

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

Common Cause Florida, FairDistricts Now,
Dorothy Inman-Johnson, Brenda Holt,
Leo R. Stoney, Myrna Young, and Nancy
Ratzan,

Plaintiffs,

v.

Laurel M. Lee, in her official capacity as
Florida Secretary of State,

Defendant.

Case No.: 4:22-cv-109-AW-MAF

**PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION
TO DEFENDANT LAUREL M. LEE'S MOTION TO STAY**

Plaintiffs Common Cause Florida, FairDistricts Now, Dorothy Inman-Johnson, Brenda Holt, Leo R. Stoney, Myrna Young, and Nancy Ratzan (collectively, “Plaintiffs”) respectfully submit this memorandum of law in opposition to the motion to stay filed by Defendant Laurel M. Lee (“Defendant” or the “Secretary”).

PRELIMINARY STATEMENT

Where there is no congressional map and an approaching election, the Supreme Court has made clear that it is this Court’s responsibility to “enter an order fixing a reasonable time within which the appropriate agencies of the State [both legislative and judicial] may validly redistrict [Florida]; provided that the same be accomplished within *ample time* to permit such plan to be utilized in the [upcoming] election.” *Scott v. Germano*, 381 U.S. 407, 409 (1965) (emphasis added). That is, the Court must “establish a deadline by which, if the [appropriate State agencies] ha[ve] not acted, the federal court would proceed.” *Grove v. Emison*, 507 U.S. 25, 36 (1993). In that event, the Court would be “justified in adopting its own plan.” *Id.* In the interim, all that matters is that this Court not “affirmatively obstruct state reapportionment nor permit federal litigation to be used to impede it.” *Id.* at 34.

Time is of the essence. There is no congressional map for the State of Florida based on the 2020 census. That leaves every county Supervisor of

Elections around the State facing the impossible problem of creating ballots ready for use by the citizens of that county when those ballots cannot be created until the congressional districts are drawn. Ballot creation is an intricate and cumbersome process whose complexity differs from county to county, but Supervisors of Elections must act—and congressional districts be drawn—by late April or early May for the entire State to be ready for the primary election slated for August 23, 2022. *It is already too late to assure “ample time” to permit a new congressional plan to be adopted for use in the upcoming election.*

Despite this emergency, the State actors have produced nothing and have moved at a leisurely pace. The Legislature passed a congressional redistricting bill on March 4. That bill was inexplicably not sent to the Governor until March 29. Then, after the Governor vetoed the map on March 29, he called for a Special Legislative Session three weeks later on April 19–22, 2022. Why the State has waited more than six weeks to move this process forward is unclear, but April 22 is literally the last minute before the county Supervisors of Elections must get to work. A state court proceeding was filed on March 11, 2022, but nothing has happened in the state court, and the first status conference will not occur until April 12, 2022. If these State actors fail to produce a map by the end of April, this Court must act to protect the rights of the citizens of Florida to elect their Representatives.

Plaintiffs ask this Court to set a briefing schedule that will permit it to hold a hearing and decide upon a new map as early as the last week in April. That will give the Legislature one last chance to draw congressional lines that the Governor will accept. It will permit the state court to do whatever it may attempt to do in the interim. A briefing schedule will not impede the State actors from taking action in the next few weeks, nor will it interfere with whatever activities they may choose to undertake. But it will permit this Court to be able to perform its duties in a timely fashion in addressing this emergency that is not of its own making.

FACTUAL BACKGROUND

A. The Florida Legislature and The Governor Have Failed to Pass Redistricting Legislation

The Florida Legislature and Governor DeSantis have been at an impasse on a new congressional district plan following the delivery of the 2020 Census data to be used for the 2022 statewide elections. The Legislature enacted State legislative maps that were not challenged when they were presented to the Florida Supreme Court for facial review. *In re Senate Joint Resolution of Legislative Apportionment 100*, No. SC22-131, 2022 WL 619841, at *6 (Fla. Mar. 3, 2022). The Legislature was on a similar path with respect to congressional maps, with the Senate passing

map 8060 (S035C8060)¹ in early January. Then the Governor intervened, insisting that he would veto any map that did not meet his demands. The Legislature tried to meet him halfway and failed. The Governor eventually vetoed the Legislature's maps and has convened the Florida Legislature in a Special Legislative Session from April 19–22, 2022.

There are significant substantive differences between the Legislature and the Governor regarding compliance with State law governing congressional redistricting and whether the congressional map must include a Black opportunity district in North Florida. And there is no assurance that they will resolve these differences or that the Special Legislative Session will produce a result. That would not be the first time that the State legislative process has failed to produce a congressional map, including in special legislative sessions expressly convened for that purpose. An impasse occurred as recently as 2015, resulting in a court-ordered map that the Florida Supreme Court subsequently affirmed. *See League of Women Voters of Florida v. Detzner*, 179 So.3d 258, 261 (2015) (explaining that the Legislature “fail[ed] to enact a remedial plan in a special session held for that purpose”).

¹ See <https://redistricting.maps.arcgis.com/apps/View/index.html?appid=b2a84a6530a84caa80f8fba2a10332f5>.

B. The State Court Proceeding

On March 11, 2022, a state court action captioned *Arteaga v. Lee*, No. 2022-CA-000398 (Fla. 2d Cir. Ct. 2022) was filed, challenging Florida's current congressional districts as unconstitutionally malapportioned. To date, there have been no substantive developments in the state court action. The Secretary has stated an intention to propose a briefing schedule for the state court action, as outlined in the parties' joint status report to this Court on March 31, 2022. *See* Mot. at 6; ECF No. 61. Under the Secretary's schedule, briefing would not begin until April 29, 2022 and post-hearing briefs would not be filed until May 13, 2022. ECF No. 61 at 4. The Secretary contends that this schedule is reasonable because, she says, there is no need for a final congressional districting plan until June 13, 2022. As set forth below and in the declarations accompanying this brief, those dates are far too late for any Supervisor of Elections to be able to meet the relevant election deadlines.

C. Approaching Deadlines for the Florida Primary Election

Florida is scheduled to hold its statewide primary election on August 23, 2022. For the primary election to proceed on that date, numerous tasks must be completed and a number of interim deadlines must first be met to prepare for the election. We have submitted two declarations from the Supervisors of Elections in Leon and Polk counties, who describe these tasks in detail. Working backward

from the August 23 primary date, they have estimated the drop-dead date for them to meet their obligations of preparing ballots for the primary election. Their estimates of the time necessary to perform myriad complex tasks demonstrate the emergency that exists today in the absence of a congressional map.

Lori Edwards, the Supervisor of Elections of Polk County, concludes that for her office to have “adequate time to prepare for the election and meet the relevant election deadlines in advance of the primary” a new congressional map must be in place no later than May 13, 2022. Declaration of Supervisor Lori Edwards (“Edwards Decl.”) ¶ 19. Mark S. Earley, Supervisor of Elections of Leon County, declares that “in order to be timely implemented in Leon County, a new congressional map needs to be in place by May 27, 2022 at the absolute latest.” Declaration of Supervisor Mark S. Earley (“Earley Decl.”) ¶ 21. The relatively small differences in these estimates are not surprising. The tasks differ from county to county, and so does the sophistication of each county’s staff. As Supervisor Earley explains, “[t]he reasons for the different estimates of time needed to prepare for the election include that I have a well-trained staff with substantial experience administering prior elections, other counties are also larger and more complex than Leon County, and some smaller counties do not have a wealth of technical resources available to them.” *Id.* ¶ 22.

Supervisor Earley is particularly well-suited to offer a state-wide

perspective. He is the President-Elect of Florida Supervisors of Elections and has “spoken with many of [his] fellow Supervisors of Elections in other Florida counties.” *Id.* Those Supervisors “strongly believe that [a late May date for a congressional map] would not give them enough time to complete the work for their counties, and [they] believe the deadline for completing that work is early May or even late April. Based upon [his] knowledge of the additional complexities present with the technical processes in other, larger counties, [he] believe[s] these concerns are well-founded and should be taken into consideration when setting a deadline for a finalized Congressional map.” *Id.* In particular, Supervisor Earley has no basis for disagreeing with Supervisor Edwards’s estimate that in her county a congressional map must be available no later than May 13, 2022. *Id.* ¶ 23.

Meanwhile, both Supervisor Edwards and Supervisor Earley believe that the schedule proposed by Defendant—having a map in place by June 13, 2022—is simply unworkable. As Supervisor Earley declares, “I do not believe it will be possible for any Supervisor of Elections in Florida, whose county is impacted by uncertainty in the drawing of the Florida Congressional district boundaries, to meet the necessary deadlines [to] prepare for the August 23, 2022 primary if a new map is not finalized until June 13, 2022.” *Id.* ¶ 24; *see also* Edwards Decl. ¶ 20.

To allow time—not “ample time,” but at least some time—for the August

primary election to occur, Plaintiffs suggest that the Court should pick the most conservative deadline for there to be a map in place so as to allow Supervisors of Elections throughout the State to do their job. That deadline is May 13, 2022. That is only a month from today, but this emergency is not of the Court's making, nor is it the fault of the Supervisors of Elections.

ARGUMENT

The declarations of the Supervisors of Elections underscore the urgency of this proceeding. It is too late to create a map in “ample time” before the upcoming primary election. The best the Court can do is make the best of a bad situation by setting a deadline and imposing a schedule that will permit it to move promptly if the State's failure to act becomes manifest.

Courts have denied motions to stay federal cases in deference to state action where, as here, it appears that a congressional district plan will not be adopted in time to be implemented in an upcoming election. *See Covington v. North Carolina*, 2015 WL 13806587, at *2 (M.D.N.C. Nov. 25, 2015) (“deferral is not appropriate to the extent it appears that ‘the[] state branches will fail timely to perform [their] duty’ to ‘adopt a constitutional plan within ample time . . . to be utilized in the upcoming election’”) (quoting *Grove*, 507 U.S. at 34–35); *Brown v. Kentucky*, 2013 WL 3280003, at *2 (E.D. Ky. June 27, 2013) (Supreme Court precedent “clearly permits the simultaneous operation of these two procedures to

ensure constitutional legislative districts are in place in time for an election”).

Courts also regularly set a briefing and hearing schedule in impasse litigation even while the potential for state action remains. *See, e.g., Favors v. Cuomo*, 866 F. Supp. 2d 176, 185 (E.D.N.Y. 2012) (“beginning the work of drawing up a plan does not interfere with or displace the authority of the political branches of state government from doing their work”); *Smith v. Clark*, 189 F. Supp. 2d 503, 512 (S.D. Miss. Jan. 15, 2002) (finding it necessary to “begin the process of holding hearings to fashion a congressional reapportionment plan for the State to assure that the election process operates on schedule and without temporal change”); *Prosser v. Elections Bd.*, 793 F. Supp. 859, 862 (W.D. Wis. 1992) (“The case was expedited to enable the state primary and general elections to proceed on schedule in the new districts.”).

As the attached declarations establish, a congressional district plan must be in place by no later than May 13, 2022, to allow election officials throughout the State adequate time to prepare for the election and meet necessary election deadlines in advance of the primary. Edwards Decl. ¶ 19; Earley Decl. ¶ 23. Plaintiffs propose a briefing schedule that will permit the Court to act in that time frame.

In the status report, Plaintiffs proposed three rounds of briefing. As the clock is ticking, Plaintiffs now propose two rounds of briefing. We believe that in

this impasse proceeding, the briefing should be simultaneous. Each side proposes one or more maps; neither side has the burden of proof. Simultaneous briefing is typical in impasse litigation. That has been the schedule set in recent impasse litigation in Pennsylvania, Wisconsin, and Minnesota. *See Carter v.*

Degraffenreid, No. 464 M.D. 2021 (Pa. Commw.) (scheduling order dated January 14, 2022 ordering two rounds of simultaneous briefing); *Johnson v. Wisconsin Elections Comm’n*, Appeal No. 2021AP001450 (Wis.) (scheduling order dated November 17, 2021 ordering same); *Wattson et al. v. Simon et al.*, Nos. A21-0243 and A21-0546 (Minn.) (scheduling order dated October 26, 2021 ordering same).

Opening briefs should propose one or more maps that the proponent believes the Court should consider. The briefs should be accompanied by one or more expert declarations explaining the features of the map and its compliance with state and federal law. Responding briefs should criticize the opponent’s map(s) and offer further argument and expert testimony supporting the proponent’s map(s).

We submit that the briefing stage of this matter should be completed by the time the Special Legislative Session comes to an end. That can be achieved by setting the date for simultaneous submission of opening briefs and declarations on April 15, 2022; the date for simultaneous submission of responding briefs and declarations should be April 22, 2022. If the Court sets that schedule, then this case does not interfere with the Special Session. Indeed, the Governor and the

House and Senate leaders are not even parties to this case. They were voluntarily dismissed upon their request. ECF Nos. 50, 57–58. Nor does this schedule impede the state court proceeding. The redistricting issues necessary to create a congressional map are governed by state and federal law and they will be the same in state court and in federal court. If it occurs in a timely fashion, the state court proceeding will require the exact same briefing. Moreover, this schedule imposes no burden on this Court before it is time to act, yet it leaves the Court time to hold a prompt hearing and create a map if the Special Legislative Session fails.

If an impasse continues after April 22, then the Court need only set aside two days for a hearing at its earliest convenience and allow each of the parties to take a one-day (7 hour) deposition of the opposing expert. Plaintiffs' proposed schedule permits this Court to take the maximum time possible to resolve this dispute while still enabling Florida's congressional election to proceed.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny the Secretary's motion to stay and issue a scheduling order consistent with the schedule proposed above.

LOCAL RULE 7.1(F) CERTIFICATION

Undersigned counsel certifies that this memorandum contains 2,583 words, excluding the case style and certifications.

Date: April 6, 2022

Respectfully submitted,

PATTERSON BELKNAP WEBB & TYLER LLP

By: /s/ Gregory L. Diskant

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2022, I electronically filed the foregoing with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the parties who have appeared.

/s/ Gregory L. Diskant

Gregory L. Diskant

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Common Cause Florida, FairDistricts Now,
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Leo R. Stoney, Myrna Young, and Nancy
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v.

Laurel M. Lee, in her official capacity as
Florida Secretary of State,

Defendant.

Case No.: 4:22-cv-109

DECLARATION OF SUPERVISOR LORI EDWARDS

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STATE OF FLORIDA)
 : ss.:
COUNTY OF POLK)

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am a resident of Florida and am fully familiar with the facts set forth below.

2. I currently serve as Supervisor of Elections for Polk County, Florida (“Polk County Supervisor of Elections”). Polk County is located in central Florida. Out of 67 counties, Polk County is the ninth most populous county in Florida.

3. I was elected to my post in November 2000. As Polk County Supervisor of Elections, I hold an elected, non-partisan office. In this role, my duties include administering county, state, and federal elections; maintaining accurate voter rolls; and providing voter registration, campaign finance, and turnout information to the public. I also provide educational programs in schools and to community groups and offer mobile voter registration.

4. The Supervisors of Elections administer elections in each county in Florida, which includes assigning voters to districts, preparing ballots, recruiting and training elections officials, conducting in-person and absentee voting, and tabulating and canvassing results.

5. On August 23, 2022, Florida is scheduled to hold its 2022 statewide

primary election.

6. At this time, I understand that Florida's legislature and Governor have not reached agreement on a new congressional district plan following the delivery of the 2020 Census data to be used for the 2022 statewide primary elections.

7. In order for the primary election to proceed on August 23, 2022, numerous tasks must be completed, many of which cannot be started until initial tasks are finished, and a number of interim deadlines must first be met to prepare for the election. These preparations cannot be completed absent a final congressional district plan.

8. For example, Florida election officials must have adequate time to prepare and mail absentee ballots to members of the armed services, their dependents overseas, and other citizens residing overseas, and those voters must also have adequate time to return their completed ballots. Under the federal Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), absentee ballots that include elections for federal office must be transmitted no later than 45 days before a primary election. *See* 52 U.S.C. § 20302(a)(8)(A). The deadline to transmit absentee ballots pursuant to UOCAVA is therefore July 9, 2022.

9. Ballot information must be sent to the printer in advance of the July 9, 2022 UOCAVA deadline for transmittal of absentee ballots. In my experience, vendors used to print ballots typically require approximately two to three weeks to

create and ship ballots. The Supervisor of Elections must then proofread and conduct a quality control review before ballots are finalized for transmittal to voters. Three weeks before the July 9, 2022 UOCAVA deadline is June 18, 2022.

10. Ballots cannot be created before candidates for office are determined. By statute, the names of all duly qualified candidates for election must be certified to Supervisors of Elections within seven days after the closing date for qualifying. Fla. Stat. § 99.061(6). The qualifying period in Florida for candidates for Congress, State Senator, and State Representative, among other candidates, is set to begin on June 13, 2022 and to close on June 17, 2022. Fla. Stat. § 99.061(9). Thus, the list of qualified candidates must be certified by no later than June 24, 2022 (within seven days of June 17, 2022). By June 24, 2022 at the latest, absentee ballots should be sent to the printer in order to allow sufficient time to meet the July 9, 2022 UOCAVA deadline.

11. Redistricting requires elections staff to complete a process of assigning voters to new districts prior to creating and preparing ballots for the election and before sending ballots to be printed. My staff and I cannot begin this process unless we have received files containing census block data for each district for all maps to be used.

12. After receiving the census block information, my staff uses the files and mapping software to update the districts that are assigned to each voter

address.

13. Every voter must also be coded with a State House, State Senate, and congressional district (among others) in a voter registration system that is separate from the mapping software system. Information in the mapping software system must be transmitted to the information in the voter registration system. This alignment is not an entirely automated process. If the system detects exceptions, voter information must be reviewed manually on an individual voter-by-voter basis to resolve any issues. In the past, there have been several thousand exceptions requiring manual review in connection with a given election, which involves a time-intensive review process.

14. The amount of time required to complete this process corresponds with the number of district boundaries that are redrawn within the counties. In this case, counties will undergo changes to their districts following decennial redistricting—including state, legislative, congressional, and local jurisdiction districts—and a number of counties are likely to have newly drawn district boundaries within their counties' borders.

15. Once new congressional districts are set, the census block files must also be used to manually align precincts to the new districts. New precincts must be approved by the Board of County Commissioners. That body meets every two weeks.

16. After the close of the candidate filing period, elections officials must also create and print ballots, review the ballots for potential errors, and then prepare and test voting equipment.

17. Ballot preparation and proofing ballots cannot begin until after the proper geographic boundaries for voting districts are set, each voter record is assigned to the correct districts, the candidates are known, and the candidate-filing period closes. The process of generating and proofing ballots is complex and involves multiple technical systems and quality-control measures. This process includes confirming candidates for each race and proofing each ballot for content and accuracy.

18. Based on my experience, I estimate that it will take a minimum of six to eight weeks from the date that a new congressional district plan is enacted and census block files are delivered to counties in Florida to complete the numerous tasks described above.

19. As such, a new congressional districting map is needed approximately six to eight weeks prior to the June 24, 2022 deadline for certification of all duly qualified candidates, at which time ballots would need to be submitted to be printed to meet the July 9, 2022 UOCAVA deadline. Accordingly, a new congressional map needs to be in place between April 29, 2022 (8 weeks before June 24, 2022) and May 13, 2022 (6 weeks before June 24) to allow adequate time

to prepare for the election and meet the relevant election deadlines in advance of the primary election.

20. I understand that the Florida Secretary of State has stated that the deadline for the State to have a new congressional map is June 13, 2022. It will be impossible to perform the tasks of creating new precincts and assigning districts to all voters in time to meet the necessary deadlines for printing ballots, complying with the July 9, 2022 UOCAVA deadline, and preparing for the August 23, 2022 primary if a new map is not finalized until June 13, 2022.

21. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of April, 2022


Lori Edwards

**IN THE UNITED STATES DISTRICT COURT
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Florida Secretary of State,

Defendant.

Case No.: 4:22-cv-109

DECLARATION OF SUPERVISOR MARK S. EARLEY

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am a resident of Florida and am fully familiar with the facts set forth below.
2. I currently serve as Supervisor of Elections for Leon County, Florida (“Leon County Supervisor of Elections”). Leon County is located in northern Florida and is home to Florida’s capital, Tallahassee. Out of 67 counties, Leon County is the 22nd most populous county in Florida.
3. In addition to my elected office as Leon County Supervisor of Elections, I am currently the President-Elect of Florida Supervisors of Elections, Inc., the state association for Florida’s 67 Supervisors of Elections. I have worked in elections administration for over 30 years.
4. I have a degree in mechanical engineering from the FAMU-FSU College of Engineering. I also hold both state and national certifications in the field of election administration as a Certified Elections Registration Administrator and a Master Florida Certified Elections Professional.
5. As Leon County Supervisor of Elections, I hold an elected office. In this role, my duties include administering county, state, and federal elections.
6. In Florida, the Supervisors of Elections administer elections in each county, which includes providing for the distribution of voting systems, assigning voters to districts, preparing ballots, recruiting and training elections officials,

conducting in-person voting and vote-by-mail, and tabulating and canvassing results.

7. On August 23, 2022, Florida is scheduled to hold its 2022 statewide primary election.

8. At this time, I understand that Florida's legislature and Governor have not reached an agreement on a new congressional district plan following the delivery of the 2020 Census data to be used for the 2022 statewide primary election.

9. In order for the primary election to proceed on August 23, 2022, election officials need adequate time to complete an arduous process to prepare for the election and meet certain deadlines prior to the primary. Without adequate time, my staff and I will face an extreme burden moving forward with the necessary election administration processes.

10. For example, in advance of the primary, Florida election officials must have adequate time to prepare and mail ballots to members of the armed services, their dependents overseas, and other citizens residing overseas, and those voters must also have adequate time to return their completed ballots. Under the federal Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), vote-by-mail ballots that include elections for federal office must be transmitted no later than 45 days before a primary election. *See* 52 U.S.C. § 20302(a)(8)(A). The

deadline to transmit vote-by-mail ballots pursuant to UOCAVA is therefore July 9, 2022.

11. Ballot information must be sent to the printer in advance of the July 9, 2022 UOCAVA deadline for transmittal of vote-by-mail ballots. The following window for mailing the very large initial batches of vote-by-mail ballots is open between 40 and 33 days out from the election. In my experience, vote-by-mail vendors that are used to print and mail ballots typically require the data drop of voter information for the large mailings approximately two to three weeks ahead of time to ensure the materials, data integrity, and other factors are in place to turn these mailings around within the statutory guidelines. Three weeks before the July 9, 2022 UOCAVA deadline is June 18, 2022.

12. Ballots cannot be created before candidates for office are determined. By statute, the names of all duly qualified candidates for election must be certified to Supervisors of Elections within seven days after the closing date for qualifying. Fla. Stat. § 99.061(6). The qualifying period in Florida for candidates for Congress, State Senator, and State Representative, among other candidates, is set to begin on June 13, 2022 and to close on June 17, 2022. Fla. Stat. § 99.061(9). Thus, the list of qualified candidates must be certified by June 24, 2022 (within seven days of June 17, 2022). By June 24, 2022 at the latest, vote-by-mail ballots should be sent to the printer in order to allow sufficient time to create and proof

ballots and conduct a quality control testing back in the local elections offices before ballots are approved and ready for transmittal to voters to meet the July 9, 2022 UOCAVA deadline.

13. Redistricting requires elections staff to complete a process of assigning voters to new districts prior to creating and preparing ballots for the election and prior to sending ballots to be printed. This process is replicated for State House, State Senate, and Congressional maps. My staff cannot begin this process unless we have received shapefiles for all maps to be used.

14. As Supervisor of Elections, I assign voters to their voting districts through a process known as geocoding. Geocoding is the process by which census data for every district, precinct, and other boundary such as for local school boards is entered into the districting software used by state and county elections officials. For Florida electoral districts, the geocoding process typically begins with the receipt of district shapefiles from the Legislature, which include geographic data setting the boundaries for legislative districts. After receiving the relevant shapefiles, my staff uses the files and mapping software to update the voting districts that are assigned to particular voter addresses.

15. After voters are assigned to districts, my staff must also perform an audit of the geocoding to ensure its accuracy before ballot preparation.

16. Every voter must also be coded with a State House, State Senate, and

congressional district (among others) in a voter registration system that is separate from the mapping software system. Information in the voter registration system street tables must be aligned with the data and shapefiles in the mapping software system. For most counties, including Leon, this process is not automated. If the system detects errors, street segment and voter information must be reviewed manually on an individual basis to resolve any issues.

17. Once new congressional districts are set, the shapefiles must also be used to determine and align precincts to congressional districts. New precincts must be approved by the Board of County Commissioners. That body meets every two weeks.

18. After the close of the candidate filing period, elections officials must also create and print ballots, review the ballots for potential errors, and then prepare and test voting equipment.

19. Ballot preparation and proofing ballots cannot begin until after the proper geographic boundaries for voting districts are set, geocoding is complete, the candidates are known, and the candidate-filing period closes. The process of generating and proofing ballots is complex and involves multiple technical systems and quality-control measures that precede ballot editing and coding of voting machines. The lines of each of the maps are incorporated into the process for deciding where new precinct lines will be drawn, whether precincts will need to be

split, and where those splits will be placed. Each of the precincts need to correspond to specific polling places, and every voter needs to be assigned to a precinct and to have an available ballot that includes all of the races they will vote for at that precinct. This all needs to be determined before the precincts are finalized to ensure that the vote-by-mail mailings can be sent out accurately and on time, and that the overlapping district combinations are properly reflected in the precinct/splits in the voter registration street tables.

20. After consulting with my staff, which is especially experienced in this work, and based on my 30 years of experience in election administration, I estimate that it will take our office a minimum of four weeks from the date that a new congressional district plan is enacted and shapefiles are delivered to counties in Florida to complete the necessary tasks before sending ballots to the printer, including determination of new precincts, the geocoding process, and delivery of information necessary to create the ballots.

21. As such, my office needs a new congressional districting map approximately four weeks prior to the June 24, 2022 deadline for certification of all duly qualified candidates, at which time ballots would need to be submitted to be printed to meet the July 9, 2022 UOCAVA deadline. Accordingly, in order to be timely implemented in Leon County, a new congressional map needs to be in place by May 27, 2022 at the absolute latest (4 weeks before June 24, 2022) to

allow my staff and I adequate time to prepare for the election and meet the relevant election deadlines in advance of the primary.

22. In my role as President-Elect of Florida Supervisors of Elections, I have spoken with many of my fellow Supervisors of Elections in other Florida counties. While my staff and I believe we could complete all of the work for Leon County if we had finalized maps by May 27, 2022, I have spoken to numerous Supervisors who strongly believe that May 27, 2022 would not give them enough time to complete the work for their counties, and who believe the deadline for completing that work is early May or even late April. Based upon my knowledge of the additional complexities present with the technical processes in other, larger counties, I believe these concerns are well-founded and should be taken into consideration when setting a deadline for a finalized Congressional map. The reasons for the different estimates of time needed to prepare for the election include that I have a well-trained staff with substantial experience administering prior elections, other counties are also larger and more complex than Leon County, and some smaller counties do not have a wealth of technical resources available to them.

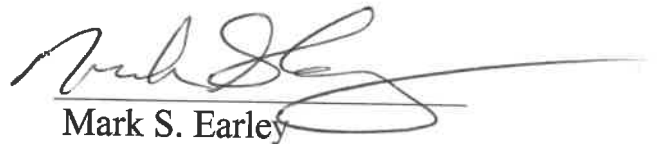
23. I understand that Supervisor Lori Edwards of Polk County estimates that it will take her office a minimum of six to eight weeks prior to the June 24, 2022 deadline for certification of all duly qualified candidates to prepare for the

election and meet the relevant election deadlines in advance of the primary. I have no reason to disagree with the reasonableness of Supervisor Edwards' estimate of the time that her office needs to prepare for the election.

24. I understand that the Florida Secretary of State has stated in court filings in this proceeding and in a state-court proceeding that the deadline for the State to have a new congressional map is June 13, 2022. I do not believe it will be possible for any Supervisor of Elections in Florida, whose county is impacted by uncertainty in the drawing of the Florida Congressional district boundaries, to meet the necessary deadlines for realigning the voter registration street indices, re-precincting voters accurately laying out, proofing and printing ballots, and conducting the initial testing of voting equipment with ballots before the UOCAVA mailing deadlines to confidently comply with the July 9, 2022 UOCAVA deadline, and prepare for the August 23, 2022 primary if a new map is not finalized until June 13, 2022.

25. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of April, 2022.


Mark S. Earley