewide vote. Relative to their statewide vote share, Republicans have more districts where they earn 5 percent more than their statewide vote average (46) than Democrats (35), which means their voters are allocated more efficiently under the Third Revised House plan. Compared to the Second Revised Plan, the number of seats where Democrats win 5 percent or more than their statewide vote average has increased by one, slightly improving symmetry, but consistent with each of the Commission’s plans, Republicans maintain a substantial, and statistically significant, advantage.

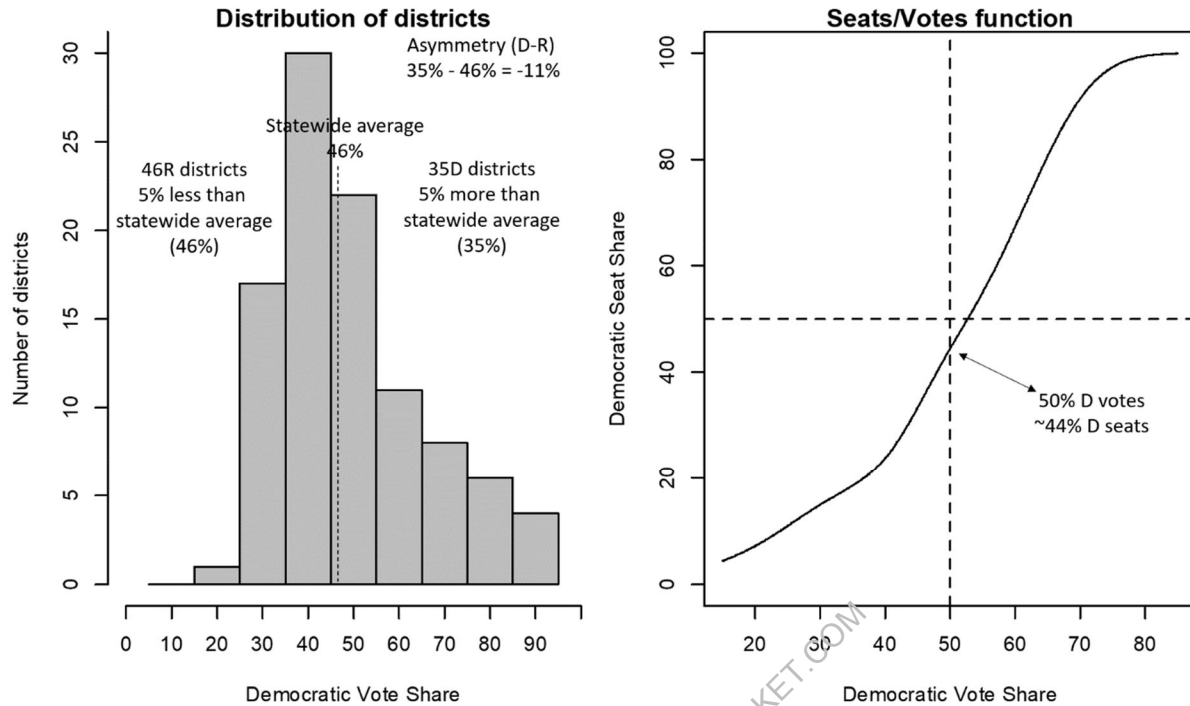


Figure 2: Third Revised House Map Asymmetry

32. Figure 3 shows a similar pattern for the Third Revised Senate Plan. Because Democrats are concentrated into fewer districts, they are expected to win approximately 44 percent of seats with 50 percent of the statewide vote. By contrast, Republicans are expected to win approximately 53 percent of Senate seats with 50 percent of the statewide vote. Republicans also have more safe seats. Republicans win 15 seats (45 percent) with 5 percent more of their statewide vote share, compared to 12 seats (36 percent) for Democrats. While the Senate asymmetry simulations tend to have larger standard errors (in parentheses) due to fewer observations, these results are statistically significant, and tend to mirror the results of the Second Revised Plan. The simple symmetry measures also indicate that any improvement over the Second Revised Plan is marginal.

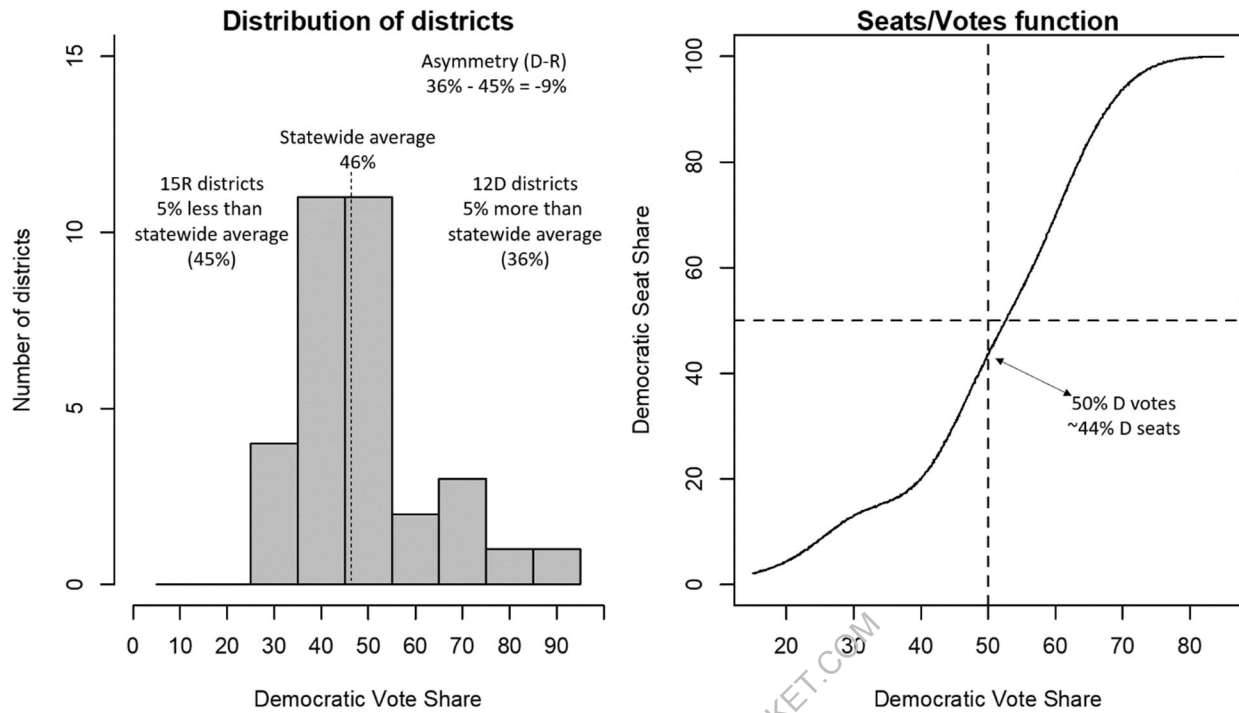


Figure 3: Third Revised Senate Map Asymmetry

33. Most importantly, the asymmetry in both the Third Revised House and Senate maps still lags far behind the alternative plans in fairness. See Tables 5 and 6,

TABLE 5

Asymmetry in Original, Revised, and Alternative House Plans

PLAN	SIMPLE S	ASYMMETRY	(95% CONFIDENCE)
3rd Revised	-11	-11.30	(5.6)
2nd Revised	-13	-11.60	(5.94)
1st Revised	-13	-13.90	(5.76)
Original	-15	-15.39	(5.87)
Johnson/McDonald	-4	-5.20	(5.63)
Rodden III	-6	-8.40	(5.38)

TABLE 6

Asymmetry in Original, Revised, and Alternative Senate Plans

PLAN	SIMPLE S	ASYMMETRY	(95% CONFIDENCE)
3rd Revised	-9	-12.90	(10.6)
2nd Revised	-12	-11.10	(10.2)
1st Revised	-18	-15.70	(10.54)
Original	-15	-17.34	(10.48)
Johnson/McDonald	3	-4.82	(10.6)
Rodden III	-9	-6.40	(9.89)

34. The commission did not need to create yet another asymmetric plan, as evidenced by the fact that the Johnson/McDonald and Rodden III plans are more symmetric than the Third Revised Plan at a statistically significant level.¹¹ For example, if we compare the estimated House symmetry scores from those plans of -5.2 and -8.4, respectively, to the symmetry score for the Third Revised Plan, -11.3, we can say with greater than 95 percent confidence that the

¹¹ Johnson/McDonald T-Test =; -35.357, p-value < 2.2e-16; Rodden III T-test = -26.071, p-value < 2.2e-16

Third Revised House Plan will produce greater asymmetries than the Johnson/McDonald and Rodden III plans. Histograms also show that both the Johnson/McDonald and Rodden III House and Senate plans are visibly more symmetric, with greater parity in the percentage of seats where each party wins more than its statewide average. See Figures 4-7. Under the Johnson/McDonald and Rodden III plans, Democrats and Republicans are expected to receive similar seat shares with 50 percent of votes, as the seats/votes curve is visibly closer to the 50 percent votes/seats intersection. Crucially, there are no statistically significant asymmetries in either of the Johnson/McDonald maps or the Rodden III Senate plan. I should note that the simple S and computational symmetry measures diverge somewhat because they are calculated using different metrics (the number of safe seats v change in the seats/votes curve as voter preferences change). The computational measure is superior in that it is a truly predictive estimate of future performance, and it is possible to estimate the statistical significance of differences across different plans.

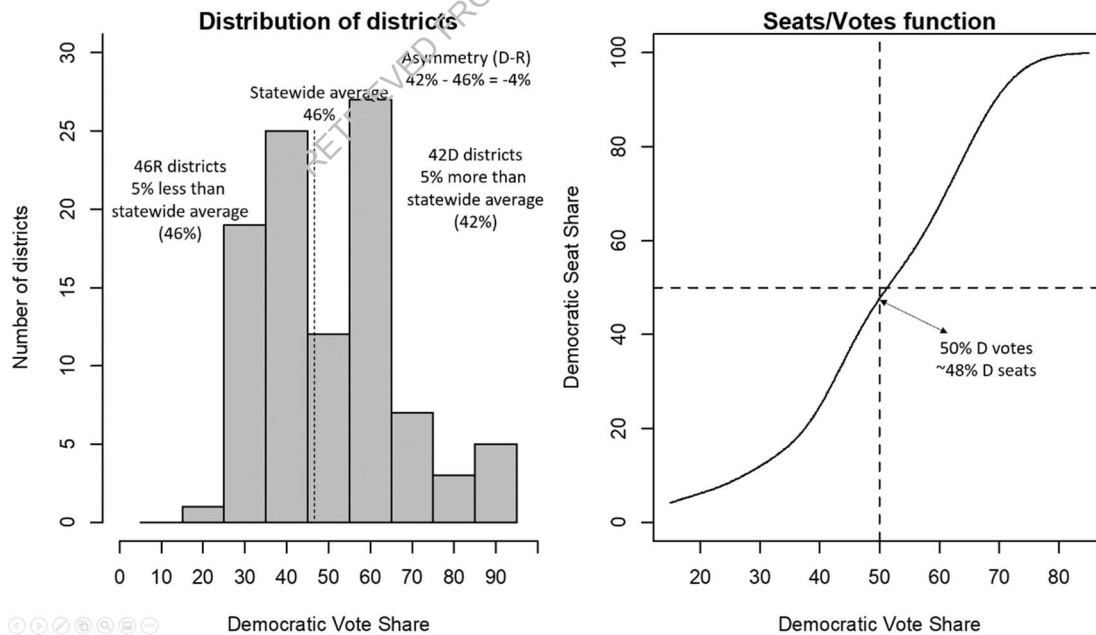


Figure 4: Johnson/McDonald House Map Asymmetry

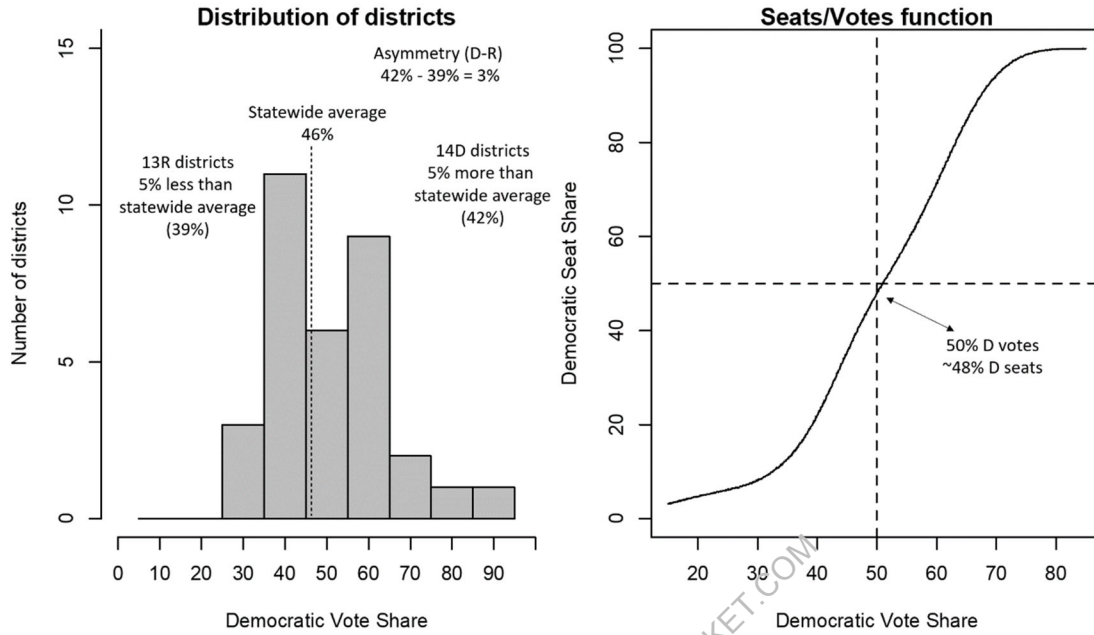


Figure 5: Johnson/McDonald Senate Map Asymmetry

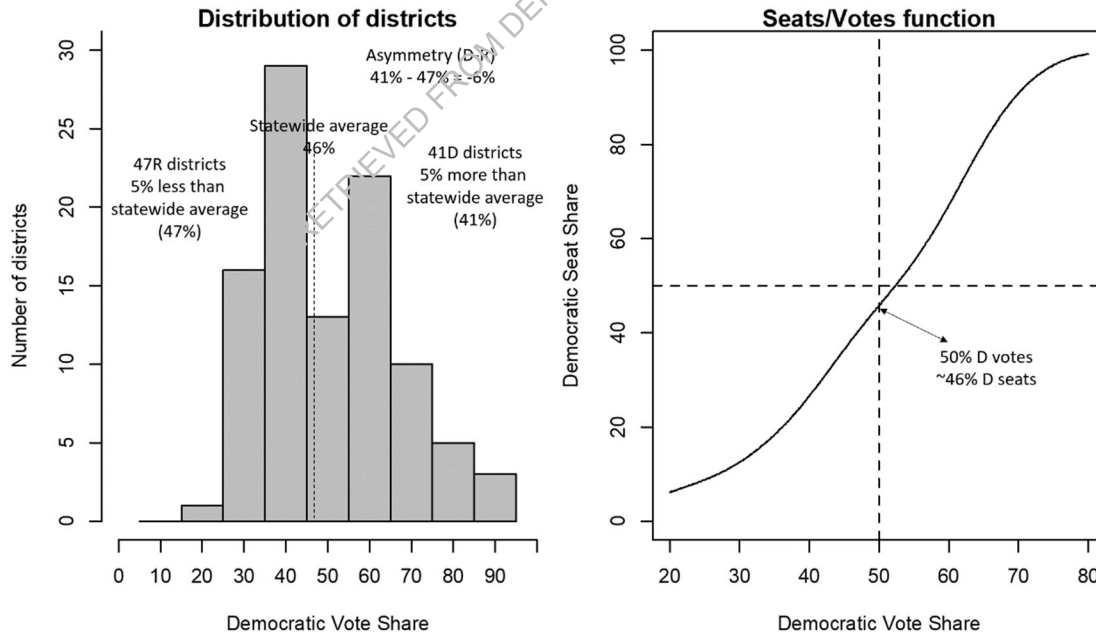


Figure 6: Rodden III House Map Asymmetry

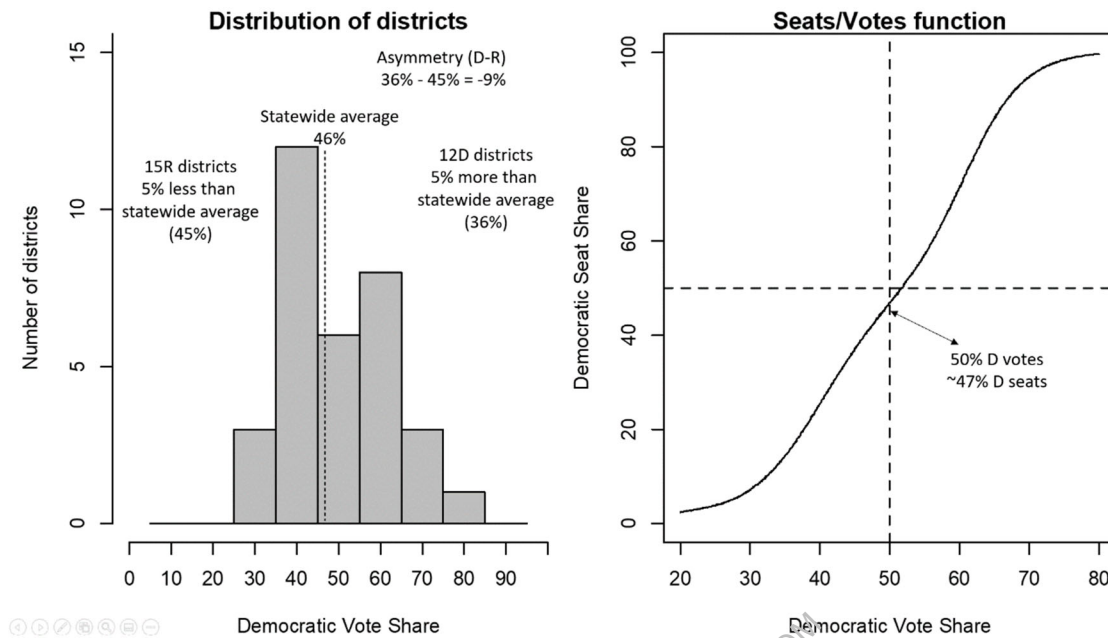


Figure 7: Rodden III Senate Map Asymmetry

III. As a Result of Significant Population Shifts During the past Decade, the 2011 Plan is Unconstitutionally Malapportioned

35. According to the 2010 Census, Ohio had a population of 11,536,504. Therefore, a decade ago, the ideal population of each of Ohio's 99 state House districts (*i.e.*, the State's total population divided by the number of districts) was 116,530 persons.

36. According to the 2010 Census data, the 2011 House Plan had a maximum deviation (*i.e.*, the difference between the most populated district and least populated district) of 19,157 persons (16.44 percent of the ideal district population). Only two districts exceeded a 5 percent population deviation.

37. The results of the 2020 Census report that Ohio's resident population as of April 2020 increased by 2.3 percent, totaling 11,799,448 persons. Consequently, the ideal population for each of Ohio's 99 state House districts as of 2020 is 119,186.

38. While this is a relatively minor change in total statewide population, the way it has been distributed throughout the state has changed more dramatically. In the past decade,

Ohio's population has shifted significantly, which skews the current legislative districts away from population equality. Table 7 below, which was generated from Census data, reveals how populations for Ohio's legislative districts has shifted between 2010 and 2020.

39. Table 7 shows that, between 2010 and 2020, the maximum deviation among state House districts increased from 16.4 percent to 34.2 percent.

TABLE 7

Malapportionment in 2011 House Plan

	NUMBER OF DISTRICTS	AVERAGE DEVIATION
Districts > -10% deviation	5	-12.3%
Districts > -5% deviation	21	-7.2%
Districts > 5% deviation	7	7.5%
Districts > 10% deviation	7	13.5%
Total deviation		34.2%

40. In light of these population shifts, the 2011 legislative district configurations are malapportioned. If utilized in any future election, including the 2022 elections, these configurations would dilute the strength of Petitioners' votes in legislative elections since they live in districts that have significantly larger populations than those districts in which other voters reside.

41. Petitioner Samuel Gresham Jr. lives at 255 Old Trail Drive, Columbus, OH 43213, which is in House district 26 and Senate district 15 in the 2011 Plan. Based on 2020 census data, both House district 26 and Senate district 16 are overpopulated by more than 5%.

42. Petitioner Ahmad Aboukar lives at 5019 Noor Park Circle, Dublin, OH 43016, which is in House district 24 and Senate district 16 in the 2011 Plan. Based on 2020 census data, both House district 24 and Senate district 16 are overpopulated by more than 5%.

43. Petitioner Mikayla Lee lives at 111 Latta Avenue, Unit C, Columbus, OH 43215, which is in House district 18 and Senate district 15 in the 2011 Plan. Based on 2020 census data, both House district 18 and Senate district 15 are overpopulated by more than 5%.

44. Petitioner Prentiss Haney lives at 918 Windsor Street, Cincinnati, OH 45206, which is in House district 32 and Senate district 9 in the 2011 Plan. Based on 2020 census data, House district 32 is overpopulated by more than 5%. I was also asked to review the data files accompanying the Johnson/McDonald Plan that were posted by the independent map-drawers on the Commission's website on March 28, 2022.¹² According to these files, the population deviation of each district in the Johnson/McDonald plan is less than 5 percent from perfect population equality. Thus, the Johnson/McDonald plan complies with equal-population requirements mandated by *Reynolds v. Sims*, 377 U.S. 533 (1964).

CONCLUSION

45. My conclusion with respect to the Third Revised Plan echoes my earlier conclusions regarding the Second Revised Plan, as they are nearly identical plans: The Commission has again failed to produce fair maps. The expected outcomes under the Commission's plans are not an inevitable function of Ohio's political geography, as evidenced by the performance of the Johnson/McDonald and Rodden III plans. Given that the Commission members have now repeatedly refused to adopt compliant alternative plans, and given their continued attempt to mimic proportionality through the asymmetric use of toss-up districts, I

¹² <https://redistricting.ohio.gov/assets/district-maps/district-map-1180.zip>.

must conclude that the Third Revised Plan reflects an intent to maximize partisan advantage over fairness.

46. With respect to the 2011 Plan, I conclude that it is unconstitutionally malapportioned.

Michael S. Latner

04/01/2022

Michael S. Latner

State of Florida

County of Pasco

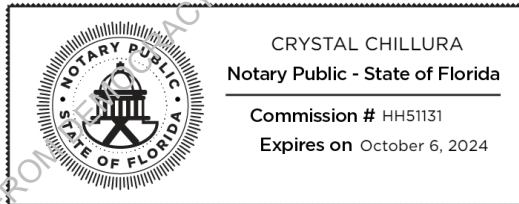
This foregoing instrument was acknowledged before me by means of online notarization, this 04/01/2022 by Michael S. Latner.

___ Personally Known OR ☒ Produced Identification

Type of Identification Produced DRIVER LICENSE

Crystal Chillura

Crystal Chillura Online Notary



Notarized online using audio-video communication