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INTRODUCTION

Democracy. Justice. Fairness. The right to vote. Upholding both the Ohio and U.S. Constitutions. These are fundamental values of all who call Ohio home, the bedrock of how our government functions. All power is derived, fundamentally, from the people, who “reserve to themselves the power to propose to the general assembly laws and amendments to the constitution.” Article II, Section 1, Ohio Constitution. Nearly 1.2 million Ohioans voted on May 8, 2018 to end partisan gerrymandering in Ohio, totaling 74.89% of all voters to cast a ballot in that election. *See Summary-Level Official Results for 2018 Primary Election - Statewide Issues (XLSX)*, Ohio Secretary of State, Accessed May 3, 2022, Available at: <https://www.ohiosos.gov/globalassets/elections/2018/pri/summaryissues.xlsx>. Yet on November 16, 2021, the Ohio General Assembly passed its first gerrymandered congressional map (the “2021 gerrymandered congressional map”), subsequently invalidated by the Ohio Supreme Court on January 14, 2022. Instead of following the Court’s order, the Ohio Redistricting Commission passed a second gerrymandered congressional map (the “2022 gerrymandered congressional map”) on March 2, 2022. Ohioans believed its elected officials would follow the will of the Ohio Supreme Court. Instead, Ohioans just voted in a primary under the 2022 gerrymandered congressional map, depriving them of the fairness and justice they voted for in 2018.

Above all else, the Ohio Advocacy Organizations submitting this brief emphasize three important realities. First, real and demonstrable constitutional deficiencies exist within the 2022 gerrymandered congressional map. Second, that same map results in real world impacts to communities all across the state. Third, plenty of citizen-developed constitutional maps were submitted to the Commission on the record, like the map proposed by the Ohio Citizens’ Redistricting Commission—and the Commission ignored all of them.

When faced with the direct and present impacts of climate change, the rising costs of water and electricity, and air pollution surrounding their communities, Ohioans cannot afford to wait any longer for fair representation in Congress. Partisan gerrymandering subverts the fundamental values of democracy, not only diluting partisan power but often cracking apart communities of color. It subverts the goals of representation of the people of Ohio in Washington D.C. Ohio can only have a healthy environment if we have a healthy democracy. We can only have a healthy democracy if all Ohioans, no matter their race, class, or national origin, believe their vote actually matters. A partisan gerrymander of our congressional district map, and ignoring the will of Ohio voters, are textbook symptoms of an unhealthy democracy.

The Ohio Advocacy Organizations co-signing this brief represent people from all across Ohio and many different walks of life. While we separately focus on many different issues, communities, and constituencies, we are united in understanding the foundational nature of fair maps. The Ohio Redistricting Commission's actions affect us all, diluting the power of every vote from Lake Erie to the Ohio River.

The 2018 constitutional amendment instructed either the Ohio Redistricting Commission or the Ohio General Assembly to make the maps following certain rules designed to minimize community splits. It also included a bar against partisan gerrymandering when a map did not have bipartisan support: "The general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents." Article XIX, Section 1(C)(3)(a), Ohio Constitution. Similarly, "the general assembly shall not unduly split governmental units, giving preference to keeping whole, in the order named, counties, then townships and municipal corporations." Article XIX, Section 1(C)(3)(b), Ohio Constitution.

In *Adams v. DeWine*, this Court found that partisan gerrymandering, “through undue favoritism and/or undue governmental splits, extend[ed] from one end of the state to the other.” 2022-Ohio-89, ¶96. The Ohio Redistricting Commission (or the General Assembly) was then “mandated to draw a map that comports with the directives of [that] opinion.” *Id.*, ¶ 99. Instead, Ohioans witnessed the Commission intentionally ignore the explicit commands of the Ohio Supreme Court, both in the congressional redraw and the parallel redraws of the statehouse redistricting plans. See *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 2022-Ohio-1235 (invalidating the fourth gerrymandered statehouse redistricting plan); see also *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 2022-Ohio-789 (invalidated the third gerrymandered statehouse redistricting plan); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 2022-Ohio-342 (invalidating the second gerrymandered statehouse redistricting plan); and *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 2022-Ohio-65 (invalidating the first gerrymandered statehouse redistricting plan).

The 2022 gerrymandered congressional map enshrines the same harms to Ohioans as the 2021 gerrymandered congressional map. Communities remain divided. Counties are split and combined specifically to ensure one party retains command of Ohio’s congressional delegation, disregarding any discriminatory impact. Thus, the co-signed Ohio Advocacy Organizations submit this amicus brief to support the arguments of the petitioners, ensuring the Ohio Supreme Court understands the importance of the decision before them and its impact on many different organizations, communities, and individuals across the state. Ohioans do not deserve a gerrymandered map, whether it’s a four-year or ten-year map. And Ohioans certainly do not deserve to spend more resources fighting for issues they care about simply because one political party has enshrined its power over another. When Ohio has gerrymandered maps, everyone loses.

But most importantly, Ohio communities do not deserve to be sliced and diced in haphazard shapes to serve the whims of partisan interests. The Ohio Redistricting Commission had the opportunity to consider constitutional maps, like the map created by the Ohio Citizens' Redistricting Commission, but it ignored these proposed maps beyond allowing their testimony. Instead, by creating the 2022 gerrymandered congressional map, the Commission cracked communities most at risk to environmental harms and most often excluded from political processes. The Ohio Advocacy Organizations submitting this brief stand together against the disparate and intentionally created harms of the Ohio Redistricting Commission's second gerrymandered congressional map. If, instead of gerrymandering, Ohio's elected leaders create a congressional map designed to keep connected communities together, rather than political parties, everyone wins. The environment wins. Ohio wins.

INTERESTS OF AMICI CURIAE

Nine organizations have joined together to submit this brief in support of the petitioners. The Ohio Environmental Council, Ohio Organizing Collaborative, Ohio Farmers Union, LEAD Ohio, Red Wine & Blue, OPAWL - Building AAPI Feminist Leadership, Innovation Ohio, Ohio Coalition on Black on Black Civic Participation / Ohio Unity Coalition, and Ohio Citizen Action (collectively, the "Ohio Advocacy Organizations") represent thousands of Ohioans from all corners of the state and many walks of life. We all work on many diverse issues in different places and spaces, but together we unite in our call for fair, constitutional, representative congressional maps. Our unified voice represents the Ohioans who refuse to wait another year for an end to partisan gerrymandering.

The Ohio Advocacy Organizations lend their voices to the legal challenges of the unconstitutional, gerrymandered congressional map because our causes cannot wait until 2026 for fair maps in Ohio, let alone another decade. Right now, Ohioans face the direct impacts of climate change. Black, brown, and immigrant communities lack adequate representation under gerrymandered districts. Corporate interests, amplified through partisan gerrymandering, dilute the interests of farmers across Ohio. Progressive Ohioans seeking to represent their communities face districts drawn intentionally to divide the very neighborhoods for whom they advocate. Partisan gerrymandering, at its core, runs counter to the foundational, democratic principles upon which our country, and the Buckeye State, were founded.

The Ohio Environmental Council (“OEC”) is a not-for-profit corporation located at 1145 Chesapeake Ave, Suite I, Columbus, OH 43212, with over three-thousand members across Ohio in 84 of 88 counties. For over fifty years, the OEC has fought to ensure clean air and water for all who call Ohio home. All Ohioans fundamentally deserve environmental justice and a voice in our democratic processes, regardless of background, zip code, skin color, national origin, or any other identity. Ohioans are seeing their water bills and energy bills rise every month. Ohioans are experiencing extreme weather more and more frequently. Ohioans deserve a congressional delegation who will respond to these needs. For example, “more than six in 10 (63%) Ohio voters think developing more renewable energy sources, such as wind and solar, should be the most important priority for addressing Ohio’s energy needs,” but instead, legislation like HB 6 at the state level guts our renewable portfolio standards. *Poll: Ohio Voters Support Climate Action*, Yale Program on Climate Change Communication, (October 15, 2019), available at: <https://climatecommunication.yale.edu/news-events/poll-ohio-voters-support-climate-action/>. A gerrymandered congressional map that divides communities and enshrines partisan power in

Ohio's congressional delegation runs counter to these goals. Thus, one of the four pillars of the OEC's work is safeguarding the integrity and accessibility of Ohio's democracy. We recognize that civic engagement is critical in securing long-term environmental protections. The OEC advocates on behalf of a healthy democracy because without a healthy democracy, we cannot create policies that benefit the people of Ohio.

The Ohio Organizing Collaborative ("OOC") is a not-for-profit organization located at 25 East Boardman Street, Suite 428, Youngstown, OH 44503, with hundreds of members in Columbus, Cleveland, Cincinnati, and Dayton as well as thousands of supporters and volunteers across the state. OOC unites community groups, student associations, and faith organizations with policy institutes and labor unions across Ohio, including four grassroots organizing membership projects and campaigns. Their work encompasses diverse communities and intersecting issues that include college students, faith leaders, people directly impacted by mass incarceration, unemployed workers, care providers and the families they serve, and people working in the care economy. OOC prioritizes structural democracy reform and has connected with and registered hundreds of thousands of Ohio voters through non-partisan voter engagement. Through their work, OOC organizes membership bases of everyday Ohioans for racial, social, and economic justice.

The Ohio Farmers Union, a not-for-profit organization located at 1011 N. Defiance Street, Ottawa, OH 45875, has been active in Ohio for 89 years. Its national affiliate has been active for 122 years. The Ohio Farmers Union's vision is for a world in which farm families and their communities are respected and valued, enjoying prosperity and social justice. Their mission is to advocate for family farmers and ranchers and their communities through education, cooperation, and legislation, and their membership currently consists of just over 3000 farm families in Ohio. As social justice has long been an organizational goal of the Ohio Farmers Union, they believe fair

representation is crucial to their mission. Gerrymandering has diluted the voices of many Ohio communities and amplified the voices of others, especially those serving corporate interests.

LEAD Ohio is a not-for-profit organization located at 550 E Walnut St, 2nd Floor, Columbus, OH 43215. Conducting their work throughout the state, LEAD Ohio seeks to bring about positive progressive change by recruiting, training, connecting, and supporting emerging progressive leaders from every corner of Ohio. By preparing future leaders to champion progressive policies at all levels of government, they can improve the social and economic wellbeing of all Ohioans. LEAD Ohio strongly believes in a fair, representational democracy that provides Ohioans with the ability to choose their representatives, not a system in which politicians choose their voters.

Red, Wine and Blue (mailing address: PO Box 6623 Cleveland, OH 44101) engages, empowers, and mobilizes suburban women—especially those new to the political space. They work to increase civic engagement throughout the suburbs of Ohio, supported by a membership of 4,300+ Ohio women with a reach of over 300,000 suburban women across the United States. Red Wine and Blue believes unfair maps inhibit voter engagement and ultimately voter turnout. The maps under appeal run completely contrary to what the Founding Fathers intended. Not only is that a direct insult to the founders of our great nation—leaders in our state are now blatantly disregarding the constitution—it is also a violation of the oaths taken by our elected officials when they took office. To restore faith in democracy, we must guarantee the system works for everyone, whether through fair maps or ensuring voting is accessible, fair, and inclusive.

OPAWL - Building AAPI Feminist Leadership (“OPAWL”) is a grassroots member-led community organizing for social justice and elevating the voices visibility, and progressive leadership of Asian, Asian American, and Pacific Islander (AAPI) women and nonbinary people

in Ohio. OPAWL is located at 5243 Chaps Court, Columbus, OH 43221 and was originally founded in 2016. By co-creating an organized and intersectional feminist, member-led community, they are building collective power. Their primary strategies for building power are through community building, art and storytelling, political education, and organizing campaigns. OPAWL believes representational fairness should include drawing districts that appropriately represent minority populations so their presence is not neglected and their voices drowned out disproportionately. The proposed gerrymandered congressional map was drawn without taking into consideration of racial composition of districts. In the last ten years, the demographics of Ohio have experienced a tremendous change. Statewide over the past decade, the Asian population grew by 58.3% and the Pacific Islander population grew by 44.2%. In Columbus alone, the number of AAPI residents increased by 76%. In a rapidly changing Ohio, AAPI residents deserve fair representation so their communities can not just survive but also thrive.

Innovation Ohio is a not-for-profit organization located at 360 S 3rd St 3rd floor, Columbus, OH 43215. They envision a more just and equitable society where every Ohioan can realize the American dream. Their mission is to educate and be a catalyst for progressive policy and grassroots activity that improves the lives of Ohio's working families. Innovation Ohio supports fair maps because they are critical to the foundation of democracy and our constitution. If Ohio does not have fair maps, then we cannot uphold the ideal of one-person, one-vote. Thus, we devalue our standing as having a strong, democratic form of government.

The Ohio Coalition on Black Civic Participation, also known as Ohio Unity Coalition, is located at 935 Parkside Blvd, Toledo, OH 43607. They are a statewide network of alliances and institutions whose constituents are made up of union members, Black Greek-lettered sororities and fraternities, grassroots community organizations, and Masonic and faith organizations. Ohio Unity

Coalition primarily focuses on registering voters, education, mobilization, and voter protection that includes advocacy around issues specific to Black Ohioans. They support fair maps because they strongly believe representatives in Congress should be elected by communities of interest. According to the Ohio Unity Coalition, voters should have a shot at sending representatives to Congress that they collectively believe represent the interests of their communities, an impossible goal when districts are drawn to pull in certain people and leave out others. As Ohio's congressional districts have morphed into broken cities or counties further from each other and not really reflective of similar populations, it makes it harder for elected representatives to fairly represent their constituents. Voters should have a shot at sending representatives to Congress that they collectively believe can represent their interests, and it should not be based on districts that pull in certain people and leave out others. Communities matter, and our maps should reflect Ohio's communities.

Ohio Citizen Action, with headquarters at 1511 Brookpark Rd, Cleveland, OH 44109, has a long history of advocating for fair and inclusive public processes of all kinds. Ohio Citizen Action understands that informed and engaged citizens are the best possible hedge against abuses of government and corporate power. For this reason and others, they support district maps that fairly reflect Ohioans' voting preferences. Negating the will of voters through cracking and packing districts leads to more extreme agendas that are not supported by public majorities, but rather by a small group of influential campaign donors. Fair district maps are critical for reigning in the corruption that's pervasive in both Columbus and Washington D. C.

In sum, the gerrymandered congressional map harms the Ohio Advocacy Organizations' members, supporters, and missions by dividing Ohio's communities in haphazard ways while diluting votes, especially Democrat votes, for the purpose of maintaining a Republican advantage.

The gerrymander results in a Congressional delegation that need not be responsive to Ohioans because their elections are often decided before a vote is even cast. And when lines divide communities experiencing injustices, the members of that community have their voice diluted. Whether they want to elect a Republican, a Democrat, or someone else entirely to represent their interests, their votes are split between two congressional districts. These harms are especially poignant for the Ohio Advocacy Organizations representing Ohio's diverse communities, whether it's the growing AAPI community in Central Ohio, Black communities across the state, Ohio's farmers committed to social justice and an end to corporate control of political processes, or another important Ohio community. They all matter equally.

The gerrymandered congressional map adopted on March 2, 2022 perpetuates the need for continued and excess investment in educational efforts regarding Ohio's democratic institutions. Because the gerrymandered plan encourages apathy and discourages voters from engaging in the democratic process, the Ohio Advocacy Organizations will need to expend additional resources over the next decade. Communities across Ohio will have a more difficult time advocating for their needs in Congress. Ohio will suffer. People will suffer. Our planet will suffer.

STATEMENT OF THE FACTS AND CASE

Amici Curiae hereby adopts and incorporates by reference the Statement of the Facts and Case delineated by petitioners, League of Women Voters of Ohio, et. al. and Neiman, et. al.

ARGUMENT

PROPOSITION OF LAW: THE PASSED GERRYMANDERED MAPS VIOLATE ARTICLE XIX, SECTION 3 OF THE OHIO CONSTITUTION.

I. The gerrymandered congressional map dilutes potential Minority Opportunity districts and the power of Ohio communities most impacted by environmental injustices.

There are many ways to illustrate the dangers of gerrymandered districts. And when considering whether a district map unduly favors one political party, or unduly divides governmental units, it is worth exploring the impacts of the divisions enshrined in the map. How do the divisions impact the most marginalized communities in Ohio? How do the divisions impact those most at risk to environmental harms? A map designed to ensure similar and connected communities are represented together would not divide communities facing environmental injustice. A map designed to accurately represent Ohio would follow natural boundaries of counties, townships, and cities, rather than dive around and through communities to design districts intended to further more partisan interests.

To facilitate exploration of the impacts of gerrymandered districts upon Ohio's Black, Indigenous, and People of Color (BIPOC), especially BIPOC communities most impacted by environmental injustices, we utilized a tool known as EJScreen.¹ Developed by the U.S.

¹ According to the U.S. EPA, "EJScreen is an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. EJScreen users choose a geographic area; the tool then provides demographic and environmental information for that area. All of the EJScreen indicators are publicly-available data. EJScreen simply provides a way to display this

Environmental Protection Agency (EPA), EJScreen allows users to visualize environmental harms overlaid upon demographic and economic data, creating interactive maps. These maps tell the stories of communities, often low-income BIPOC communities, who have experienced decades of intentional economic disinvestment, redlining, and zoning decisions.

Sacrifice zones, also known as “fenceline communities,” are composed of low-income communities and communities of color. According to The Guardian, “around a quarter of a million Americans are living in parts of the United States where rates of cancer caused by air pollution exceed the US government’s own limit of ‘acceptable risk.’”² A national map of sacrifice zones created by ProPublica shows that a number of sacrifice zone communities exist across Ohio, especially around Cincinnati and Cleveland.³

We used EJScreen to compare environmental justice communities to the gerrymandered congressional map by uploading the map’s shape files. First, we identified communities in Ohio enduring significant exposure to cancer risk, toxic respiratory hazards, wastewater discharge, particulate matter, and other harms. Then, we superimposed the district lines for the gerrymandered congressional map over these harms, illustrating the shared geography of environmental injustice and gerrymandering. In the following sections, we will show how the 2022 gerrymandered congressional map divides communities in Hamilton and Franklin County.

information and includes a method for combining environmental and demographic indicators into EJ indexes.” *What is EJScreen?*, U.S. EPA, Accessed on December 10, 2021, available at: <https://www.epa.gov/ejscreen/what-ejscreen>. “Development of EJScreen began in late 2010 and EPA began using an early version in 2012. EJScreen was peer reviewed in early 2014, and released to the public in 2015. Since the public release, EJScreen has been and will continue to be updated annually with the newest and best data available.” *How was EJScreen Developed?* U.S. EPA, Accessed on December 10, 2021, available at: <https://www.epa.gov/ejscreen/how-was-ejscreen-developed>.

² Adrienne Matei, *What are ‘Sacrifice Zones’ and why do some Americans live in them?*, The Guardian, Nov. 16, 2021, available at: <https://www.theguardian.com/commentisfree/2021/nov/16/what-are-sacrifice-zones-and-why-do-some-americans-live-in-them>.

³ Al Shaw & and Lylla Younes, *The Most Detailed Map of Cancer-Causing Industrial Air Pollution in the U.S.*, ProPublica, November 2, 2021, available at: <https://projects.propublica.org/toxmap/>.

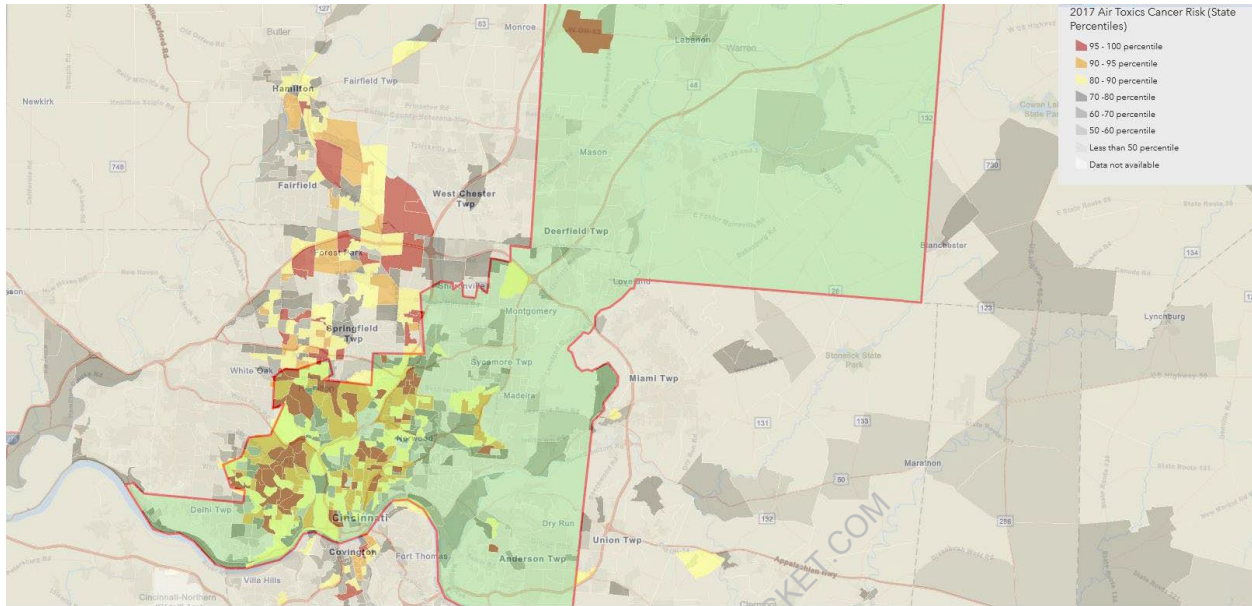
We also used demographic data utilized on Dave's Redistricting to compile maps illustrating the ways the 2022 gerrymandered congressional map directly divides BIPOC communities. In a later section of the brief, both EJScreen and demographic data will illustrate how alternative maps provide a fairer partisan outcome while also avoiding community cracking and packing.

A. Proposed congressional Districts 1 and 8 split Hamilton County communities unnecessarily while simultaneously diluting communities most impacted by environmental harms, like Cancer Risk.

In Hamilton County, we see District 1 connecting the city of Cincinnati and eastern Hamilton County with Warren County to the northeast. The Cincinnati section of District 1 includes many Black communities, especially along the Interstate-75 and Mill Creek corridors of the region. These communities are in the 80th to 100th percentile for toxic respiratory hazards, wastewater discharge, and cancer risk, harms not shared by the rural voters of Warren County. (See Figure 1 for an illustration of Cancer Risk). A careful look at this map reveals a significant number of Black communities in northern Hamilton County with shared environmental harms as those in District 1, but those communities are instead included in District 8, where a vast majority of the district is well below the 80th percentile.

By dividing these communities with shared environmental harms, the gerrymandered congressional map dilutes their collective voting power to elect a representative to Congress who can address their shared needs. Moreover, this harm was also present in the 2021 congressional redistricting map (See Figure 2). The Ohio Redistricting Commission's partisan gerrymandering in Hamilton County continues to divide communities experiencing the same environmental injustices.

Figure 1⁴
District 1, 2022 Gerrymandered Congressional Map
Air Toxics Cancer Risk



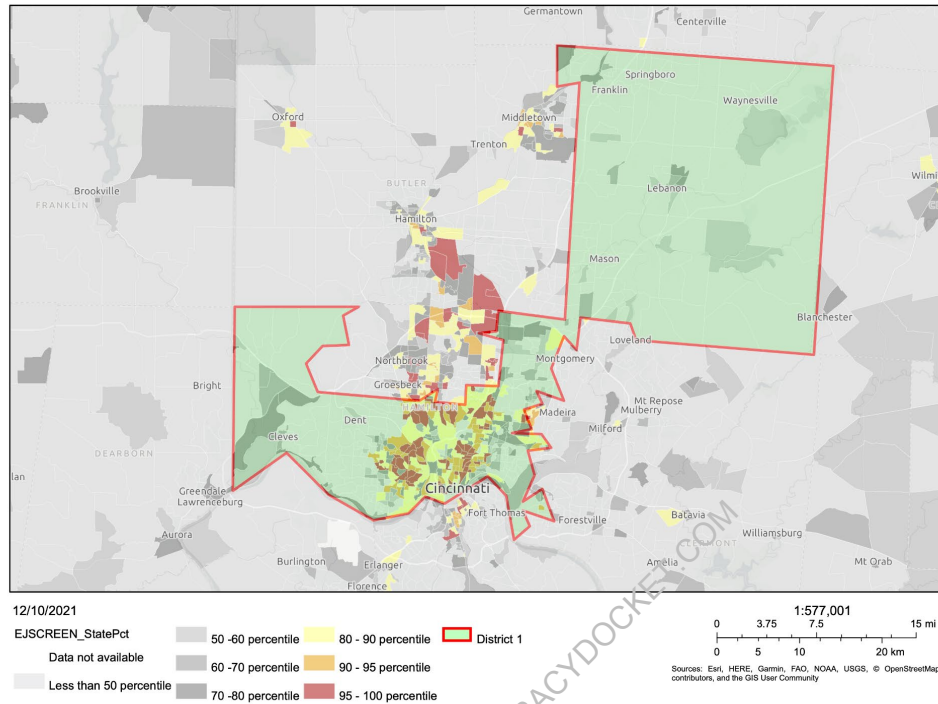
District 1's design is particularly striking because it is absolutely unnecessary. District 1 could easily be contained entirely within Hamilton County, including those communities in its northern section that share the experiences and risks of their neighbors. Hamilton County contains 830,639 people as of the April 1, 2020 Census. The ratio of representation for Ohio is 786,630 (districts must be within about 0.75% of that number), so a full congressional district could easily fit within the county boundaries.

By including Warren County in District 1, and even considering the edits made between the 2021 gerrymandered congressional map and the 2022 gerrymandered congressional map, the Ohio Redistricting Commission created a district that just barely leans Democrat, carving up communities impacted by environmental injustice as a result.

⁴ Figures 1, 2, 5, 8, and 11 were created by superimposing Ohio's new district lines over EJScreen's data. We then generated an image and labeled it accordingly.

Figure 2

Congressional Southeast Ohio Cancer Risk EJ Score

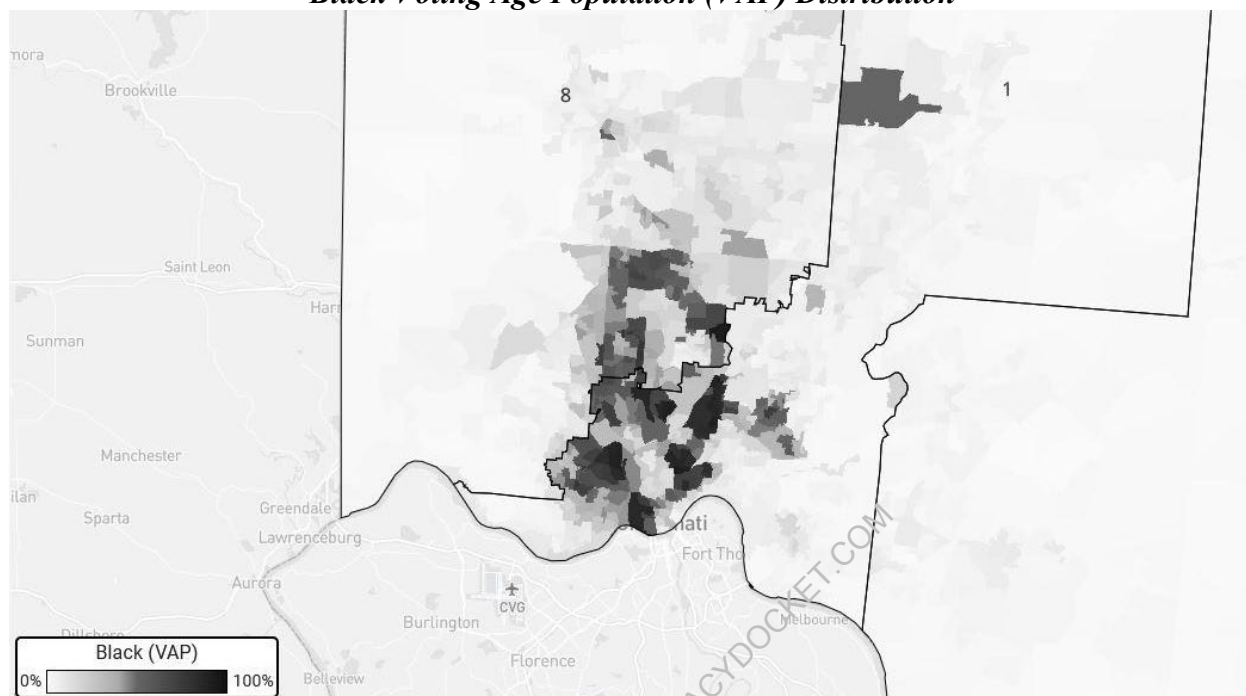


B. Proposed congressional Districts 1 and 8 split Hamilton County in a way that excludes significant portions of Hamilton County’s BIPOC population from the district that includes Cincinnati.

The design of District 1 also excludes BIPOC communities in Hamilton County from being represented together in one district. Forest Park, a northern suburb of Cincinnati located in Hamilton County, is 57.1% Black.⁵ *QuickFacts: Springdale city, Ohio; Cincinnati city, Ohio; Forest Park city, Ohio*, U.S. Census Bureau, Accessed May 3, 2022, available at: <https://www.census.gov/quickfacts/fact/table/springdalecityohio,cincinnati-cityohio,forestparkcityohio/PST045221>. Nearby Springdale similarly is 38.5% Black. *Id.* Cincinnati is 41.4% Black. *Id.*

⁵ For the purposes of this brief, we are utilizing the U.S. Census Bureau’s definition of Black: “a person having origins in any of the Black racial groups of Africa.” *About the Topic of Race*, U.S. Census Bureau, accessed May 4, 2022, available at: <https://www.census.gov/topics/population/race/about.html>.

Figure 3⁶
District 1, 2022 Gerrymandered Congressional Map
Black Voting Age Population (VAP) Distribution



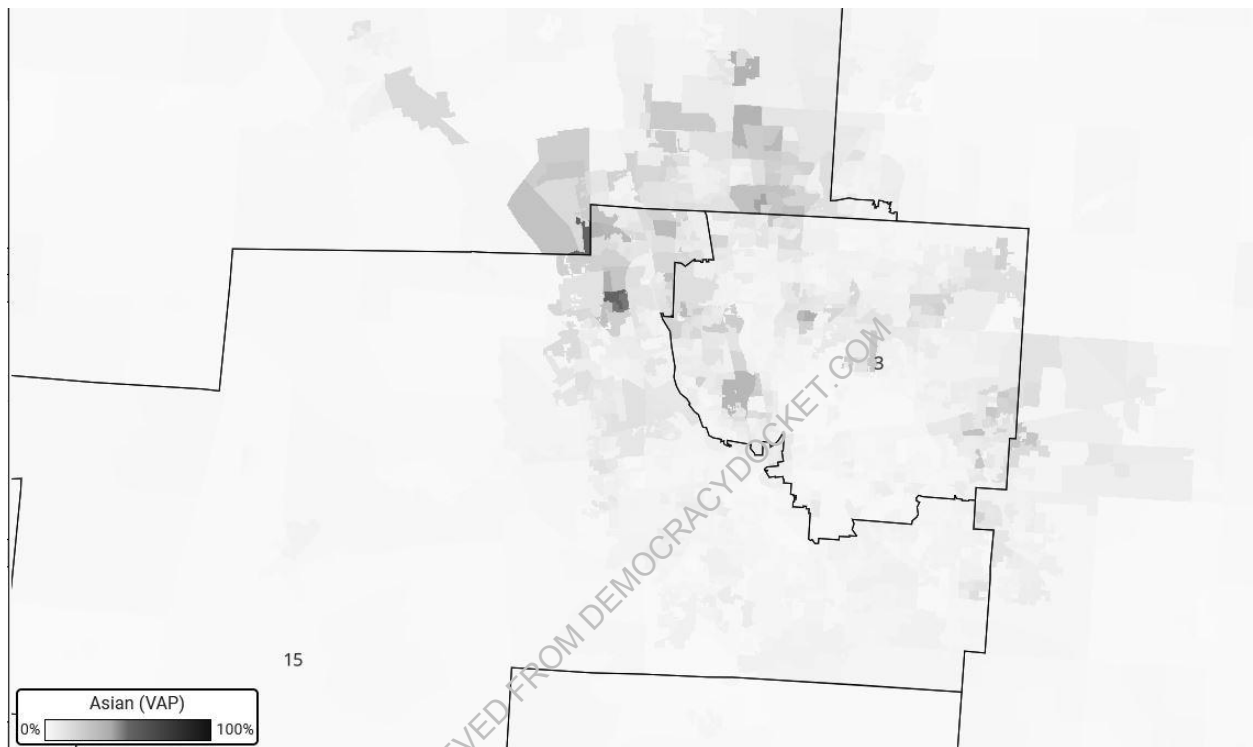
Instead of including Springdale and Forest Park in the same district as Cincinnati, the Ohio Redistricting Commission included these two suburbs in District 8, a district that is only 12.92% Black in aggregate. *OH 2022 Congressional (March 2, 2022, Pending)*, Dave's Redistricting, Accessed May 3, 2022, available at: <https://davesredistricting.org/maps#stats::64d56870-70ea-4f4d-b667-9a4fd60ac511>.

Proposed congressional Districts 3, 4, and 15 divide Ohio's highest concentrations of AAPI residents into three districts while also dividing communities in Central Ohio experiencing the environmental injustices. The 2022 gerrymandered congressional map is also drawn to ensure

⁶ Figures 3, 4, 7, 9, and 10 were created using the demographic data from Dave's Redistricting and formatted via Photoshop.

communities in Central Ohio do not receive the representation they deserve. This is best exemplified by the distribution of AAPI residents, in particular the Asian⁷ voting age population.

Figure 4
Districts 3, 4, and 15, 2022 Gerrymandered Congressional Map
Asian Voting Age Population (VAP)

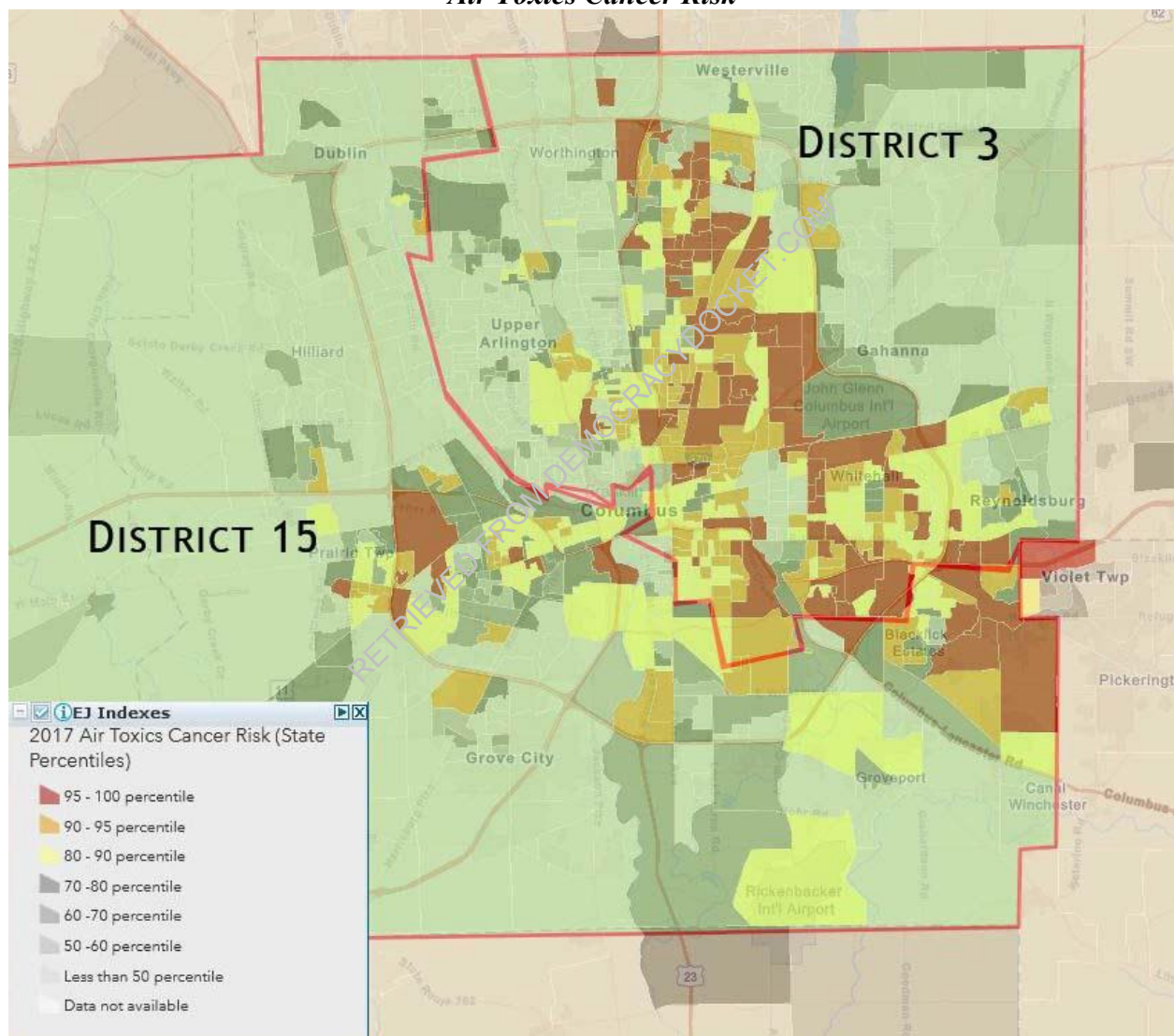


As illustrated by Figure 4, some of the largest Asian communities in Ohio exist in the northwest region of Franklin County and southern portions of Delaware County and Union County. Dublin, Ohio is 19.9% Asian, while the state is only 2.5% Asian. *QuickFacts: Delaware city, Ohio; Marysville city, Ohio; Powell city, Ohio; Ohio*, U.S. Census Bureau, Accessed May 3, 2022, available at: <https://www.census.gov/quickfacts/fact/table/delawarecityohio,marysvillecityohio,powellcityohio,OH/PST045221>. But Dublin, Ohio, which straddles all three counties, is divided

⁷ For the purposes of this brief, we are utilizing the Census Bureau’s definition of “Asian,” which it defines as “a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.” *About the Topic of Race*, U.S. Census Bureau, accessed May 4, 2022, available at: <https://www.census.gov/topics/population/race/about.html>.

between District 15 and District 4. Powell, similarly, is 8.9% Asian, and is included in District 4, rather than a district with significant portions of Dublin. Both of these cities have significantly higher Asian voting age populations, but those voters do not have the opportunity for their communities of interest to be represented together.

Figure 5
Districts 3 and 15, 2022 Gerrymandered Congressional Map
Air Toxics Cancer Risk



District 3 and 15 also divide Central Ohio's communities most impacted by environmental injustices (see *Figure 5*). By placing District 3 in the northern portions of Franklin County, rather

than the southern section, the Ohio Redistricting Commission also divided many Black communities, cracking them into District 15. As illustrated later in Section III, this choice ensures Central Ohio does not have a second Democrat-leaning district while also diluting the opportunity for a district containing all of Central Ohio's largest AAPI communities. Like the interplay between District 1 and District 8 in southwest Ohio, the deliberate choices in drawing Districts 3, 4, and 15 result in racial divides and environmental injustices. The Ohio Redistricting Commission created those realities in pursuit of one specific partisan goal—mainly, to ensure Central Ohio only had one Democrat-leaning district.

II. The gerrymandered congressional map violates the Ohio constitution by unduly favoring one party.

We have identified three initial examples showing how the gerrymandered congressional map impacts Ohio's communities and illogically divides them. These harms emphasize the importance of the Ohio Supreme Court upholding the constitutional mandate created by Ohio voters in May 2018—no more partisan gerrymandering, among a number of other rules for the creation of a congressional map—and upholding its own decision in *Adams v. DeWine*. The Ohio Advocacy Organizations will not replicate the arguments made by the petitioners at length. We simply urge the Ohio Supreme Court to uphold their precedent and see through the charade that is the 2022 gerrymandered congressional map. Under Section 1(C)(3)(a) of Article XIX of the Ohio Constitution, a congressional map may not unduly favor or disfavor a party or its incumbents. The 2022 gerrymandered congressional map violates this section. In passing a map designed to enshrine partisan power, the General Assembly reveals its insidious reason for disregarding Ohio's communities.

A. The gerrymandered congressional map violates Article XIX, Section 1(C)(3)(a) by unduly favoring one party and its incumbents over another.

The gerrymandered congressional map passed by the Ohio Redistricting Commission violates Article XIX, Section 1(C)(3)(a), and its violations are obvious by a simple observation of the data. The explicit, mandatory language in the Constitution says “the general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents.” *Id.* In *Adams v. DeWine*, this Court made clear what it means to favor a political party over another:

When the dealer stacks the deck in advance, the house usually wins. That perhaps explains how a party that generally musters no more than 55 percent of the statewide popular vote is positioned to reliably win anywhere from 75 percent to 80 percent of the seats in the Ohio congressional delegation. By any rational measure, that skewed result just does not add up. 2022-Ohio-89, ¶ 100.

Similarly, a map that results in 66% of the seats in the Ohio Congressional delegation for the Republican Party is also a stacked deck, especially when it generally only musters no more than 55% of the statewide popular vote.

Furthermore, the Court should closely consider the partisan asymmetry of the 2022 gerrymandered congressional map. While an initial glance at the map on a website like Dave’s Redistricting may indicate five districts lean Democrat and ten Republican, Expert Testimony submitted by the *Neiman* petitioners demonstrates a different reality. Based on the 2020 congressional election results, for instance, Christopher Washaw shows how the 2022 gerrymandered congressional map would result in Republicans winning 80% of Ohio’s seats in Washington D.C. *See Evidence of Meryl Neiman - Volume 3 of Exhibits*, at 143. According to Washaw, the “plan is more extreme than 77% of previous plans and more pro-Republican than 89% of previous plans.” *Id.* Specifically, the map has a symmetry bias of 17% in favor of the Republican Party. *Id.* Essentially, the 2022 gerrymandered map creates a situation where the Democratic Party can win, at most, five seats in a good year, while the Republican Party can win

twelve seats, potentially thirteen seats, in a good year. But in *League III*, this Court made clear that partisan asymmetry in “competitive districts” unduly favors one party over another: “The remarkably one-sided distribution of toss-up districts is evidence of an intentionally biased map, and it leads to partisan asymmetry.” 2022-Ohio-789, ¶ 33. While the congressional map only has fifteen districts, compared to the 99 House seats and 33 Senate seats of the statehouse district plans, the principle still applies. The Court should invalidate the 2022 gerrymandered congressional map on similar grounds.

B. The gerrymandered congressional map cannot use “equal population” requirements as a defense for its map’s violations of 1(C)(3)(a).

The respondents might defend the partisan makeup of the gerrymandered congressional map by claiming all of it was necessary to meet the “equal population” requirement of the Ohio Constitution. Specifically, “the whole population of the state . . . shall be divided by the number of congressional districts apportioned to the state . . . and the quotient shall be the congressional ratio of representation for the next ten years.” Article XIX, Section 2(A)(2), Ohio Constitution. However, all provisions of the Ohio Constitution must be read through the context of the U.S. Constitution, and the equal population requirement does not require *exact* apportionment. In *Reynolds v. Sims*, the U.S. Supreme Court established the “substantially equal” rule. *Reynolds v. Sims*, 377 U.S. 533, 568 (1964) (“The Equal Protection Clause demands no less than substantially equal state legislative representation for all citizens, of all places as well as of all races”). The U.S. Supreme Court said in *Tennant v. Jefferson County Commission* that “substantially equal” does not mean “exactly equal,” finding that a West Virginia congressional map whose districts varied by an average of 0.79% was constitutional because its divergences were necessary to meet legitimate state goals. *See Tennant v. Jefferson Cty. Comm.*, 567 U.S. 758, 765 (2012) (“Given the small ‘size of the deviations,’ as balanced against ‘the importance of the State’s interests, the

consistency with which the plan as a whole reflects those interests,’ and the lack of available ‘alternatives that might substantially vindicate those interests yet approximate population equality more closely,’ *citation omitted*, [the West Virginia Plan] is justified by the State’s legitimate objectives”). Ohio’s Constitution has established a number of legitimate state goals that would justify divergences—specifically the mandatory provisions in Article XIX, Section 1(C)(3). Pursuing precisely equal districts *at all costs* as a justification to ignore other legitimate state interests—like avoiding partisan gerrymandering—is as bad as wildly varying populations to subvert the “one person, one vote” rule derived from the Equal Protection Clause of the U.S. Constitution.

C. The Ohio Redistricting Commission cannot argue that a map with eight or nine Republican-leaning districts “disfavors” Republican incumbents.

The respondents may also defend their map by arguing that any map with eight or nine Republican-leaning districts, rather than ten (or twelve, as was the case in the 2021 gerrymandered congressional map), would disfavor Republican incumbents. During testimony last year, at least one member of the Ohio General Assembly put forth this argument. On its face, this argument is flawed. *See Exhibits to Complaint - Volume 2 of 2*, Case No. 2021-1428: *Regina C. Adams, et al. v. Governor Mike DeWine, et al*, at 24, available at https://www.supremecourt.ohio.gov/pdf_viewer/pdf_viewer.aspx?pdf=913688.pdf. Senator Rob McColley, questioning Kathleen Clyde when she was presenting a map created by the Ohio Citizens Redistricting Commission, said: “there’s potentially 10 incumbents placed in districts with each other . . . there are four republicans that are placed in districts with each other, and in combinations that are not required . . . one could make an argument that the burden of incumbents being put together and the districts having to find new representatives goes against [the Ohio Constitution].” *Id.*

In *League III*, this Court further called out how claims of incumbent disfavor could not protect a map if the incumbents exist because of an already gerrymandered state of affairs:

As a final matter, we note that Senate President Huffman appears to have voted against the Sykes-Russo plan based, at least in part, on a misunderstanding of Section 6(A). Invoking Section 6(A), Senate President Huffman criticized the Sykes-Russo plan because, he said, it would have made it hard, if not impossible, for some Republican incumbents to retain their seats. Making that observation demonstrates, beyond a reasonable doubt, that Senate President Huffman misunderstands the requirements of Article XI and the reasons for their adoption. Currently, the General Assembly is marked by extreme disproportionality, with the Republican Party holding substantial majorities in both the Senate and the House. The district plan that facilitated that disproportionality was the basis for the adoption of Article XI. Senate President Huffman’s concern for protecting incumbents is not grounded in Article XI. 2022-Ohio-789, ¶ 36.

In light of its ruling in *League III* and the relationship between incumbency protection and partisan favor, this Court must view any claims of incumbency protection in a similar light.

The current congressional map of Ohio, passed in 2011, unduly favors the Republican Party. For the past ten years, Ohio has sent twelve Republicans to Congress and four Democrats, resulting in twelve Republican “incumbents.” Essentially, arguing that every Republican incumbent must be protected in a new map is tantamount to arguing for generational gerrymandering. Once a map is gerrymandered, in order to not “disfavor” incumbents, the map would thus need to remain gerrymandered.

Rather, the Ohio Supreme Court should read the provision protecting incumbents as working in the context of all of Article XIX. When a map favors a particular political party over another as justification for favoring its incumbents, that is “undue” favor. A map that results in more proportional representation, furthering the anti-partisan gerrymandering impetus for both Article XIX and Article XI, will necessarily result in impact to a few incumbents of the party already benefiting from gerrymandering.

III. Alternative, constitutional maps illustrate the extreme partisan gerrymandering accomplished by the adopted congressional map.

While the Ohio Redistricting Commission short-circuited opportunities for testimony in the congressional redistricting process, when testimony was given, legislators did receive information on maps that did not unduly split counties and did not favor one political party over another. In particular, the Ohio Citizens' Redistricting Commission ("OCRC")⁸ developed a congressional map. *See Figure 6.* One of the Ohio Advocacy Organizations, the Ohio Organizing Collaborative, was a principal sponsor of the OCRC. It modeled a thorough and robust community engagement process that resulted in constitutional, fair, and proportional maps within deadlines established in Ohio's constitution. The OCRC engaged thousands of Ohioans with a particular focus on uplifting the voices of Black, brown, and immigrant Ohioans and demonstrated that fair maps are able to be achieved. The OCRC conducted listening sessions throughout the state starting in May, culminating in citizen-derived principles for map drawing and the creation of both statehouse and congressional maps. As a result, the OCRC created a congressional map and submitted it to the General Assembly in November, and then to the Ohio Redistricting Commission in February.⁹ The OCRC created and presented a constitutional map that did not favor one political party and its incumbents, nor did it unduly split governmental units.

⁸ "The Ohio Citizens Redistricting Commission (OCRC) is an independent, diverse, non-partisan commission made up of 16 volunteer members, including interested citizens, academics, community leaders, current and former elected officials, attorneys, and representatives from sponsor organizations. Members were deliberately chosen to reflect the diversity of Ohio, and include persons of color, persons of all ages and backgrounds, persons from the LGBTQ community, and persons from different regions of the state." *Official Report to the Ohio General Assembly*, Ohio Citizens Redistricting Commission, September 2021, at 4, available at:

<https://ohredistrict.org/assets/images/unity-maps/OCRC-Congressional-Report.pdf>. "The OCRC had three main goals: model a thorough and robust engagement process for developing legislative districts, including reaching out specifically to minority and underrepresented communities, develop and demonstrate citizen-derived principles of redistricting, and draw 'unity maps,' meaning maps based on constitutional requirements, citizen-derived principles of redistricting, and an aggregation of a wide variety of preferences that came out of public input." *Id.*

⁹ See the February 8, 2022 submission of Jeniece Brock on behalf of the Ohio Citizens' Redistricting Commission, in the section titled *Congressional District Plans / Maps – General Public Sponsors*. Available at: <https://redistricting.ohio.gov/maps>

A. The OCRC Map presents a valid, constitutional alternative to the 2022 gerrymandered congressional map.

The Ohio Advocacy Organizations present this map to the Court to ensure it sees an example of what other maps could have been considered by the Ohio Redistricting Commission. Importantly, the map addresses many of the environmental and racial justice concerns discussed in our brief. Hamilton County includes a district entirely within its borders, including the Black communities excluded from District 1 in the gerrymandered congressional map. In northeast Ohio, Summit County is included entirely within District 13, and connects Akron with Canton, two similarly situated communities.

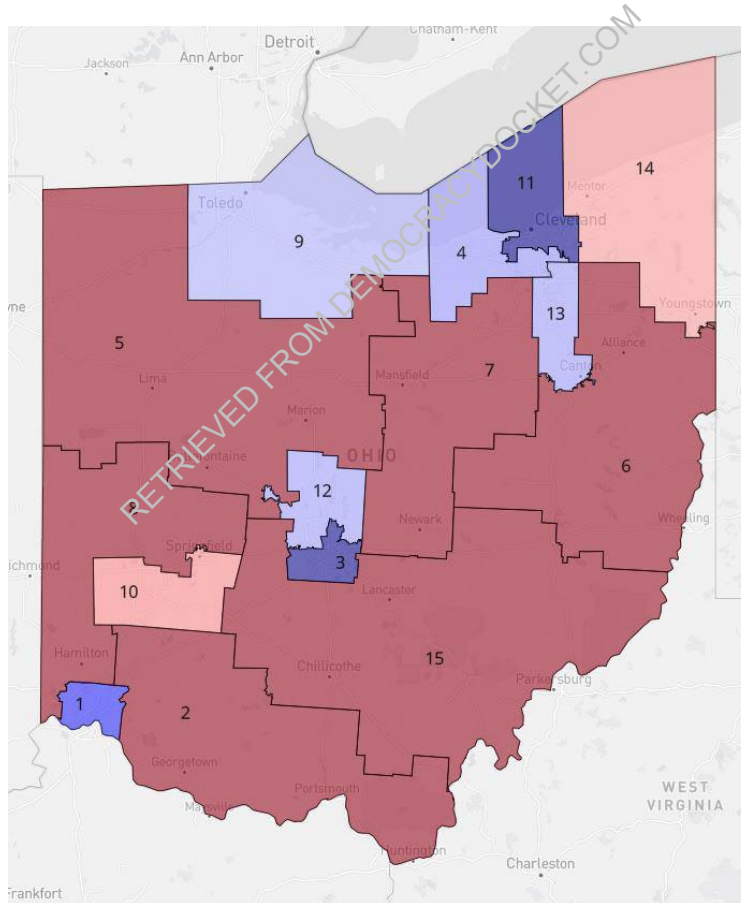


Figure 6 - OCRC Congressional Map¹⁰

¹⁰ This image was generated utilizing the shapefiles created by the Ohio Citizens' Redistricting Commission and submitted to the Ohio Redistricting Commission. See the February 8, 2022 submission of Jeniece Brock on behalf of

Cuyahoga County is only divided once, including Cleveland with its eastern suburbs and the rest of Cuyahoga County with Lorain County to the west. Youngstown is included in District 14 with the remainder of the northwestern lake counties. District 12, in Central Ohio, creates a district that's 8.89% Asian, compared to the state average of 2.5%. The OCRC's District 1, 3, and 11 have 39.08%, 50.54%, and 57.13% total BIPOC population respectively. *Official Report to the Ohio General Assembly, Ohio Citizens' Redistricting Commission*, September 2021, at 19, available at <https://ohredistrict.org/assets/images/unity-maps/OCRC-Congressional-Report.pdf>.

In its original report to the General Assembly, the OCRC described its process as “relying on public input about how best to protect communities of interest across the state.” *Id.* at 14. The OCRC heard hundreds of witnesses testify “about the importance of keeping their neighborhoods and communities together.” *Id.* The OCRC then used “qualitative community of interest data” to keep together, within district boundaries, communities of interest. *Id.* This sort of information was thus used, presumably, to inform the OCRC's decision to keep counties like Summit County whole and limit the number of splits in counties like Hamilton or Cuyahoga.

A first glance at the OCRC's map should illustrate how it accurately represents the various regions of Ohio. Franklin County includes District 3, and District 12 includes the northern sections of Franklin County with similarly situated communities in Delaware County, the next most populous county in Central Ohio. Lucas County is contained within District 9, and includes other similarly situated districts along Lake Erie and associated watersheds. The northwestern rural counties of Ohio are all contained within District 5, while many of the southwestern rural counties are included within District 8. The southern Ohio counties are included in District 2, while

the Ohio Citizens' Redistricting Commission, in the section titled *Congressional District Plans / Maps – General Public Sponsors*. Available at: <https://redistricting.ohio.gov/maps>

southeastern Ohio has District 15. Central northeastern Ohio has District 7, and eastern Ohio has District 6. And of course, Cuyahoga County and Summit County, as well as nearby communities, have Districts 4, 11, 13, and 14. As a result, the OCRC's "proposed map has eight districts that lean over 50% Republican and seven districts that lean over 50% Democratic." *Id.* at 13. This outcome closely corresponds "with the 54% / 46% partisan make-up of Ohio's voters over the last 10 years." *Id.*

The Ohio Advocacy Organizations present the OCRC's map to illustrate how a group can listen to community input on how a map should be drawn while meeting the rules in Article XIX, particularly the anti-gerrymandering provisions of Section 1(C)(3).¹¹ The 2022 gerrymandered congressional map, in contrast, is drawn without consideration of community input. The Commission even tried to modify the 2021 gerrymandered congressional map.

B. The OCRC Map cures the environmental injustices of the 2022 gerrymandered congressional map and creates stronger minority opportunity districts.

The OCRC's District 1 includes all of Hamilton County's Black communities in one district, rather than connecting Cincinnati with Warren County. *See Figure 7.* This likewise ensures the communities in Hamilton County most impacted by environmental injustices are kept together. *See Figure 8.* When compared with the maps discussed in Section I of this brief, the difference is stark. And, importantly, Black communities like Forest Park and Springdale are not cracked into a largely rural district and instead are included with Cincinnati.

¹¹ Unfortunately, the Ohio Redistricting Commission's process during redraw did not create any meaningful way for citizen groups to submit maps for consideration and have committees vote on those maps.

Figure 7
District 1, OCRC Congressional Map
Black VAP

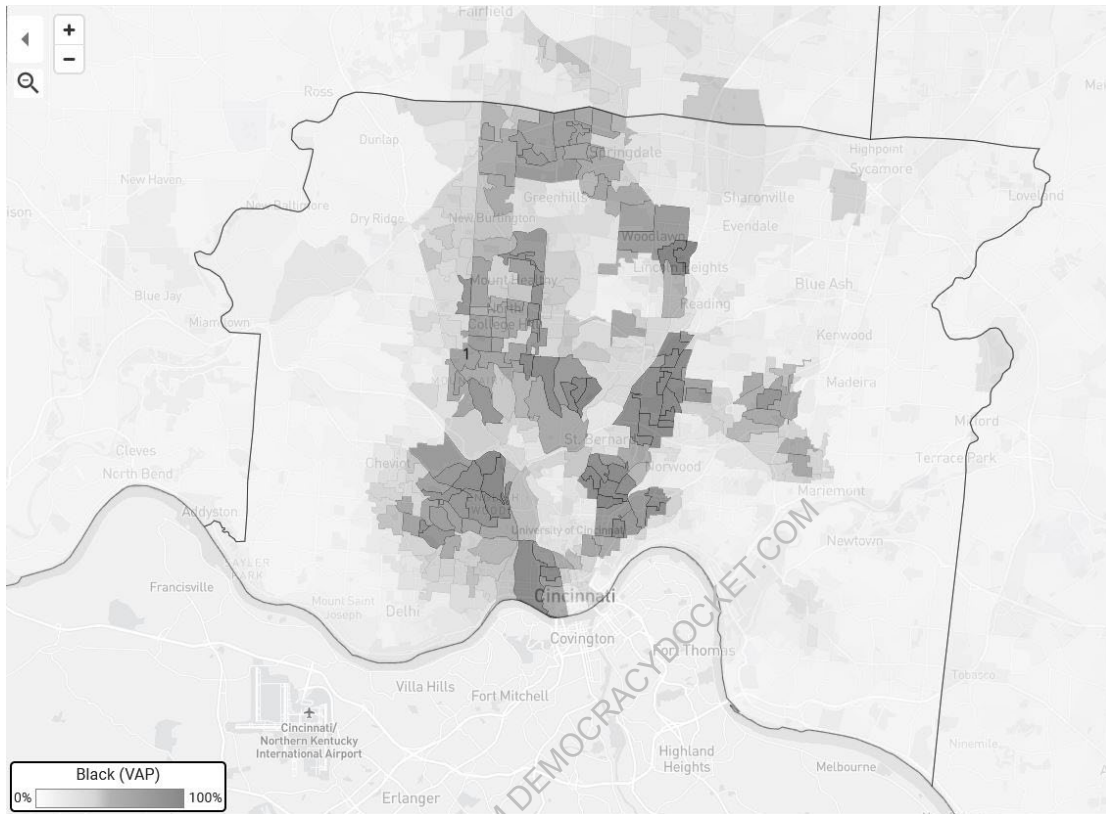
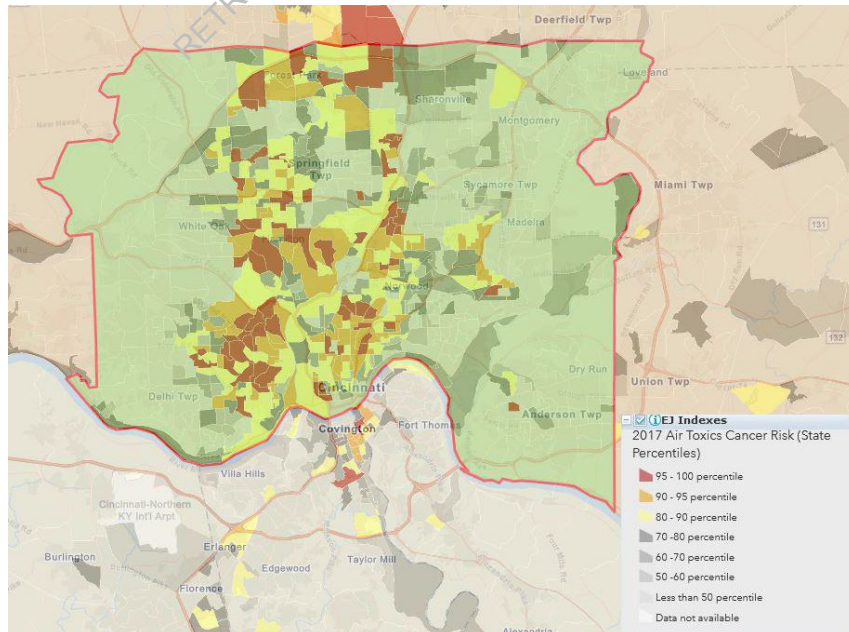


Figure 8
District 1, OCRC Congressional Map
Air Toxics Cancer Risk



The OCRC's congressional map also includes communities of interest together in Central Ohio, unlike the 2021 or 2022 gerrymandered congressional maps. Figure 9, below, illustrates how the Asian voting age population of Central Ohio is almost wholly contained within District 12, resulting in a district with an almost 9% Asian population. This is particularly significant when considering the interests of OPAWL, one of the Ohio Advocacy Organizations. Statewide over the past decade, the Asian population grew by 58.3% and the Pacific Islander population grew by 44.2%. In Columbus alone, the number of AAPI residents increased by 76%. In a rapidly changing Ohio, AAPI residents deserve fair representation so their communities can not just survive but also thrive. And, in addition to creating a district that keeps Central Ohio's Asian populations in one district, the OCRC's construction also creates two districts that lean Democrat in Central Ohio. The 2022 gerrymandered congressional map only creates one.

Likewise, the OCRC map does not split Franklin County's Black communities, keeping them all in District 3. *See Figure 10*. This ultimately ensures the communities most impacted by environmental injustices in Central Ohio are also kept together. *See Figure 11*. Ultimately, the construction of District 3 in southern Franklin County allows for the formation of District 12 as a northern Central Ohio district and its resulting partisan makeup. The way the Ohio Redistricting Commission drew its maps has real impacts that should not be overlooked, especially when compared to a map like the OCRC congressional map.

Figure 9
District 3 and District 12, OCRC Congressional Map
Asian VAP

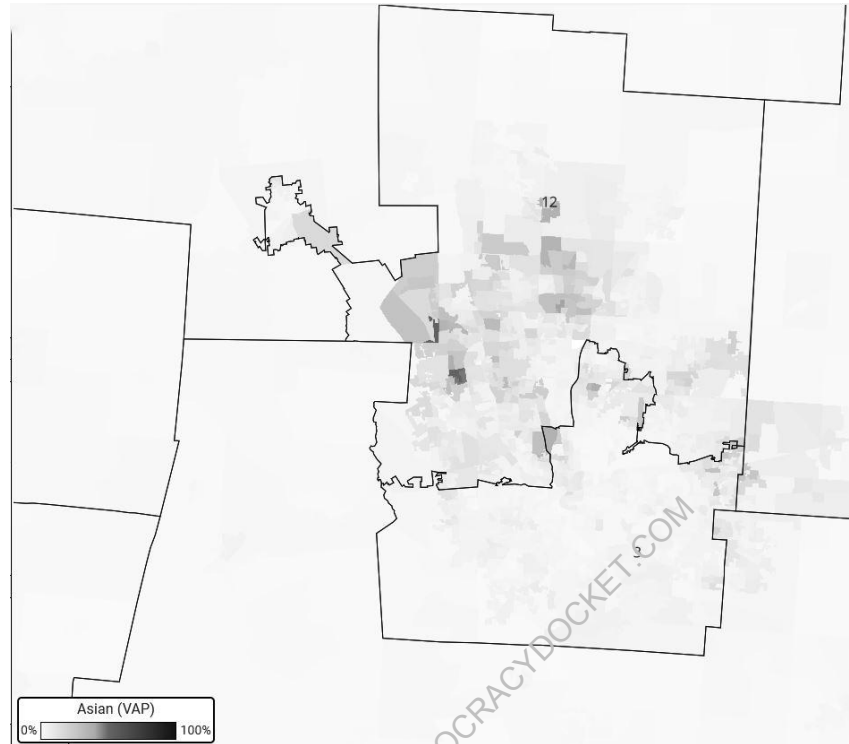


Figure 10
District 3 and District 12, OCRC Congressional Map
Black VAP

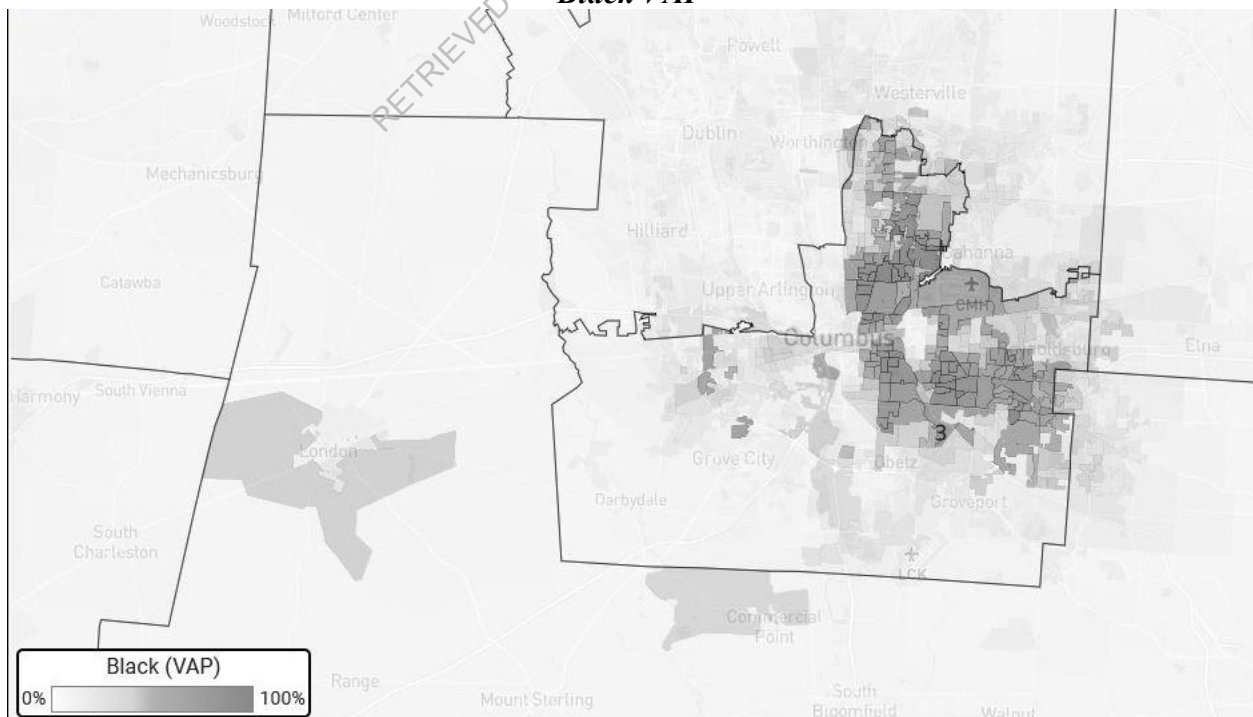
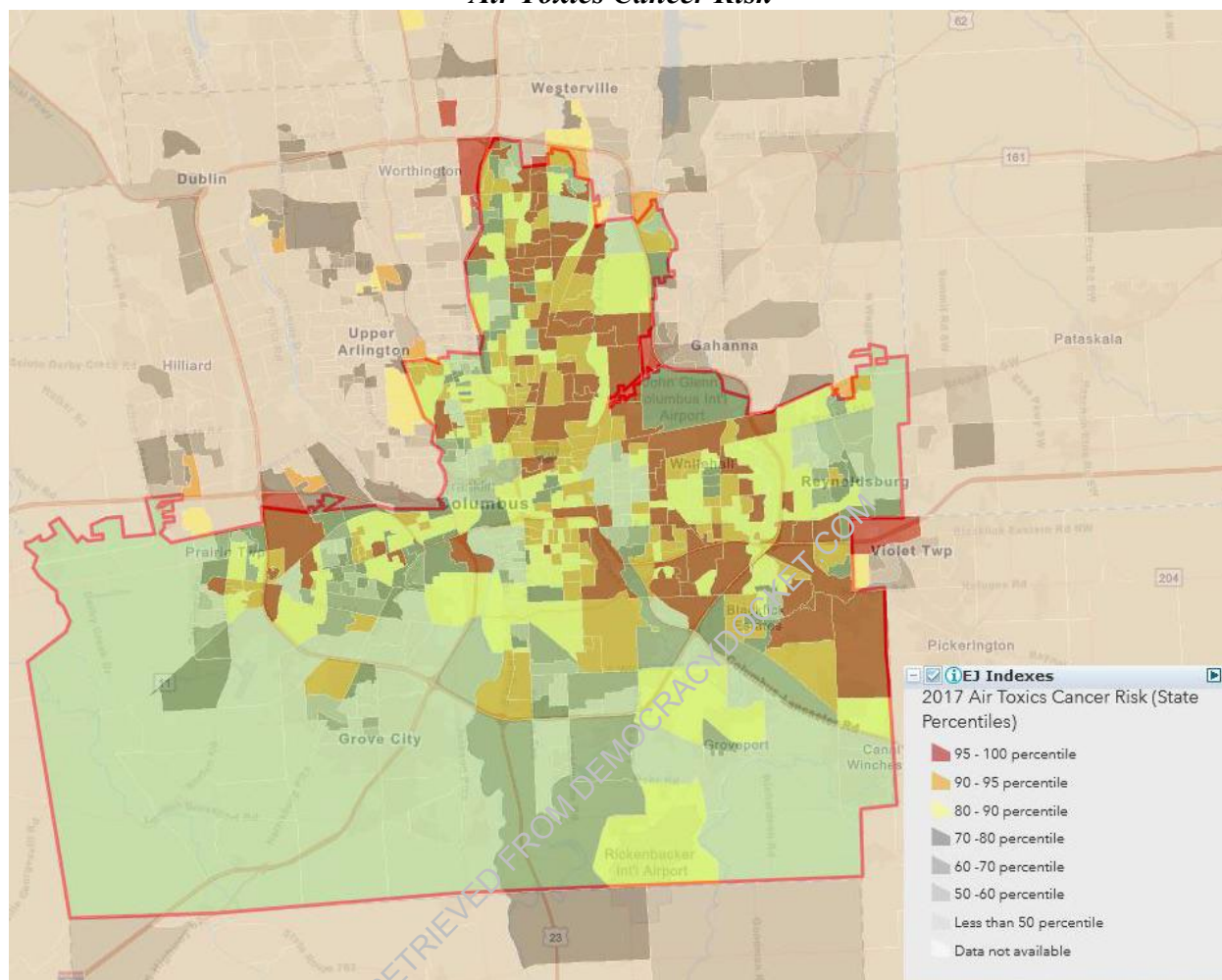


Figure 11
District 3, OCR Congressional Map
Air Toxics Cancer Risk



CONCLUSION

The Ohio Advocacy Organizations know the Ohio Supreme Court understands the significance of its decision both in this case and in the cases reviewing the statehouse district plans. We have provided our amicus brief to further contextualize the impacts of partisan gerrymandering, especially upon BIPOC communities and those communities significantly impacted by environmental injustices. Partisan gerrymandering impacts every Ohioan, whether they are Republican, Democrat, Independent, or any other political persuasion. When one party disproportionately controls seats, whether in Congress or in Columbus, Ohioans aren't properly

represented in our political systems. Ohioans feel unheard, and they feel disenfranchised. When a map divides communities and separates them from other similarly situated communities, it dilutes their collective voice.

These impacts are all the outfall of the partisan gerrymander conducted by the Ohio General Assembly in November, the gerrymandering March 2022 by the Ohio Redistricting Commission, and a decade ago. The legal arguments are straightforward. A map resulting in ten districts leaning Republican, and five districts leaning Democratic, unduly favors one party over another, violating Article XIX, Section 1(C)(3)(a), especially when considering the partisan asymmetry of the map. The map splits populous counties like Hamilton County and Franklin County along specific lines to dilute partisan votes and BIPOC communities.¹² The Respondents may attempt to defend their maps by relying on equal population requirements and incumbency protections, but these arguments are spurious. When creating a map that proportionally represents Ohioans, like the OCRC map, is quite possible, the Court's decision should be a simple decision.

Therefore, we ask the Ohio Supreme Court to rule in favor of the petitioners by finding the 2022 gerrymandered congressional map unconstitutional and granting the requested relief. If instead of gerrymandering, the Ohio Redistricting Commission creates a congressional map designed to keep similar and connected communities together, rather than political parties, everyone wins. The environment wins. Ohio wins.

Respectfully submitted,

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Ohio Organizing Collaborative
Jeniece L. Brock, Policy & Advocacy Director

¹² While the Ohio Advocacy Organizations have focused this brief on Hamilton County and Franklin County, the Neiman Petitioners also identify similar issues in Northeast Ohio.

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Red Wine & Blue
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OPAWL – Building AAPI Feminist Leadership
Jona Hilario, Co-Director

Innovation Ohio
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Brief of Amici Curiae Ohio Advocacy Organizations in Support of Petitioners* was served upon the following parties of record via electronic transmission this May 5, 2022.

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