



**DAVE YOST**

OHIO ATTORNEY GENERAL

Constitutional Offices  
Section  
Office: 614-466-2872

May 5, 2022

*Sent via email to [records@americanoversight.org](mailto:records@americanoversight.org)*

Sarah Colombo

Re: Public Records Request #22-107

Dear Ms. Colombo,

I am writing in response to the public records request that you submitted to the Ohio Attorney General's Office on March 29, 2022. We will be responding to your request on a rolling basis. Specifically, you requested the following:

“ 1. All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) sent or received by any of the Office of the Ohio Attorney General personnel listed below regarding

- 1) Senator Sykes and/or House Minority Leader Russo's request to retain legal counsel separate from that of the Ohio Redistricting Commission, or
- 2) any petition to the Ohio Supreme Court to convert Senator Sykes and House Minority Leader Russo's objection to the then-current legislative district boundary proposal to an amicus curiae brief.

Office of the Ohio Attorney General Personnel:

- i. Dave Yost, Attorney General
- ii. Brenda Rinehart, First Assistant Attorney General
- iii. Benjamin Marrison, Chief of Staff
- iv. Carol O'Brien, Chief Counsel
- v. Jonathan Blanton, Deputy Attorney General for Major Litigation
- vi. Shawn Busken, Director of Outside Counsel
- vii. Michael Rodgers, Director of Policy and Public Affairs

2. Any formal or informal assessment, analysis, guidance, memorandum directive, order, advisory, policy interpretation, or similar document regarding

- 1) Senator Sykes and/or House Minority Leader Russo's request to retain legal counsel separate from that of the Ohio Redistricting Commission, or
- 2) Senator Sykes and House Minority Leader Russo's filing in the Ohio Supreme Court objecting to the then-current legislative redistricting maps. For both request items, please provide all responsive records from January 15, 2022, through the date the search is conducted.”

Please see attached the first set of records responsive to your public records request. Please note that we have redacted and/or withheld information that is subject to the attorney-client privilege

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[www.OhioAttorneyGeneral.gov](http://www.OhioAttorneyGeneral.gov)

Sarah Colombo

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and/or work-product doctrines, pursuant to *State ex rel. Lanham v. DeWine*, 135 Ohio St.3d 191, 2013-Ohio-199, 985 N.E.2d 467, ¶ 26.

We will continue to process the remainder of your request. Should you have any questions or concerns regarding our response, please feel free to contact the Public Records Unit at 614-466-2872 at your convenience.

Very respectfully yours,

*MacKenzie Clayton*

MacKenzie Clayton

Paralegal – Public Records Unit

CC: Bridget C. Coontz, Section Chief, Constitutional Offices Section

## **Event: 1PM Phone Call w/Attorney General Yost and Jonathan Blanton**

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**Start Date:** 2022-03-20 17:00:00 +0000

**End Date:** 2022-03-20 17:30:00 +0000

**Organizer:** Jacqueline King <Jacqueline.King@OhioAGO.gov>

**Location:** Dial in #: 1-800-555-2350; 65059011#

**Class:** X-PERSONAL

**Date Created:** 2022-04-13 13:41:37 +0000

**Date Modified:** 2022-04-13 13:41:37 +0000

**Priority:** 5

**DTSTAMP:** 2022-03-20 00:38:34 +0000

**Attendee:** Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Vernon.Sykes@ohiosenate.gov <Vernon.Sykes@ohiosenate.gov>; Allison.Russo@ohiohouse.gov <Allison.Russo@ohiohouse.gov>

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**Subject:** Ohio Supreme Court Case Nos. 2021-1193; 202-1198; 2021-1210

**Date:** Mon, 4 Apr 2022 12:53:55 +0000

**Importance:** Normal

**Attachments:** Response\_of\_Sykes\_and\_Russo\_to\_Petitioners'\_show\_cause\_motion\_FINAL\_4-4-22.pdf;  
Response\_of\_Sykes\_and\_Russo\_to\_Fourth\_Plan\_objections\_FINAL\_4-4-22.pdf

**Inline-Images:** image001.png

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Counsel:

Please find the attached Response of Respondents Co-Chair Vernon Sykes and Leader C. Allison Russo to Petitioners' Show Cause Motion and their Response to Fourth Plan Objections that were filed electronically this morning.

Best,

Chelsea Weaver



**Chelsea C. Weaver, Associate**

**Because people experiencing life-altering harm deserve to find protection, answers, and meaning.**

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IN THE SUPREME COURT OF OHIO

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

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

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

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

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**RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND  
HOUSE MINORITY LEADER C. ALLISON RUSSO  
TO PETITIONERS' OBJECTIONS FILED APRIL 1, 2022**

The Republican Commissioners have forced this Court to declare once again—for a fourth time—that the Commission’s General Assembly-district plan is unconstitutional. In both substance and process, the Fourth Plan brazenly violates Ohio’s Constitution and the Court’s repeated instructions. *See League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-65 (“*LWV I*”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-342 (“*LWV II*”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-789 (“*LWV III*”).

It did not have to be this way. The Commission had before it a constitutional plan. The plan was drafted, in public, by independent experts hired by the Commission itself; the Commission met almost daily to monitor progress and provide feedback on the plan; the plan complied with Article XI, Sections 2, 3, 4, 5, and 7, subject to final checks for technical flaws; and the plan contained a proportionate distribution of toss-up districts, corresponded closely to the statewide preferences of Ohio’s voters, and was more compact than the plan adopted by the Commission. *Glassburn Aff.* (Apr. 3, 2022) ¶ 9, 11–15, 26–27; *Russo Aff.* (Apr. 3, 2022) ¶ 7; *LWV III*, ¶ 30, 32–34, 38–42, 44. But the Republican Commissioners rejected the independent mapmakers’ plan.

It now appears this Court has only one more opportunity to motivate the Commission to adopt a constitutional map for the 2022 primary election. A federal court has indicated that, absent state action, it will choose the 2022 General Assembly map by April 20. Senator Sykes and Leader Russo respectfully believe the Court should seize this final opportunity and order the relief discussed below.

## I. THE FOURTH PLAN VIOLATES SECTIONS 6(A) AND 6(B).

Senator Sykes and Leader Russo agree with the Petitioners: the Fourth Plan violates Sections 6(A) and 6(B) of Article XI of the Ohio Constitution. *See* Bennett Petitioners’ Objs. to Mar. 28 Plan at 15–28; Ohio Organizing Collaborative Petitioners’ Objs. to Mar. 28 Plan at 9–14; League of Women Voters of Ohio Petitioners’ Objs. to Mar. 28 Plan at 15–23. It is hard to see how it could not. The Fourth Plan is all but identical to the unconstitutional Third Plan, *Glassburn Aff.* (Apr. 3, 2022) ¶ 25, and it must be struck down for the same reasons.

The process that produced the Fourth Plan is particularly insulting to this Court, the Minority Commissioners, and the voters of Ohio. This Court ordered “*the commission*” to draft and adopt an “entirely new” plan “in public” with “frequent meetings” and “bipartisan efforts.” *LWV III*, ¶ 44. The Court and Ohioans instead received a plan drafted by a Republican staffer, in secret, using the unconstitutional Third Plan as its starting point. *Russo Aff.* (Apr. 3, 2022) ¶ 59–60. Most Commissioners—including Republican Commissioners—had not even seen the Fourth Plan before it was swiftly proposed and adopted. *Sykes Aff.* (Apr. 3, 2022) ¶ 68. The Republican Commissioners did not allow any time for review or consideration of amendments. *Id.* The Fourth Plan was, for the fourth time, the product of a single party’s exclusive control of the redistricting process. *LWV I*, ¶ 120.

The Republican Commissioners claimed they had to adopt the Fourth Plan to meet the Court’s March 28 deadline. *See* Ohio Redistricting Comm. Section 8(C)(2) Statement at 2 (Mar. 28, 2022).<sup>1</sup> But the Independent Mapmakers’ Plan was finished and even voted on by the March 28 deadline. *Sykes Aff.* (Apr. 3, 2022) ¶ 69, 71. The Republican Commissioners then claimed

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<sup>1</sup> Available at <https://www.redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-march-28-2022-281/section-8c2-statement-1502.pdf>.

they could not adopt the Independent Mapmakers’ Plan on March 28 because they needed more time to assess the plan and had concerns about its compactness. *Id.*; Russo Aff. (Apr. 3, 2022) ¶ 63. But the Republican Commissioners had been monitoring the independent mapmakers every day and had ample opportunity to provide feedback. And they had just voted to adopt a plan first seen by most *just minutes before the vote*, and that plan was *less compact* than the Independent Mapmakers’ Plan. Sykes Aff. (Apr. 3, 2022) ¶ 68, 71.

The Republican Commissioners’ stated reasons for their actions do not add up. Given the Independent Mapmakers’ Plan, there was no need to adopt an unconstitutional plan developed through a procedure the Commissioners know this Court will reject. The brazen disregard for this Court’s orders begs the question: why would the Majority Commissioners force through a plan they know is unconstitutional, when a constitutional option existed?

The Republican Commissioners may believe that if they continue to disregard this Court’s orders in favor of maps that entrench their supermajority, the federal court will be forced to adopt one of their unconstitutional maps. Perhaps they plan to adopt a fifth unconstitutional plan that this Court will not have time to invalidate—an end-run around this Court and, more importantly, the Ohio Constitution.

**II. A FEDERAL COURT WILL ALMOST CERTAINLY IMPOSE A MAP BY APRIL 20, SO STRONG AND SWIFT REMEDIES FROM THIS COURT ARE STILL NEEDED.**

This Court is aware of *Gonidakis et al. v. LaRose*, S.D. Ohio No. 2:22-cv-773, the federal court case involving an apportionment challenge to the General Assembly districts at issue in this case. Because of this case, this Court needs to adopt swift, strong remedies to vindicate the Ohio Constitution.

On Wednesday, March 30, the three-judge federal court held a preliminary injunction hearing. Minute Entry, *id.*, ECF No. 143 (Mar. 30, 2022). During the hearing, the court indicated that it will protect Ohioans’ federal voting rights by ensuring a General Assembly primary election occurs, but it will wait to act as late as it can. After extensive questioning by the court, Secretary LaRose’s Director of Elections testified that the General Assembly primary election could be held as late as August 2, so long as a final map is in place by April 20.<sup>2</sup>

What map will the federal court impose, if necessary, on April 20? The court’s questions at the hearing indicated it is considering the Third Plan, the Fourth Plan, the maps implemented in 2011, and potentially other maps presented at the hearing, including the Independent Mapmakers’ Plan.<sup>3</sup> The court would also likely consider any new plans adopted by the Commission.

How will the federal court choose among the maps? The court’s questions indicated that it hopes to do the “least violence” to Ohio law. Some panel members suggested that a map that has not *yet* been declared unconstitutional is better than one that has. At least one panel member remarked that a map not adopted by the Commission (such as the Independent Mapmakers’ Plan) is unconstitutional, even if it otherwise meets the substantive constitutional criteria. The court ordered expedited post-hearing briefing that encompasses these questions.

A concern emerges against this backdrop. Suppose the Court invalidates the Fourth Plan and reconvenes the Commission. If the Commission adopts a “Fifth Plan” before April 20, but

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<sup>2</sup> The descriptions are based on the recollection of counsel present at the hearing. The transcript of the hearing was completed on Sunday, April 3, around 3:00 p.m. Senator Sykes and Leader Russo were not able to obtain a copy in time to incorporate it into this filing.

<sup>3</sup> Indeed, the court asked all parties to specifically address in their post-hearing briefs why the court should *not* impose the 2011 maps.

before this Court can review it, the federal court may impose the Fifth Plan because on April 20 it will be the only plan adopted by the Commission that has not yet been declared unconstitutional by this Court. This could occur even if the Fifth Plan brazenly violates Ohio’s Constitution, and even if this Court later declares it unconstitutional. After April 20, it will be too late to change the plan for the 2022 election.

To guard against this situation, Senator Sykes and Leader Russo respectfully urge the Court to take strong action in an expedited fashion that would allow this Court to rule on any such Fifth Plan before April 20. Specifically, they ask that the Court:

**1. Issue an Order immediately, with an opinion to follow.** Issuing an order with opinions to follow, which is a common practice in fast-paced elections cases, would allow the Court to reconvene the Commission and provide essential direction as quickly as possible. *See, e.g., Harper v. Hall*, 867 S.E.2d 554 (N.C. Feb. 4, 2022) (order) (“Because time is pressing, the Court enters the following order, to be followed by an opinion . . . .”); *Harper v. Hall*, 2022-NCSC-17 (N.C. Feb. 14, 2022) (opinion); *Carter v. Chapman*, 2022 Pa. LEXIS 194 (Pa. Feb. 23, 2022) (order); *Carter v. Chapman*, 2022 Pa. LEXIS 257 (Pa. Mar. 9, 2022) (opinion).

**2. Invalidate the Fourth Plan in its entirety.** The plan violates Article XI, Sections 6(A) and 6(B), as discussed above.

**3. Order the Commission to reconvene and, within 4 days, adopt a map drafted by the Commission’s independent mapmakers, rather than caucus staff.** *See LWW I*, ¶ 136 (“[I]t is appropriate to issue further remedial orders in an effort to have the redistricting commission adopt a plan that complies with Article XI in time for the plan to be effective for the 2022 election cycle.”). This would allow the independent mapmakers to correct technical errors (if any) to the plans they have already produced and otherwise make amendments based on the Commissioners’

suggestions that do not disturb the constitutionality of the plan. The Court should specify that any Fifth Plan must be at least as symmetrical as the Independent Map Drawers' Plan. The Commissioners should be mandated to follow their clear duty to adopt a constitutional map when a constitutional map is before them.

**4. Establish a timeline so that any Fifth Plan adopted by the Commission can be ruled on by this Court before April 20.** Senator Sykes and Leader Russo agree with the schedule set forth in the Bennett Petitioners' objections, at page 32:

Respondents' response on Fourth Plan due	April 4
Court order issued, with opinion to follow	April 7
Commission must adopt constitutional plan drawn by independent map drawer(s)	April 11
Petitioners' objections due	April 13
Respondents' responses due	April 15

**5. Declare the Independent Mapmakers' Plan presumptively constitutional.** To assist the Commission, the Court could declare that the Independent Mapmakers' Plan is presumptively constitutional in light of the undisputed record evidence. *See, e.g.,* Glassburn Aff. (Apr. 3, 2022) ¶ 26; OOC Petitioners' Objs. to Mar. 28 Plan at 21–22. This is particularly important given that the federal court will be choosing a plan by April 20. In the interests of federalism, the federal court should respect this Court's decision as to the constitutionality of maps and seek to impose a map that does not violate the Ohio Constitution. *See Growe v. Emison*, 507 U.S. 25, 35–36, 113 S.Ct. 1075, 122 L.Ed.2d 388 (1993); *White v. Weiser*, 412 U.S. 783, 795, 93 S.Ct. 2348, 37 L.Ed.2d 335 (1973). To aid that process, too, this Court should declare the Independent Mapmakers' Plan presumptively constitutional.

**6. Order any other relief the Court deems just and necessary to ensure that Ohioans can vote under a constitutional plan.** The Court has broad inherent power to “do all things reasonably necessary to the administration of justice in the case before it.” *See City of Norwood v. Horney*, 110 Ohio St.3d 353, 2006-Ohio-3799, 853 N.E.2d 1115, ¶ 119, quoting *Smother v. Lewis*, 672 S.W.2d 62, 64-65 (Ky. 1984). It also has inherent authority to enforce its judgments and decrees, *Infinite Sec. Sols., L.L.C. v. Karam Properties, II, Ltd.*, 143 Ohio St.3d 346, 2015-Ohio-1101, 37 N.E.3d 1211, ¶ 27, and to facilitate “orderly and efficient exercise of [its] jurisdiction,” *Hale v. State*, 55 Ohio St. 210, 45 N.E. 199 (1896).

### **CONCLUSION**

Senator Sykes and Leader Russo respectfully ask that this Court invalidate the Fourth Plan in its entirety and order the other remedies described above.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 4, 2022, the foregoing *Response of Respondents Senator Vernon Sykes and House Minority Leader C. Allison Russo to Petitioners' Objections* was filed electronically and sent via email to the following counsel of record:

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*/s/ C. Benjamin Cooper*  
\_\_\_\_\_  
C. Benjamin Cooper

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

1. I am the State Senator for Ohio's 28th Senate District.
2. I serve as a commissioner on, and co-chair of, the Ohio Redistricting Commission ("Commission"). I am the only Black person and person of color on the Commission. I serve as a representative of the Democratic Party, along with House Minority Leader Allison Russo (together, the "Democratic Commissioners"). The remaining five Commissioners are Republicans (together, the "Republican Commissioners"). I was sued in the above-captioned case and am a named Respondent. The Ohio Supreme Court, however, has recognized that my interests align more with the Petitioners than that of the Commission or the Republican Commissioners. Opinion 2022-Ohio-65, ¶ 66.
3. I submit this affidavit in response to the Court's March 16, 2022 order to respond to the Petitioners' renewed motions for an order directing Respondents to show cause as to why the Commission and Respondents should not be held in contempt.
4. In addition to this affidavit, I have filed three other affidavits in these proceedings, each of which detail my efforts throughout the redistricting process to comply with the Ohio Constitution and all the orders of this Court, which are incorporated by reference. *See* March 3, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Petitioners' Objections; February 23, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Court's February 18 Show Cause Order; Jan. 28, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Petitioner's Objections.

## Introduction

5. It is with great disappointment that I file this affidavit with the Court. Yet again, because of the actions of my Republican colleagues, I find myself asking this Court not to hold me in contempt.

6. At every step I have worked diligently to comply with the Constitution and this Court's orders. Among other things, described in greater detail below, I took the following actions: (1) pushed the Commission to meet early and often; (2) encouraged the Commission to utilize independent mapmakers and mediators; (3) pressed for a transparent process; (4) voted for the independent maps because they satisfy all the constitutional requirements; and (5) resisted—albeit unsuccessfully—the hijacking of the process by Republican Commissioners, all of which disparaged the independent mapmakers' efforts and four of whom adopted an unconstitutional map over my dissent.

7. In many ways, the Commission's process following this Court's March 16, 2022 order was a model of cooperation and transparency—one that should have transpired from the outset, but, even if belated, was still an encapsulation of the fair mapping process the Ohio voters mandated in Article XI of the Ohio Constitution. The Court made several strong suggestions in its March 16 order: hire an independent mapdrawer to draw the maps, draw the maps in public, and do not let the partisan mapdrawers control the mouse. Opinion, 2022-Ohio-789 ¶¶ 30, 44 (“*LWV III*”).

8. And the Commission listened. The Commission hired independent mapdrawers to work on behalf of *the Commission*, not any party. The Commission (at least at first) ordered those mapdrawers to follow only Article XI and this Court's orders. And those independent mapdrawers

worked in public—their every discussion with staff or Commissioners, click of the mouse, and late-night work sessions viewable via livestream on the Ohio Channel.

9. Through these collaborative efforts, the independent mapdrawers drew General Assembly maps that satisfied the Constitution, as delineated in this Court’s orders.

10. As detailed below, I both led and supported all of these efforts to have independent maps, even in the face of the Republican Commissioners’ stall tactics and pessimism regarding the independent mapdrawers’ ability to complete the task. And I voted for the independent mapdrawers’ plans.

11. But the Republican Commissioners were more concerned with protecting their supermajority than following the Constitution, this Court’s orders, and their duty to the public. Rather than adopting the independent mapdrawers’ plans, four of the Republican Commissioners unilaterally adopted new General Assembly maps on March 28, 2022 (the “Fourth Plan”) that is nearly identical to the last one (the “Third Plan”) that this Court found unconstitutional on March 16, 2022. *LWV III* ¶ 44. I did not vote to adopt those maps because I believe they violate Article XI of the Ohio Constitution, as well as the Ohio Supreme Court’s orders.

12. It is with sadness that I report that this Court’s suggestion—to hire independent mapmakers who draw the maps in public—and clear orders regarding proportionality and symmetry, were not enough for my Republican colleagues. But I am also hopeful that, with an aggressive order from this Court, we can return to the independent mapdrawers’ plans, finalize them quickly (to the extent any finalizing is even necessary), and have a constitutional plan for Ohio’s voters. We have made so much progress, and I still hope that—with this Court’s further guidance—we can deliver constitutional maps to the people of Ohio.

**The Democratic Commissioners Worked Diligently to Schedule Frequent Meetings and Hire Independent Mapdrawers and Mediators Upon Receiving the March 16 Order.**

13. **Wednesday, March 16, 2022.** As urged by the Democratic Commissioners, the Ohio Supreme Court invalidated the Third Plan in an opinion and order published at approximately 9:45pm on March 16, 2022.

14. That order, as I understand it, set forth important mandates and guidance to the Commission that I diligently worked to follow throughout the process.

15. *First*, it invalidated the Third Plan in part because of the “gross and unnecessary disparity in the allocation of close districts,” as the Third Plan had 19 so-called Democratic-leaning House districts and 7 so-called Democratic-leaning Senate districts that were in the 50 – 52% margin, and no such Republican-leaning House or Senate districts. *LWV III* ¶ 43. That meant, going forward, the Commission needed to draw a plan that met the 45-54 proportionality ratio, as close as possible while complying with Article XI, §§ 2, 3, 4, 5, and 7—but in doing so, competitive seats of between 50 and 52% needed to be symmetrically allocated and not be so one-sided against either party.

16. *Second*, the Court ordered the Commission “to be reconstituted and to convene and that the commission draft and adopt an entirely new General Assembly-district plan that conforms with the Ohio Constitution, including Article XI, Sections 6(A) and 6(B).” *LWV III* ¶ 44. Based on the Court’s reasoning, I understood this to be a command that the Commission as a body, rather than partisan staff, draft the General Assembly plan.

17. *Third*, the Court told the Commission that we “should retain an independent mapdrawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan.” *LWV III* ¶ 30. I thought this was an excellent way to move forward and

could take the partisan influence out of the process—an independent person (or persons) could “draft a plan.”

18. *Fourth*, the Court mandated a “transparent process,” including that “drafting should occur in public” and that “the commissioners should convene frequent meetings.” *LWV III* ¶ 44.

19. The Court gave the Commission a deadline of March 28 to file a new plan with the Secretary of State and until March 29 at 9:00am to file the plan with the Court. *LWV III* ¶ 45.

20. **Thursday, March 17, 2022.** First thing in the morning, I spoke with the Senate Minority’s legal counsel to discuss the opinion and asked them to work with me in getting the Commission to comply with the Court’s order. Then I attempted to reach Co-Chair Speaker Cupp to discuss reconvening the commission, setting frequent meetings, hiring independent mapdrawers, and otherwise work to comply with the Court’s March 16 order. When I finally reached Co-Chair Cupp in the afternoon, he was noncommittal as to taking any steps, including the basic step of when he would agree to call a first meeting of the Commission.

21. Later that afternoon I sent a formal letter to Co-Chair Cupp and the rest of the Commission reiterating the points I had made in our phone conversation; namely, that we should have frequent meetings, that the public should be notified in advance of those meetings, and that the process should be transparent. I specifically suggested that we retain independent mapdrawers and mediators. That March 17 letter is attached as Exhibit A.

22. **Friday, March 18, 2022.** In the late morning, I spoke with Co-Chair Cupp, and he agreed to schedule a Commission meeting for Saturday at 2:00pm.

23. That day, we also received a letter from Attorney General Yost discussing his suggestions for “steps forward” given the March 16 Order. Specifically, Yost encouraged daily meetings and drafting maps in public. He also stated that “[t]he Court directed the commission to

hire new mapmakers not beholden to either political caucus,” and, to that end, explained that he had retained Sean Trende, a Republican analyst, and Bernie Grofman, a Democratic professor of political science, to help in the mapdrawing process. Attorney General Yost’s letter is attached as Exhibit B.

24. The Attorney General, as “chief legal officer of the state” also articulated what was and was not permissible in drawing a new map. He explained to us that the Court “established <52% as the threshold for a ‘leaning’ district; any index less than that is viewed by the Court as a competitive district,” and are “excluded[d]” from the proportionality calculation. And he told us that “efforts to protect incumbents are improper” and, citing the Court’s opinions, ““can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A).”” *Id.*

25. **Saturday, March 19, 2022.** The Commission met for the first time after the order on March 19, 2022. At that meeting, the Commissioners discussed several possibilities of moving forward; some appeared to want to move forward solely with the partisan staff drawing. I pushed for hiring independent mapdrawers, in accordance with the Court’s suggestion. However, I was concerned that the Commission would not agree on a single mapdrawer and agreed that we could hire two independent mapdrawers, one selected by each caucus of the Commission. Though each mapdrawer would be selected by a caucus, they would both be independent and work for the Commission as a whole. I also suggested hiring a mediator in case disagreements arose.

26. President Huffman noted that one advantage of having independent mapdrawers is that they are not “beholden to anyone in particular” and do not know where any incumbents live. Acknowledging that the Court had singled him out for his previous prioritizing of incumbency, President Huffman stated: “I think [prioritizing incumbency] was also criticized by the court [and]

that we should not consider incumbency in drawing these maps. So, I just want to kind of get that out.” Tr. 3/19/2022 at 46:22.

27. Co-Chair Cupp expressed that he was “skeptical” regarding mediation, pointed out a number of “practical concerns” regarding the process, and hoped that Commission “members aren’t being overly optimistic.” Tr. 3/19/2022 at 1:00:44

28. At the conclusion of the meeting, the Commission authorized the co-chairs to make recommendations to the Commission regarding hiring independent mapdrawers and mediators. And the Commission scheduled three upcoming meetings: Sunday, March 20 at 7:00pm (if needed); Monday, March 21 at 7:00pm, and Tuesday, March 22 at 9:00am.

29. **Sunday, March 20, 2022.** I immediately began the work of securing independent mapmakers. On Sunday, March 20, my staff or I had calls with four different mapmakers.

30. Along with Leader Russo and several of our staff, I also had a Zoom call that morning with Professor Michal McDonald about his availability to participate in the mapdrawing process as an independent mapdrawer.

31. In the afternoon, I spoke with Nate Persily, a professor at Stanford Law School. Dr. Persily was only willing to undertake this project if he were selected as the only mapdrawer by the leadership from both caucuses.

32. At approximately 1:00pm, I had a telephonic meeting with Mr. Grofman and Mr. Trende. Attorney General Yost, Leader Russo, and several staff members were also present. I understood from Yost that President Huffman and Co-Chair Speaker Cupp were having a similar call with Mr. Grofman and Mr. Trende later that afternoon. Although I had concerns about Mr. Trende, given his previous involvement in this matter as an expert for the Republican Commissioners, I agreed to go forward with these two independent mapdrawers. Given that the

Attorney General had already vetted these two mapdrawers and given that they had worked together successfully in Virginia, I felt it most important that we start the drafting process immediately, so I agreed with these recommendations.

33. I also moved forward with getting suggestions for a mediator. I reached out to Nancy Rogers, esteemed former dean of The Ohio State University Moritz College of Law and former Attorney General, for her suggestions for potential mediators. She provided me with a list of nationally acclaimed mediators and also said she would contact the chief mediator at the Sixth Circuit's mediation office. The chief judge of the Sixth Circuit gave permission to the mediators for the Commission to use their services. Chief Judge Sutton's letter regarding mediation is attached as Exhibit C. Subsequently, the Commissioners unanimously agreed to those mediators.

34. At approximately 3:00pm, Co-Chair Cupp informed me that he did not want to go forward with the 7:00pm meeting that night. He had suggested as much at an 11:00 call earlier that morning, when he said he had not heard back from the other Republican Commissioners about their availability for the scheduled 7:00pm meeting. But I had stressed the need for the Commission meeting. In the 3:00pm call, Co-Chair Cupp said he had a 4:30pm meeting scheduled with Mr. Grofman and Mr. Trende and did not know if a 7:00pm meeting was feasible. I suggested delaying the meeting to 8:00pm if necessary. Ultimately, at approximately 4:15pm, Co-Chair Cupp called me again to say it was not feasible to go forward with the meeting and that the Republican Commissioners, even after two days, did not have sufficient information about Mr. Grofman and Mr. Trende. The meeting was canceled.

35. That evening, I requested that the Senate Minority legal counsel draft a letter to the Commission announcing that Leader Russo and I supported hiring Mr. Grofman and Mr. Trende

in the interests of time and compromise. That letter, attached as Exhibit D, was sent to all the Commissioners at approximately 6:30pm.

36. **Monday, March 21, 2022.** Given that Co-Chair Cupp had told me that the Sunday meeting was not feasible, I was determined to ensure that the Commission, going forward, met every day. Along with Leader Russo, I sent a letter to the other Commissioners proposing a daily meeting schedule through March 28. That letter is attached as Exhibit E.

37. Despite my and Leader Russo's agreement to using Mr. Grofman and Mr. Trende, at the Monday, March 21 Commission hearing, the Republican Commissioners announced that they did not want to move forward with that team, but instead proposed Dr. Douglas Johnson from the National Demographics Corporation, as their selected independent mapdrawer. Given that Mr. Grofman expressed that his availability during the week may be limited for personal reasons, Leader Russo and I suggested Dr. Michael McDonald, a professor from the University of Florida, as our selected independent mapdrawer. The two would work together in drafting a new plan for the Commission's consideration, with the assistance of the Commissioners' staff.

38. Although the two had been selected, Co-Chair Cupp still wanted to delay. Rather than formally approve these two independent mapdrawers—so that they could get on flights to Columbus the next morning—Co-Chair Cupp suggested talking to the proposed mapdrawers over the next couple days about the specific details of an arrangement and learning the precise rules for the state signing a contract (which the Auditor did not offer), and settling other details. Tr. 3/21/2022 at 33:05. To avoid delay, Leader Russo and I formally moved and pushed for a recess so that members could study the choices and get the answers to Co-Chair Cupp's questions. Republican members suggested that they should instead wait until the morning. *Id.* at 39:52. But upon our urging, the Commission recessed for an hour.

39. Upon resuming the meeting, the Commission approved hiring the two independent mapmakers.

40. **Tuesday, March 22, 2022.** At the 9:00am meeting, the Commission established a daily meeting schedule through March 28, which the public could attend virtually or in person. Additionally, upon my request, the Sixth Circuit's mediation office presented to the Commission about their services and mediation in general.

41. Throughout the rest of the day, I directed my staff to work on ensuring that everything was ready for the mediators to get to work when they arrived. (Dr. McDonald arrived late Tuesday night, and Dr. Johnson arrived mid-day on Wednesday.) Democratic staff sought input on contracts and conflicts from the Legislative Service Commission and the Ohio Attorney General's Office and, with input from House Majority Counsel, later drafted a retention letter for Dr. McDonald and Dr. Johnson. Democratic staff worked on other logistical arrangements, such as for appropriate technology, room reservations, and livestreaming.

42. **Wednesday, March 23, 2022.** At my direction, on the morning of March 23, my staff worked to finalize the engagement letters for the independent mapdrawers and, with Co-Chair Cupp's consent, emailed the independent mapdrawers formalizing their engagement, clarifying expectations for appearance at that evening's Commission meeting, and offering to answer questions and provide them with any assistance. These engagement letters are attached as Exhibit F.

43. Prior to the 5:00pm meeting, the Republican Commissioners circulated proposed ground rules for the independent mapdrawing process. Leader Russo and I examined that proposal and made some suggestions.

44. At the meeting that evening, Dr. McDonald and Dr. Johnson spoke to the Commission about their needs and preferences for undertaking the mapdrawing process—including on topics about data sets, numbers of computers, and mapdrawing software. With their input, the Commissioners discussed and voted on each ground rule. The finalized ground rules are attached as Exhibit G. Among others, the ground rules required the independent mapdrawers, using Maptitude software and new computers provided by the Commission, to: draft an entirely new General Assembly district plan at the direction of the Commission and in accordance with the Ohio Constitution and the Court’s orders; answer to the Commission members; and not consider district plans or work product produced before March 23.

45. Finally, at about 7:40pm—a full week after the Supreme Court’s order—the independent mapdrawers were hired and authorized to get to work.

**The Independent Mapdrawers, following a Transparent and Collaborative Process, Worked Diligently to Complete a Constitutional Map.**

46. **Thursday, March 24, 2022.** The mapdrawers commenced their work on Thursday, March 24 first thing in the morning. At approximately 8:00am, the Ohio Channel began to livestream the “workroom”—a committee room at the Capitol that was set up for the mapdrawers. Legislative staff set up computers and downloaded the necessary software. There were some delays in getting the proper data in the software program, as the Commission’s ground rules required data that did not have any race-based statistics. Once these issues were resolved, the mapmakers got to work.

47. Though belated, the independent mapdrawing process occurred in a collaborative and transparent fashion. I observed their work both by visiting the workroom and via the livestream. Dr. McDonald and Dr. Johnson each had separate computers where they could draft and try out ideas. They sat next to each other and chatted frequently. They suggested different

ideas, each pursuing different suggestions not based on partisan advantage or hidden motives, but in a pure attempt to see what would work. Sometimes they encountered dead ends and would have to try to draw parts of the map again, though they relied on the Commissioners' previously hired mapdrawers—Mr. Chris Glassburn and Mr. Randall Routt from the Democrats, and Mr. Ray DiRossi and Mr. Blake Springhetti from the Republicans—to help avoid pitfalls. They were developing a truly independent map, in public, with no single party pulling strings behind the scenes.

48. At the Commission's 7:00pm meeting, the independent mapdrawers provided an update on their progress to the Commission and then got back to work.

49. **Friday, March 25, 2022.** On Friday, March 25, 2022, the independent mapdrawers continued to work diligently and made progress toward completing a plan. There was no indication that they would not finish on time or would be unable to comply with the Court's orders.

50. The Commission met at 2:00pm. The mapdrawers provided the Commission with an update, and the Commission discussed specifics, including alternatives for Franklin County pairing. Yet the Republican Commissioners bogged down the process by repeatedly stressing compliance with sections of the Ohio Constitution already being adhered to and by emphasizing compactness and diminishing section 6(B), which demands proportional representation based on ten years of statewide election results.

51. Following the meeting, I received a memo from Co-Chair Cupp regarding new instructions that the Republican Commissioners wanted to give to the mapdrawers from the Co-Chairs. To me, the proposal read like a mechanism to slow down the mapdrawing process, was unnecessarily redundant of what had already been requested in the last Commission meeting, and gave more power to the majority to slow the process down. So, I opposed it. My response in

opposition to the Republican Commissioners' proposals is attached as Exhibit H. The Republican's rules would have:

- Required the mapmakers to provide multiple different options for Franklin County because President Huffman wanted alternatives to what they had drawn.
- Required mapmakers to provide notice of any areas they wanted feedback on 90 minutes before the scheduled meeting.
- Prior to drafting a singular plan from both of the mapdrawers together, the mapdrawers would have to present multiple different individual full plans to the Commission and receive feedback before being allowed to present a merged plan.

The Republican Commissioners included this proposal in the minutes at the start of the Commission's next meeting and, although the Commission never formally adopted this proposal, the mapdrawers always attempted to give the Commission as much notice as possible, at least an hour before a meeting, of areas that they wanted guidance on and sent the relevant map files to the Commissioners' staff. And the mapdrawers always welcomed feedback and suggestions about alternatives; indeed, Commissioners would stop by and ask that certain areas be drawn in specific ways if possible.

**Over My Objection, the Republican Commissioners Prioritized Protecting Incumbents and Attempted to Derail the Independent Mapdrawers' Progress.**

52. **Saturday, March 26, 2022.** By Saturday, March 26—with two full days left before our deadline—each of the mapdrawers had completed a draft House map to present to the Commission. (House maps were completed first because Senate districts are combinations of three House districts.) Both plans had 45 Democratic-leaning House districts and 54 Republican-leaning House districts. Not only had both the Republican-selected and the Democratic-selected independent mapdrawers achieved partisan proportionality, but they had achieved almost perfect

partisan symmetry for competitive districts. Both maps had three Democratic-leaning districts between 50% and 52%; the Johnson map had two such Republican districts and the McDonald map had three.

53. At the 4:00pm Commission meeting, the independent mapdrawers requested feedback from the Commission so that they had guidance before they merged their two maps. For instance, the maps diverged on how they treated Montgomery County and the map drawers sought the Commission's preference. The Commission did not give direct feedback, even after a long recess.

54. By this point it was clear that the independent mapdrawers, if given the guidance needed by the Commission, could timely complete the task. Each had drawn proportional and symmetrical maps, and there were not too many disagreements between the two. The prospect of completion of fair maps seemed to rattle the Republican Commissioners, and they started to impede and discredit the process. They started to complain that the maps were not compact (they were) and that there was insufficient time for public input (which they had never prioritized before).

55. President Huffman's main complaint was that the maps double bunked Republican incumbents. Apparently, he had already forgotten what he had told us at the first Commission meeting on March 19—that we shouldn't consider or prioritize incumbents. Up to that point, the maps had been drawn without any incumbency data, so any resulting districts that had multiple incumbents living within them was a by-product of drawing a constitutional map. But President Huffman would not allow it. He proposed that, before a merged clean map was even drawn, incumbency data be added and that the mapdrawers be directed to avoid placing multiple incumbents in the same district to the extent possible. Though President Huffman's concern started

out targeted at Senators who were in the middle of their terms, it expanded to wanting, to the extent possible, all House and Senate incumbents protected by the new maps.

56. I immediately objected, as did Leader Russo. I was concerned that adding incumbency data would slow down the process and make the maps less compact and symmetrical. Additionally, the Court had warned us about using incumbency data, and the Attorney General, following that opinion, told us it was “improper.” I suggested that the issue go to mediation. At approximately 7:30pm, we began mediating these issues about incumbency.

57. **Sunday, March 27, 2022.** The Commissioners continued to work with the mediator to try to reach a resolution on the incumbency issue. Though I did not want any incumbency data used, I also had to face the reality that the Republican Commissioners have the majority, and they wanted to require the independent mapdrawers to incorporate incumbency into their maps *even before* they had created a single constitutional map without incumbent consideration. To move the process forward, we agreed to a resolution that would allow the independent mapdrawers to draw a clean map first, before tainting it with trying to protect all the incumbents.

58. The final resolution of our mediation was an agreement to instruct the mapmakers, which we did, as follows: “Upon completion of the independent map drawers’ merger of their independent versions of the House and Senate maps and prior to any presentation to the Commission, the independent mapdrawers shall consider the residence locations of non-term limited House and Senate incumbents, and Senate incumbents in mid-term, in drafting a Commission map, and where possible without violating constitutional principles, avoid pairing incumbents and also drawing districts such that Senators protected under Section 5 of Article 11 no longer live in the district they represent. Incumbents will be identified as House or Senate and

no other identifying information shall be used.” *See* Mediation Agreement—Instructions to Mapdrawers with Regard to Incumbents, as adopted March 27, 2022.

59. At the March 27 hearing, each independent mapdrawer also presented their complete maps. Before combining them, they again sought the Commission’s input. For example, they wanted the Commission’s decision—as they had asked the previous day—as to whether a district drawn that included some of Montgomery County should extend to Green County or to Preble County. The Commission recessed to evaluate the different plans. Yet, even after recess, the Republican Commissioners expressed their opposition to voting to give clear guidance on these issues to the mapdrawers. Several of the Commissioners expressed their informal views, and Leader Russo asked that the mapdrawers move forward with their understanding based on that discussion.

60. That night, after the meeting, my staff informed me that the independent mapdrawers had agreed on a merged plan and were working on cleaning it up for any minor errors (the “Pre-Incumbent Independent Plan”).

**The Republican Commissioners Hijacked the Independent Mapdrawing Process and Passed an Unconstitutional Map Drawn by Republican Staff.**

61. **Monday, March 28, 2022.** By Monday mid-morning, the independent mapdrawers had completed cleaning up the Pre-Incumbent Independent Plan. As they explained to the Commission at the 11:00am meeting, that plan achieved perfect partisan proportionality in both the House and Senate. It also was symmetrical with respect to competitive seats; there were three Democratic-leaning and three Republican-leaning House seats between 50% and 52% in the House; and two Democratic-leaning and no Republican-leaning Senate seats between 50% and 52%. That plan was posted on the Commission’s website.

62. The mapdrawers stated that they would then add the incumbent data, which was being loaded into their computers.

63. When the Commission reconvened in the afternoon, I was pleased when Dr. Johnson and Dr. McDonald announced that they were just a couple of hours away from completing their map, having adjusted district lines (per the Republicans) to protect incumbents.

64. But what I took as a sign of success, was a sign of danger to my Republican colleagues—we could have a fair and independent map. President Huffman announced, for the first time, that to comply with the Court’s midnight deadline, the map actually had to be completed and adopted by 10:30pm so there was enough time to email the data files to the Secretary of State. Then he suggested, because he was concerned that the independent mapdrawers would not meet this deadline, that he would have the Republican mapdrawers tweak the Third Plan so that the Commission could pass that. Though he presented it as a backup “parachute,” in case the independent mapdrawers failed to meet the deadline, it became clear that it was far from just a backup. President Huffman stated that he spoke to Mr. DiRossi and that Mr. DiRossi, despite being sick, was able to work on a separate map. While presented as a last-minute backup plan, President Huffman later admitted to hatching the plan three days earlier.

65. I immediately objected, as did Leader Russo. We explained that such a process would contravene this Court’s orders and the Constitution. I suggested that if we needed more time, we should ask for an extension—not pass another unconstitutional map drawn in a bunker by a partisan Republican mapdrawer. What President Huffman was proposing was, as I said, “ridiculous.” As I stated at the meeting:

“[A]ll the time, money and resources we’ve put into coming up with a constitutional map. We have independent mapmakers. Each of them have drawn separate and apart constitutional maps that comply with the court order. They’ve put together a unified map that just need edits that we can make in this time period to comply with the requirements.

To distract us, the staff, and the independent mapdrawer to divert to some other tasks is ridiculous, contrary to the directive, contrary to the spirit and the direction of the court.

Tr. 3/28/2022 at 50:16

66. The Republican Commissioners were not willing to ask the Court for extra time, even though they passed the Third Plan over a week late. Over my and Leader Russo's dissent, the Commission voted to adopt President Huffman's proposal.

67. Meanwhile, Dr. Johnson worked on completing the plan incorporating the incumbency data. (Dr. McDonald left at 5:00pm because of a class he had to teach the next morning in person in Florida.) At approximately 9:30pm, when the Commission reconvened, Dr. Johnson stated that he needed about 45 minutes to complete the Senate map, and the House map was already done. Therefore, I asked that the Commission recess for one hour to allow Dr. Johnson to complete his work so that we could consider his final plan.

68. But the Republican Commissioners refused. President Huffman announced that Mr. Springhetti—the Republican mapdrawer—had been working on a map (the “Fourth Plan”) and said the Commission should go with that “parachute.” A Republican staff member handed out printouts of the Fourth Plan; the printout included no partisanship data. This was the first time I had seen the plan. Other Commissioners also said it was the first time they had seen the plan. At first glance, it appeared to be a repeat of the Third Plan, and President Huffman explained that it changed the Third Plan only minimally. Despite Leader Russo and my requests, the Republican Commissioners would not recess to allow us to review the map and suggest amendments. The Commission then proceeded to adopt the Fourth Plan by a 4-3 vote, despite the fact that there was no opportunity for any Commissioner to provide amendments, ask questions, or view analyses of the plan.

69. At approximately 10:30pm, minutes after the Commission adopted the Fourth Plan, Dr. Johnson finished the independent map.

70. After adopting the Fourth Plan but with the motion to adopt the majority's 8(C)(2) statement, I recessed the Commission for 30 minutes to prepare the minority's Section 8(C)(2) statement.

71. Upon returning, at approximately 11:00pm, the Commission approved the majority's 8(C)(2) statement. I then moved to adopt the independent mapmakers' final map (the "Incumbent Independent Plan") and have it supersede the Fourth Plan. The Fourth Plan had not yet been sent to the Secretary of State, so it was not effective. (And it was clear by then that, despite President Huffman's earlier statements, it did not take over an hour to prepare files to email to the Secretary of State. Either map's files could be emailed to the Secretary of State at that time.) Looking at the independent mapdrawers' plan, the Republican Commissioners said baldly that they were not compact even though they have a greater compactness score than the Fourth Plan. They said they did not have enough time to review the Incumbent Independent Plan; but they had just voted for the Fourth Plan sight-unseen and had been receiving updates about the independent plan and were able to view its drafting for days. The Commission rejected my proposal to adopt the Incumbent Independent Plan 5-2; only Leader Russo and I voted to complete the independent, transparent, fair process that this Court urged.

### **Conclusion**

72. I worked diligently to get the Commission to adopt a constitutional map, drawn by independent mapdrawers, through a transparent process, alongside Leader Russo. But we only have two votes on this seven-member Commission. Despite our efforts, we were not able to prevent President Huffman and the Republican Commissioners from hijacking the process. I

ultimately voted for the independent mapmakers' plan and against the unconstitutional Fourth Plan. I believe that my efforts, described above, demonstrate that I did not violate the Court's March 16 order and should not be held in contempt.

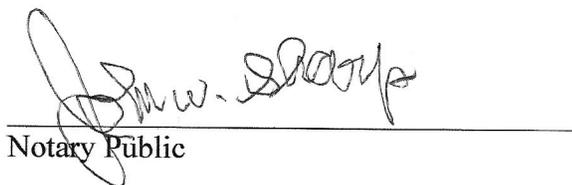
73. I am hopeful, however, that with strong mandates from this Court we can resume the process with the independent mapmakers and adopt constitutional maps before the federal court takes over on April 20, 2022. I do not believe that the Republican Commissioners, without strong mandates from this Court to give them cover in their party, will abide by their constitutional duty. And I respectfully ask the Court to take such action to protect the Ohio Constitution.

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF OHIO - SS  
COUNTY OF SUMMIT

  
Vernon Sykes

Sworn to before me and subscribed in my presence this 3 day of April, 2022.

  
Notary Public



**Exhibit A  
to Affidavit of  
Respondent Vernon Sykes**



STATE SENATOR VERNON SYKES  
28th District

March 17, 2022

The Honorable Robert Cupp  
Ohio House of Representatives  
Columbus, Ohio 43215

Dear Co-Chair Speaker Cupp:

I write today to reiterate what I suggested on our phone call earlier today, that the Ohio Redistricting Commission meet as soon as possible in order to develop a transparent path forward to pass bipartisan, fair, and constitutional state legislative maps.

The Ohio Supreme Court has directed the Ohio Redistricting Commission to start fresh and draw maps that meet constitutional muster. We must do this by March 28. Leader Russo and I stand at the ready and believe following the Court's order is possible if we work together and do not waste time.

It is essential that we call a meeting of the Redistricting Commission as soon as possible to start the map drawing process. The Court has rightly criticized the Commission for its previous delays and inefficient use of time. I hope that we will not repeat that mistake this time – our fourth attempt. I will note that the Commission recently amended its procedural rules to also allow for any three members to call for a meeting of the Commission, rather than only the Co-Chairs. Leader Russo and I are available at any time and would welcome any other Commissioner in calling for a meeting.

The Court also ordered the Commission to meet “frequently” in order to have an open and transparent process to the public. I have suggested to you that we set a schedule and meet at least every other day in order to meet this directive and I offer that suggestion once again. It is critical that we conduct our deliberations and make map-drawing decisions in the light of day and with the opportunity for the public to provide input.

Further, I suggest that the Commission work in a bipartisan manner and hire an independent map-drawer – or alternatively, a mediator – to aid us in our efforts. I believe our staff could work together to identify a list of mutually agreeable individuals to serve in this role.

Ultimately, now is the time for us to work together in order to fulfill the wishes of Ohio voters who overwhelmingly approved these reforms to our redistricting process.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon Sykes".

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission

CC: Members, Ohio Redistricting Commission

**Exhibit B**  
**to Affidavit of**  
**Respondent Vernon Sykes**



**MEMORANDUM**

TO: Members of the Ohio Redistricting Commission  
FROM: Attorney General Dave Yost  
DATE: March 18, 2022  
RE: Steps forward following the decisions in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al. III* and companion cases

=====

Late in the evening of March 16, the Ohio Supreme Court struck down the third set of state legislative maps. Whether I, or you, agree with the majority in this most recent decision is irrelevant. Four justices have decreed what the rules for this round of redistricting shall be. You are left with little choice but to abide by them. Accordingly, this memorandum outlines a set of steps calculated to address the perceived deficiencies raised by the majority of the Court.

I offer this framework as the chief legal officer of the state, having neither a vote nor a veto over your work. This is not a map of all possible roads to the objective of complying with the elements of the Supreme Court's decisions, but one suggested route. The Commission may choose to devise another. This is offered as a means to commence your discussions.

**Meetings**

The Court made much of the relatively modest number of meetings held before the February 4, 2022 Plan was enacted, and the lateness of their calling. In its most recent order, the Court only gave the Commission ten days to produce a new map, two days of which have already expired.

The Commission apparently has scheduled a meeting for tomorrow--an excellent first step. I suggest that the commission agree at that first meeting on a schedule of meetings, and to publish it. Given that only seven days remain, daily meetings would not be excessive to respond to what some of you have correctly termed a constitutional crisis. I understand one of you has already cancelled an out-of-state trip so as to be available during this period--a commendable and appropriate sacrifice in view of the seriousness of this moment. One or more members may also arrange to participate remotely by electronic means if necessary and agreeable to the commission.

## **Staffing**

The Court directed the commission to hire new mapmakers not beholden to either political caucus. “The commission should retain an independent map drawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan through a transparent process.” (at paragraph 30) I note that Court used “should” and not “shall,” but given that this matter is heard in the Supreme Court without meaningful appeal regarding the limits of its authority, it would be wise to treat this suggestion with the degree of deference one might pay to the suggestions of one’s spouse.

To assist the commission in this effort, I have retained a bipartisan duo of consulting experts through my office, who together can achieve the level of independent evaluation the court is requiring. I will make them available to the commission as a whole.

Sean Trende, a Republican analyst well-known to the readers of *Real Clear Politics*, or even causal viewers of cable news, and Bernie Grofman, a Democratic professor of political science at the University of California-Irvine, recently collaborated to produce maps for the State of Virginia. Their work was unanimously adopted by the Virginia Supreme Court.

Their charge should be simply to produce a map that complies with the Ohio Constitution and the orders of the Ohio Supreme Court. They understand the time limits of the court, the terms of the Constitution and the decisions regarding it and are prepared to go to work immediately.

Of course, you are not required to use them; I have undertaken to retain them because of the exigent circumstances created by the very short time allowed by the Court. Nor are you required to adopt their maps. It is my hope, however, that you will--their success in Virginia strongly commends them and their work to your consideration.

## **Drafting in Public**

The Court further wrote that the map-making should be done in public. “To promote transparency and increase public trust, the drafting should occur in public.” (at paragraph 44)

The actual map-making is highly technical and performed on a single work-station. I do not read the Court’s opinion to say that seven people should be jockeying in a public room to direct the operator of the mouse to do this or that conflicting action.

To comply with the Court’s direction, I suggest that the Commission take public actions that achieve the clause seeking transparency and public trust. To that end the Commission could publish any maps at least 24 hours before a vote; meet in public, and receive a progress reports in public from the mapmakers prior to the completion of a map, and discuss in public any sticking points between map drafts or particular districts permutations. I believe a process like this is compliant with the public map making directive issued by the Court.

## Additional Criteria

- The Court has now established <52% as the threshold for a "leaning" district; any index less than that is viewed by the Court as a competitive district. The Court will exclude competitive districts from its partisanship calculation. That is, if there are 32 competitive districts, then the remaining 100 districts must closely correspond to the 54 Republican to 46 Democrat ratio the majority has established.
- The Court wrote that efforts to protect incumbents are improper. Such efforts "...can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A)." (at paragraph 37)
- While competitive districts will not be counted in overall partisan balance, the Court in *dicta* was bothered by the imbalance in the number competitive districts (meaning those with an expected favorable margin of less than 52%) leaning Democratic versus those leaning Republican. While the clustering of Democrats in urban enclaves creates challenges to making Republican-leaning districts more competitive, I would be remiss if I failed to note the Court's observation.

This is meant to be a summary of the major objections in *League III*. The Constitution and the Court's actual opinions are controlling, of course, and my office stands ready to assist the Commission in navigating the multiple and sometimes competing objectives.

Finally, a note about process. I have served on several multi-member bodies, and I've learned it is always a temptation to love too much my own advice, and my own theory of law. I keep this passage from the Ohio Jury Instructions handy, and often review it before meetings:

*It is not wise to immediately express a determination to insist upon a certain verdict, because if your sense of pride is aroused, you may hesitate to change your position even if you later decide you are wrong.*

*Consult with one another, consider each other's views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment.*

*Each of you must decide... for yourself, but you should do so only after a discussion and consideration of the case with (the others).*

*Do not hesitate to change an opinion if convinced that it is wrong. However, you should not surrender honest convictions in order to be congenial or to reach a verdict solely because of the opinion of other(s).*

The hour is late, and I do not envy your task. I hope this memorandum has made it easier to "begin again."

**Exhibit C**  
**to Affidavit of**  
**Respondent Vernon Sykes**

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

CHAMBERS OF  
JEFFREY S. SUTTON  
CHIEF JUDGE



TELEPHONE  
(614) 849-0134  
FACSIMILE  
(614) 849-0124

March 22, 2022

**VIA EMAIL**

The Honorable Robert R. Cupp  
The Honorable Vernon Sykes  
Co-Chairs, Ohio Redistricting Commission

Dear Co-Chair Cupp and Co-Chair Sykes:

This letter is to confirm that the Ohio Redistricting Commission has engaged the services of the Office of the Circuit Mediators of the United States Court of Appeals for the Sixth Circuit to provide mediation services. Mediators Catherine Geyer and Scott Coburn will assist the Commission in negotiations to develop a state legislative district map. The expected timeframe of this engagement will begin immediately and continue through the conclusion of the approval process. Mediation services are provided as part of the mediators' services to the Court. There are no fees or expenses to the Ohio Redistricting Commission.

Consistent with the mediation practices of the Sixth Circuit, the Circuit Mediators will not share mediation communications with any judges within the Sixth Circuit, including district judges.

Sincerely,

/s/

Jeffrey S. Sutton

cc: Marc Theriault, Circuit Executive  
Catherine C. Geyer, Chief Circuit Mediator  
Scott Coburn, Circuit Mediator

85 MARCONI BOULEVARD, COLUMBUS, OHIO 43215

**Exhibit D**  
**to Affidavit of**  
**Respondent Vernon Sykes**



March 20, 2022

Dear Commissioners,

In our meeting yesterday, this commission set out a straightforward task to reconvene, possibly tonight, with recommendations for independent map drawers that could produce constitutional legislative districts. In an effort to aid our work as a commission, Attorney General Dave Yost retained two well-known, independent map drawers of national note, Bernard Grofman and Sean Trende.

The Democratic commission members today spoke with Grofman and Trende, as well as other highly qualified map drawing experts. We are in favor of the commission engaging the Attorney General's suggested mapmakers. We have also been in touch with nationally renowned mediators who could serve later in this process to help the commission finalize a bipartisan, constitutional set of legislative maps.

It is unfortunate that our colleagues were not prepared for a meeting tonight, which was tentatively scheduled for 7 p.m. As the deadline imposed on us by the Supreme Court of Ohio looms, time is of the essence. However, we remain confident that these issues can be resolved at our next meeting, scheduled for Monday, March 21 at 7 p.m., and the map drawing may immediately begin. There is still time for this process to result in the bipartisan, constitutional maps that the people of Ohio expect and anticipate from the commission.

Respectfully,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

**Exhibit E**  
**to Affidavit of**  
**Respondent Vernon Sykes**



March 21, 2022

Dear Commissioners,

As every member of the Ohio Redistricting Commission is aware, the Supreme Court of Ohio gave us a deadline of next Monday, March 28 to complete our constitutional duty to produce state legislative maps in accordance with the Ohio Constitution and the Supreme Court's orders.

Our Attorney General has offered his opinion that to meet the Court's demand of frequent meetings, that "daily meetings would not be excessive." In that spirit, we propose the following daily schedule for the Ohio Redistricting Commission:

- *The previously scheduled Tuesday, March 22 meeting at 9:00 AM*
- *Wednesday, March 23 at 5 PM*
- *Thursday, March 24 at 4 PM*
- *Friday, March 25 at 10 AM*
- *Saturday, March 26 at 1 PM*
- *Sunday, March 27 at 4 PM*
- *Monday, March 28 at 10 AM*

The above proposal is fair and meets the obligations set forth by the Supreme Court of Ohio and reiterated by the Attorney General.

Respectfully,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

**Exhibit F  
to Affidavit of  
Respondent Vernon Sykes**



**OHIO REDISTRICTING COMMISSION**

---

March 23, 2022

Michael McDonald  
Professor, University of Florida  
Department of Political Science  
222 Anderson Hall  
P.O. Box 117325  
Gainesville, FL 32611

Dear Dr. McDonald:

This letter confirms that the Ohio Redistricting Commission has approved the use of your professional services to assist the Commission, and its designated staff, in the timely production of state legislative district maps pursuant to directions provided to you by the Commission.

Your hourly rate is \$450 plus related expenses for all state legislative district map work through March 28, 2022. The wages and expenses are capped at \$49,000.

Sincerely,

A handwritten signature in black ink that reads "Robert R. Cupp".

---

Speaker Robert R. Cupp, Co-Chair

A handwritten signature in black ink that reads "Vernon Sykes".

---

Senator Vernon Sykes, Co-Chair



**OHIO REDISTRICTING COMMISSION**

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March 23, 2022

Douglas Johnson  
National Demographics Corporation  
P.O. Box 5271  
Glendale, CA 91221

Dear Mr. Johnson:

This letter confirms that the Ohio Redistricting Commission has approved the use of your professional services to assist the Commission, and its designated staff, in the timely production of state legislative district maps pursuant to directions provided to you by the Commission.

Your hourly rate is \$450 plus related expenses for all state legislative district map work through March 28, 2022. The wages and expenses are capped at \$49,000.

Sincerely,

A handwritten signature in black ink that reads "Robert R. Cupp".

---

Speaker Robert R. Cupp, Co-Chair

A handwritten signature in black ink that reads "Vernon Sykes".

---

Senator Vernon Sykes, Co-Chair

**Exhibit G**  
**to Affidavit of**  
**Respondent Vernon Sykes**



**OHIO REDISTRICTING COMMISSION**  
**Ground Rules for Map Drawers – As Adopted on 3.23.2022**

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- 1.) The map drawers shall include the two independent map drawers hired by the Redistricting Commission and Commissioners' staff/contractor map drawers.
- 2.) The independent map drawers shall draft any General Assembly district plan at the direction of the Redistricting Commission and in accordance with the Ohio Constitution and Supreme Court of Ohio's orders.
- 3.) The independent map drawers shall answer to each of the Redistricting Commission members. However, any conflicting direction from the Redistricting Commission members shall be resolved via the mediation process described below. (See Rules 12-16)
- 4.) The independent map drawers shall produce an entirely new general assembly district plan that has not been previously submitted to the Redistricting Commission. The independent map drawers shall not include or consider any general assembly plan proposals or work product produced prior to Wednesday, March 23, 2022 when drafting the entirely new general assembly district plan.
- 5.) The map drawers shall utilize statewide election results and geography from 2016, 2018, and 2020 for the purpose of measuring the partisan lean of individual districts.
- 6.) When considering the election results, Republican votes cast plus Democratic vote casts shall equal 100% of the total vote.
- 7.) Any General Assembly district plan shall be drawn in Maptitude.
- 8.) The independent map drawers shall utilize one computer purchased by the Redistricting Commission to draft any general assembly district plan. Two additional computers may be used for preparation purposes by the independent map makers on site.
- 9.) Racial data will neither be loaded onto the computers nor shall it be utilized by the map drawers in any way.
- 10.) The independent map drawers shall draw a general assembly district plan that conforms with the Ohio Constitution including Article 11, Sections 1, 2, 3, 4, 5, 6, and 7, the Constitution of the United States and applicable federal laws.
- 11.) The independent map drawers shall draw a general assembly district plan that conforms with the opinions of the Ohio Supreme Court and the United States Supreme Court.
- 12.) Should the independent map drawers encounter a disagreement between themselves regarding the application of Art. 11 of the Ohio Constitution and/or the opinions of the Ohio Supreme Court, the issue shall be referred to the full Commission.

- 13.) Should the full Redistricting Commission reach a unanimous consensus, the independent map drawers shall implement the instructions of the full Redistricting Commission.
- 14.) Should the full Redistricting Commission not be able to resolve the issue by unanimous consensus, the issue shall be referred to mediation.
- 15.) Should mediation fail to resolve the issue, the issue shall be presented to the full Redistricting commission for a vote. A majority vote of the Commission shall resolve the issue.
- 16.) The map drawers will then implement the decision of the Commission regarding the disputed issue.
- 17.) Upon adoption of a general assembly district plan the independent map drawers shall complete and file with the Secretary of State, a geographical legal description of each House and Senate district, shape files, equivalency files and county population and filing location for the most populous county in each district, and any applicable Art 11, Sec. 5 Senate assignments in a manner requested by the Secretary of State within ten days.
- 18.) The independent map drawers agree that they have been hired by the Ohio Redistricting Commission, and as such, they owe a duty of fidelity to the Ohio Redistricting Commission. Accordingly, the independent map drawers shall not discuss or communicate with any person, organization, or group – aside from the Ohio Redistricting Commission and the Commission members’ staffs—regarding any aspect of the substance of any redistricting plan. Failure to abide by this requirement may result in the immediate termination of the independent map drawer’s contract along with all available remedial measures caused by the independent map drawer’s breach of their duty of fidelity to the Ohio Redistricting Commission.
- 19.) The meetings of independent map drawers will be held in Room 116 in the Ohio Statehouse. This will be the designated work space for the independent map drawers. No materials shall be taken off site.
- 20.) The Statehouse’s Ohio Government TV will livestream the map making process in Room 116. OGT will stream the map drawers whenever they are working in the room.
- 21.) Commissioners or their designated staff shall have unlimited access to the map drawers, but shall contact both Dr. McDonald and Mr. Johnson simultaneously.
- 22.) The independent map drawers will provide regular progress updates to the Commission at each of the Commission’s scheduled meetings.
- 23.) Commissioners can expect to provide feedback and guidance to the independent map drawers in these meetings in addition to their individual outreach to the independent map drawers as provided in Rule 21.
- 24.) Public access will be only be available in a nearby room where video from the work room will be broadcast.

**Exhibit H  
to Affidavit of  
Respondent Vernon Sykes**

**From:** Rowe, Mike Mike.Rowe@ohiosenate.gov  
**Subject:** Response from Co-Chair Sykes  
**Date:** March 26, 2022 at 1:50 PM  
**To:** Christine.Morrison@ohiohouse.gov  
**Cc:** Paul.Disantis@ohiohouse.gov



Hello Christine,

Here is the response from Senator Sykes to the memo from Speaker Cupp.

Mike Rowe  
Senate Minority Chief of Staff

\*\*\*\*\*

Dear Co-Chair Speaker Cupp,

This letter serves as a follow up to our phone conversation earlier today.

First, I do not believe the proposed memo I received on March 25, 2022 regarding the independent mapmakers is appropriate at this time.

The independent mapmakers have previously agreed to provide different options for Franklin County and President Huffman is welcome to follow up with them any hearing. Under the independent map drawer ground rules adopted by the Commission, each Commissioner has the right to express their views or make requests to the map drawers. They can do so at a meeting or whenever else they want, so long as the Commissioner addresses both map drawers at the same time.

I do agree it is reasonable for the Commission to get information from the map drawers in advance of each Commission meeting. But rather than interrupt the map drawers themselves, I think the map drawers should work with the designated staff of Commissioners to determine how to provide updated information to the Commissioners in advance of meetings. I suggest we present and adopt this revised procedure at the next meeting.

Finally, the map drawers have our instructions and requirements from the ground rules, and I do not believe we should unnecessarily emphasize some instructions or requirements over others. I believe any change to the ground rules is unnecessary at this time.

Sincerely,

Senator Vernon Sykes, Co-Chair  
Ohio Redistricting Commission

IN THE SUPREME COURT OF OHIO

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

---

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

**Introductory Information**

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. I serve as a Commissioner on the Ohio Redistricting Commission ("Commission"). I am the only woman on the Commission. I serve as a representative from the Democratic Party, along with Co-Chair Senator Vernon Sykes (together, the "Democratic Commissioners"). The remaining five Commissioners are Republicans (together, the "Republican Commissioners").
4. I was sued in the above-captioned case and am a named Respondent. The Ohio Supreme Court, however, has recognized that my interests align more with the Petitioners than that of the Commission or the Republican Commissioners. Opinion 2022-Ohio-65, ¶ 66. I have urged the Supreme Court to invalidate the Commission's previous General Assembly maps because they violated Section 6, Article XI of the Ohio Constitution.
5. On March 16, 2022, the Ohio Supreme Court declared the Commission's third General Assembly plan (the "Third Plan") invalid and directed the Commission to create a new plan by March 28, 2022. Opinion, 2022-Ohio-789 ("*LWV III*").
6. On March 30, 2022, the Supreme Court ordered that "responses, if any," to "petitioners' motion for an order directing respondents to show cause for why they should not be

held in contempt of the court’s March 16, 2022 order,” be filed by April 4, 2022. I submit this affidavit in response to that order. I have filed three affidavits in this case previously, each detailing my efforts to comply with the Ohio Constitution and this Court’s orders. I incorporate those by reference. *See* March 2, 2022 Affidavit of C. Allison Russo; February 23, 2022 Affidavit of C. Allison Russo; January 28, 2022 Affidavit of C. Allison Russo.

7. The Petitioners’ motions for an order to show cause accurately describes the Commission’s process and actions following the March 16 order. As described, the Commission hired independent mapdrawers (one selected by each caucus), who were drawing maps from scratch, in public, with direction from the Commission which was meeting almost daily. But, just days before that transparent, independent process to develop a constitutional plan concluded—when my Republican colleagues could see that an independent plan would emerge—they attempted to undermine the entire process.

8. The result: just minutes before the independent mapdrawers completed the most final version of their map, Co-chairman Cupp with Senator Huffman’s second proposed adopting maps, drawn by the Republican mapdrawers alone, that were over 97% the same as the Third Plan this Court already held unconstitutional. The Republicans would not allow any amendments or even time to review. And, with a vote of four of the Republican Commissioners, the Commission adopted that plan (the “Fourth Plan”). I voted against that plan and instead for the independent mapdrawers’ plan.

9. I understand that Petitioners again seek to have this Court hold the Commission and/or Commissioners in contempt. Last time that Petitioners made such a request, the Commission (over my dissent) failed to adopt a map at all even though the Democratic Commissioners and Petitioners had presented constitutional maps that could have been adopted.

This time there is a plan, but, as I said in our March 28, 2022 Commission meeting as the Republican Commissioners again violated their duty to adopt a constitutional map, it was a “farce.” As before, the Republican Commissioners could have adopted a constitutional plan. They had been observing, monitoring, and guiding the independent mapdrawers for days. But they chose not to because it would weaken their supermajority.

10. As detailed below, since this Court’s March 16 order, I worked diligently alongside Co-Chair Sykes to comply with the order. Together, we (1) requested that the Commission meet immediately and often; (2) identified and procured independent mapdrawers and mediators; (3) were willing to work collaboratively with the other Commissioners and their staff on any plans or ideas had they been proposed; and (4) moved to adopt a new constitutional plan prepared in public by the independent mapdrawers. Because I worked diligently to help the Commission produce a constitutional plan, voted for that constitutional plan, and opposed the Republican Commissioners’ last-minute takeover and unconstitutional Fourth Plan, I respectfully request that the Court does not order me to show cause or hold me in contempt.

11. But I do ask the Court to take strong action to ensure that the Commission adopt a constitutional map before the federal court usurps our constitutional process and selects a plan on April 20, 2022. Indeed, that court has indicated that it is even entertaining mandating plans that this Court has held are unconstitutional. With Article XI, the voters of Ohio asked for the Commission to draw fair maps and entrusted the Ohio Supreme Court with both the power and responsibility to protect that choice. It is still my hope that, with this Court’s help, we can fulfill that responsibility to the people of Ohio.

**Immediately After the Court’s Order, the Democratic Commissioners Worked Diligently to Arrange for Frequent Meetings and for a New Plan to be Drawn in Public by Independent Experts.**

12. **Wednesday, March 16, 2022.** As urged by the Democratic Commissioners, the Ohio Supreme Court invalidated the Third Plan in an opinion and order published at approximately 9:45pm on March 16, 2022. Having received notice of the Court’s order on Wednesday evening, I hoped that a notice of the Commission’s next meeting would be issued post haste, but was prepared to call for one if not, as the Commission needed to reconvene to, once again, adopt new maps.

13. The March 16 order set forth clear rules and guidance for the Commission that I diligently worked to follow throughout the process. After holding the Third Map invalid, the Court described a process that should be followed. It held that the Commission “be reconstituted” and that “the commission draft and adopt an entirely new General Assembly-district plan.” *LWV III* ¶ 44. Based on the Court’s explanations, I took this to mean that the Commission itself, rather than the partisan staff who had been drawing maps, had to oversee the mapdrawing process. The map had to be “entirely new”—that is, not start from one of the previous unconstitutional versions. And the Court said that we should hire an “independent” mapdrawer that answers to the entire Commission—not just some Commissioners—“to draft a plan” for the Commission. *LWV III* ¶¶ 30, 44. And it stated that the process should be “transparent,” that “drafting should occur in public,” and that “the commissioners should convene frequent meetings.” *LWV III* ¶ 44.

14. The March 16 order also made clear the substantive requirements for adopting a constitutional map. It invalidated the Third Plan in part because of the “gross and unnecessary disparity in the allocation of close districts,” as the Third Plan had 19 so-called Democratic-leaning House districts and 7 so-called Democratic-leaning Senate districts that were in the 50 – 52%

margin, and no such Republican-leaning House or Senate districts. *LWV III* ¶ 43. That meant, going forward, the Commission needed to draw a plan that met the 45-54 proportionality ratio, as close as possible while complying with Article XI, §§ 2, 3, 4, 5, and 7—but in doing so, competitive seats of between 50 and 52% needed to be symmetrically allocated and not be so one-sided against either party.

15. The Court gave the Commission a deadline of March 28 to file a new plan with the Secretary of State and until March 29 at 9am to file the plan with the Court.

16. **Thursday, March 17, 2022.** The morning after receiving the Ohio Supreme Court's decision that the Commission's maps were unconstitutional and the order for the Commission to draw new constitutional maps, I directed my staff to follow the Court's order, prepare for the Commission to adopt constitutional maps, and make themselves available to the other Commission members and their staff.

17. Because I had not yet seen a notice of a scheduled meeting, I sent a letter to my fellow Commissioners urging that we meet frequently and hire independent map drawers. A copy of that letter is attached as Exhibit A. I received a letter that day from Co-Chair Sykes calling for immediate and frequent meetings as well.

18. I also wrote to Senator Robert McColley on March 17 to arrange for the Legislative Task Force on Redistricting Co-chairs to allocate whatever funding might be necessary to the Commission to engage independent map drawers. Senator McColley and I serve as co-chairs of that Task Force, and from that role I knew (as I had said at multiple Commission meetings) that there were ample funds to hire experts and other support for the Commission.

19. **Friday, March 18, 2022.** On Friday, March 18, I was pleased to see that the Commission co-chairs had noticed a Commission meeting at 2:00pm the next day.

20. I also received a memo sent to all Commissioners by the Attorney General that evening, which is attached as Exhibit B. The Attorney General, in his role as “chief legal officer of the state,” took the opportunity to explain the March 16 order to the Commissioners and make recommendations about “steps forward.” Yost encouraged daily meetings and drafting in public. He also states that “[t]he Court directed the commission to hire new mapmakers not beholden to either political caucus,” and, to that end, explained that he had retained Sean Trende, a Republican analyst, and Bernie Grofman, a Democratic professor of political science, to help in the mapdrawing process. The pair had just completed state legislative maps that are now being implemented in Virginia.

21. As to the substance of drawing a plan, the Attorney General also told us that districts that were drawn to have between 50% and 52% partisan slant were considered “competitive” districts and could not be counted as Democratic or Republican leaning; they are “exclude[d]” from the proportionality calculation. He also warned that “efforts to protect incumbents are improper.”

22. I was encouraged by this memorandum, as I believed it set forth some important steps the Commission needed to take and provided a clear and faithful interpretation of the Court’s order. If the Republican Commissioners were willing to follow their own Attorney General’s advice and interpretation, we could adopt a constitutional map.

23. **Saturday, March 19, 2022.** On Saturday, March 19, 2022, the Commission reconvened for the first time since the Court’s order invalidating the Third Plan. The Commission tentatively agreed to retain independent mapdrawers—one selected by each caucus—who would be charged with drawing a plan that was compliant with the Ohio Constitution and this Court’s orders. And there was consensus, including several statements from Governor DeWine, that the

independent mapdrawers should just be ordered to follow the Ohio Constitution and the Court's three decisions, Tr. 3/19/2022 at 00:40:14, 01:15:47, nothing else. President Huffman, acknowledging that the Court had singled him out for his previous prioritizing of incumbency, stated: "I think [prioritizing incumbency] was also criticized by the court [and] that we should not consider incumbency in drawing these maps. So I just want to kind of get that out." Tr. 3/19/2022 at 46:22.

24. The Commission decided to empower the co-chairs to prepare a recommendation for a pair of mapdrawers. I expressed concern that the Commission itself, rather than the Attorney General, should hire independent mapdrawers; as it was our duty in the Constitution and as articulated by the Court. I also expressed concern that Mr. Trende, one of the experts the Attorney General had selected, had already appeared as an expert witness for the Republican Commissioners in this very case. While I explained that any expert was going to have bias and have appeared in the past for previous political parties or advocacy groups, I was concerned about direct conflicts of interest in this same matter. But I did not close the door on the Attorney General's recommendation and kept an open mind; it was important that we move quickly to get independent mapdrawers working.

25. Also at the March 19 meeting, the Commission scheduled meetings each day through Tuesday, March 22, and the Commission directed all the Commissioners' staff to work together over the weekend until independent mapdrawers were hired.

26. I believed the Commission meeting went well, but I was concerned by Co-chair Cupp's comments that other Commissioners seemed excessively optimistic. Tr. 3/19/2022 at 1:00:44. Likewise, while I was encouraged by Governor DeWine's comments emphasizing the Commission's duty to adopt maps and follow the Court's orders, I was also concerned by the

Governor's comments suggesting that it might not be possible to draw a constitutional map. I believed and still believe that maps complying with Article XI, Sections 2, 3, 4, 5, and 7, and 6 can be created in a relatively short period of time and well within the time frames ordered by the Court. The record clearly shows it is achievable. But I felt apprehensive because of the three previous refusals of Republican Commissioners to follow the dictates of our state constitution. And even at this first meeting, the Republican Commissioners were planting the seeds for the process to fail; saying that there would not be enough time (there was) or that a constitutional map satisfying the Court's orders was impossible (it's not). But I also felt excited to try again, finally with a process the people deserved: independent mapdrawers whose work would be livestreamed to the public. I knew we could adopt constitutional maps and pressed forward despite signals from some Republican Commissioners that they might run the same playbook of denial, delay, and dereliction.

27. I asked my staff to identify potential independent mapdrawers and attempt to set up meetings so we could have multiple options.

28. After the Commission meeting, at around 6:00pm, Mr. Randall Routt contacted all Commissioners' staff letting them know he, Democratic contractor Chris Glassburn, and my staff were available to meet over the weekend as the Commission had just directed.

29. **Sunday, March 20, 2022.** I proceeded with identifying and meeting with potential independent mapdrawers, as I wanted the Commission to retain a pair of mapdrawers to start as soon as possible. My staff set up calls with Nathaniel Persily and Michael McDonald in the morning. The Attorney General scheduled a call for Co-Chair Sykes and me to meet his recommended experts Bernard Grofman and Sean Trende in the afternoon. Dr. Persily indicated that he was available but only as a solo independent mapdrawer. Dr. McDonald indicated he would

be available and could work in a pair and in public with another mapping professional selected by the other Commission members if needed. Mr. Grofman and Mr. Trende indicated that they could work well together and complete Ohio maps in a short time, but they had some schedule limitations and Mr. Grofman could not be in Ohio in person.

30. Despite my concerns, Senator Sykes and I agreed that we would recommend proceeding with the Attorney General Grofman/Trende recommendation because we wanted to move quickly and, given that they had been recommended by the Attorney General, we thought it might be the most acceptable pair to the other Commissioners. We expressed such agreement in a letter we sent to the other Commissioners that day, attached as Exhibit C. We hoped that our agreeability would speed up the process by allowing the Commission to approve hiring experts that night. If the Commission decided against the initial pair, we would proceed with recommending Dr. McDonald.

31. Additionally, my staff reported to me that they met with the other Commissioners' staff for about 90 minutes on this Sunday to discuss what the independent mapdrawers would need to begin and complete their process. My staff described it as an agreeable meeting, and we were ready for the 6:00pm Commission meeting that evening to make our recommendations for mapdrawers. We had an abundance of options and the direction that we as a Commission would give to the mapdrawers seemed clear.

32. Unfortunately, later that afternoon, Co-Chair Sykes informed me that Co-Chair Cupp wanted to cancel that night's meeting because he was not prepared with a mapdrawer recommendation and because many of the Republican Commissioners were not available. I felt confident that independent mapdrawers could complete maps for Ohio quickly, but I was

concerned about what I viewed as an unnecessary delay in getting them started. Senator Sykes and I decided the next morning to insist that all scheduled meetings go forward.

33. **Monday, March 21, 2022 — Wednesday, March 23, 2022.** During the early part of the week, the Commission made progress on setting up an independent and transparent mapdrawing process. It made progress in several ways:

34. *First*, the Commission retained two independent mapdrawers; one selected by each caucus. On Monday, March 21, 2022, I learned that the Republicans had decided not to go along with the Attorney General’s Grofman/Trende recommendation and instead chose Dr. Douglas Johnson. Co-Chair Sykes and I selected Dr. McDonald, who could arrive in Columbus the next day. The Commission approved hiring these two experts to work together to draft a plan. The Commission also agreed to ground rules for the independent mapdrawers during a meeting on Wednesday, March 23. By those rules, the mapdrawers were instructed to draw maps from scratch (not based on previous plans) that complied with the Ohio Constitution and the Court’s orders—no other considerations were included. The rules set up a transparent process where Democratic and Republican staff could always be present, and the public could view the workroom via livestream.

35. *Second*, the Commission decided to utilize mediators. Co-Chair Sykes had been working on identifying potential mediators to aid the Commission in case of disagreements between the members or disagreements between the mapdrawers. At the Monday, March 21, 2022 meeting, at Co-Chair Sykes’ invitation, the Commission heard a presentation from the Sixth Circuit’s Chief Mediator, and the next day the Commission decided to utilize the Sixth Circuit’s mediation office to resolve disputes should any arise. My staff and I met with the mediators to have introductory conversations and learn about the mediation process.

36. *Third*, the Commission adopted a schedule of daily meetings extending the Court’s March 28 deadline. The Commission also engaged the Sixth Circuit mediators to assist the Commission where needed in the days ahead. Later that evening, Dr. McDonald arrived in Ohio.

37. Throughout each of these days, my goal was to keep the process moving as quickly as possible while complying with the constitution and this Court’s orders. That meant while I may have preferred different ground rules or different processes, I held my objections to a minimum to facilitate the completion of this process. I truly believed that the Commission could adopt a constitutional map through a transparent process with independent mapmakers. At the same time, however, based on their past actions, I was worried that my fellow commissioners might sabotage or abandon this new process at any time.

**The Independent Mapdrawers, following a Transparent and Collaborative Process,  
Worked Diligently to Complete a Constitutional Map.**

38. **Thursday, March 24, 2022.** The mapdrawers commenced their work on Thursday, March 24. At approximately 8:00am, the Ohio Channel began to livestream the “workroom”—a committee room at the Capitol that was set up for the mapdrawers. Legislative staff set up computers and installed the necessary software. There were some delays in getting the proper data in the software program, and my staff reported to me that the Republican mapmakers were not being helpful in resolving these issues. But once these issues were resolved, the mapmakers got to work.

39. I directed my staff to make sure that either Mr. Glassburn or Mr. Rouff were always in the workroom with the independent mapdrawers to provide any assistance requested.

40. At the Commission’s 7:00pm meeting, the mapdrawers provided an update on their progress to the Commission, then got back to work.

41. **Friday, March 25, 2022.** The independent mapdrawers continued to work diligently and made progress toward completing a plan. There was no indication that they would not finish on time or would be unable to comply with the Court’s orders. Quite the opposite, though belated, I was finally seeing an independent and transparent process to draw maps that were compliant with the constitution and not designed to entrench the Republicans’ supermajority. The fair process that Ohio voters had asked for was taking shape. I observed the independent mapmaking process both by visiting the workroom and via the livestream. Dr. McDonald and Dr. Johnson each had separate computers where they could draft and try out ideas. They sat next to each other and chatted frequently. They suggested different ideas, each pursuing different suggestions not based on partisan advantage or hidden motives, but in a pure attempt to just see what would work. They were developing a truly independent map, in public, with no single party pulling strings behind the scenes.

42. While the independent mapdrawers were making good progress and following the Commission’s ground rules, it was clear that my Republican colleagues were becoming frustrated by the possibility that it would be successful. Our Commission meetings became filled with Republican complaints about printouts not being large enough, maps not being shared long enough in advance before meetings, not enough options for each region being provided, and not enough Commissioner input. Yet, each time the independent mapdrawers asked for guidance, the Commission refused to give it. Even if we recessed to have more time to look at proposed options, the Commissioners still refused to provide the requested guidance.

**Over My Objection, the Republican Commissioners Prioritized Protecting Incumbents and Attempted to Derail the Independent Mapdrawers’ Progress.**

43. **Saturday, March 26, 2022.** By Saturday, March 26—with two full days left before our deadline—each of the mapdrawers had completed a draft House map to present to the

Commission. (House maps were completed first because Senate districts are combinations of three House districts.) Both plans had 45 Democratic-leaning House districts and 54 Republican-leaning House districts. Not only had both the Republican-selected and the Democratic-selected independent mapdrawers achieved partisan proportionality, but they had achieved almost perfect partisan symmetry for competitive districts. Both maps had three Democratic-leaning districts between 50% and 52%; the Johnson map had two such Republican districts; and the McDonald map had three.

44. At the 4:00pm Commission meeting, after hearing the update from the independent mapdrawers, it was clear that they could timely complete the task. Each had drawn proportional and symmetrical maps, and there were not too many disagreements between the two.

45. The Republican Commissioners, however, seemed to want to obstruct and discredit the independent process in any way possible. The Republican Commissioners, for example, started to complain that the maps were not compact (they were). And President Huffman's main complaint was that the maps placed several Republican incumbents in the same district (a practice he called "double bunking"). At that point, the independent mapdrawers did not have access to any addresses for incumbents; so any double bunking was inadvertent and a byproduct of drawing constitutional maps. But President Huffman and the Republican Commissioners indicated that they would never support a map that did not protect their colleagues. President Huffman had apparently already forgotten what he had told us at the first Commission meeting on March 19—that we shouldn't consider or prioritize incumbents. He proposed that, before a merged clean map was even drawn, incumbency data be added and that the mapdrawers be directed to avoid placing multiple incumbents in the same district to the extent possible. Though President Huffman's

concern started out targeted at Senators who were in the middle of their terms, it expanded to wanting, to the extent possible, all House and Senate incumbents protected by the new maps.

46. I immediately objected, as did Co-Chair Sykes. I was concerned that adding in incumbency data would slow down the process and make the maps less compact and symmetrical. The goal was to produce constitutional maps; that was our top priority, not protecting incumbents. And the Court had warned us about using incumbency data and the Attorney General, following that opinion, told us it was “improper.” Co-Chair Sykes suggested that the issue go to mediation.

47. **Sunday, March 27, 2022.** On Sunday, March 27, we worked with the mediator on coming to a resolution of the incumbency issue. Though I did not want any incumbency data used, we also had to face the reality that the Republican Commissioners have the majority, and they wanted—as they stated at the Commission meetings—to require the independent mapdrawers to incorporate incumbency into their maps *even before* they had created a single constitutional map without incumbent consideration. To move the process forward, we agreed to a resolution that would allow the independent mapdrawers to draw a clean map first, before tainting it with trying to protect all the incumbents.

48. The final resolution of our mediation was an agreement to instruct the mapmakers, which we did, as follows: “Upon completion of the independent map drawers’ merger of their independent versions of the House and Senate maps and prior to any presentation to the Commission, the independent mapdrawers shall consider the residence locations of non-term limited House and Senate incumbents, and Senate incumbents in mid-term, in drafting a Commission map, and where possible without violating constitutional principles, avoid pairing incumbents and also drawing districts such that Senators protected under Section 5 of Article 11 no longer live in the district they represent. Incumbents will be identified as House or Senate and

no other identifying information shall be used.” *See* Mediation Agreement—Instructions to Mapdrawers with Regard to Incumbents, as adopted March 27, 2022.

49. At the March 27 hearing, each independent mapdrawer also presented their plans. Before combining them and producing a unified set of maps, they sought the Commission’s input again. There were multiple different options the Commission could select and get a constitutional result, and the Commission could choose. For example, they wanted the Commission’s decision—as they had asked the previous day—as to whether a district drawn that included some of Montgomery County should extend to Greene County or to Preble County. The Commission recessed to evaluate the different plans. Upon returning from the recess, I moved that the Commission provide direction to the independent mapdrawers about the various areas they had given us choices about.

50. Yet, even after recess and time to consider the various proposals, the Republican Commissioners opposed voting to give clear guidance on these issues to the mapmakers. Several of the Commissioners expressed their informal views, and then I asked that the mapmakers move forward with their understanding based on that discussion. In my view, it was hypocritical that the Commissioners had been asking for options and choices, and then when presented with options and choices that would be constitutional, the Republican Commissioners would not provide feedback. But I did not want these choices—or lack thereof—to delay the independent mapdrawers’ work, so I asked them to continue.

**The Republican Commissioners Abandoned the Independent Process and Refused to Fulfill Their Obligation to Adopt a Constitutional Map.**

51. **Monday, March 28, 2022.** On Monday morning, my staff informed me that the independent mapmakers had decided on a unified plan and were working to ensure that it did not have any technical errors. As they explained to the Commission at the 11:00am meeting, that plan

achieved perfect partisan proportionality in both the House and Senate. It also was symmetrical with respect to competitive seats; there were three Democratic-leaning and three Republican-leaning House seats between 50% and 52%; and two Democratic-leaning and no Republican-leaning Senate seats between 50% and 52%. That plan (the “Pre-Incumbent Independent Plan”) was posted on the Commission’s website.

52. The goal of creating a constitutional map had been achieved. And the mapmakers stated that, before the Court’s deadline, they would add the incumbent data, which was being loaded into their computers, and alter the map to unpair as many incumbents as possible without violating any of the constitutional requirements.

53. The Commission met again in the afternoon to review the independent mapdrawers’ progress. Dr. Johnson and Dr. McDonald announced that they were just a couple of hours away from completing the new maps that adjusted district lines to protect incumbents.

54. The prospect of the independent mapdrawers’ success was not welcome by my Republican colleagues. Rather than encourage the mapdrawers to finish and let them complete the task of protecting all the incumbents (as the Republican Commissioners had asked), the Republicans—led by President Huffman—pulled a bait-and-switch. President Huffman announced for the first time that to comply with the Court’s midnight deadline, the map actually had to be completed and adopted by 10:30 so there was enough time to email the data files to the Secretary of State. Then he suggested, because he was concerned that the independent mapdrawers would not meet this new deadline, that Republican mapdrawers (Mr. DiRossi and Mr. Springhetti) tweak the Third Plan so that the Commission could pass that. Though he presented it as a backup “parachute” in case the independent mapdrawers failed to meet the deadline, it was clear that it was far from just a backup plan. Indeed, President Huffman had already spoken to an infirm Mr.

DiRossi, who was holed up at the BWC building and able to work on a separate map. And while he presented it as a last-minute backup plan, President Huffman later admitted to hatching the plan three days earlier.

55. Co-chair Sykes immediately objected, and I echoed his outrage. We explained that such a process would contravene this Court's orders and the Constitution. I suggested that if we needed more time, we should ask for an extension—not pass another unconstitutional map drawn in a bunker by a Republican mapdrawer. The Republicans were not willing to ask the Court for extra time, even though they passed the Third Plan over a week late. Over Co-chair Sykes' and my emphatic dissent, the Commission voted to adopt President Huffman's proposal.

56. Meanwhile, Dr. Johnson worked on completing the plan incorporating the incumbency data. (Dr. McDonald left at 5:00pm because of a class he had to teach the next morning in person in Florida.)

57. Later in the evening, I visited the workroom to inquire as to when the independent map would be complete. I was surprised to see that Mr. Springhetti was now working on a computer at the independent mapdrawers' table. He appeared to be working on the Third Plan and moving precincts around, but it did not look like much was changing. Mr. Springhetti was not interacting with anyone about whatever he was doing with the map on his screen.

58. At approximately 9:30pm, when the Commission reconvened, Dr. Johnson stated that he needed about 45 minutes to complete the Senate map, and the House map was already done. Therefore, the Democratic Commissioners asked that the Commission recess for one hour to allow Mr. Johnson to complete his work so that we could consider his final plan. But the Republican Commissioners refused. We again asked that the Commission request more time from the Court, noting that the language that the Republican Commissioners had read saying that no

extensions were allowed was applicable to the objections. Certainly, I felt, the Court would want us to have another few hours to work (indeed, at least until the Court opened in the morning) rather than have the Commission adopt yet another unconstitutional map. But the Republicans refused.

59. President Huffman announced that Mr. Springhetti—the Republican mapdrawer—had been working on a map (the “Fourth Plan”) and said the Commission should go with that “parachute.” A Republican staff member passed out printouts of the Fourth Plan; the printout included only information about population deviation in each district. It included no partisanship information or compactness information. This was the first time I had seen the plan. I asked the other Commissioners when they had received this Fourth Plan; other Commissioners also said it was the first time they had seen the plan.

60. President Huffman and Co-Chair Cupp explained that this Fourth Plan changed the Third Plan only minimally; they admitted that it was 97% to 98% similar. The Republican Commissioners would not recess so that the Democratic Commissioners could review the map and suggest amendments. As I said at the meeting, it was a “farce.” In the Third Plan there were 19 competitive districts that the Republicans erroneously counted as “Democratic-leaning” (and no competitive Republican-leaning seats) In the Fourth Plan, there were 17—it was still grossly asymmetrical. None of the Republican Commissioners would even attest that the Fourth Plan was constitutional. Co-Chair Cupp’s defense was it was the “best that can be done in the time that is available.” But that was patently false—the mapmakers had already drawn a constitutional Pre-Incumbent Independent Plan and would be ready in a matter of minutes with the Incumbent Independent Plan. The Commission then proceeded to adopt the Fourth Plan by a 4-3 vote. Co-Chair Sykes and I voted against it.

61. At approximately 10:20pm, minutes after the Commission adopted the Fourth Plan, Dr. Johnson finished the independent map. I learned that Dr. Johnson had completed the Incumbent Independent Plan during the Commission's 30-minute recess after the Fourth Plan was adopted, so that the parties could prepare or review Section 8(C)(2) statements.

62. When the Commission meeting resumed at approximately 11:00pm, the Commission approved the majority's 8(C)(2) statement. Co-Chair Sykes then moved to adopt the independent mapmakers' final map (the "Incumbent Independent Plan") and have it supersede the Fourth Plan. I seconded. I explained that the Fourth Plan had not yet been sent to the Secretary of State, so it was not effective. (And it was clear by then that, despite President Huffman's earlier statements, it did not take over an hour to prepare files to email to the Secretary of State. Either map's files could be emailed to the Secretary of State at that time.) I also explained that the Commission did not dissolve immediately after a map is submitted, so if there were any errors that needed to be corrected (no one identified any), that could be accomplished in the following days.

63. The Republican Commissioners launched various unsupported attacks at the independent mapdrawers' plan, attempting to provide cover for failing to vote for a constitutional map borne of an independent and transparent process. Some Republican Commissioners said baldly that the districts were not compact even though they have a greater compactness score than the Fourth Plan. They said they did not have enough time to review the Incumbent Independent Plan; but they had just voted for the Fourth Plan sight-unseen and had been receiving updates about the independent plan and were able to view its drafting for days. The Commission voted against the Incumbent Independent Plan 5-2; only Co-Chair Sykes and I voted to complete the independent, transparent, fair process that this Court urged.

64. The Republican Commissioners have made no meritorious constitutional objection to the independent mapdrawers' maps.

65. As the evening ended, I directed my staff to rest up. We need to be ready to try again. The Fourth Plan is clearly unconstitutional, just like the Third. We need to pick up where we left off with the independent mapdrawers' map. And I have been informed that Dr. McDonald is available to continue the work if any changes are needed to the plans he produced with Dr. Johnson. With this Court's assistance, we can adopt a constitutional plan.

### **Conclusion**

66. Should the Ohio Supreme Court again order me to show cause why I should not be held in contempt, I believe the facts in this affidavit show that Co-Chair Sykes and I honored the Court's orders by doing everything in our power to advance the Commission toward fulfilling its duty to adopt a constitutional map. The facts also show that the Commission could easily have satisfied the Court's order if only the Republican Commissioners had been willing to comply.

67. Since Monday, March 28, no Republican Commissioner or their staff has contacted me or my staff to discuss maps, work on maps, or share any map proposals. They seem sure that, regardless of what this Court does, the federal court will allow them to go forward with an unconstitutional map on April 20. All they must do is continue to breach their duty to follow the Ohio Constitution and this Court's orders while the clock runs out. I firmly believe in the rule of law and the Constitution. The Court should not allow the Republican Commissioners to get away with such dereliction.

FURTHER AFFIANT SAYETH NAUGHT.

C. Allison Russo  
C. Allison Russo

Sworn to before me and subscribed in my presence this 3rd day of April 2022.

Kelly Boggs Lape (inactive 10/21)  
Notary Public

Attorney At Law  
STATE OF OHIO  
has no expiration date  
147.03.R.C.



Kelly Boggs Lape, Attorney At Law  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date  
Sec. 147.03-R.C.

**Exhibit A  
to Affidavit of  
Respondent Allison Russo**



STATE SENATOR VERNON SYKES  
28th District

March 17, 2022

The Honorable Robert Cupp  
Ohio House of Representatives  
Columbus, Ohio 43215

Dear Co-Chair Speaker Cupp:

I write today to reiterate what I suggested on our phone call earlier today, that the Ohio Redistricting Commission meet as soon as possible in order to develop a transparent path forward to pass bipartisan, fair, and constitutional state legislative maps.

The Ohio Supreme Court has directed the Ohio Redistricting Commission to start fresh and draw maps that meet constitutional muster. We must do this by March 28. Leader Russo and I stand at the ready and believe following the Court's order is possible if we work together and do not waste time.

It is essential that we call a meeting of the Redistricting Commission as soon as possible to start the map drawing process. The Court has rightly criticized the Commission for its previous delays and inefficient use of time. I hope that we will not repeat that mistake this time – our fourth attempt. I will note that the Commission recently amended its procedural rules to also allow for any three members to call for a meeting of the Commission, rather than only the Co-Chairs. Leader Russo and I are available at any time and would welcome any other Commissioner in calling for a meeting.

The Court also ordered the Commission to meet “frequently” in order to have an open and transparent process to the public. I have suggested to you that we set a schedule and meet at least every other day in order to meet this directive and I offer that suggestion once again. It is critical that we conduct our deliberations and make map-drawing decisions in the light of day and with the opportunity for the public to provide input.

Further, I suggest that the Commission work in a bipartisan manner and hire an independent map-drawer – or alternatively, a mediator – to aid us in our efforts. I believe our staff could work together to identify a list of mutually agreeable individuals to serve in this role.

Ultimately, now is the time for us to work together in order to fulfill the wishes of Ohio voters who overwhelmingly approved these reforms to our redistricting process.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon Sykes".

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission

CC: Members, Ohio Redistricting Commission

**Exhibit B**  
**to Affidavit of**  
**Respondent Allison Russo**



**MEMORANDUM**

TO: Members of the Ohio Redistricting Commission  
FROM: Attorney General Dave Yost  
DATE: March 18, 2022  
RE: Steps forward following the decisions in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al. III* and companion cases

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Late in the evening of March 16, the Ohio Supreme Court struck down the third set of state legislative maps. Whether I, or you, agree with the majority in this most recent decision is irrelevant. Four justices have decreed what the rules for this round of redistricting shall be. You are left with little choice but to abide by them. Accordingly, this memorandum outlines a set of steps calculated to address the perceived deficiencies raised by the majority of the Court.

I offer this framework as the chief legal officer of the state, having neither a vote nor a veto over your work. This is not a map of all possible roads to the objective of complying with the elements of the Supreme Court's decisions, but one suggested route. The Commission may choose to devise another. This is offered as a means to commence your discussions.

**Meetings**

The Court made much of the relatively modest number of meetings held before the February 4, 2022 Plan was enacted, and the lateness of their calling. In its most recent order, the Court only gave the Commission ten days to produce a new map, two days of which have already expired.

The Commission apparently has scheduled a meeting for tomorrow--an excellent first step. I suggest that the commission agree at that first meeting on a schedule of meetings, and to publish it. Given that only seven days remain, daily meetings would not be excessive to respond to what some of you have correctly termed a constitutional crisis. I understand one of you has already cancelled an out-of-state trip so as to be available during this period--a commendable and appropriate sacrifice in view of the seriousness of this moment. One or more members may also arrange to participate remotely by electronic means if necessary and agreeable to the commission.

## **Staffing**

The Court directed the commission to hire new mapmakers not beholden to either political caucus. “The commission should retain an independent map drawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan through a transparent process.” (at paragraph 30) I note that Court used “should” and not “shall,” but given that this matter is heard in the Supreme Court without meaningful appeal regarding the limits of its authority, it would be wise to treat this suggestion with the degree of deference one might pay to the suggestions of one’s spouse.

To assist the commission in this effort, I have retained a bipartisan duo of consulting experts through my office, who together can achieve the level of independent evaluation the court is requiring. I will make them available to the commission as a whole.

Sean Trende, a Republican analyst well-known to the readers of *Real Clear Politics*, or even causal viewers of cable news, and Bernie Grofman, a Democratic professor of political science at the University of California-Irvine, recently collaborated to produce maps for the State of Virginia. Their work was unanimously adopted by the Virginia Supreme Court.

Their charge should be simply to produce a map that complies with the Ohio Constitution and the orders of the Ohio Supreme Court. They understand the time limits of the court, the terms of the Constitution and the decisions regarding it and are prepared to go to work immediately.

Of course, you are not required to use them; I have undertaken to retain them because of the exigent circumstances created by the very short time allowed by the Court. Nor are you required to adopt their maps. It is my hope, however, that you will--their success in Virginia strongly commends them and their work to your consideration.

## **Drafting in Public**

The Court further wrote that the map-making should be done in public. “To promote transparency and increase public trust, the drafting should occur in public.” (at paragraph 44)

The actual map-making is highly technical and performed on a single work-station. I do not read the Court’s opinion to say that seven people should be jockeying in a public room to direct the operator of the mouse to do this or that conflicting action.

To comply with the Court’s direction, I suggest that the Commission take public actions that achieve the clause seeking transparency and public trust. To that end the Commission could publish any maps at least 24 hours before a vote; meet in public, and receive a progress reports in public from the mapmakers prior to the completion of a map, and discuss in public any sticking points between map drafts or particular districts permutations. I believe a process like this is compliant with the public map making directive issued by the Court.

## Additional Criteria

- The Court has now established <52% as the threshold for a "leaning" district; any index less than that is viewed by the Court as a competitive district. The Court will exclude competitive districts from its partisanship calculation. That is, if there are 32 competitive districts, then the remaining 100 districts must closely correspond to the 54 Republican to 46 Democrat ratio the majority has established.
- The Court wrote that efforts to protect incumbents are improper. Such efforts "...can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A)." (at paragraph 37)
- While competitive districts will not be counted in overall partisan balance, the Court in *dicta* was bothered by the imbalance in the number competitive districts (meaning those with an expected favorable margin of less than 52%) leaning Democratic versus those leaning Republican. While the clustering of Democrats in urban enclaves creates challenges to making Republican-leaning districts more competitive, I would be remiss if I failed to note the Court's observation.

This is meant to be a summary of the major objections in *League III*. The Constitution and the Court's actual opinions are controlling, of course, and my office stands ready to assist the Commission in navigating the multiple and sometimes competing objectives.

Finally, a note about process. I have served on several multi-member bodies, and I've learned it is always a temptation to love too much my own advice, and my own theory of law. I keep this passage from the Ohio Jury Instructions handy, and often review it before meetings:

*It is not wise to immediately express a determination to insist upon a certain verdict, because if your sense of pride is aroused, you may hesitate to change your position even if you later decide you are wrong.*

*Consult with one another, consider each other's views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment.*

*Each of you must decide... for yourself, but you should do so only after a discussion and consideration of the case with (the others).*

*Do not hesitate to change an opinion if convinced that it is wrong. However, you should not surrender honest convictions in order to be congenial or to reach a verdict solely because of the opinion of other(s).*

The hour is late, and I do not envy your task. I hope this memorandum has made it easier to "begin again."

**Exhibit C**  
**to Affidavit of**  
**Respondent Allison Russo**



March 20, 2022

Dear Commissioners,

In our meeting yesterday, this commission set out a straightforward task to reconvene, possibly tonight, with recommendations for independent map drawers that could produce constitutional legislative districts. In an effort to aid our work as a commission, Attorney General Dave Yost retained two well-known, independent map drawers of national note, Bernard Grofman and Sean Trende.

The Democratic commission members today spoke with Grofman and Trende, as well as other highly qualified map drawing experts. We are in favor of the commission engaging the Attorney General's suggested mapmakers. We have also been in touch with nationally renowned mediators who could serve later in this process to help the commission finalize a bipartisan, constitutional set of legislative maps.

It is unfortunate that our colleagues were not prepared for a meeting tonight, which was tentatively scheduled for 7 p.m. As the deadline imposed on us by the Supreme Court of Ohio looms, time is of the essence. However, we remain confident that these issues can be resolved at our next meeting, scheduled for Monday, March 21 at 7 p.m., and the map drawing may immediately begin. There is still time for this process to result in the bipartisan, constitutional maps that the people of Ohio expect and anticipate from the commission.

Respectfully,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF CHRIS GLASSBURN

State of Ohio  
County of Cuyahoga, SS:

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

1. I have personal knowledge of the information below. I am over 18 years of age.
2. I am the President of Project Govern, a company that provides map drawing services and advises on redistricting matters. I contracted with the Ohio House and Senate Democratic caucuses on January 16, 2022, for the purpose of drawing a proportional map consistent with the Supreme Court's January 12, 2022, directives and to provide additional services as needed.
3. I previously provided affidavits in this case on January 28, 2022, and February 22, 2022, detailing my efforts, at the direction of Co-Chair Sykes and Leader Russo, to aid the Commission in adopting constitutional maps. I incorporate those affidavits by reference.

**Leader Russo and Senator Sykes Directed Me to Aid the Independent Mapmakers.**

4. After the Ohio Supreme Court's March 16, 2022 Order, Co-Chair Sykes and Leader Russo instructed me to work with their staff and all the Republican Commissioners' staff in responding to the Court's order that the Commission draft and adopt a constitutional map. I, along with Senate Democratic staff member Randall Routt, provided as much mapping support as possible to the Democratic Commissioners as they worked diligently to adopt a constitutional map.
5. The main support that I provided since the March 16 order was to aid the independent mapdrawers while they conducted their work in drawing new General Assembly maps from scratch. Because the Republican mapdrawers (Mr. Ray DiRossi and Mr. Blake Springhetti) and the Democratic mapdrawers (myself and Mr. Routt) have experience with Ohio's political geography and the Ohio Constitution's mapdrawing requirements, the Commission represented at

its early meetings that it would be helpful for Republican and Democratic mapdrawing staff to be present to aid the new independent mapdrawers. Leader Russo and Co-Chair Sykes instructed me to be in the workroom as much as possible with the independent mapdrawers, answer any questions they had, and provide them with any assistance they requested. That means that I spent from approximately 8:00am to approximately midnight (or even after) each day that the independent mapdrawers worked in the workroom with them, supporting their work.

6. All throughout this time, I was available to answer questions from the mapdrawers in accordance with the ground rules adopted by the Commission on Wednesday, March 23. The rules ensured that all substantive communications about the maps were made in a bipartisan way, with staff from each party present—and all was livestreamed for the public to see.

7. Additionally, I answered questions about mapdrawing and proposed maps from the Democratic Commissioners and their staff.

8. Because I was present at almost all Commission meetings that took place from March 19 through March 28 and at all work sessions of the independent mapdrawers that took place Thursday, March 24 through Monday, March 28, I have personal knowledge of the vast array of events and conversations that transpired during this period. I observed the creation of all maps produced by the independent mapdrawers.

**The Independent Mapdrawers Created a Unified Constitutional Map Without Regard to Incumbents Well Before the Court Deadline.**

9. The independent mapdrawers retained by the Commission—Dr. Michael McDonald and Dr. Douglas Johnson—started work on March 24, 2022, in the morning. The Legislature’s staff set up House Committee Room No. 116 with new computers and a livestream for the public to view all work done.

10. A full week had passed since this Court invalidated the Commission's February 24 legislative maps. But I believed the mapdrawers could complete Ohio House and Senate maps that complied with Article XI, Sections 2, 3, 4, 5, and 7, and 6 in the time left before the Commission's deadline. I was concerned about any delays or obstacles that might arise going forward, and I intended to minimize disruptions to the extent I could by working collaboratively with Commissioners' staff and trying to be helpful to everyone involved.

11. From Thursday, March 24 through Sunday March 27, Dr. Johnson and Dr. McDonald sat side-by-side, just a few feet apart. They worked on separate computers, testing out ideas and familiarizing themselves with Ohio's geography. They were in constant communication with each other. They would discuss ideas. They almost always agreed. They would collaborate on which of them would try different ideas and discuss with one another the results of such attempts.

12. Dr. McDonald and Dr. Johnson provided maps to Democratic and Republican Commissioners' staff whenever either of them had a completed map to share. These maps were uploaded to the Ohio Redistricting Commission's website and supporting documents providing data about the maps were also uploaded to the website. See <https://redistricting.ohio.gov/maps> and <https://redistricting.ohio.gov/meetings>.

13. Based on my observations, the mapmakers worked quickly, diligently, and made good progress. They were both committed to adhering to the Ohio Constitution, the Court's orders, and the Commission's ground rules.

14. By Sunday, March 27, both mapmakers had completed House and Senate maps without any consideration of incumbency data. They were working toward a unified plan.

15. By the evening of Sunday, March 27, Dr. Johnson and Dr. McDonald had made sufficient progress and had received sufficient feedback from the Commission that they decided on a unified plan to work from going forward. They worked into Monday morning cleaning up that map to ensure that there were no technical errors and to make it more compact. The Pre-Incumbent Independent Plan is available here: <https://redistricting.ohio.gov/assets/district-maps/district-map-1173.zip>. This plan met the Ohio Constitution and this Court’s proportionality and symmetry requirements to comply with Section 6 while abiding with Sections 2, 3, 4, 5, and 7. The House map had 54 Republican-leaning districts and 45 Democratic-leaning districts. It had 3 Democratic-leaning tossups and 3 Republican-leaning tossups. The Senate map contained 18 Republican-leaning districts and 15 Democratic-leaning districts with 2 Democratic-leaning districts in the 50-52% tossup range.

**Republican Commissioners Directed the Independent Mapdrawers to Incorporate Incumbency Data.**

16. On March 28, following the Commission’s direction, the independent mapdrawers worked on altering their unified map to protect incumbents from “double bunking” as much as possible without violating other constitutional rules. Dr. McDonald and Dr. Johnson—after receiving the list of all incumbent addresses from Mr. Springhetti—worked on “geocoding” it such that every incumbent’s address would appear as a dot on the map. According to the Commission’s rules, the incumbents were supposed to be anonymous, without the independent mapdrawers knowing the name or party associated with any incumbent’s address. Only the chamber—House or Senate—was indicated.

17. Strangely, on Monday, March 28, neither Mr. Springhetti nor Mr. DiRossi were in the workroom much, especially in the early part of the day. The independent mapdrawers asked for them to be there as they were the Republican staff with the most mapping knowledge. Dr.

McDonald and Dr. Johnson seemed more comfortable when either Mr. Springhetti or Mr. DiRossi were there so they would have observers from both political parties with detailed knowledge of mapping Ohio, and so when they had any questions, they could get feedback from experienced mapdrawers from both parties. This held up the independent mapdrawers' work.

18. Senator Huffman stopped by mid-day on March 28 and spoke briefly to the mapdrawers. He told them that he and Speaker Cupp lived in Lima and that he himself represented Senate District 12.

19. At approximately 5:00 p.m. on March 28, Dr. McDonald had to leave to make it home to teach the next morning. Also at about that time, Mr. Springhetti came back to the workroom and began to work at the computer station next to Dr. Johnson. Mr. Springhetti, even upon a question from Democratic staff, did not explain what he was doing. He did not speak much with anyone about his work. I remained focused on the independent mapdrawers' work. Mr. Springhetti was present for approximately 45 minutes before he took a thumb drive out of the computer and left.

20. Meanwhile, Dr. Johnson continued his work altering the unified map to protect incumbents. He reported to the Commission at approximately 9:30 p.m. that he needed 45 more minutes. The Commission dismissed him from the meeting to continue working. He then completed the independent mapdrawers' maps (both for the House and Senate) with the incumbency alterations at 10:18 p.m. (the "Incumbent Independent Plan"). I informed Democratic staff that he had finished. There was time to spare before the midnight deadline. We did not have the Commission meeting playing in Room 116, and I did not know then that the Commission was adopting the Fourth Map in a room two floors above us at virtually the same time. That final

Incumbent Independent Plan can be found here: <https://redistricting.ohio.gov/assets/district-maps/district-map-1178.zip>.

21. I emailed the block assignment files and data files showing population and partisan indexes of districts of the Incumbent Independent Plan to the staff of all the Commissioners at 10:32 p.m. Shortly after, I emailed to the same group images of the maps, and shortly after that, I sent a document listing the assignments of House districts to Senate districts and, in accordance with Article XI, Section 5, the assignments of Senate districts to Senators whose terms do not end in 2022. Mr. Routt uploaded all these files to the Commission website at 11:30 p.m.

22. For the vast majority of the dozens of hours spent in Room 116, from my perspective, the atmosphere was friendly and collaborative and highly productive in spite of what I believe were some unnecessary interruptions and delays.

23. The independent mapdrawers created at least two complete plans that satisfy the Ohio Constitution and this Court's orders with respect to proportionality, symmetry, and sections 2, 3, 4, 5, and 7. They are:

(1) The Pre-Incumbent Independent Plan:

<https://redistricting.ohio.gov/assets/district-maps/district-map-1173.zip>

(2) The Incumbent Independent Plan: <https://redistricting.ohio.gov/assets/district-maps/district-map-1178.zip>

24. Mapping workroom video archives can be found here: <https://www.ohiochannel.org/collection-files/ohio-redistricting-commission?collections=110486&keywords=workroom&pageSize=48&start=1&sort=creationDate&dir=asc>.

**The Independent Mapdrawers' Maps Meet this Court's Proportionality and Symmetry Requirements While Abiding with Sections 2, 3, 4, 5, and 7.**

25. The Fourth Map, which the Commission adopted, is not constitutional. It is nearly identical to the Third Map and would insulate a Republican majority in extremely safe seats. It is not proportional and lacks partisan symmetry. The Third Map contained 19 Democratic-leaning House districts and 7 Democratic-leaning Senate districts in the range of 50 – 52%, and zero Republican-leaning House or Senate districts in that same tossup range. The Fourth Map also contains tossup districts in this range only on the Democratic side of the ledger—17 in the House and 6 in the Senate.

26. The Incumbent Independent Plan that Senator Sykes and Leader Russo voted for, by contrast, meets the Ohio Constitution and this Court's proportionality and symmetry requirements to comply with section 6 while abiding sections 2, 3, 4, 5, and 7. The independent House map has 54 Republican-leaning districts and 45 Democratic-leaning districts. There are 3 Democratic-leaning tossups and 3 Republican-leaning tossups. The independent Senate map contains two Democratic-leaning districts in the 50 – 52% tossup range.

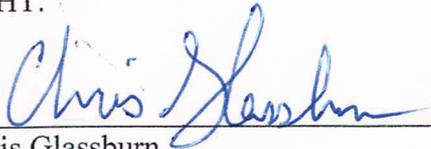
27. Beyond vague aspersions about compactness, no Commissioner alleged that the independent mapdrawers' maps violated Article XI, Sections 2, 3, 4, 5, 6, or 7. In fact, the Incumbent Independent Plan is more compact than the Fourth Plan. It scores as more compact than the Fourth Map on the Reock and Polsby-Popper scales, two common methods of the dozens of methods used to measure compactness of an area.

**Further Action**

28. I remain open to working collaboratively with any Commissioner, their staff, or member of the public, or the Commission's independent mapdrawers in addressing any actual constitutional violations with the independent mapdrawers' maps. To the extent there are any

technical flaws in the independent mapdrawers' plans (I am aware of none), I believe they could be remedied easily in a matter of hours. There is no reason, from a technical mapdrawing perspective, that the Commission would need more than a single day to review the independent mapdrawers' final plan, assure that there are no technical flaws (or fix any that hypothetically exist), and adopt it.

FURTHER AFFIANT SAYETH NAUGHT.

  
Chris Glassburn

Sworn to before me and subscribed in my presence this 3<sup>rd</sup> day of April 2022.

  
Notary Public



GRANT W. MACKAY  
NOTARY PUBLIC-OHIO  
MY COMMISSION NEVER EXPIRES

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :  
 : Case No. 2021-1193  
 :  
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 : [Apportionment Case Pursuant to S. Ct.  
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 :  
 Respondents. :

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Bria Bennett, *et al.*, :  
 : Case No. 2021-1198  
 :  
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 : [Apportionment Case Pursuant to S. Ct.  
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 :  
 Respondents. :

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The Ohio Organizing Collaborative, *et al.*, :  
 : Case No. 2021-1210  
 :  
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 : Ohio Constitution, Article XI, Section 9(A)  
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 :  
 Respondents. :

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RESPONSE OF RESPONDENTS SENATOR VERNON SYKES  
 AND HOUSE MINORITY LEADER C. ALLISON RUSSO  
 TO PETITIONERS' MOTION FOR ORDER TO SHOW CAUSE

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House Speaker Robert Cupp**

**RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND  
HOUSE MINORITY LEADER C. ALLISON RUSSO  
TO PETITIONERS' MOTION FOR ORDER TO SHOW CAUSE**

Senator Sykes and House Minority Leader Russo find it necessary to once again apologize for the Ohio Redistricting Commission's failures. The Petitioners are correct: the process was once again hijacked by certain Republican Commissioners, as described in the attached affidavits from Co-Chair Sykes, Leader Russo, and Chris Glassburn. The result is a patently unconstitutional Fourth Plan, which flaunts this Court's orders.

As before, however, Co-Chair Sykes and Leader Russo worked diligently to comply with the Constitution and this Court's orders and opposed the Republican Commissioners' actions and unconstitutional plan. Therefore, they respectfully ask that this Court not order them to show cause as to why they should not be found in contempt.

**The Commission Failed to Abide by This Court's March 16 Order.**

On March 16, 2022, the Court invalidated for a third time a plan that the Commission had approved and submitted over the Democratic Commissioners' objections. *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-789, ¶ 44 ("*LWV III*"). The Court ordered the Commission to be reconstituted, and it ordered "that *the commission* draft and adopt an entirely new General Assembly–district plan that conforms with the Ohio Constitution, including Article XI, Sections 6(A) and 6(B)" as the Court had explained those provisions in each of its three decisions in these cases. *Id.* (emphasis in original). In addition, the Court ordered that "[t]o promote transparency and increase public trust, the drafting should occur in public and the commissioners should convene frequent meetings to demonstrate their bipartisan efforts to reach a constitutional plan within the time set by this court." *Id.*

Initially, it seemed the Republican Commissioners were prepared to pursue the process this Court mandated when it struck down the third General Assembly Plan in *LWV III*. See *Sykes Aff.* (Apr. 3, 2022) ¶¶ 7–9, 46–49; *Russo Aff.* (Apr. 3, 2022) ¶¶ 23–41. The Commission retained independent, third-party mapdrawers who collaboratively drew maps in public view. *Sykes Aff.* ¶¶ 39–42; *Russo Aff.* ¶¶ 34, 38–41; *Glassburn Aff.* (Apr. 3, 2022) ¶¶ 9, 11. The Commission set forth ground rules to ensure bipartisan participation and transparency. *Sykes Aff.* ¶¶ 43–44. The independent mapdrawers started with a blank slate, and within days they had prepared drafts for review. *Glassburn Aff.* ¶¶ 11–15; *Russo Aff.* ¶¶ 34, 43–44. Their final proposal met the constitutional requirements for proportionality, and the districts were compact. *Glassburn Aff.* ¶¶ 26–27. The collaborative process, directed by the Court, worked.

Unfortunately, when the Republican Commissioners saw that the collaborative process—led by an independent mapdrawer *they* had selected—would lead to constitutionally-compliant district maps, they reversed course. See *Sykes Aff.* ¶¶ 63–72; *Russo Aff.* ¶¶ 52–65; *Glassburn Aff.* ¶¶ 15–20. They rejected the maps drawn by the independent mapdrawers. *Sykes Aff.* ¶ 71; *Russo Aff.* ¶ 63.

Instead, the Republican Commissioners returned to the playbook that yielded the first three maps this Court rejected. They turned to their Republican mapdrawers, Mr. Ray DiRossi and Mr. Blake Springhetti, and gave them instructions that were not discussed with or approved by the Democratic Commissioners. *Sykes Aff.* ¶¶ 64–66; *Russo Aff.* ¶¶ 54–55. Contrary to the Court’s order to start anew, the Republican mapdrawers took the Third Plan and tweaked it ever so slightly. *Russo Aff.* ¶¶ 57–60; *Glassburn Aff.* ¶ 25. The Republican Commissioners did this even though (or because) the independent mapdrawers had already submitted constitutionally-compliant drafts of House and Senate maps and were on track to finish their assignment. *Sykes Aff.* ¶¶ 61–64. And,

as they had before, the Republican Commissioners hid this shadow process from the Democratic Commissioners and the public, thumbing their collective noses at the disinfecting public scrutiny this Court called for in *League III*. See Sykes Aff. ¶ 64; Russo Aff. ¶¶ 54–60. Rejecting the independent process this Court had called for, the Republican Commissioners adopted their own partisan mapdrawers’ secret plan that mirrors, almost exactly, the unconstitutional Third Plan this Court already rejected. Sykes Aff. ¶ 68; Glassburn Aff. ¶ 25.

**The Democratic Commissioners Worked Diligently to Comply with the Court’s March 16 Order.**

Four Republican Commissioners hijacked the process and adopted an unconstitutional plan over the vehement objections of the Democratic Commissioners, who sought at every step to comply with this Court’s March 16 order. As explained in detail in the three attached affidavits from Co-Chair Sykes, Leader Russo, and Chris Glassburn, the Democratic Commissioners did everything within their power to comply with the Court’s March 16 Order, and to get the Commission to comply with the Court’s Order. The attached testimony demonstrates that the Democratic Commissioners:

- Made repeated efforts to have the Commission convene. They urged the Commission to promptly meet and made themselves and their staff members available. Then they insisted on daily meetings. See Sykes Aff. ¶¶ 20–21, 34, 36, 40; Russo Aff. ¶¶ 17, 25.
- Proposed and approved independent mapdrawers, including those suggested by the Attorney General and the Republican Commissioners’ selection. See Sykes Aff. ¶¶ 25, 29, 35, 37–42; Russo Aff. ¶¶ 23–24, 27–30, 34.
- Participated in all Commission meetings and provided feedback to the independent mapdrawers. See, e.g., Sykes Aff. ¶¶ 25, 36, 40, 59; Russo Aff. ¶¶ 36, 49–50.
- Made their staff available from 8:00 a.m. through midnight (or later) to aid the independent mapdrawers. Glassburn Aff. ¶ 5; Sykes Aff. ¶ 47; Russo Aff. ¶ 39.

- Objected to the Republican Commissioners’ insistence on drawing maps designed to protect incumbents, especially before a full constitutional map was complete. *See* Sykes Aff. ¶¶ 55–58; Russo Aff. ¶¶ 45–48.
- Opposed the Republican Commissioners’ proposal to instruct the Republican mapdrawers to tweak the Third Plan, as a purported backup option. And then voted against that plan, instead insisting that the Commission should wait and vote on the independent mapmakers’ plan. *See* Sykes Aff. ¶¶ 64–66; Russo Aff. ¶¶ 54–55, 58–60.
- Asked the Republican Commissioners to allow the independent mapdrawers the time needed to present final proposed maps and, if necessary, to request additional time from this Court. *See* Sykes Aff. ¶¶ 65; Russo Aff. ¶¶ 55, 58.
- Proposed that the Commission adopt the constitutionally-compliant plan drawn by the independent mapdrawers (and that it should supersede the Fourth Plan) and voted for that proposal. *See* Sykes Aff. ¶ 71; Russo Aff. ¶¶ 62–63.

Despite the Democratic Commissioners’ efforts, the Republican Commissioners were able to derail the process. As minority members of the seven-member Commission, the Democratic Commissioners were unable to force the Commission to adhere to an agreed-upon process and to adopt and submit constitutionally-compliant maps to the Secretary of State and to this Court.

### **Democratic Commissioners’ Request**

The Democratic Commissioners ask the Court not to order them to show cause as to why they should not be held in contempt for the Republican Commissioners’ failure to abide by the Court’s March 16 order. Because they are just two members of the Commission, the Democratic Commissioners lack the voting power to put the independent map drawers’ constitutionally-compliant House and Senate district maps into effect.

The Republican Commissioners fear losing supermajority control. That fear is greater than their respect for this Court’s orders and for the mandate the voters expressed through Article XI. Indeed, that fear is so profound that it has driven at least one Republican Commissioner to state that he would not be opposed to *impeaching* the Chief Justice of this Court *solely because of the*

*opinions issued in LWV I, II and III. See Marty Schladen, LaRose would ‘be fine with’ chief justice’s impeachment over redistricting rulings, Ohio Capital Journal (Apr. 1, 2022).*<sup>1</sup>

John Adams wrote that he “fear[ed] that in every elected office, members will obtain an influence by noise, not sense. By meanness, not greatness. By ignorance, not learning. By contracted hearts, not large souls.” He concluded “there must be decency and respect.” Letter from John Adams to James Warren (Apr. 22, 1776).<sup>2</sup>

The Republican Commissioners are proving that Adams’ fears were justified. And it appears that only strong action by this Court will result in constitutional maps. The Republican Commissioners need strong action from this Court not just to put aside their partisan self-interest in favor of the rule of law, but also to give them cover with their own partisans that they had no choice but to abide the rule of law. The Court has tried several times to mandate that the Commission reconvene to adopt a constitutional map, and that alone has proved to be an insufficient remedy. The Democratic Commissioners, therefore, ask that the Court adopt the remedies they request in their response to the Petitioners’ objections to the March 28 Plan. Without such strong, swift action from this Court, the obstructions of the Republican Commissioners will prevail, rather than the Constitution and the rule of law. The will of the people of Ohio, through their Constitution and system of judicial review, must prevail.

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<sup>1</sup> Available at <https://ohiocapitaljournal.com/2022/04/01/larose-would-be-fine-with-chief-justices-impeachment-over-redistricting-rulings/>.

<sup>2</sup> Available at <https://founders.archives.gov/documents/Adams/06-04-02-0052>.

## CONCLUSION

Senator Sykes and Leader Russo respectfully ask that this Court not hold them in contempt for the Republican Commissioners' decision to hijack the process that was leading to bipartisan, constitutionally-compliant maps, and to order the remedies described above or that justice requires.

Respectfully submitted,

/s/ Charles H. Cooper, Jr.

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## **CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2022, the foregoing *Response of Respondents Senator Vernon Sykes and House Minority Leader C. Allison Russo to Petitioners' Motion for Order to Show Cause* was filed electronically and sent via email to the following counsel of record:

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*/s/ C. Benjamin Cooper*  
\_\_\_\_\_  
C. Benjamin Cooper

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

1. I am the State Senator for Ohio's 28th Senate District.
2. I serve as a commissioner on, and co-chair of, the Ohio Redistricting Commission ("Commission"). I am the only Black person and person of color on the Commission. I serve as a representative of the Democratic Party, along with House Minority Leader Allison Russo (together, the "Democratic Commissioners"). The remaining five Commissioners are Republicans (together, the "Republican Commissioners"). I was sued in the above-captioned case and am a named Respondent. The Ohio Supreme Court, however, has recognized that my interests align more with the Petitioners than that of the Commission or the Republican Commissioners. Opinion 2022-Ohio-65, ¶ 66.
3. I submit this affidavit in response to the Court's March 16, 2022 order to respond to the Petitioners' renewed motions for an order directing Respondents to show cause as to why the Commission and Respondents should not be held in contempt.
4. In addition to this affidavit, I have filed three other affidavits in these proceedings, each of which detail my efforts throughout the redistricting process to comply with the Ohio Constitution and all the orders of this Court, which are incorporated by reference. *See* March 3, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Petitioners' Objections; February 23, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Court's February 18 Show Cause Order; Jan. 28, 2022 Affidavit of Vernon Sykes in support of Respondents' Response to Petitioner's Objections.

## Introduction

5. It is with great disappointment that I file this affidavit with the Court. Yet again, because of the actions of my Republican colleagues, I find myself asking this Court not to hold me in contempt.

6. At every step I have worked diligently to comply with the Constitution and this Court's orders. Among other things, described in greater detail below, I took the following actions: (1) pushed the Commission to meet early and often; (2) encouraged the Commission to utilize independent mapmakers and mediators; (3) pressed for a transparent process; (4) voted for the independent maps because they satisfy all the constitutional requirements; and (5) resisted—albeit unsuccessfully—the hijacking of the process by Republican Commissioners, all of which disparaged the independent mapmakers' efforts and four of whom adopted an unconstitutional map over my dissent.

7. In many ways, the Commission's process following this Court's March 16, 2022 order was a model of cooperation and transparency—one that should have transpired from the outset, but, even if belated, was still an encapsulation of the fair mapping process the Ohio voters mandated in Article XI of the Ohio Constitution. The Court made several strong suggestions in its March 16 order: hire an independent mapdrawer to draw the maps, draw the maps in public, and do not let the partisan mapdrawers control the mouse. Opinion, 2022-Ohio-789 ¶¶ 30, 44 (“*LWV III*”).

8. And the Commission listened. The Commission hired independent mapdrawers to work on behalf of *the Commission*, not any party. The Commission (at least at first) ordered those mapdrawers to follow only Article XI and this Court's orders. And those independent mapdrawers

worked in public—their every discussion with staff or Commissioners, click of the mouse, and late-night work sessions viewable via livestream on the Ohio Channel.

9. Through these collaborative efforts, the independent mapdrawers drew General Assembly maps that satisfied the Constitution, as delineated in this Court’s orders.

10. As detailed below, I both led and supported all of these efforts to have independent maps, even in the face of the Republican Commissioners’ stall tactics and pessimism regarding the independent mapdrawers’ ability to complete the task. And I voted for the independent mapdrawers’ plans.

11. But the Republican Commissioners were more concerned with protecting their supermajority than following the Constitution, this Court’s orders, and their duty to the public. Rather than adopting the independent mapdrawers’ plans, four of the Republican Commissioners unilaterally adopted new General Assembly maps on March 28, 2022 (the “Fourth Plan”) that is nearly identical to the last one (the “Third Plan”) that this Court found unconstitutional on March 16, 2022. *LWV III* ¶ 44. I did not vote to adopt those maps because I believe they violate Article XI of the Ohio Constitution, as well as the Ohio Supreme Court’s orders.

12. It is with sadness that I report that this Court’s suggestion—to hire independent mapmakers who draw the maps in public—and clear orders regarding proportionality and symmetry, were not enough for my Republican colleagues. But I am also hopeful that, with an aggressive order from this Court, we can return to the independent mapdrawers’ plans, finalize them quickly (to the extent any finalizing is even necessary), and have a constitutional plan for Ohio’s voters. We have made so much progress, and I still hope that—with this Court’s further guidance—we can deliver constitutional maps to the people of Ohio.

**The Democratic Commissioners Worked Diligently to Schedule Frequent Meetings and Hire Independent Mapdrawers and Mediators Upon Receiving the March 16 Order.**

13. **Wednesday, March 16, 2022.** As urged by the Democratic Commissioners, the Ohio Supreme Court invalidated the Third Plan in an opinion and order published at approximately 9:45pm on March 16, 2022.

14. That order, as I understand it, set forth important mandates and guidance to the Commission that I diligently worked to follow throughout the process.

15. *First*, it invalidated the Third Plan in part because of the “gross and unnecessary disparity in the allocation of close districts,” as the Third Plan had 19 so-called Democratic-leaning House districts and 7 so-called Democratic-leaning Senate districts that were in the 50 – 52% margin, and no such Republican-leaning House or Senate districts. *LWV III* ¶ 43. That meant, going forward, the Commission needed to draw a plan that met the 45-54 proportionality ratio, as close as possible while complying with Article XI, §§ 2, 3, 4, 5, and 7—but in doing so, competitive seats of between 50 and 52% needed to be symmetrically allocated and not be so one-sided against either party.

16. *Second*, the Court ordered the Commission “to be reconstituted and to convene and that the commission draft and adopt an entirely new General Assembly-district plan that conforms with the Ohio Constitution, including Article XI, Sections 6(A) and 6(B).” *LWV III* ¶ 44. Based on the Court’s reasoning, I understood this to be a command that the Commission as a body, rather than partisan staff, draft the General Assembly plan.

17. *Third*, the Court told the Commission that we “should retain an independent mapdrawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan.” *LWV III* ¶ 30. I thought this was an excellent way to move forward and

could take the partisan influence out of the process—an independent person (or persons) could “draft a plan.”

18. *Fourth*, the Court mandated a “transparent process,” including that “drafting should occur in public” and that “the commissioners should convene frequent meetings.” *LWV III* ¶ 44.

19. The Court gave the Commission a deadline of March 28 to file a new plan with the Secretary of State and until March 29 at 9:00am to file the plan with the Court. *LWV III* ¶ 45.

20. **Thursday, March 17, 2022.** First thing in the morning, I spoke with the Senate Minority’s legal counsel to discuss the opinion and asked them to work with me in getting the Commission to comply with the Court’s order. Then I attempted to reach Co-Chair Speaker Cupp to discuss reconvening the commission, setting frequent meetings, hiring independent mapdrawers, and otherwise work to comply with the Court’s March 16 order. When I finally reached Co-Chair Cupp in the afternoon, he was noncommittal as to taking any steps, including the basic step of when he would agree to call a first meeting of the Commission.

21. Later that afternoon I sent a formal letter to Co-Chair Cupp and the rest of the Commission reiterating the points I had made in our phone conversation; namely, that we should have frequent meetings, that the public should be notified in advance of those meetings, and that the process should be transparent. I specifically suggested that we retain independent mapdrawers and mediators. That March 17 letter is attached as Exhibit A.

22. **Friday, March 18, 2022.** In the late morning, I spoke with Co-Chair Cupp, and he agreed to schedule a Commission meeting for Saturday at 2:00pm.

23. That day, we also received a letter from Attorney General Yost discussing his suggestions for “steps forward” given the March 16 Order. Specifically, Yost encouraged daily meetings and drafting maps in public. He also stated that “[t]he Court directed the commission to

hire new mapmakers not beholden to either political caucus,” and, to that end, explained that he had retained Sean Trende, a Republican analyst, and Bernie Grofman, a Democratic professor of political science, to help in the mapdrawing process. Attorney General Yost’s letter is attached as Exhibit B.

24. The Attorney General, as “chief legal officer of the state” also articulated what was and was not permissible in drawing a new map. He explained to us that the Court “established <52% as the threshold for a ‘leaning’ district; any index less than that is viewed by the Court as a competitive district,” and are “excluded[d]” from the proportionality calculation. And he told us that “efforts to protect incumbents are improper” and, citing the Court’s opinions, ““can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A).”” *Id.*

25. **Saturday, March 19, 2022.** The Commission met for the first time after the order on March 19, 2022. At that meeting, the Commissioners discussed several possibilities of moving forward; some appeared to want to move forward solely with the partisan staff drawing. I pushed for hiring independent mapdrawers, in accordance with the Court’s suggestion. However, I was concerned that the Commission would not agree on a single mapdrawer and agreed that we could hire two independent mapdrawers, one selected by each caucus of the Commission. Though each mapdrawer would be selected by a caucus, they would both be independent and work for the Commission as a whole. I also suggested hiring a mediator in case disagreements arose.

26. President Huffman noted that one advantage of having independent mapdrawers is that they are not “beholden to anyone in particular” and do not know where any incumbents live. Acknowledging that the Court had singled him out for his previous prioritizing of incumbency, President Huffman stated: “I think [prioritizing incumbency] was also criticized by the court [and]

that we should not consider incumbency in drawing these maps. So, I just want to kind of get that out.” Tr. 3/19/2022 at 46:22.

27. Co-Chair Cupp expressed that he was “skeptical” regarding mediation, pointed out a number of “practical concerns” regarding the process, and hoped that Commission “members aren’t being overly optimistic.” Tr. 3/19/2022 at 1:00:44

28. At the conclusion of the meeting, the Commission authorized the co-chairs to make recommendations to the Commission regarding hiring independent mapdrawers and mediators. And the Commission scheduled three upcoming meetings: Sunday, March 20 at 7:00pm (if needed); Monday, March 21 at 7:00pm, and Tuesday, March 22 at 9:00am.

29. **Sunday, March 20, 2022.** I immediately began the work of securing independent mapmakers. On Sunday, March 20, my staff or I had calls with four different mapmakers.

30. Along with Leader Russo and several of our staff, I also had a Zoom call that morning with Professor Michal McDonald about his availability to participate in the mapdrawing process as an independent mapdrawer.

31. In the afternoon, I spoke with Nate Persily, a professor at Stanford Law School. Dr. Persily was only willing to undertake this project if he were selected as the only mapdrawer by the leadership from both caucuses.

32. At approximately 1:00pm, I had a telephonic meeting with Mr. Grofman and Mr. Trende. Attorney General Yost, Leader Russo, and several staff members were also present. I understood from Yost that President Huffman and Co-Chair Speaker Cupp were having a similar call with Mr. Grofman and Mr. Trende later that afternoon. Although I had concerns about Mr. Trende, given his previous involvement in this matter as an expert for the Republican Commissioners, I agreed to go forward with these two independent mapdrawers. Given that the

Attorney General had already vetted these two mapdrawers and given that they had worked together successfully in Virginia, I felt it most important that we start the drafting process immediately, so I agreed with these recommendations.

33. I also moved forward with getting suggestions for a mediator. I reached out to Nancy Rogers, esteemed former dean of The Ohio State University Moritz College of Law and former Attorney General, for her suggestions for potential mediators. She provided me with a list of nationally acclaimed mediators and also said she would contact the chief mediator at the Sixth Circuit's mediation office. The chief judge of the Sixth Circuit gave permission to the mediators for the Commission to use their services. Chief Judge Sutton's letter regarding mediation is attached as Exhibit C. Subsequently, the Commissioners unanimously agreed to those mediators.

34. At approximately 3:00pm, Co-Chair Cupp informed me that he did not want to go forward with the 7:00pm meeting that night. He had suggested as much at an 11:00 call earlier that morning, when he said he had not heard back from the other Republican Commissioners about their availability for the scheduled 7:00pm meeting. But I had stressed the need for the Commission meeting. In the 3:00pm call, Co-Chair Cupp said he had a 4:30pm meeting scheduled with Mr. Grofman and Mr. Trende and did not know if a 7:00pm meeting was feasible. I suggested delaying the meeting to 8:00pm if necessary. Ultimately, at approximately 4:15pm, Co-Chair Cupp called me again to say it was not feasible to go forward with the meeting and that the Republican Commissioners, even after two days, did not have sufficient information about Mr. Grofman and Mr. Trende. The meeting was canceled.

35. That evening, I requested that the Senate Minority legal counsel draft a letter to the Commission announcing that Leader Russo and I supported hiring Mr. Grofman and Mr. Trende

in the interests of time and compromise. That letter, attached as Exhibit D, was sent to all the Commissioners at approximately 6:30pm.

36. **Monday, March 21, 2022.** Given that Co-Chair Cupp had told me that the Sunday meeting was not feasible, I was determined to ensure that the Commission, going forward, met every day. Along with Leader Russo, I sent a letter to the other Commissioners proposing a daily meeting schedule through March 28. That letter is attached as Exhibit E.

37. Despite my and Leader Russo's agreement to using Mr. Grofman and Mr. Trende, at the Monday, March 21 Commission hearing, the Republican Commissioners announced that they did not want to move forward with that team, but instead proposed Dr. Douglas Johnson from the National Demographics Corporation, as their selected independent mapdrawer. Given that Mr. Grofman expressed that his availability during the week may be limited for personal reasons, Leader Russo and I suggested Dr. Michael McDonald, a professor from the University of Florida, as our selected independent mapdrawer. The two would work together in drafting a new plan for the Commission's consideration, with the assistance of the Commissioners' staff.

38. Although the two had been selected, Co-Chair Cupp still wanted to delay. Rather than formally approve these two independent mapdrawers—so that they could get on flights to Columbus the next morning—Co-Chair Cupp suggested talking to the proposed mapdrawers over the next couple days about the specific details of an arrangement and learning the precise rules for the state signing a contract (which the Auditor did not offer), and settling other details. Tr. 3/21/2022 at 33:05. To avoid delay, Leader Russo and I formally moved and pushed for a recess so that members could study the choices and get the answers to Co-Chair Cupp's questions. Republican members suggested that they should instead wait until the morning. *Id.* at 39:52. But upon our urging, the Commission recessed for an hour.

39. Upon resuming the meeting, the Commission approved hiring the two independent mapmakers.

40. **Tuesday, March 22, 2022.** At the 9:00am meeting, the Commission established a daily meeting schedule through March 28, which the public could attend virtually or in person. Additionally, upon my request, the Sixth Circuit's mediation office presented to the Commission about their services and mediation in general.

41. Throughout the rest of the day, I directed my staff to work on ensuring that everything was ready for the mediators to get to work when they arrived. (Dr. McDonald arrived late Tuesday night, and Dr. Johnson arrived mid-day on Wednesday.) Democratic staff sought input on contracts and conflicts from the Legislative Service Commission and the Ohio Attorney General's Office and, with input from House Majority Counsel, later drafted a retention letter for Dr. McDonald and Dr. Johnson. Democratic staff worked on other logistical arrangements, such as for appropriate technology, room reservations, and livestreaming.

42. **Wednesday, March 23, 2022.** At my direction, on the morning of March 23, my staff worked to finalize the engagement letters for the independent mapdrawers and, with Co-Chair Cupp's consent, emailed the independent mapdrawers formalizing their engagement, clarifying expectations for appearance at that evening's Commission meeting, and offering to answer questions and provide them with any assistance. These engagement letters are attached as Exhibit F.

43. Prior to the 5:00pm meeting, the Republican Commissioners circulated proposed ground rules for the independent mapdrawing process. Leader Russo and I examined that proposal and made some suggestions.

44. At the meeting that evening, Dr. McDonald and Dr. Johnson spoke to the Commission about their needs and preferences for undertaking the mapdrawing process—including on topics about data sets, numbers of computers, and mapdrawing software. With their input, the Commissioners discussed and voted on each ground rule. The finalized ground rules are attached as Exhibit G. Among others, the ground rules required the independent mapdrawers, using Maptitude software and new computers provided by the Commission, to: draft an entirely new General Assembly district plan at the direction of the Commission and in accordance with the Ohio Constitution and the Court’s orders; answer to the Commission members; and not consider district plans or work product produced before March 23.

45. Finally, at about 7:40pm—a full week after the Supreme Court’s order—the independent mapdrawers were hired and authorized to get to work.

**The Independent Mapdrawers, following a Transparent and Collaborative Process, Worked Diligently to Complete a Constitutional Map.**

46. **Thursday, March 24, 2022.** The mapdrawers commenced their work on Thursday, March 24 first thing in the morning. At approximately 8:00am, the Ohio Channel began to livestream the “workroom”—a committee room at the Capitol that was set up for the mapdrawers. Legislative staff set up computers and downloaded the necessary software. There were some delays in getting the proper data in the software program, as the Commission’s ground rules required data that did not have any race-based statistics. Once these issues were resolved, the mapmakers got to work.

47. Though belated, the independent mapdrawing process occurred in a collaborative and transparent fashion. I observed their work both by visiting the workroom and via the livestream. Dr. McDonald and Dr. Johnson each had separate computers where they could draft and try out ideas. They sat next to each other and chatted frequently. They suggested different

ideas, each pursuing different suggestions not based on partisan advantage or hidden motives, but in a pure attempt to see what would work. Sometimes they encountered dead ends and would have to try to draw parts of the map again, though they relied on the Commissioners' previously hired mapdrawers—Mr. Chris Glassburn and Mr. Randall Routt from the Democrats, and Mr. Ray DiRossi and Mr. Blake Springhetti from the Republicans—to help avoid pitfalls. They were developing a truly independent map, in public, with no single party pulling strings behind the scenes.

48. At the Commission's 7:00pm meeting, the independent mapdrawers provided an update on their progress to the Commission and then got back to work.

49. **Friday, March 25, 2022.** On Friday, March 25, 2022, the independent mapdrawers continued to work diligently and made progress toward completing a plan. There was no indication that they would not finish on time or would be unable to comply with the Court's orders.

50. The Commission met at 2:00pm. The mapdrawers provided the Commission with an update, and the Commission discussed specifics, including alternatives for Franklin County pairing. Yet the Republican Commissioners bogged down the process by repeatedly stressing compliance with sections of the Ohio Constitution already being adhered to and by emphasizing compactness and diminishing section 6(B), which demands proportional representation based on ten years of statewide election results.

51. Following the meeting, I received a memo from Co-Chair Cupp regarding new instructions that the Republican Commissioners wanted to give to the mapdrawers from the Co-Chairs. To me, the proposal read like a mechanism to slow down the mapdrawing process, was unnecessarily redundant of what had already been requested in the last Commission meeting, and gave more power to the majority to slow the process down. So, I opposed it. My response in

opposition to the Republican Commissioners' proposals is attached as Exhibit H. The Republican's rules would have:

- Required the mapmakers to provide multiple different options for Franklin County because President Huffman wanted alternatives to what they had drawn.
- Required mapmakers to provide notice of any areas they wanted feedback on 90 minutes before the scheduled meeting.
- Prior to drafting a singular plan from both of the mapdrawers together, the mapdrawers would have to present multiple different individual full plans to the Commission and receive feedback before being allowed to present a merged plan.

The Republican Commissioners included this proposal in the minutes at the start of the Commission's next meeting and, although the Commission never formally adopted this proposal, the mapdrawers always attempted to give the Commission as much notice as possible, at least an hour before a meeting, of areas that they wanted guidance on and sent the relevant map files to the Commissioners' staff. And the mapdrawers always welcomed feedback and suggestions about alternatives; indeed, Commissioners would stop by and ask that certain areas be drawn in specific ways if possible.

**Over My Objection, the Republican Commissioners Prioritized Protecting Incumbents and Attempted to Derail the Independent Mapdrawers' Progress.**

52. **Saturday, March 26, 2022.** By Saturday, March 26—with two full days left before our deadline—each of the mapdrawers had completed a draft House map to present to the Commission. (House maps were completed first because Senate districts are combinations of three House districts.) Both plans had 45 Democratic-leaning House districts and 54 Republican-leaning House districts. Not only had both the Republican-selected and the Democratic-selected independent mapdrawers achieved partisan proportionality, but they had achieved almost perfect

partisan symmetry for competitive districts. Both maps had three Democratic-leaning districts between 50% and 52%; the Johnson map had two such Republican districts and the McDonald map had three.

53. At the 4:00pm Commission meeting, the independent mapdrawers requested feedback from the Commission so that they had guidance before they merged their two maps. For instance, the maps diverged on how they treated Montgomery County and the map drawers sought the Commission's preference. The Commission did not give direct feedback, even after a long recess.

54. By this point it was clear that the independent mapdrawers, if given the guidance needed by the Commission, could timely complete the task. Each had drawn proportional and symmetrical maps, and there were not too many disagreements between the two. The prospect of completion of fair maps seemed to rattle the Republican Commissioners, and they started to impede and discredit the process. They started to complain that the maps were not compact (they were) and that there was insufficient time for public input (which they had never prioritized before).

55. President Huffman's main complaint was that the maps double bunked Republican incumbents. Apparently, he had already forgotten what he had told us at the first Commission meeting on March 19—that we shouldn't consider or prioritize incumbents. Up to that point, the maps had been drawn without any incumbency data, so any resulting districts that had multiple incumbents living within them was a by-product of drawing a constitutional map. But President Huffman would not allow it. He proposed that, before a merged clean map was even drawn, incumbency data be added and that the mapdrawers be directed to avoid placing multiple incumbents in the same district to the extent possible. Though President Huffman's concern started

out targeted at Senators who were in the middle of their terms, it expanded to wanting, to the extent possible, all House and Senate incumbents protected by the new maps.

56. I immediately objected, as did Leader Russo. I was concerned that adding incumbency data would slow down the process and make the maps less compact and symmetrical. Additionally, the Court had warned us about using incumbency data, and the Attorney General, following that opinion, told us it was “improper.” I suggested that the issue go to mediation. At approximately 7:30pm, we began mediating these issues about incumbency.

57. **Sunday, March 27, 2022.** The Commissioners continued to work with the mediator to try to reach a resolution on the incumbency issue. Though I did not want any incumbency data used, I also had to face the reality that the Republican Commissioners have the majority, and they wanted to require the independent mapdrawers to incorporate incumbency into their maps *even before* they had created a single constitutional map without incumbent consideration. To move the process forward, we agreed to a resolution that would allow the independent mapdrawers to draw a clean map first, before tainting it with trying to protect all the incumbents.

58. The final resolution of our mediation was an agreement to instruct the mapmakers, which we did, as follows: “Upon completion of the independent map drawers’ merger of their independent versions of the House and Senate maps and prior to any presentation to the Commission, the independent mapdrawers shall consider the residence locations of non-term limited House and Senate incumbents, and Senate incumbents in mid-term, in drafting a Commission map, and where possible without violating constitutional principles, avoid pairing incumbents and also drawing districts such that Senators protected under Section 5 of Article 11 no longer live in the district they represent. Incumbents will be identified as House or Senate and

no other identifying information shall be used.” See Mediation Agreement—Instructions to Mapdrawers with Regard to Incumbents, as adopted March 27, 2022.

59. At the March 27 hearing, each independent mapdrawer also presented their complete maps. Before combining them, they again sought the Commission’s input. For example, they wanted the Commission’s decision—as they had asked the previous day—as to whether a district drawn that included some of Montgomery County should extend to Green County or to Preble County. The Commission recessed to evaluate the different plans. Yet, even after recess, the Republican Commissioners expressed their opposition to voting to give clear guidance on these issues to the mapdrawers. Several of the Commissioners expressed their informal views, and Leader Russo asked that the mapdrawers move forward with their understanding based on that discussion.

60. That night, after the meeting, my staff informed me that the independent mapdrawers had agreed on a merged plan and were working on cleaning it up for any minor errors (the “Pre-Incumbent Independent Plan”).

**The Republican Commissioners Hijacked the Independent Mapdrawing Process and Passed an Unconstitutional Map Drawn by Republican Staff.**

61. **Monday, March 28, 2022.** By Monday mid-morning, the independent mapdrawers had completed cleaning up the Pre-Incumbent Independent Plan. As they explained to the Commission at the 11:00am meeting, that plan achieved perfect partisan proportionality in both the House and Senate. It also was symmetrical with respect to competitive seats; there were three Democratic-leaning and three Republican-leaning House seats between 50% and 52% in the House; and two Democratic-leaning and no Republican-leaning Senate seats between 50% and 52%. That plan was posted on the Commission’s website.

62. The mapdrawers stated that they would then add the incumbent data, which was being loaded into their computers.

63. When the Commission reconvened in the afternoon, I was pleased when Dr. Johnson and Dr. McDonald announced that they were just a couple of hours away from completing their map, having adjusted district lines (per the Republicans) to protect incumbents.

64. But what I took as a sign of success, was a sign of danger to my Republican colleagues—we could have a fair and independent map. President Huffman announced, for the first time, that to comply with the Court’s midnight deadline, the map actually had to be completed and adopted by 10:30pm so there was enough time to email the data files to the Secretary of State. Then he suggested, because he was concerned that the independent mapdrawers would not meet this deadline, that he would have the Republican mapdrawers tweak the Third Plan so that the Commission could pass that. Though he presented it as a backup “parachute,” in case the independent mapdrawers failed to meet the deadline, it became clear that it was far from just a backup. President Huffman stated that he spoke to Mr. DiRossi and that Mr. DiRossi, despite being sick, was able to work on a separate map. While presented as a last-minute backup plan, President Huffman later admitted to hatching the plan three days earlier.

65. I immediately objected, as did Leader Russo. We explained that such a process would contravene this Court’s orders and the Constitution. I suggested that if we needed more time, we should ask for an extension—not pass another unconstitutional map drawn in a bunker by a partisan Republican mapdrawer. What President Huffman was proposing was, as I said, “ridiculous.” As I stated at the meeting:

“[A]ll the time, money and resources we’ve put into coming up with a constitutional map. We have independent mapmakers. Each of them have drawn separate and apart constitutional maps that comply with the court order. They’ve put together a unified map that just need edits that we can make in this time period to comply with the requirements.

To distract us, the staff, and the independent mapdrawer to divert to some other tasks is ridiculous, contrary to the directive, contrary to the spirit and the direction of the court.

Tr. 3/28/2022 at 50:16

66. The Republican Commissioners were not willing to ask the Court for extra time, even though they passed the Third Plan over a week late. Over my and Leader Russo's dissent, the Commission voted to adopt President Huffman's proposal.

67. Meanwhile, Dr. Johnson worked on completing the plan incorporating the incumbency data. (Dr. McDonald left at 5:00pm because of a class he had to teach the next morning in person in Florida.) At approximately 9:30pm, when the Commission reconvened, Dr. Johnson stated that he needed about 45 minutes to complete the Senate map, and the House map was already done. Therefore, I asked that the Commission recess for one hour to allow Dr. Johnson to complete his work so that we could consider his final plan.

68. But the Republican Commissioners refused. President Huffman announced that Mr. Springhetti—the Republican mapdrawer—had been working on a map (the “Fourth Plan”) and said the Commission should go with that “parachute.” A Republican staff member handed out printouts of the Fourth Plan; the printout included no partisanship data. This was the first time I had seen the plan. Other Commissioners also said it was the first time they had seen the plan. At first glance, it appeared to be a repeat of the Third Plan, and President Huffman explained that it changed the Third Plan only minimally. Despite Leader Russo and my requests, the Republican Commissioners would not recess to allow us to review the map and suggest amendments. The Commission then proceeded to adopt the Fourth Plan by a 4-3 vote, despite the fact that there was no opportunity for any Commissioner to provide amendments, ask questions, or view analyses of the plan.

69. At approximately 10:30pm, minutes after the Commission adopted the Fourth Plan, Dr. Johnson finished the independent map.

70. After adopting the Fourth Plan but with the motion to adopt the majority's 8(C)(2) statement, I recessed the Commission for 30 minutes to prepare the minority's Section 8(C)(2) statement.

71. Upon returning, at approximately 11:00pm, the Commission approved the majority's 8(C)(2) statement. I then moved to adopt the independent mapmakers' final map (the "Incumbent Independent Plan") and have it supersede the Fourth Plan. The Fourth Plan had not yet been sent to the Secretary of State, so it was not effective. (And it was clear by then that, despite President Huffman's earlier statements, it did not take over an hour to prepare files to email to the Secretary of State. Either map's files could be emailed to the Secretary of State at that time.) Looking at the independent mapdrawers' plan, the Republican Commissioners said baldly that they were not compact even though they have a greater compactness score than the Fourth Plan. They said they did not have enough time to review the Incumbent Independent Plan; but they had just voted for the Fourth Plan sight-unseen and had been receiving updates about the independent plan and were able to view its drafting for days. The Commission rejected my proposal to adopt the Incumbent Independent Plan 5-2; only Leader Russo and I voted to complete the independent, transparent, fair process that this Court urged.

### **Conclusion**

72. I worked diligently to get the Commission to adopt a constitutional map, drawn by independent mapdrawers, through a transparent process, alongside Leader Russo. But we only have two votes on this seven-member Commission. Despite our efforts, we were not able to prevent President Huffman and the Republican Commissioners from hijacking the process. I

ultimately voted for the independent mapmakers' plan and against the unconstitutional Fourth Plan. I believe that my efforts, described above, demonstrate that I did not violate the Court's March 16 order and should not be held in contempt.

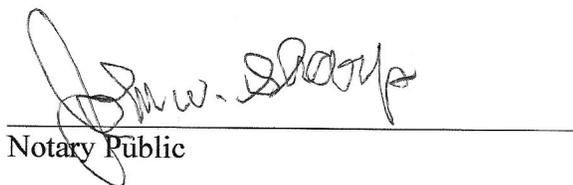
73. I am hopeful, however, that with strong mandates from this Court we can resume the process with the independent mapmakers and adopt constitutional maps before the federal court takes over on April 20, 2022. I do not believe that the Republican Commissioners, without strong mandates from this Court to give them cover in their party, will abide by their constitutional duty. And I respectfully ask the Court to take such action to protect the Ohio Constitution.

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF OHIO - SS  
COUNTY OF SUMMIT

  
Vernon Sykes

Sworn to before me and subscribed in my presence this 3 day of April, 2022.

  
Notary Public



**Exhibit A  
to Affidavit of  
Respondent Vernon Sykes**



**STATE SENATOR VERNON SYKES**  
28th District

March 17, 2022

The Honorable Robert Cupp  
Ohio House of Representatives  
Columbus, Ohio 43215

Dear Co-Chair Speaker Cupp:

I write today to reiterate what I suggested on our phone call earlier today, that the Ohio Redistricting Commission meet as soon as possible in order to develop a transparent path forward to pass bipartisan, fair, and constitutional state legislative maps.

The Ohio Supreme Court has directed the Ohio Redistricting Commission to start fresh and draw maps that meet constitutional muster. We must do this by March 28. Leader Russo and I stand at the ready and believe following the Court's order is possible if we work together and do not waste time.

It is essential that we call a meeting of the Redistricting Commission as soon as possible to start the map drawing process. The Court has rightly criticized the Commission for its previous delays and inefficient use of time. I hope that we will not repeat that mistake this time – our fourth attempt. I will note that the Commission recently amended its procedural rules to also allow for any three members to call for a meeting of the Commission, rather than only the Co-Chairs. Leader Russo and I are available at any time and would welcome any other Commissioner in calling for a meeting.

The Court also ordered the Commission to meet “frequently” in order to have an open and transparent process to the public. I have suggested to you that we set a schedule and meet at least every other day in order to meet this directive and I offer that suggestion once again. It is critical that we conduct our deliberations and make map-drawing decisions in the light of day and with the opportunity for the public to provide input.

Further, I suggest that the Commission work in a bipartisan manner and hire an independent map-drawer – or alternatively, a mediator – to aid us in our efforts. I believe our staff could work together to identify a list of mutually agreeable individuals to serve in this role.

Ultimately, now is the time for us to work together in order to fulfill the wishes of Ohio voters who overwhelmingly approved these reforms to our redistricting process.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon Sykes".

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission

CC: Members, Ohio Redistricting Commission

**Exhibit B**  
**to Affidavit of**  
**Respondent Vernon Sykes**



**MEMORANDUM**

TO: Members of the Ohio Redistricting Commission  
FROM: Attorney General Dave Yost  
DATE: March 18, 2022  
RE: Steps forward following the decisions in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al. III* and companion cases

=====

Late in the evening of March 16, the Ohio Supreme Court struck down the third set of state legislative maps. Whether I, or you, agree with the majority in this most recent decision is irrelevant. Four justices have decreed what the rules for this round of redistricting shall be. You are left with little choice but to abide by them. Accordingly, this memorandum outlines a set of steps calculated to address the perceived deficiencies raised by the majority of the Court.

I offer this framework as the chief legal officer of the state, having neither a vote nor a veto over your work. This is not a map of all possible roads to the objective of complying with the elements of the Supreme Court's decisions, but one suggested route. The Commission may choose to devise another. This is offered as a means to commence your discussions.

**Meetings**

The Court made much of the relatively modest number of meetings held before the February 4, 2022 Plan was enacted, and the lateness of their calling. In its most recent order, the Court only gave the Commission ten days to produce a new map, two days of which have already expired.

The Commission apparently has scheduled a meeting for tomorrow--an excellent first step. I suggest that the commission agree at that first meeting on a schedule of meetings, and to publish it. Given that only seven days remain, daily meetings would not be excessive to respond to what some of you have correctly termed a constitutional crisis. I understand one of you has already cancelled an out-of-state trip so as to be available during this period--a commendable and appropriate sacrifice in view of the seriousness of this moment. One or more members may also arrange to participate remotely by electronic means if necessary and agreeable to the commission.

## **Staffing**

The Court directed the commission to hire new mapmakers not beholden to either political caucus. “The commission should retain an independent map drawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan through a transparent process.” (at paragraph 30) I note that Court used “should” and not “shall,” but given that this matter is heard in the Supreme Court without meaningful appeal regarding the limits of its authority, it would be wise to treat this suggestion with the degree of deference one might pay to the suggestions of one’s spouse.

To assist the commission in this effort, I have retained a bipartisan duo of consulting experts through my office, who together can achieve the level of independent evaluation the court is requiring. I will make them available to the commission as a whole.

Sean Trende, a Republican analyst well-known to the readers of *Real Clear Politics*, or even causal viewers of cable news, and Bernie Grofman, a Democratic professor of political science at the University of California-Irvine, recently collaborated to produce maps for the State of Virginia. Their work was unanimously adopted by the Virginia Supreme Court.

Their charge should be simply to produce a map that complies with the Ohio Constitution and the orders of the Ohio Supreme Court. They understand the time limits of the court, the terms of the Constitution and the decisions regarding it and are prepared to go to work immediately.

Of course, you are not required to use them; I have undertaken to retain them because of the exigent circumstances created by the very short time allowed by the Court. Nor are you required to adopt their maps. It is my hope, however, that you will--their success in Virginia strongly commends them and their work to your consideration.

## **Drafting in Public**

The Court further wrote that the map-making should be done in public. “To promote transparency and increase public trust, the drafting should occur in public.” (at paragraph 44)

The actual map-making is highly technical and performed on a single work-station. I do not read the Court’s opinion to say that seven people should be jockeying in a public room to direct the operator of the mouse to do this or that conflicting action.

To comply with the Court’s direction, I suggest that the Commission take public actions that achieve the clause seeking transparency and public trust. To that end the Commission could publish any maps at least 24 hours before a vote; meet in public, and receive a progress reports in public from the mapmakers prior to the completion of a map, and discuss in public any sticking points between map drafts or particular districts permutations. I believe a process like this is compliant with the public map making directive issued by the Court.

## Additional Criteria

- The Court has now established <52% as the threshold for a "leaning" district; any index less than that is viewed by the Court as a competitive district. The Court will exclude competitive districts from its partisanship calculation. That is, if there are 32 competitive districts, then the remaining 100 districts must closely correspond to the 54 Republican to 46 Democrat ratio the majority has established.
- The Court wrote that efforts to protect incumbents are improper. Such efforts "...can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A)." (at paragraph 37)
- While competitive districts will not be counted in overall partisan balance, the Court in *dicta* was bothered by the imbalance in the number competitive districts (meaning those with an expected favorable margin of less than 52%) leaning Democratic versus those leaning Republican. While the clustering of Democrats in urban enclaves creates challenges to making Republican-leaning districts more competitive, I would be remiss if I failed to note the Court's observation.

This is meant to be a summary of the major objections in *League III*. The Constitution and the Court's actual opinions are controlling, of course, and my office stands ready to assist the Commission in navigating the multiple and sometimes competing objectives.

Finally, a note about process. I have served on several multi-member bodies, and I've learned it is always a temptation to love too much my own advice, and my own theory of law. I keep this passage from the Ohio Jury Instructions handy, and often review it before meetings:

*It is not wise to immediately express a determination to insist upon a certain verdict, because if your sense of pride is aroused, you may hesitate to change your position even if you later decide you are wrong.*

*Consult with one another, consider each other's views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment.*

*Each of you must decide... for yourself, but you should do so only after a discussion and consideration of the case with (the others).*

*Do not hesitate to change an opinion if convinced that it is wrong. However, you should not surrender honest convictions in order to be congenial or to reach a verdict solely because of the opinion of other(s).*

The hour is late, and I do not envy your task. I hope this memorandum has made it easier to "begin again."

**Exhibit C**  
**to Affidavit of**  
**Respondent Vernon Sykes**

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

CHAMBERS OF  
JEFFREY S. SUTTON  
CHIEF JUDGE



TELEPHONE  
(614) 849-0134  
FACSIMILE  
(614) 849-0124

March 22, 2022

**VIA EMAIL**

The Honorable Robert R. Cupp  
The Honorable Vernon Sykes  
Co-Chairs, Ohio Redistricting Commission

Dear Co-Chair Cupp and Co-Chair Sykes:

This letter is to confirm that the Ohio Redistricting Commission has engaged the services of the Office of the Circuit Mediators of the United States Court of Appeals for the Sixth Circuit to provide mediation services. Mediators Catherine Geyer and Scott Coburn will assist the Commission in negotiations to develop a state legislative district map. The expected timeframe of this engagement will begin immediately and continue through the conclusion of the approval process. Mediation services are provided as part of the mediators' services to the Court. There are no fees or expenses to the Ohio Redistricting Commission.

Consistent with the mediation practices of the Sixth Circuit, the Circuit Mediators will not share mediation communications with any judges within the Sixth Circuit, including district judges.

Sincerely,

/s/

Jeffrey S. Sutton

cc: Marc Theriault, Circuit Executive  
Catherine C. Geyer, Chief Circuit Mediator  
Scott Coburn, Circuit Mediator

85 MARCONI BOULEVARD, COLUMBUS, OHIO 43215

**Exhibit D**  
**to Affidavit of**  
**Respondent Vernon Sykes**



March 20, 2022

Dear Commissioners,

In our meeting yesterday, this commission set out a straightforward task to reconvene, possibly tonight, with recommendations for independent map drawers that could produce constitutional legislative districts. In an effort to aid our work as a commission, Attorney General Dave Yost retained two well-known, independent map drawers of national note, Bernard Grofman and Sean Trende.

The Democratic commission members today spoke with Grofman and Trende, as well as other highly qualified map drawing experts. We are in favor of the commission engaging the Attorney General's suggested mapmakers. We have also been in touch with nationally renowned mediators who could serve later in this process to help the commission finalize a bipartisan, constitutional set of legislative maps.

It is unfortunate that our colleagues were not prepared for a meeting tonight, which was tentatively scheduled for 7 p.m. As the deadline imposed on us by the Supreme Court of Ohio looms, time is of the essence. However, we remain confident that these issues can be resolved at our next meeting, scheduled for Monday, March 21 at 7 p.m., and the map drawing may immediately begin. There is still time for this process to result in the bipartisan, constitutional maps that the people of Ohio expect and anticipate from the commission.

Respectfully,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

**Exhibit E**  
**to Affidavit of**  
**Respondent Vernon Sykes**



March 21, 2022

Dear Commissioners,

As every member of the Ohio Redistricting Commission is aware, the Supreme Court of Ohio gave us a deadline of next Monday, March 28 to complete our constitutional duty to produce state legislative maps in accordance with the Ohio Constitution and the Supreme Court's orders.

Our Attorney General has offered his opinion that to meet the Court's demand of frequent meetings, that "daily meetings would not be excessive." In that spirit, we propose the following daily schedule for the Ohio Redistricting Commission:

- *The previously scheduled Tuesday, March 22 meeting at 9:00 AM*
- *Wednesday, March 23 at 5 PM*
- *Thursday, March 24 at 4 PM*
- *Friday, March 25 at 10 AM*
- *Saturday, March 26 at 1 PM*
- *Sunday, March 27 at 4 PM*
- *Monday, March 28 at 10 AM*

The above proposal is fair and meets the obligations set forth by the Supreme Court of Ohio and reiterated by the Attorney General.

Respectfully,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

**Exhibit F  
to Affidavit of  
Respondent Vernon Sykes**



OHIO REDISTRICTING COMMISSION

---

March 23, 2022

Michael McDonald  
Professor, University of Florida  
Department of Political Science  
222 Anderson Hall  
P.O. Box 117325  
Gainesville, FL 32611

Dear Dr. McDonald:

This letter confirms that the Ohio Redistricting Commission has approved the use of your professional services to assist the Commission, and its designated staff, in the timely production of state legislative district maps pursuant to directions provided to you by the Commission.

Your hourly rate is \$450 plus related expenses for all state legislative district map work through March 28, 2022. The wages and expenses are capped at \$49,000.

Sincerely,

A handwritten signature in black ink that reads "Robert R. Cupp".

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Speaker Robert R. Cupp, Co-Chair

A handwritten signature in black ink that reads "Vernon Sykes".

---

Senator Vernon Sykes, Co-Chair



**OHIO REDISTRICTING COMMISSION**

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March 23, 2022

Douglas Johnson  
National Demographics Corporation  
P.O. Box 5271  
Glendale, CA 91221

Dear Mr. Johnson:

This letter confirms that the Ohio Redistricting Commission has approved the use of your professional services to assist the Commission, and its designated staff, in the timely production of state legislative district maps pursuant to directions provided to you by the Commission.

Your hourly rate is \$450 plus related expenses for all state legislative district map work through March 28, 2022. The wages and expenses are capped at \$49,000.

Sincerely,

A handwritten signature in black ink that reads "Robert R. Cupp".

---

Speaker Robert R. Cupp, Co-Chair

A handwritten signature in black ink that reads "Vernon Sykes".

---

Senator Vernon Sykes, Co-Chair

**Exhibit G  
to Affidavit of  
Respondent Vernon Sykes**



**OHIO REDISTRICTING COMMISSION**  
**Ground Rules for Map Drawers – As Adopted on 3.23.2022**

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- 1.) The map drawers shall include the two independent map drawers hired by the Redistricting Commission and Commissioners' staff/contractor map drawers.
- 2.) The independent map drawers shall draft any General Assembly district plan at the direction of the Redistricting Commission and in accordance with the Ohio Constitution and Supreme Court of Ohio's orders.
- 3.) The independent map drawers shall answer to each of the Redistricting Commission members. However, any conflicting direction from the Redistricting Commission members shall be resolved via the mediation process described below. (See Rules 12-16)
- 4.) The independent map drawers shall produce an entirely new general assembly district plan that has not been previously submitted to the Redistricting Commission. The independent map drawers shall not include or consider any general assembly plan proposals or work product produced prior to Wednesday, March 23, 2022 when drafting the entirely new general assembly district plan.
- 5.) The map drawers shall utilize statewide election results and geography from 2016, 2018, and 2020 for the purpose of measuring the partisan lean of individual districts.
- 6.) When considering the election results, Republican votes cast plus Democratic vote casts shall equal 100% of the total vote.
- 7.) Any General Assembly district plan shall be drawn in Maptitude.
- 8.) The independent map drawers shall utilize one computer purchased by the Redistricting Commission to draft any general assembly district plan. Two additional computers may be used for preparation purposes by the independent map makers on site.
- 9.) Racial data will neither be loaded onto the computers nor shall it be utilized by the map drawers in any way.
- 10.) The independent map drawers shall draw a general assembly district plan that conforms with the Ohio Constitution including Article 11, Sections 1, 2, 3, 4, 5, 6, and 7, the Constitution of the United States and applicable federal laws.
- 11.) The independent map drawers shall draw a general assembly district plan that conforms with the opinions of the Ohio Supreme Court and the United States Supreme Court.
- 12.) Should the independent map drawers encounter a disagreement between themselves regarding the application of Art. 11 of the Ohio Constitution and/or the opinions of the Ohio Supreme Court, the issue shall be referred to the full Commission.

- 13.) Should the full Redistricting Commission reach a unanimous consensus, the independent map drawers shall implement the instructions of the full Redistricting Commission.
- 14.) Should the full Redistricting Commission not be able to resolve the issue by unanimous consensus, the issue shall be referred to mediation.
- 15.) Should mediation fail to resolve the issue, the issue shall be presented to the full Redistricting commission for a vote. A majority vote of the Commission shall resolve the issue.
- 16.) The map drawers will then implement the decision of the Commission regarding the disputed issue.
- 17.) Upon adoption of a general assembly district plan the independent map drawers shall complete and file with the Secretary of State, a geographical legal description of each House and Senate district, shape files, equivalency files and county population and filing location for the most populous county in each district, and any applicable Art 11, Sec. 5 Senate assignments in a manner requested by the Secretary of State within ten days.
- 18.) The independent map drawers agree that they have been hired by the Ohio Redistricting Commission, and as such, they owe a duty of fidelity to the Ohio Redistricting Commission. Accordingly, the independent map drawers shall not discuss or communicate with any person, organization, or group – aside from the Ohio Redistricting Commission and the Commission members’ staffs—regarding any aspect of the substance of any redistricting plan. Failure to abide by this requirement may result in the immediate termination of the independent map drawer’s contract along with all available remedial measures caused by the independent map drawer’s breach of their duty of fidelity to the Ohio Redistricting Commission.
- 19.) The meetings of independent map drawers will be held in Room 116 in the Ohio Statehouse. This will be the designated work space for the independent map drawers. No materials shall be taken off site.
- 20.) The Statehouse’s Ohio Government TV will livestream the map making process in Room 116. OGT will stream the map drawers whenever they are working in the room.
- 21.) Commissioners or their designated staff shall have unlimited access to the map drawers, but shall contact both Dr. McDonald and Mr. Johnson simultaneously.
- 22.) The independent map drawers will provide regular progress updates to the Commission at each of the Commission’s scheduled meetings.
- 23.) Commissioners can expect to provide feedback and guidance to the independent map drawers in these meetings in addition to their individual outreach to the independent map drawers as provided in Rule 21.
- 24.) Public access will be only be available in a nearby room where video from the work room will be broadcast.

**Exhibit H  
to Affidavit of  
Respondent Vernon Sykes**

**From:** Rowe, Mike Mike.Rowe@ohiosenate.gov  
**Subject:** Response from Co-Chair Sykes  
**Date:** March 26, 2022 at 1:50 PM  
**To:** Christine.Morrison@ohiohouse.gov  
**Cc:** Paul.Disantis@ohiohouse.gov



Hello Christine,

Here is the response from Senator Sykes to the memo from Speaker Cupp.

Mike Rowe  
Senate Minority Chief of Staff

\*\*\*\*\*

Dear Co-Chair Speaker Cupp,

This letter serves as a follow up to our phone conversation earlier today.

First, I do not believe the proposed memo I received on March 25, 2022 regarding the independent mapmakers is appropriate at this time.

The independent mapmakers have previously agreed to provide different options for Franklin County and President Huffman is welcome to follow up with them any hearing. Under the independent map drawer ground rules adopted by the Commission, each Commissioner has the right to express their views or make requests to the map drawers. They can do so at a meeting or whenever else they want, so long as the Commissioner addresses both map drawers at the same time.

I do agree it is reasonable for the Commission to get information from the map drawers in advance of each Commission meeting. But rather than interrupt the map drawers themselves, I think the map drawers should work with the designated staff of Commissioners to determine how to provide updated information to the Commissioners in advance of meetings. I suggest we present and adopt this revised procedure at the next meeting.

Finally, the map drawers have our instructions and requirements from the ground rules, and I do not believe we should unnecessarily emphasize some instructions or requirements over others. I believe any change to the ground rules is unnecessary at this time.

Sincerely,

Senator Vernon Sykes, Co-Chair  
Ohio Redistricting Commission

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

**Introductory Information**

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House’s session on January 26, 2022.
3. I serve as a Commissioner on the Ohio Redistricting Commission (“Commission”). I am the only woman on the Commission. I serve as a representative from the Democratic Party, along with Co-Chair Senator Vernon Sykes (together, the “Democratic Commissioners”). The remaining five Commissioners are Republicans (together, the “Republican Commissioners”).
4. I was sued in the above-captioned case and am a named Respondent. The Ohio Supreme Court, however, has recognized that my interests align more with the Petitioners than that of the Commission or the Republican Commissioners. Opinion 2022-Ohio-65, ¶ 66. I have urged the Supreme Court to invalidate the Commission’s previous General Assembly maps because they violated Section 6, Article XI of the Ohio Constitution.
5. On March 16, 2022, the Ohio Supreme Court declared the Commission’s third General Assembly plan (the “Third Plan”) invalid and directed the Commission to create a new plan by March 28, 2022. Opinion, 2022-Ohio-789 (“*LWV III*”).
6. On March 30, 2022, the Supreme Court ordered that “responses, if any,” to “petitioners’ motion for an order directing respondents to show cause for why they should not be

held in contempt of the court’s March 16, 2022 order,” be filed by April 4, 2022. I submit this affidavit in response to that order. I have filed three affidavits in this case previously, each detailing my efforts to comply with the Ohio Constitution and this Court’s orders. I incorporate those by reference. *See* March 2, 2022 Affidavit of C. Allison Russo; February 23, 2022 Affidavit of C. Allison Russo; January 28, 2022 Affidavit of C. Allison Russo.

7. The Petitioners’ motions for an order to show cause accurately describes the Commission’s process and actions following the March 16 order. As described, the Commission hired independent mapdrawers (one selected by each caucus), who were drawing maps from scratch, in public, with direction from the Commission which was meeting almost daily. But, just days before that transparent, independent process to develop a constitutional plan concluded—when my Republican colleagues could see that an independent plan would emerge—they attempted to undermine the entire process.

8. The result: just minutes before the independent mapdrawers completed the most final version of their map, Co-chairman Cupp with Senator Huffman’s second proposed adopting maps, drawn by the Republican mapdrawers alone, that were over 97% the same as the Third Plan this Court already held unconstitutional. The Republicans would not allow any amendments or even time to review. And, with a vote of four of the Republican Commissioners, the Commission adopted that plan (the “Fourth Plan”). I voted against that plan and instead for the independent mapdrawers’ plan.

9. I understand that Petitioners again seek to have this Court hold the Commission and/or Commissioners in contempt. Last time that Petitioners made such a request, the Commission (over my dissent) failed to adopt a map at all even though the Democratic Commissioners and Petitioners had presented constitutional maps that could have been adopted.

This time there is a plan, but, as I said in our March 28, 2022 Commission meeting as the Republican Commissioners again violated their duty to adopt a constitutional map, it was a “farce.” As before, the Republican Commissioners could have adopted a constitutional plan. They had been observing, monitoring, and guiding the independent mapdrawers for days. But they chose not to because it would weaken their supermajority.

10. As detailed below, since this Court’s March 16 order, I worked diligently alongside Co-Chair Sykes to comply with the order. Together, we (1) requested that the Commission meet immediately and often; (2) identified and procured independent mapdrawers and mediators; (3) were willing to work collaboratively with the other Commissioners and their staff on any plans or ideas had they been proposed; and (4) moved to adopt a new constitutional plan prepared in public by the independent mapdrawers. Because I worked diligently to help the Commission produce a constitutional plan, voted for that constitutional plan, and opposed the Republican Commissioners’ last-minute takeover and unconstitutional Fourth Plan, I respectfully request that the Court does not order me to show cause or hold me in contempt.

11. But I do ask the Court to take strong action to ensure that the Commission adopt a constitutional map before the federal court usurps our constitutional process and selects a plan on April 20, 2022. Indeed, that court has indicated that it is even entertaining mandating plans that this Court has held are unconstitutional. With Article XI, the voters of Ohio asked for the Commission to draw fair maps and entrusted the Ohio Supreme Court with both the power and responsibility to protect that choice. It is still my hope that, with this Court’s help, we can fulfill that responsibility to the people of Ohio.

**Immediately After the Court’s Order, the Democratic Commissioners Worked Diligently to Arrange for Frequent Meetings and for a New Plan to be Drawn in Public by Independent Experts.**

12. **Wednesday, March 16, 2022.** As urged by the Democratic Commissioners, the Ohio Supreme Court invalidated the Third Plan in an opinion and order published at approximately 9:45pm on March 16, 2022. Having received notice of the Court’s order on Wednesday evening, I hoped that a notice of the Commission’s next meeting would be issued post haste, but was prepared to call for one if not, as the Commission needed to reconvene to, once again, adopt new maps.

13. The March 16 order set forth clear rules and guidance for the Commission that I diligently worked to follow throughout the process. After holding the Third Map invalid, the Court described a process that should be followed. It held that the Commission “be reconstituted” and that “the commission draft and adopt an entirely new General Assembly-district plan.” *LWV III* ¶ 44. Based on the Court’s explanations, I took this to mean that the Commission itself, rather than the partisan staff who had been drawing maps, had to oversee the mapdrawing process. The map had to be “entirely new”—that is, not start from one of the previous unconstitutional versions. And the Court said that we should hire an “independent” mapdrawer that answers to the entire Commission—not just some Commissioners—“to draft a plan” for the Commission. *LWV III* ¶¶ 30, 44. And it stated that the process should be “transparent,” that “drafting should occur in public,” and that “the commissioners should convene frequent meetings.” *LWV III* ¶ 44.

14. The March 16 order also made clear the substantive requirements for adopting a constitutional map. It invalidated the Third Plan in part because of the “gross and unnecessary disparity in the allocation of close districts,” as the Third Plan had 19 so-called Democratic-leaning House districts and 7 so-called Democratic-leaning Senate districts that were in the 50 – 52%

margin, and no such Republican-leaning House or Senate districts. *LWV III* ¶ 43. That meant, going forward, the Commission needed to draw a plan that met the 45-54 proportionality ratio, as close as possible while complying with Article XI, §§ 2, 3, 4, 5, and 7—but in doing so, competitive seats of between 50 and 52% needed to be symmetrically allocated and not be so one-sided against either party.

15. The Court gave the Commission a deadline of March 28 to file a new plan with the Secretary of State and until March 29 at 9am to file the plan with the Court.

16. **Thursday, March 17, 2022.** The morning after receiving the Ohio Supreme Court’s decision that the Commission’s maps were unconstitutional and the order for the Commission to draw new constitutional maps, I directed my staff to follow the Court’s order, prepare for the Commission to adopt constitutional maps, and make themselves available to the other Commission members and their staff.

17. Because I had not yet seen a notice of a scheduled meeting, I sent a letter to my fellow Commissioners urging that we meet frequently and hire independent map drawers. A copy of that letter is attached as Exhibit A. I received a letter that day from Co-Chair Sykes calling for immediate and frequent meetings as well.

18. I also wrote to Senator Robert McColley on March 17 to arrange for the Legislative Task Force on Redistricting Co-chairs to allocate whatever funding might be necessary to the Commission to engage independent map drawers. Senator McColley and I serve as co-chairs of that Task Force, and from that role I knew (as I had said at multiple Commission meetings) that there were ample funds to hire experts and other support for the Commission.

19. **Friday, March 18, 2022.** On Friday, March 18, I was pleased to see that the Commission co-chairs had noticed a Commission meeting at 2:00pm the next day.

20. I also received a memo sent to all Commissioners by the Attorney General that evening, which is attached as Exhibit B. The Attorney General, in his role as “chief legal officer of the state,” took the opportunity to explain the March 16 order to the Commissioners and make recommendations about “steps forward.” Yost encouraged daily meetings and drafting in public. He also states that “[t]he Court directed the commission to hire new mapmakers not beholden to either political caucus,” and, to that end, explained that he had retained Sean Trende, a Republican analyst, and Bernie Grofman, a Democratic professor of political science, to help in the mapdrawing process. The pair had just completed state legislative maps that are now being implemented in Virginia.

21. As to the substance of drawing a plan, the Attorney General also told us that districts that were drawn to have between 50% and 52% partisan slant were considered “competitive” districts and could not be counted as Democratic or Republican leaning; they are “exclude[d]” from the proportionality calculation. He also warned that “efforts to protect incumbents are improper.”

22. I was encouraged by this memorandum, as I believed it set forth some important steps the Commission needed to take and provided a clear and faithful interpretation of the Court’s order. If the Republican Commissioners were willing to follow their own Attorney General’s advice and interpretation, we could adopt a constitutional map.

23. **Saturday, March 19, 2022.** On Saturday, March 19, 2022, the Commission reconvened for the first time since the Court’s order invalidating the Third Plan. The Commission tentatively agreed to retain independent mapdrawers—one selected by each caucus—who would be charged with drawing a plan that was compliant with the Ohio Constitution and this Court’s orders. And there was consensus, including several statements from Governor DeWine, that the

independent mapdrawers should just be ordered to follow the Ohio Constitution and the Court's three decisions, Tr. 3/19/2022 at 00:40:14, 01:15:47, nothing else. President Huffman, acknowledging that the Court had singled him out for his previous prioritizing of incumbency, stated: "I think [prioritizing incumbency] was also criticized by the court [and] that we should not consider incumbency in drawing these maps. So I just want to kind of get that out." Tr. 3/19/2022 at 46:22.

24. The Commission decided to empower the co-chairs to prepare a recommendation for a pair of mapdrawers. I expressed concern that the Commission itself, rather than the Attorney General, should hire independent mapdrawers; as it was our duty in the Constitution and as articulated by the Court. I also expressed concern that Mr. Trende, one of the experts the Attorney General had selected, had already appeared as an expert witness for the Republican Commissioners in this very case. While I explained that any expert was going to have bias and have appeared in the past for previous political parties or advocacy groups, I was concerned about direct conflicts of interest in this same matter. But I did not close the door on the Attorney General's recommendation and kept an open mind; it was important that we move quickly to get independent mapdrawers working.

25. Also at the March 19 meeting, the Commission scheduled meetings each day through Tuesday, March 22, and the Commission directed all the Commissioners' staff to work together over the weekend until independent mapdrawers were hired.

26. I believed the Commission meeting went well, but I was concerned by Co-chair Cupp's comments that other Commissioners seemed excessively optimistic. Tr. 3/19/2022 at 1:00:44. Likewise, while I was encouraged by Governor DeWine's comments emphasizing the Commission's duty to adopt maps and follow the Court's orders, I was also concerned by the

Governor's comments suggesting that it might not be possible to draw a constitutional map. I believed and still believe that maps complying with Article XI, Sections 2, 3, 4, 5, and 7, and 6 can be created in a relatively short period of time and well within the time frames ordered by the Court. The record clearly shows it is achievable. But I felt apprehensive because of the three previous refusals of Republican Commissioners to follow the dictates of our state constitution. And even at this first meeting, the Republican Commissioners were planting the seeds for the process to fail; saying that there would not be enough time (there was) or that a constitutional map satisfying the Court's orders was impossible (it's not). But I also felt excited to try again, finally with a process the people deserved: independent mapdrawers whose work would be livestreamed to the public. I knew we could adopt constitutional maps and pressed forward despite signals from some Republican Commissioners that they might run the same playbook of denial, delay, and dereliction.

27. I asked my staff to identify potential independent mapdrawers and attempt to set up meetings so we could have multiple options.

28. After the Commission meeting, at around 6:00pm, Mr. Randall Routt contacted all Commissioners' staff letting them know he, Democratic contractor Chris Glassburn, and my staff were available to meet over the weekend as the Commission had just directed.

29. **Sunday, March 20, 2022.** I proceeded with identifying and meeting with potential independent mapdrawers, as I wanted the Commission to retain a pair of mapdrawers to start as soon as possible. My staff set up calls with Nathaniel Persily and Michael McDonald in the morning. The Attorney General scheduled a call for Co-Chair Sykes and me to meet his recommended experts Bernard Grofman and Sean Trende in the afternoon. Dr. Persily indicated that he was available but only as a solo independent mapdrawer. Dr. McDonald indicated he would

be available and could work in a pair and in public with another mapping professional selected by the other Commission members if needed. Mr. Grofman and Mr. Trende indicated that they could work well together and complete Ohio maps in a short time, but they had some schedule limitations and Mr. Grofman could not be in Ohio in person.

30. Despite my concerns, Senator Sykes and I agreed that we would recommend proceeding with the Attorney General Grofman/Trende recommendation because we wanted to move quickly and, given that they had been recommended by the Attorney General, we thought it might be the most acceptable pair to the other Commissioners. We expressed such agreement in a letter we sent to the other Commissioners that day, attached as Exhibit C. We hoped that our agreeability would speed up the process by allowing the Commission to approve hiring experts that night. If the Commission decided against the initial pair, we would proceed with recommending Dr. McDonald.

31. Additionally, my staff reported to me that they met with the other Commissioners' staff for about 90 minutes on this Sunday to discuss what the independent mapdrawers would need to begin and complete their process. My staff described it as an agreeable meeting, and we were ready for the 6:00pm Commission meeting that evening to make our recommendations for mapdrawers. We had an abundance of options and the direction that we as a Commission would give to the mapdrawers seemed clear.

32. Unfortunately, later that afternoon, Co-Chair Sykes informed me that Co-Chair Cupp wanted to cancel that night's meeting because he was not prepared with a mapdrawer recommendation and because many of the Republican Commissioners were not available. I felt confident that independent mapdrawers could complete maps for Ohio quickly, but I was

concerned about what I viewed as an unnecessary delay in getting them started. Senator Sykes and I decided the next morning to insist that all scheduled meetings go forward.

33. **Monday, March 21, 2022 — Wednesday, March 23, 2022.** During the early part of the week, the Commission made progress on setting up an independent and transparent mapdrawing process. It made progress in several ways:

34. *First*, the Commission retained two independent mapdrawers; one selected by each caucus. On Monday, March 21, 2022, I learned that the Republicans had decided not to go along with the Attorney General’s Grofman/Trende recommendation and instead chose Dr. Douglas Johnson. Co-Chair Sykes and I selected Dr. McDonald, who could arrive in Columbus the next day. The Commission approved hiring these two experts to work together to draft a plan. The Commission also agreed to ground rules for the independent mapdrawers during a meeting on Wednesday, March 23. By those rules, the mapdrawers were instructed to draw maps from scratch (not based on previous plans) that complied with the Ohio Constitution and the Court’s orders—no other considerations were included. The rules set up a transparent process where Democratic and Republican staff could always be present, and the public could view the workroom via livestream.

35. *Second*, the Commission decided to utilize mediators. Co-Chair Sykes had been working on identifying potential mediators to aid the Commission in case of disagreements between the members or disagreements between the mapdrawers. At the Monday, March 21, 2022 meeting, at Co-Chair Sykes’ invitation, the Commission heard a presentation from the Sixth Circuit’s Chief Mediator, and the next day the Commission decided to utilize the Sixth Circuit’s mediation office to resolve disputes should any arise. My staff and I met with the mediators to have introductory conversations and learn about the mediation process.

36. *Third*, the Commission adopted a schedule of daily meetings extending the Court’s March 28 deadline. The Commission also engaged the Sixth Circuit mediators to assist the Commission where needed in the days ahead. Later that evening, Dr. McDonald arrived in Ohio.

37. Throughout each of these days, my goal was to keep the process moving as quickly as possible while complying with the constitution and this Court’s orders. That meant while I may have preferred different ground rules or different processes, I held my objections to a minimum to facilitate the completion of this process. I truly believed that the Commission could adopt a constitutional map through a transparent process with independent mapmakers. At the same time, however, based on their past actions, I was worried that my fellow commissioners might sabotage or abandon this new process at any time.

**The Independent Mapdrawers, following a Transparent and Collaborative Process,  
Worked Diligently to Complete a Constitutional Map.**

38. **Thursday, March 24, 2022.** The mapdrawers commenced their work on Thursday, March 24. At approximately 8:00am, the Ohio Channel began to livestream the “workroom”—a committee room at the Capitol that was set up for the mapdrawers. Legislative staff set up computers and installed the necessary software. There were some delays in getting the proper data in the software program, and my staff reported to me that the Republican mapmakers were not being helpful in resolving these issues. But once these issues were resolved, the mapmakers got to work.

39. I directed my staff to make sure that either Mr. Glassburn or Mr. Rouff were always in the workroom with the independent mapdrawers to provide any assistance requested.

40. At the Commission’s 7:00pm meeting, the mapdrawers provided an update on their progress to the Commission, then got back to work.

41. **Friday, March 25, 2022.** The independent mapdrawers continued to work diligently and made progress toward completing a plan. There was no indication that they would not finish on time or would be unable to comply with the Court’s orders. Quite the opposite, though belated, I was finally seeing an independent and transparent process to draw maps that were compliant with the constitution and not designed to entrench the Republicans’ supermajority. The fair process that Ohio voters had asked for was taking shape. I observed the independent mapmaking process both by visiting the workroom and via the livestream. Dr. McDonald and Dr. Johnson each had separate computers where they could draft and try out ideas. They sat next to each other and chatted frequently. They suggested different ideas, each pursuing different suggestions not based on partisan advantage or hidden motives, but in a pure attempt to just see what would work. They were developing a truly independent map, in public, with no single party pulling strings behind the scenes.

42. While the independent mapdrawers were making good progress and following the Commission’s ground rules, it was clear that my Republican colleagues were becoming frustrated by the possibility that it would be successful. Our Commission meetings became filled with Republican complaints about printouts not being large enough, maps not being shared long enough in advance before meetings, not enough options for each region being provided, and not enough Commissioner input. Yet, each time the independent mapdrawers asked for guidance, the Commission refused to give it. Even if we recessed to have more time to look at proposed options, the Commissioners still refused to provide the requested guidance.

**Over My Objection, the Republican Commissioners Prioritized Protecting Incumbents and Attempted to Derail the Independent Mapdrawers’ Progress.**

43. **Saturday, March 26, 2022.** By Saturday, March 26—with two full days left before our deadline—each of the mapdrawers had completed a draft House map to present to the

Commission. (House maps were completed first because Senate districts are combinations of three House districts.) Both plans had 45 Democratic-leaning House districts and 54 Republican-leaning House districts. Not only had both the Republican-selected and the Democratic-selected independent mapdrawers achieved partisan proportionality, but they had achieved almost perfect partisan symmetry for competitive districts. Both maps had three Democratic-leaning districts between 50% and 52%; the Johnson map had two such Republican districts; and the McDonald map had three.

44. At the 4:00pm Commission meeting, after hearing the update from the independent mapdrawers, it was clear that they could timely complete the task. Each had drawn proportional and symmetrical maps, and there were not too many disagreements between the two.

45. The Republican Commissioners, however, seemed to want to obstruct and discredit the independent process in any way possible. The Republican Commissioners, for example, started to complain that the maps were not compact (they were). And President Huffman's main complaint was that the maps placed several Republican incumbents in the same district (a practice he called "double bunking"). At that point, the independent mapdrawers did not have access to any addresses for incumbents; so any double bunking was inadvertent and a byproduct of drawing constitutional maps. But President Huffman and the Republican Commissioners indicated that they would never support a map that did not protect their colleagues. President Huffman had apparently already forgotten what he had told us at the first Commission meeting on March 19—that we shouldn't consider or prioritize incumbents. He proposed that, before a merged clean map was even drawn, incumbency data be added and that the mapdrawers be directed to avoid placing multiple incumbents in the same district to the extent possible. Though President Huffman's

concern started out targeted at Senators who were in the middle of their terms, it expanded to wanting, to the extent possible, all House and Senate incumbents protected by the new maps.

46. I immediately objected, as did Co-Chair Sykes. I was concerned that adding in incumbency data would slow down the process and make the maps less compact and symmetrical. The goal was to produce constitutional maps; that was our top priority, not protecting incumbents. And the Court had warned us about using incumbency data and the Attorney General, following that opinion, told us it was “improper.” Co-Chair Sykes suggested that the issue go to mediation.

47. **Sunday, March 27, 2022.** On Sunday, March 27, we worked with the mediator on coming to a resolution of the incumbency issue. Though I did not want any incumbency data used, we also had to face the reality that the Republican Commissioners have the majority, and they wanted—as they stated at the Commission meetings—to require the independent mapdrawers to incorporate incumbency into their maps *even before* they had created a single constitutional map without incumbent consideration. To move the process forward, we agreed to a resolution that would allow the independent mapdrawers to draw a clean map first, before tainting it with trying to protect all the incumbents.

48. The final resolution of our mediation was an agreement to instruct the mapmakers, which we did, as follows: “Upon completion of the independent map drawers’ merger of their independent versions of the House and Senate maps and prior to any presentation to the Commission, the independent mapdrawers shall consider the residence locations of non-term limited House and Senate incumbents, and Senate incumbents in mid-term, in drafting a Commission map, and where possible without violating constitutional principles, avoid pairing incumbents and also drawing districts such that Senators protected under Section 5 of Article 11 no longer live in the district they represent. Incumbents will be identified as House or Senate and

no other identifying information shall be used.” *See* Mediation Agreement—Instructions to Mapdrawers with Regard to Incumbents, as adopted March 27, 2022.

49. At the March 27 hearing, each independent mapdrawer also presented their plans. Before combining them and producing a unified set of maps, they sought the Commission’s input again. There were multiple different options the Commission could select and get a constitutional result, and the Commission could choose. For example, they wanted the Commission’s decision—as they had asked the previous day—as to whether a district drawn that included some of Montgomery County should extend to Greene County or to Preble County. The Commission recessed to evaluate the different plans. Upon returning from the recess, I moved that the Commission provide direction to the independent mapdrawers about the various areas they had given us choices about.

50. Yet, even after recess and time to consider the various proposals, the Republican Commissioners opposed voting to give clear guidance on these issues to the mapmakers. Several of the Commissioners expressed their informal views, and then I asked that the mapmakers move forward with their understanding based on that discussion. In my view, it was hypocritical that the Commissioners had been asking for options and choices, and then when presented with options and choices that would be constitutional, the Republican Commissioners would not provide feedback. But I did not want these choices—or lack thereof—to delay the independent mapdrawers’ work, so I asked them to continue.

**The Republican Commissioners Abandoned the Independent Process and Refused to Fulfill Their Obligation to Adopt a Constitutional Map.**

51. **Monday, March 28, 2022.** On Monday morning, my staff informed me that the independent mapmakers had decided on a unified plan and were working to ensure that it did not have any technical errors. As they explained to the Commission at the 11:00am meeting, that plan

achieved perfect partisan proportionality in both the House and Senate. It also was symmetrical with respect to competitive seats; there were three Democratic-leaning and three Republican-leaning House seats between 50% and 52%; and two Democratic-leaning and no Republican-leaning Senate seats between 50% and 52%. That plan (the “Pre-Incumbent Independent Plan”) was posted on the Commission’s website.

52. The goal of creating a constitutional map had been achieved. And the mapmakers stated that, before the Court’s deadline, they would add the incumbent data, which was being loaded into their computers, and alter the map to unpair as many incumbents as possible without violating any of the constitutional requirements.

53. The Commission met again in the afternoon to review the independent mapdrawers’ progress. Dr. Johnson and Dr. McDonald announced that they were just a couple of hours away from completing the new maps that adjusted district lines to protect incumbents.

54. The prospect of the independent mapdrawers’ success was not welcome by my Republican colleagues. Rather than encourage the mapdrawers to finish and let them complete the task of protecting all the incumbents (as the Republican Commissioners had asked), the Republicans—led by President Huffman—pulled a bait-and-switch. President Huffman announced for the first time that to comply with the Court’s midnight deadline, the map actually had to be completed and adopted by 10:30 so there was enough time to email the data files to the Secretary of State. Then he suggested, because he was concerned that the independent mapdrawers would not meet this new deadline, that Republican mapdrawers (Mr. DiRossi and Mr. Springhetti) tweak the Third Plan so that the Commission could pass that. Though he presented it as a backup “parachute” in case the independent mapdrawers failed to meet the deadline, it was clear that it was far from just a backup plan. Indeed, President Huffman had already spoken to an infirm Mr.

DiRossi, who was holed up at the BWC building and able to work on a separate map. And while he presented it as a last-minute backup plan, President Huffman later admitted to hatching the plan three days earlier.

55. Co-chair Sykes immediately objected, and I echoed his outrage. We explained that such a process would contravene this Court's orders and the Constitution. I suggested that if we needed more time, we should ask for an extension—not pass another unconstitutional map drawn in a bunker by a Republican mapdrawer. The Republicans were not willing to ask the Court for extra time, even though they passed the Third Plan over a week late. Over Co-chair Sykes' and my emphatic dissent, the Commission voted to adopt President Huffman's proposal.

56. Meanwhile, Dr. Johnson worked on completing the plan incorporating the incumbency data. (Dr. McDonald left at 5:00pm because of a class he had to teach the next morning in person in Florida.)

57. Later in the evening, I visited the workroom to inquire as to when the independent map would be complete. I was surprised to see that Mr. Springhetti was now working on a computer at the independent mapdrawers' table. He appeared to be working on the Third Plan and moving precincts around, but it did not look like much was changing. Mr. Springhetti was not interacting with anyone about whatever he was doing with the map on his screen.

58. At approximately 9:30pm, when the Commission reconvened, Dr. Johnson stated that he needed about 45 minutes to complete the Senate map, and the House map was already done. Therefore, the Democratic Commissioners asked that the Commission recess for one hour to allow Mr. Johnson to complete his work so that we could consider his final plan. But the Republican Commissioners refused. We again asked that the Commission request more time from the Court, noting that the language that the Republican Commissioners had read saying that no

extensions were allowed was applicable to the objections. Certainly, I felt, the Court would want us to have another few hours to work (indeed, at least until the Court opened in the morning) rather than have the Commission adopt yet another unconstitutional map. But the Republicans refused.

59. President Huffman announced that Mr. Springhetti—the Republican mapdrawer—had been working on a map (the “Fourth Plan”) and said the Commission should go with that “parachute.” A Republican staff member passed out printouts of the Fourth Plan; the printout included only information about population deviation in each district. It included no partisanship information or compactness information. This was the first time I had seen the plan. I asked the other Commissioners when they had received this Fourth Plan; other Commissioners also said it was the first time they had seen the plan.

60. President Huffman and Co-Chair Cupp explained that this Fourth Plan changed the Third Plan only minimally; they admitted that it was 97% to 98% similar. The Republican Commissioners would not recess so that the Democratic Commissioners could review the map and suggest amendments. As I said at the meeting, it was a “farce.” In the Third Plan there were 19 competitive districts that the Republicans erroneously counted as “Democratic-leaning” (and no competitive Republican-leaning seats) In the Fourth Plan, there were 17—it was still grossly asymmetrical. None of the Republican Commissioners would even attest that the Fourth Plan was constitutional. Co-Chair Cupp’s defense was it was the “best that can be done in the time that is available.” But that was patently false—the mapmakers had already drawn a constitutional Pre-Incumbent Independent Plan and would be ready in a matter of minutes with the Incumbent Independent Plan. The Commission then proceeded to adopt the Fourth Plan by a 4-3 vote. Co-Chair Sykes and I voted against it.

61. At approximately 10:20pm, minutes after the Commission adopted the Fourth Plan, Dr. Johnson finished the independent map. I learned that Dr. Johnson had completed the Incumbent Independent Plan during the Commission's 30-minute recess after the Fourth Plan was adopted, so that the parties could prepare or review Section 8(C)(2) statements.

62. When the Commission meeting resumed at approximately 11:00pm, the Commission approved the majority's 8(C)(2) statement. Co-Chair Sykes then moved to adopt the independent mapmakers' final map (the "Incumbent Independent Plan") and have it supersede the Fourth Plan. I seconded. I explained that the Fourth Plan had not yet been sent to the Secretary of State, so it was not effective. (And it was clear by then that, despite President Huffman's earlier statements, it did not take over an hour to prepare files to email to the Secretary of State. Either map's files could be emailed to the Secretary of State at that time.) I also explained that the Commission did not dissolve immediately after a map is submitted, so if there were any errors that needed to be corrected (no one identified any), that could be accomplished in the following days.

63. The Republican Commissioners launched various unsupported attacks at the independent mapdrawers' plan, attempting to provide cover for failing to vote for a constitutional map borne of an independent and transparent process. Some Republican Commissioners said baldly that the districts were not compact even though they have a greater compactness score than the Fourth Plan. They said they did not have enough time to review the Incumbent Independent Plan; but they had just voted for the Fourth Plan sight-unseen and had been receiving updates about the independent plan and were able to view its drafting for days. The Commission voted against the Incumbent Independent Plan 5-2; only Co-Chair Sykes and I voted to complete the independent, transparent, fair process that this Court urged.

64. The Republican Commissioners have made no meritorious constitutional objection to the independent mapdrawers' maps.

65. As the evening ended, I directed my staff to rest up. We need to be ready to try again. The Fourth Plan is clearly unconstitutional, just like the Third. We need to pick up where we left off with the independent mapdrawers' map. And I have been informed that Dr. McDonald is available to continue the work if any changes are needed to the plans he produced with Dr. Johnson. With this Court's assistance, we can adopt a constitutional plan.

### **Conclusion**

66. Should the Ohio Supreme Court again order me to show cause why I should not be held in contempt, I believe the facts in this affidavit show that Co-Chair Sykes and I honored the Court's orders by doing everything in our power to advance the Commission toward fulfilling its duty to adopt a constitutional map. The facts also show that the Commission could easily have satisfied the Court's order if only the Republican Commissioners had been willing to comply.

67. Since Monday, March 28, no Republican Commissioner or their staff has contacted me or my staff to discuss maps, work on maps, or share any map proposals. They seem sure that, regardless of what this Court does, the federal court will allow them to go forward with an unconstitutional map on April 20. All they must do is continue to breach their duty to follow the Ohio Constitution and this Court's orders while the clock runs out. I firmly believe in the rule of law and the Constitution. The Court should not allow the Republican Commissioners to get away with such dereliction.

FURTHER AFFIANT SAYETH NAUGHT.

C. Allison Russo  
C. Allison Russo

Sworn to before me and subscribed in my presence this 3rd day of April 2022.

Kelly Boggs Lape (inactive 10/21)  
Notary Public

Notary At Law  
STATE OF OHIO  
My commission has no expiration date  
Sec. 147.03-R.C.



Kelly Boggs Lape, Attorney At Law  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date  
Sec. 147.03-R.C.

**Exhibit A  
to Affidavit of  
Respondent Allison Russo**



**STATE SENATOR VERNON SYKES**  
28th District

March 17, 2022

The Honorable Robert Cupp  
Ohio House of Representatives  
Columbus, Ohio 43215

Dear Co-Chair Speaker Cupp:

I write today to reiterate what I suggested on our phone call earlier today, that the Ohio Redistricting Commission meet as soon as possible in order to develop a transparent path forward to pass bipartisan, fair, and constitutional state legislative maps.

The Ohio Supreme Court has directed the Ohio Redistricting Commission to start fresh and draw maps that meet constitutional muster. We must do this by March 28. Leader Russo and I stand at the ready and believe following the Court's order is possible if we work together and do not waste time.

It is essential that we call a meeting of the Redistricting Commission as soon as possible to start the map drawing process. The Court has rightly criticized the Commission for its previous delays and inefficient use of time. I hope that we will not repeat that mistake this time – our fourth attempt. I will note that the Commission recently amended its procedural rules to also allow for any three members to call for a meeting of the Commission, rather than only the Co-Chairs. Leader Russo and I are available at any time and would welcome any other Commissioner in calling for a meeting.

The Court also ordered the Commission to meet “frequently” in order to have an open and transparent process to the public. I have suggested to you that we set a schedule and meet at least every other day in order to meet this directive and I offer that suggestion once again. It is critical that we conduct our deliberations and make map-drawing decisions in the light of day and with the opportunity for the public to provide input.

Further, I suggest that the Commission work in a bipartisan manner and hire an independent map-drawer – or alternatively, a mediator – to aid us in our efforts. I believe our staff could work together to identify a list of mutually agreeable individuals to serve in this role.

Ultimately, now is the time for us to work together in order to fulfill the wishes of Ohio voters who overwhelmingly approved these reforms to our redistricting process.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon Sykes".

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission

CC: Members, Ohio Redistricting Commission

**Exhibit B**  
**to Affidavit of**  
**Respondent Allison Russo**



**MEMORANDUM**

TO: Members of the Ohio Redistricting Commission  
FROM: Attorney General Dave Yost  
DATE: March 18, 2022  
RE: Steps forward following the decisions in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al. III* and companion cases

=====

Late in the evening of March 16, the Ohio Supreme Court struck down the third set of state legislative maps. Whether I, or you, agree with the majority in this most recent decision is irrelevant. Four justices have decreed what the rules for this round of redistricting shall be. You are left with little choice but to abide by them. Accordingly, this memorandum outlines a set of steps calculated to address the perceived deficiencies raised by the majority of the Court.

I offer this framework as the chief legal officer of the state, having neither a vote nor a veto over your work. This is not a map of all possible roads to the objective of complying with the elements of the Supreme Court's decisions, but one suggested route. The Commission may choose to devise another. This is offered as a means to commence your discussions.

**Meetings**

The Court made much of the relatively modest number of meetings held before the February 4, 2022 Plan was enacted, and the lateness of their calling. In its most recent order, the Court only gave the Commission ten days to produce a new map, two days of which have already expired.

The Commission apparently has scheduled a meeting for tomorrow--an excellent first step. I suggest that the commission agree at that first meeting on a schedule of meetings, and to publish it. Given that only seven days remain, daily meetings would not be excessive to respond to what some of you have correctly termed a constitutional crisis. I understand one of you has already cancelled an out-of-state trip so as to be available during this period--a commendable and appropriate sacrifice in view of the seriousness of this moment. One or more members may also arrange to participate remotely by electronic means if necessary and agreeable to the commission.

## **Staffing**

The Court directed the commission to hire new mapmakers not beholden to either political caucus. “The commission should retain an independent map drawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan through a transparent process.” (at paragraph 30) I note that Court used “should” and not “shall,” but given that this matter is heard in the Supreme Court without meaningful appeal regarding the limits of its authority, it would be wise to treat this suggestion with the degree of deference one might pay to the suggestions of one’s spouse.

To assist the commission in this effort, I have retained a bipartisan duo of consulting experts through my office, who together can achieve the level of independent evaluation the court is requiring. I will make them available to the commission as a whole.

Sean Trende, a Republican analyst well-known to the readers of *Real Clear Politics*, or even causal viewers of cable news, and Bernie Grofman, a Democratic professor of political science at the University of California-Irvine, recently collaborated to produce maps for the State of Virginia. Their work was unanimously adopted by the Virginia Supreme Court.

Their charge should be simply to produce a map that complies with the Ohio Constitution and the orders of the Ohio Supreme Court. They understand the time limits of the court, the terms of the Constitution and the decisions regarding it and are prepared to go to work immediately.

Of course, you are not required to use them; I have undertaken to retain them because of the exigent circumstances created by the very short time allowed by the Court. Nor are you required to adopt their maps. It is my hope, however, that you will--their success in Virginia strongly commends them and their work to your consideration.

## **Drafting in Public**

The Court further wrote that the map-making should be done in public. “To promote transparency and increase public trust, the drafting should occur in public.” (at paragraph 44)

The actual map-making is highly technical and performed on a single work-station. I do not read the Court’s opinion to say that seven people should be jockeying in a public room to direct the operator of the mouse to do this or that conflicting action.

To comply with the Court’s direction, I suggest that the Commission take public actions that achieve the clause seeking transparency and public trust. To that end the Commission could publish any maps at least 24 hours before a vote; meet in public, and receive a progress reports in public from the mapmakers prior to the completion of a map, and discuss in public any sticking points between map drafts or particular districts permutations. I believe a process like this is compliant with the public map making directive issued by the Court.

## Additional Criteria

- The Court has now established <52% as the threshold for a "leaning" district; any index less than that is viewed by the Court as a competitive district. The Court will exclude competitive districts from its partisanship calculation. That is, if there are 32 competitive districts, then the remaining 100 districts must closely correspond to the 54 Republican to 46 Democrat ratio the majority has established.
- The Court wrote that efforts to protect incumbents are improper. Such efforts "...can neither be a legitimate and neutral goal nor comport with Article XI, Section 6(A)." (at paragraph 37)
- While competitive districts will not be counted in overall partisan balance, the Court in *dicta* was bothered by the imbalance in the number competitive districts (meaning those with an expected favorable margin of less than 52%) leaning Democratic versus those leaning Republican. While the clustering of Democrats in urban enclaves creates challenges to making Republican-leaning districts more competitive, I would be remiss if I failed to note the Court's observation.

This is meant to be a summary of the major objections in *League III*. The Constitution and the Court's actual opinions are controlling, of course, and my office stands ready to assist the Commission in navigating the multiple and sometimes competing objectives.

Finally, a note about process. I have served on several multi-member bodies, and I've learned it is always a temptation to love too much my own advice, and my own theory of law. I keep this passage from the Ohio Jury Instructions handy, and often review it before meetings:

*It is not wise to immediately express a determination to insist upon a certain verdict, because if your sense of pride is aroused, you may hesitate to change your position even if you later decide you are wrong.*

*Consult with one another, consider each other's views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment.*

*Each of you must decide... for yourself, but you should do so only after a discussion and consideration of the case with (the others).*

*Do not hesitate to change an opinion if convinced that it is wrong. However, you should not surrender honest convictions in order to be congenial or to reach a verdict solely because of the opinion of other(s).*

The hour is late, and I do not envy your task. I hope this memorandum has made it easier to "begin again."

**Exhibit C**  
**to Affidavit of**  
**Respondent Allison Russo**



March 20, 2022

Dear Commissioners,

In our meeting yesterday, this commission set out a straightforward task to reconvene, possibly tonight, with recommendations for independent map drawers that could produce constitutional legislative districts. In an effort to aid our work as a commission, Attorney General Dave Yost retained two well-known, independent map drawers of national note, Bernard Grofman and Sean Trende.

The Democratic commission members today spoke with Grofman and Trende, as well as other highly qualified map drawing experts. We are in favor of the commission engaging the Attorney General's suggested mapmakers. We have also been in touch with nationally renowned mediators who could serve later in this process to help the commission finalize a bipartisan, constitutional set of legislative maps.

It is unfortunate that our colleagues were not prepared for a meeting tonight, which was tentatively scheduled for 7 p.m. As the deadline imposed on us by the Supreme Court of Ohio looms, time is of the essence. However, we remain confident that these issues can be resolved at our next meeting, scheduled for Monday, March 21 at 7 p.m., and the map drawing may immediately begin. There is still time for this process to result in the bipartisan, constitutional maps that the people of Ohio expect and anticipate from the commission.

Respectfully,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes  
Co-Chair, Ohio Redistricting Commission  
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo  
House Minority Leader  
Commissioner, Ohio Redistricting Commission  
House District 24

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF CHRIS GLASSBURN

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State of Ohio  
County of Cuyahoga, SS:

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

1. I have personal knowledge of the information below. I am over 18 years of age.
2. I am the President of Project Govern, a company that provides map drawing services and advises on redistricting matters. I contracted with the Ohio House and Senate Democratic caucuses on January 16, 2022, for the purpose of drawing a proportional map consistent with the Supreme Court's January 12, 2022, directives and to provide additional services as needed.
3. I previously provided affidavits in this case on January 28, 2022, and February 22, 2022, detailing my efforts, at the direction of Co-Chair Sykes and Leader Russo, to aid the Commission in adopting constitutional maps. I incorporate those affidavits by reference.

**Leader Russo and Senator Sykes Directed Me to Aid the Independent Mapmakers.**

4. After the Ohio Supreme Court's March 16, 2022 Order, Co-Chair Sykes and Leader Russo instructed me to work with their staff and all the Republican Commissioners' staff in responding to the Court's order that the Commission draft and adopt a constitutional map. I, along with Senate Democratic staff member Randall Routt, provided as much mapping support as possible to the Democratic Commissioners as they worked diligently to adopt a constitutional map.
5. The main support that I provided since the March 16 order was to aid the independent mapdrawers while they conducted their work in drawing new General Assembly maps from scratch. Because the Republican mapdrawers (Mr. Ray DiRossi and Mr. Blake Springhetti) and the Democratic mapdrawers (myself and Mr. Routt) have experience with Ohio's political geography and the Ohio Constitution's mapdrawing requirements, the Commission represented at

its early meetings that it would be helpful for Republican and Democratic mapdrawing staff to be present to aid the new independent mapdrawers. Leader Russo and Co-Chair Sykes instructed me to be in the workroom as much as possible with the independent mapdrawers, answer any questions they had, and provide them with any assistance they requested. That means that I spent from approximately 8:00am to approximately midnight (or even after) each day that the independent mapdrawers worked in the workroom with them, supporting their work.

6. All throughout this time, I was available to answer questions from the mapdrawers in accordance with the ground rules adopted by the Commission on Wednesday, March 23. The rules ensured that all substantive communications about the maps were made in a bipartisan way, with staff from each party present—and all was livestreamed for the public to see.

7. Additionally, I answered questions about mapdrawing and proposed maps from the Democratic Commissioners and their staff.

8. Because I was present at almost all Commission meetings that took place from March 19 through March 28 and at all work sessions of the independent mapdrawers that took place Thursday, March 24 through Monday, March 28, I have personal knowledge of the vast array of events and conversations that transpired during this period. I observed the creation of all maps produced by the independent mapdrawers.

**The Independent Mapdrawers Created a Unified Constitutional Map Without Regard to Incumbents Well Before the Court Deadline.**

9. The independent mapdrawers retained by the Commission—Dr. Michael McDonald and Dr. Douglas Johnson—started work on March 24, 2022, in the morning. The Legislature’s staff set up House Committee Room No. 116 with new computers and a livestream for the public to view all work done.

10. A full week had passed since this Court invalidated the Commission's February 24 legislative maps. But I believed the mapdrawers could complete Ohio House and Senate maps that complied with Article XI, Sections 2, 3, 4, 5, and 7, and 6 in the time left before the Commission's deadline. I was concerned about any delays or obstacles that might arise going forward, and I intended to minimize disruptions to the extent I could by working collaboratively with Commissioners' staff and trying to be helpful to everyone involved.

11. From Thursday, March 24 through Sunday March 27, Dr. Johnson and Dr. McDonald sat side-by-side, just a few feet apart. They worked on separate computers, testing out ideas and familiarizing themselves with Ohio's geography. They were in constant communication with each other. They would discuss ideas. They almost always agreed. They would collaborate on which of them would try different ideas and discuss with one another the results of such attempts.

12. Dr. McDonald and Dr. Johnson provided maps to Democratic and Republican Commissioners' staff whenever either of them had a completed map to share. These maps were uploaded to the Ohio Redistricting Commission's website and supporting documents providing data about the maps were also uploaded to the website. See <https://redistricting.ohio.gov/maps> and <https://redistricting.ohio.gov/meetings>.

13. Based on my observations, the mapmakers worked quickly, diligently, and made good progress. They were both committed to adhering to the Ohio Constitution, the Court's orders, and the Commission's ground rules.

14. By Sunday, March 27, both mapmakers had completed House and Senate maps without any consideration of incumbency data. They were working toward a unified plan.

15. By the evening of Sunday, March 27, Dr. Johnson and Dr. McDonald had made sufficient progress and had received sufficient feedback from the Commission that they decided on a unified plan to work from going forward. They worked into Monday morning cleaning up that map to ensure that there were no technical errors and to make it more compact. The Pre-Incumbent Independent Plan is available here: <https://redistricting.ohio.gov/assets/district-maps/district-map-1173.zip>. This plan met the Ohio Constitution and this Court’s proportionality and symmetry requirements to comply with Section 6 while abiding with Sections 2, 3, 4, 5, and 7. The House map had 54 Republican-leaning districts and 45 Democratic-leaning districts. It had 3 Democratic-leaning tossups and 3 Republican-leaning tossups. The Senate map contained 18 Republican-leaning districts and 15 Democratic-leaning districts with 2 Democratic-leaning districts in the 50-52% tossup range.

**Republican Commissioners Directed the Independent Mapdrawers to Incorporate Incumbency Data.**

16. On March 28, following the Commission’s direction, the independent mapdrawers worked on altering their unified map to protect incumbents from “double bunking” as much as possible without violating other constitutional rules. Dr. McDonald and Dr. Johnson—after receiving the list of all incumbent addresses from Mr. Springhetti—worked on “geocoding” it such that every incumbent’s address would appear as a dot on the map. According to the Commission’s rules, the incumbents were supposed to be anonymous, without the independent mapdrawers knowing the name or party associated with any incumbent’s address. Only the chamber—House or Senate—was indicated.

17. Strangely, on Monday, March 28, neither Mr. Springhetti nor Mr. DiRossi were in the workroom much, especially in the early part of the day. The independent mapdrawers asked for them to be there as they were the Republican staff with the most mapping knowledge. Dr.

McDonald and Dr. Johnson seemed more comfortable when either Mr. Springhetti or Mr. DiRossi were there so they would have observers from both political parties with detailed knowledge of mapping Ohio, and so when they had any questions, they could get feedback from experienced mapdrawers from both parties. This held up the independent mapdrawers' work.

18. Senator Huffman stopped by mid-day on March 28 and spoke briefly to the mapdrawers. He told them that he and Speaker Cupp lived in Lima and that he himself represented Senate District 12.

19. At approximately 5:00 p.m. on March 28, Dr. McDonald had to leave to make it home to teach the next morning. Also at about that time, Mr. Springhetti came back to the workroom and began to work at the computer station next to Dr. Johnson. Mr. Springhetti, even upon a question from Democratic staff, did not explain what he was doing. He did not speak much with anyone about his work. I remained focused on the independent mapdrawers' work. Mr. Springhetti was present for approximately 45 minutes before he took a thumb drive out of the computer and left.

20. Meanwhile, Dr. Johnson continued his work altering the unified map to protect incumbents. He reported to the Commission at approximately 9:30 p.m. that he needed 45 more minutes. The Commission dismissed him from the meeting to continue working. He then completed the independent mapdrawers' maps (both for the House and Senate) with the incumbency alterations at 10:18 p.m. (the "Incumbent Independent Plan"). I informed Democratic staff that he had finished. There was time to spare before the midnight deadline. We did not have the Commission meeting playing in Room 116, and I did not know then that the Commission was adopting the Fourth Map in a room two floors above us at virtually the same time. That final

Incumbent Independent Plan can be found here: <https://redistricting.ohio.gov/assets/district-maps/district-map-1178.zip>.

21. I emailed the block assignment files and data files showing population and partisan indexes of districts of the Incumbent Independent Plan to the staff of all the Commissioners at 10:32 p.m. Shortly after, I emailed to the same group images of the maps, and shortly after that, I sent a document listing the assignments of House districts to Senate districts and, in accordance with Article XI, Section 5, the assignments of Senate districts to Senators whose terms do not end in 2022. Mr. Routt uploaded all these files to the Commission website at 11:30 p.m.

22. For the vast majority of the dozens of hours spent in Room 116, from my perspective, the atmosphere was friendly and collaborative and highly productive in spite of what I believe were some unnecessary interruptions and delays.

23. The independent mapdrawers created at least two complete plans that satisfy the Ohio Constitution and this Court's orders with respect to proportionality, symmetry, and sections 2, 3, 4, 5, and 7. They are:

(1) The Pre-Incumbent Independent Plan:

<https://redistricting.ohio.gov/assets/district-maps/district-map-1173.zip>

(2) The Incumbent Independent Plan: <https://redistricting.ohio.gov/assets/district-maps/district-map-1178.zip>

24. Mapping workroom video archives can be found here: <https://www.ohiochannel.org/collection-files/ohio-redistricting-commission?collections=110486&keywords=workroom&pageSize=48&start=1&sort=creationDate&dir=asc>.

**The Independent Mapdrawers' Maps Meet this Court's Proportionality and Symmetry Requirements While Abiding with Sections 2, 3, 4, 5, and 7.**

25. The Fourth Map, which the Commission adopted, is not constitutional. It is nearly identical to the Third Map and would insulate a Republican majority in extremely safe seats. It is not proportional and lacks partisan symmetry. The Third Map contained 19 Democratic-leaning House districts and 7 Democratic-leaning Senate districts in the range of 50 – 52%, and zero Republican-leaning House or Senate districts in that same tossup range. The Fourth Map also contains tossup districts in this range only on the Democratic side of the ledger—17 in the House and 6 in the Senate.

26. The Incumbent Independent Plan that Senator Sykes and Leader Russo voted for, by contrast, meets the Ohio Constitution and this Court's proportionality and symmetry requirements to comply with section 6 while abiding sections 2, 3, 4, 5, and 7. The independent House map has 54 Republican-leaning districts and 45 Democratic-leaning districts. There are 3 Democratic-leaning tossups and 3 Republican-leaning tossups. The independent Senate map contains two Democratic-leaning districts in the 50 – 52% tossup range.

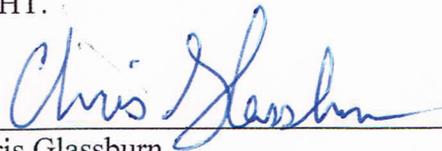
27. Beyond vague aspersions about compactness, no Commissioner alleged that the independent mapdrawers' maps violated Article XI, Sections 2, 3, 4, 5, 6, or 7. In fact, the Incumbent Independent Plan is more compact than the Fourth Plan. It scores as more compact than the Fourth Map on the Reock and Polsby-Popper scales, two common methods of the dozens of methods used to measure compactness of an area.

**Further Action**

28. I remain open to working collaboratively with any Commissioner, their staff, or member of the public, or the Commission's independent mapdrawers in addressing any actual constitutional violations with the independent mapdrawers' maps. To the extent there are any

technical flaws in the independent mapdrawers' plans (I am aware of none), I believe they could be remedied easily in a matter of hours. There is no reason, from a technical mapdrawing perspective, that the Commission would need more than a single day to review the independent mapdrawers' final plan, assure that there are no technical flaws (or fix any that hypothetically exist), and adopt it.

FURTHER AFFIANT SAYETH NAUGHT.

  
Chris Glassburn

Sworn to before me and subscribed in my presence this 3<sup>rd</sup> day of April 2022.

  
Notary Public



GRANT W. MACKAY  
NOTARY PUBLIC-OHIO  
MY COMMISSION NEVER EXPIRES

**From:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**To:** Ben Marrison <Benjamin.Marrison@OhioAGO.gov>, Michael Rodgers  
<Michael.Rodgers@OhioAGO.gov>, Dave Yost <Dave.Yost@OhioAGO.gov>

**Subject:** FW: 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader  
Member - Litigation

**Date:** Thu, 30 Sep 2021 16:38:33 -0400

**Importance:** Normal

**Attachments:** image001.jpg

**Inline-Images:** image003.jpg; image005.jpg; image007.png

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FYI

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**From:** Kelly Woods <[Kelly.Woods@OhioAGO.gov](mailto:Kelly.Woods@OhioAGO.gov)>

**Date:** Thursday, Sep 30, 2021, 2:08 PM

**To:** Matthew.Fornshell@icemiller.com <[Matthew.Fornshell@icemiller.com](mailto:Matthew.Fornshell@icemiller.com)>

**Cc:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>, Erin Ley <[Erin.Ley@OhioAGO.gov](mailto:Erin.Ley@OhioAGO.gov)>, rep34@ohiohouse.gov  
<[rep34@ohiohouse.gov](mailto:rep34@ohiohouse.gov)>, sd28@ohiosenate.gov <[sd28@ohiosenate.gov](mailto:sd28@ohiosenate.gov)>, sarah.cherry@ohiohouse.gov  
<[sarah.cherry@ohiohouse.gov](mailto:sarah.cherry@ohiohouse.gov)>, Scott.Stockman@ohiosenate.gov <[Scott.Stockman@ohiosenate.gov](mailto:Scott.Stockman@ohiosenate.gov)>, Henry Appel  
<[Henry.Appel@OhioAGO.gov](mailto:Henry.Appel@OhioAGO.gov)>, Heather Buchanan <[Heather.Buchanan@OhioAGO.gov](mailto:Heather.Buchanan@OhioAGO.gov)>, Jonathan Fulkerson  
<[Jonathan.Fulkerson@OhioAGO.gov](mailto:Jonathan.Fulkerson@OhioAGO.gov)>, Brenda Rinehart <[Brenda.Rinehart@OhioAGO.gov](mailto:Brenda.Rinehart@OhioAGO.gov)>, Charles Miller  
<[Charles.Miller@OhioAGO.gov](mailto:Charles.Miller@OhioAGO.gov)>, Frank Strigari <[frank.strigari@ohiosenate.gov](mailto:frank.strigari@ohiosenate.gov)>, Paul.Disantis@ohiohouse.gov  
<[Paul.Disantis@ohiohouse.gov](mailto:Paul.Disantis@ohiohouse.gov)>, Traevon.Leak@ohiosenate.gov <[Traevon.Leak@ohiosenate.gov](mailto:Traevon.Leak@ohiosenate.gov)>, mindy.spain@ohiohouse.gov <[mindy.spain@ohiohouse.gov](mailto:mindy.spain@ohiohouse.gov)>

**Subject:** 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader Member - Litigation



**DAVE YOST**  
OHIO ATTORNEY GENERAL

Outside Counsel

Office 614-466-8240

Fax 614-728-2392

30 E. Broad Street, 17<sup>th</sup> Floor

Columbus, OH 43215

September 30, 2021

Dear Matt,

Ice Miller has been appointed Special Counsel to defend Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Emilia Sykes, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio). Please contact Sarah Cherry, Legal Counsel, Ohio House of Representatives (614-466-6040), and Scott Stockman, Legal Counsel, Ohio Senate (614-995-5794), to begin work immediately. Henry Appel, Principal Assistant Attorney General, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your assignment letter. This assignment will terminate June 30, 2022, unless terminated earlier by the Attorney General or renewed by the Attorney General at the conclusion of the fiscal year.

The budget for this matter is \$45,000 and the hourly rate is \$325. The AGO# is 7732. Please note that all subsequent or new legal matters first require the approval of the Attorney General before they may be billed under the AGO number designated in this Assignment Letter. The Ohio General Assembly will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Dave Yost

Ohio Attorney General



Shawn Busken

Director of Outside Counsel

[Outside Counsel Webpage](#)

cc: Sarah Cherry

Scott Stockman

Henry Appel



Kelly A. M. Woods  
Deputy Director of Outside Counsel  
Office of Ohio Attorney General Dave Yost  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
Office: 614-466-6173

Cell: 614-364-1245  
[Kelly.Woods@OhioAttorneyGeneral.gov](mailto:Kelly.Woods@OhioAttorneyGeneral.gov)

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*\* Please note that, in adherence to best practices brought about in response to COVID-19, the Ohio Attorney General's Outside Counsel Section moved to a "remote work" status effective March 18, 2020. All members of the section remain available remotely during normal business hours. Thank you for your patience.*

**From:** "Sarah.Cherry@ohiohouse.gov" <Sarah.Cherry@ohiohouse.gov>

**To:** 'Shawn Busken' <Shawn.Busken@OhioAGO.gov>

**Subject:** RE: Amended Assignment

**Date:** Wed, 23 Mar 2022 15:42:32 +0000

**Importance:** Normal

**Inline-Images:** image002.jpg

---

Thanks, Shawn.

***Sarah A. Cherry***

*Legal Counsel, Minority Caucus*

*she/her/hers*

Ohio House of Representatives

77 South High Street, 14th Floor

Columbus, OH 43215

office: (614) 466-6040

[sarah.cherry@ohiohouse.gov](mailto:sarah.cherry@ohiohouse.gov)

CONFIDENTIALITY NOTICE

The information contained in this e-mail is intended only for the use of the individual or entity to which it is addressed and it may contain information that is privileged, confidential, attorney work product and/or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient (or the employee or agent responsible to deliver it to the intended recipient), you are hereby notified that any dissemination, distribution, or copying of this e-mail is prohibited. If you have received this e-mail in error, please notify the sender by return e-mail.

---

**From:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Sent:** Wednesday, March 23, 2022 10:04 AM

**To:** Ben Cooper <benc@cooperelliott.com>

**Cc:** Cherry, Sarah <Sarah.Cherry@ohiohouse.gov>; Stockman, Scott <Scott.Stockman@ohiosenate.gov>; Rothery, Kristin <Kristin.Rothery@ohiosenate.gov>; Bridget Coontz <Bridget.Coontz@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Erin Ley <Erin.Ley@OhioAGO.gov>; Kelly Woods <Kelly.Woods@OhioAGO.gov>

**Subject:** Amended Assignment

Ben:

Pursuant to the assignment letter dated February 19, 2022, Cooper Elliott has been appointed to represent Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Allison Russo, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio) (the "Assignment"). The AGO# for the Assignment is 7801. This Letter serves to expand the scope of the Assignment to include *Meryl Neiman, et al. v.*

*Secretary of State Frank LaRose, et al., Case No. 2022-0298 (Sup. Ct. Ohio); and League of Women Voters of Ohio, A. Philip Randolph Institute of Ohio, Bette Evanshine, Janice Patterson, Barbara Brothers, John Fitzpatrick, Janet Underwood, Stephanie White, Renee Ruchotzke, and Tiffany Rumbalski v. Secretary of State Frank LaRose, Senate President Matt Huffman, House Speaker Robert R. Cupp in their official capacities, and the Ohio Redistricting Commission Case No. 2022-0303 (Sup. Ct. Ohio).*

Please let me know if you have any questions.

Thanks,

Shawn

Shawn Busken

Director of Outside Counsel



Office of Ohio Attorney General Dave Yost

Direct Number: 614-728-2647

Fax Number: 855-400-5012

[Shawn.Busken@OhioAttorneyGeneral.gov](mailto:Shawn.Busken@OhioAttorneyGeneral.gov)

*\* Please note that, in adherence to best practices brought about in response to COVID-19, the Ohio Attorney General's Outside Counsel Section moved to a "remote work" status effective March 18, 2020. All members of the section remain available remotely during normal business hours. Thank you for your patience.*

**From:** Ben Cooper <benc@cooperelliott.com>

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Cc:** "Sarah.Cherry@ohiohouse.gov" <Sarah.Cherry@ohiohouse.gov>, "Scott.Stockman@ohiosenate.gov" <Scott.Stockman@ohiosenate.gov>, "Kristin.Rothey@ohiosenate.gov" <Kristin.Rothey@ohiosenate.gov>, "Bridget Coontz" <Bridget.Coontz@OhioAGO.gov>, Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>, Erin Ley <Erin.Ley@OhioAGO.gov>, Kelly Woods <Kelly.Woods@OhioAGO.gov>, Lori Smurr <loris@cooperelliott.com>

**Subject:** RE: Amended Assignment

**Date:** Wed, 23 Mar 2022 14:52:08 +0000

**Importance:** Normal

**Inline-Images:** image002.png; image003.jpg

---

Thanks, Shawn.

Ben



### C. Benjamin Cooper, Partner

**Because people experiencing life-changing harm deserve protection, answers, and meaning.**

305 West Nationwide Boulevard, Columbus, Ohio 43215

[benc@cooperelliott.com](mailto:benc@cooperelliott.com) | (614) 481-6000 | Fax: (614) 481-6001

[linkedin.com/in/cbenjamincooper](https://www.linkedin.com/in/cbenjamincooper) | [www.cooperelliott.com](http://www.cooperelliott.com)

---

**From:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Sent:** Wednesday, March 23, 2022 10:04 AM

**To:** Ben Cooper <benc@cooperelliott.com>

**Cc:** Sarah.Cherry@ohiohouse.gov; Scott.Stockman@ohiosenate.gov; Kristin.Rothey@ohiosenate.gov; Bridget Coontz <Bridget.Coontz@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Erin Ley <Erin.Ley@OhioAGO.gov>; Kelly Woods <Kelly.Woods@OhioAGO.gov>

**Subject:** Amended Assignment

Ben:

Pursuant to the assignment letter dated February 19, 2022, Cooper Elliott has been appointed to represent Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Allison Russo, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio) (the "Assignment"). The AGO# for the Assignment is 7801. This Letter serves to expand the scope of the Assignment to include *Meryl Neiman, et al. v. Secretary of State Frank LaRose, et al.*, Case No. 2022-0298 (Sup. Ct. Ohio); and *League of Women Voters of Ohio, A. Philip Randolph Institute of Ohio, Bette Evanshine, Janice Patterson, Barbara Brothers, John*

*Fitzpatrick, Janet Underwood, Stephanie White, Renee Ruchotzke, and Tiffany Rumbalski v. Secretary of State Frank LaRose, Senate President Matt Huffman, House Speaker Robert R. Cupp in their official capacities, and the Ohio Redistricting Commission Case No. 2022-0303 (Sup. Ct. Ohio).*

Please let me know if you have any questions.

Thanks,

Shawn

Shawn Busken

Director of Outside Counsel



Office of Ohio Attorney General Dave Yost

Direct Number: 614-728-2647

Fax Number: 855-400-5012

[Shawn.Busken@OhioAttorneyGeneral.gov](mailto:Shawn.Busken@OhioAttorneyGeneral.gov)

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**From:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**To:** Ben Cooper <benc@cooperelliott.com>

**Cc:** "Sarah.Cherry@ohiohouse.gov" <Sarah.Cherry@ohiohouse.gov>, "Scott.Stockman@ohiosenate.gov" <Scott.Stockman@ohiosenate.gov>, "Kristin.Rothey@ohiosenate.gov" <Kristin.Rothey@ohiosenate.gov>, "Bridget Coontz" <Bridget.Coontz@OhioAGO.gov>, Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>, Erin Ley <Erin.Ley@OhioAGO.gov>, Kelly Woods <Kelly.Woods@OhioAGO.gov>

**Subject:** Amended Assignment

**Date:** Wed, 23 Mar 2022 10:03:40 -0400

**Importance:** Normal

**Inline-Images:** image001.jpg

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Ben:

Pursuant to the assignment letter dated February 19, 2022, Cooper Elliott has been appointed to represent Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Allison Russo, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio) (the "Assignment"). The AGO# for the Assignment is 7801. This Letter serves to expand the scope of the Assignment to include *Meryl Neiman, et al. v. Secretary of State Frank LaRose, et al.*, Case No. 2022-0298 (Sup. Ct. Ohio); and *League of Women Voters of Ohio, A. Philip Randolph Institute of Ohio, Bette Evanshine, Janice Patterson, Barbara Brothers, John Fitzpatrick, Janet Underwood, Stephanie White, Renee Ruchotzke, and Tiffany Rumbalski v. Secretary of State Frank LaRose, Senate President Matt Huffman, House Speaker Robert R. Cupp in their official capacities, and the Ohio Redistricting Commission* Case No. 2022-0303 (Sup. Ct. Ohio).

Please let me know if you have any questions.

Thanks,

Shawn

Shawn Busken

Director of Outside Counsel

Office of Ohio Attorney General Dave Yost

Direct Number: 614-728-2647

Fax Number: 855-400-5012

[Shawn.Busken@OhioAttorneyGeneral.gov](mailto:Shawn.Busken@OhioAttorneyGeneral.gov)

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**From:** Ben Cooper <benc@cooperelliott.com>

**To:** Erin Ley <Erin.Ley@OhioAGO.gov>

**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>, Kelly Woods <Kelly.Woods@OhioAGO.gov>, Lori Smurr <loris@cooperelliott.com>, "Tammy McKinney" <tammym@cooperelliott.com>, "Chip Cooper" <chipc@cooperelliott.com>

**Subject:** Re: 2022 Special Counsel RFQ - Ohio Attorney General's Office

**Date:** Thu, 24 Feb 2022 21:14:19 +0000

**Importance:** Normal

**Attachments:** FY22\_ & FY23\_Special\_Counsel\_Retention\_Agreement\_-\_FINAL.PDF;  
Conflicts\_waiver\_-\_FINAL\_-\_signed.pdf

**Inline-Images:** image001.png; image002.png

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Erin,

Thank you for this. I've submitted the completed RFQ forms, and attached is a signed copy of the Retention Agreement. For everyone's files, I'm also attaching the signed conflicts waiver.

If you need any other information, please let me know.

Best,

Ben



**C. Benjamin Cooper, Partner**

305 West Nationwide Boulevard, Columbus, Ohio 43215

[benc@cooperelliott.com](mailto:benc@cooperelliott.com) | (614) 481-6000 | Fax: (614) 481-6001

[linkedin.com/in/cbenjamincooper](https://www.linkedin.com/in/cbenjamincooper) | [www.cooperelliott.com](http://www.cooperelliott.com)

---

**From:** Erin Ley <Erin.Ley@OhioAGO.gov>

**Date:** Saturday, February 19, 2022 at 8:15 AM

**To:** Ben Cooper <benc@cooperelliott.com>

**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>, Kelly Woods <Kelly.Woods@OhioAGO.gov>

**Subject:** 2022 Special Counsel RFQ - Ohio Attorney General's Office

Mr. Cooper,

Per Shawn Busken's request, I have attached the Ohio Attorney General's Request for Qualifications (RFQ) and related forms to serve as special counsel for the 2022 calendar year. In order to serve as special counsel, you are required to fill out these documents fully, and they must be submitted via our website.

These RFQ forms are also available on our [website](#).

In order to upload your completed RFQ please visit the [General Appointment RFQ Online Submission](#) page.

Your response to this RFQ should be prepared simply and economically, providing a direct, concise delineation of your qualifications. The total size of all attachments is limited to 10MB. To avoid error, please make sure all attachments are closed on your screen before uploading them to the site. Please note the site will time out after 30 minutes of inactivity.

Also attached is the FY22-FY23 special counsel retention agreement to be signed and returned to me. I will send you a fully executed copy for your records. Thanks!



Erin E. Ley (She/Her)  
Administrative Assistant – Outside Counsel  
Office of Ohio Attorney General Dave Yost

30 E. Broad St., 16<sup>th</sup> Floor  
Office number: 614-466-8240  
Direct number: 614-728-4737  
[Erin.Ley@OhioAGO.gov](mailto:Erin.Ley@OhioAGO.gov)

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## Conflict Waiver

The Ohio Attorney General has been advised that Cooper & Elliott is currently in suit against one or more State Clients (*i.e.*, the State of Ohio, including its various agencies, boards, commissions, departments, colleges, universities, and retirement systems), including the following matters:

- *Julia Brake v. OSU Wexner Medical Center* (Court of Claims, 2020-00389JD)
- *Nancy Ruth Carl, Admin'r v. OSU Wexner Medical Center* (Court of Claims, 2022-00022JD)
- *Estate of Stone Foltz v. Bowling Green State University* (pre-suit negotiations)
- *Kim Hoover v. State of Ohio* (Franklin County C.P., 22-CV-846)
- *Virginia LeFever v. State of Ohio* (Court of Claims, 2021-00337WI; Licking County C.P. 19 CV 452; 5th Dist. 21 CA 47)
- *Joseph Mulheren, Admin'r v. Northeast Ohio Medical University* (Court of Claims, 2018-001420JD)
- *State of Ohio v. FirstEnergy Corp., et al.* (Franklin County C.P., 20-CV-6281, 20-CV-7005, 20-CV-7386) -- we represent Juan Cespedes
- *TNSWS v. Ohio Dep't of Rehabilitation and Correction* (Court of Claims, 2020-00440JD)
- *Aaron Weisman v. Fitzpatrick* (S.D. Ohio, 2:21-cv-4027) -- Ohio State Highway Patrol is adverse
- *Wade Wiant, Admin'r v. Ohio University* (Court of Claims, 2021-00362JD)
- *Derek Woods v. Ohio Dep't of Rehabilitation and Correction* (Court of Claims, 2019-001045JD)
- *Manuel Wright, Exec. v. OSU Wexner Medical Center* (Court of Claims, 2020-00107JD)

The Attorney General has also been advised that Cooper & Elliott anticipates filing suit against one or more State Clients in the future.

The Attorney General has also been advised that Cooper & Elliott does not currently have any matters in which Attorney General Dave Yost, the Ohio General Assembly, Governor Mike DeWine, Secretary of State Frank LaRose, Auditor Keith Faber, Speaker Robert Cupp, Senator

Matt Huffman, Senator Vernon Sykes, or Representative Allison Russo would be named as an adverse party.

The Attorney General consents to and waives any and all current conflicts of interest of State Clients with respect to Cooper & Elliott, except for conflicts arising from representation adverse to Senator Vernon Sykes or Representative Allison Russo as a named party.

In addition, the Attorney General consents to and waives any and all future conflicts of interest of State Clients with respect to Cooper & Elliott that may arise during the firm's representation of Senator Vernon Sykes and Representative Allison Russo in the redistricting cases (*i.e.*, Ohio Supreme Court Case Nos. 2021-1193, 2021-1198, and 2021-1210; S.D. Ohio Case No. 2:22-cv-773), except for conflicts arising from representation adverse to Senator Vernon Sykes or Representative Allison Russo as a named party. This waiver shall only cover the period of time when Cooper & Elliott is representing Senator Vernon Sykes and Representative Allison Russo in litigation related to the Ohio Redistricting Commission.

OHIO ATTORNEY GENERAL



By: \_\_\_\_\_  
2022-Feb-24 16:09

Name: Shawn Busken

Title: Director of Outside Counsel

Date: 2022-Feb-24 16:09

## RETENTION AGREEMENT

This Retention Agreement (hereinafter this “Retention Agreement”) is entered into by and between the Ohio Attorney General (the “Attorney General”) and the undersigned (“Special Counsel”).

### RECITALS

WHEREAS, the Attorney General is the chief law officer for the State of Ohio and, as such, is the legal representative of the State, including its various agencies, boards, commissions, departments, colleges, universities, and retirement systems; and

WHEREAS, the Attorney General, pursuant to Ohio Revised Code Section 109.07, is empowered to appoint Special Counsel to represent the State of Ohio in civil actions, criminal prosecutions or other proceedings in which the State is a party or directly interested; and

WHEREAS, the purpose of this Retention Agreement is to set forth the terms for the appointment and retention of Special Counsel; and

WHEREAS, the Attorney General desires to engage Special Counsel to provide specific legal services to the State of Ohio and its agencies, boards, commissions, departments, colleges, universities, and retirement systems (each, a “Client”); and

WHEREAS, the specific legal services that Special Counsel is requested to provide will be set forth in one or more Special Counsel Assignment Letters (each an “Assignment Letter”) and such services shall be rendered in accordance with the terms and conditions of this Retention Agreement.

NOW THEREFORE, in consideration for the mutual promises and covenants set forth herein and for other valuable consideration, the Attorney General and Special Counsel (each individually a “Party” and collectively the “Parties”) hereby agree as follows:

### Article I TERM

The appointment of Special Counsel and this Retention Agreement shall terminate on June 30, 2023, unless earlier terminated as provided herein (the “Termination Date”). No services rendered by Special Counsel after the Termination Date shall be authorized or payable without an additional written agreement with the Attorney General.

## **Article II SERVICES**

### **Section 1. Scope of Appointment**

Special Counsel shall conduct any and all legal work assigned by the Attorney General as set forth in the Assignment Letter. Each executed Assignment Letter issued under this Retention Agreement shall become incorporated by reference into this Retention Agreement. Such work shall be performed in a manner consistent with accepted standards of practice in the legal profession. In view of the personal nature of the services to be rendered under this appointment, the Attorney General shall be the sole judge of the adequacy of those services.

### **Section 2. Assignment and Delegation of Work**

Special Counsel may assign legal work to those individuals set forth in Special Counsel's response to the Attorney General's Request for Qualifications (the "RFQ Response") or any individual employed by Special Counsel or the law firm with which Special Counsel is affiliated. Except as set forth above, Special Counsel may only delegate work to other attorneys, legal professionals or firms with the advance written approval of the Attorney General.

In the event that Special Counsel delegates work to other firms, the compensation of such firms shall be a matter beyond the scope of this Retention Agreement to be negotiated in writing between Special Counsel and those firms prior to the commencement of any work by such firms and shall be paid by Special Counsel. A copy of such compensation agreement shall be provided to the Attorney General. Neither the Client nor the Attorney General shall be liable for any fees, compensation or expenses to be paid to other firms retained by Special Counsel. Special Counsel agrees to indemnify, defend, and hold harmless the Attorney General and the State of Ohio against any claim for reimbursement of fees, costs or expenses asserted by any firm retained by Special Counsel.

All firms to whom Special Counsel may delegate work under this Section must have the qualifications and experience necessary to perform the work requested and shall work under the supervision and control of Special Counsel. Although delegation may be permitted as provided herein, delegation shall not relieve Special Counsel of any responsibility or liability for the work performed hereunder. No provision of this Section shall be construed to allow Special Counsel to subcontract with, hire, or retain any law firm for the performance of legal services under this Retention Agreement without the prior written consent of the Attorney General.

### **Section 3. Attorney-Client Relationship and Relationship of the Parties**

Special Counsel shall render services pursuant to this Retention Agreement as an independent contractor. Special Counsel, whether for purposes of applications of ORC Chapter 102, Section 9.86 or Section 9.87, or for any other purpose, shall not be regarded as "in the employment of," or as an employee of, the Attorney General or the Client. It is fully understood and agreed that Special Counsel is an independent contractor and neither Special Counsel nor its personnel shall at any time, or for any purpose, be considered agents, servants, or employees of the Attorney

Special Counsel Retention Agreement FY 2022 & FY 2023

The Ohio Attorney General

Page 2

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General, the State of Ohio, or the Client for the purpose of Ohio Public Employees Retirement System benefits.

An attorney-client relationship shall exist between Special Counsel, the Attorney General, and the Client. Special Counsel shall follow the direction, guidance, rules, and policies of the Attorney General in performing legal services under this Retention Agreement. In all pleadings, notices and/or correspondences created pursuant to the work performed hereunder, Special Counsel shall indicate that such document is prepared by Special Counsel in its position as special counsel for the Attorney General.

During the term of this appointment, Special Counsel shall be engaged by the Attorney General solely on an independent contractor basis, and Special Counsel shall therefore be responsible for all of Special Counsel's business expenses, including, but not limited to, employee wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for workers' compensation and unemployment compensation coverage, if any.

### **Article III CASE MANAGEMENT**

#### **Section 1. Reporting to the Attorney General**

##### **A. Quarterly Status Reports**

Unless otherwise required by this Retention Agreement or by the Attorney General's Director of Outside Counsel or designee, Special Counsel shall submit quarterly status reports to the Director of Outside Counsel (electronically at [SpecialCounsel@OhioAttorneyGeneral.gov](mailto:SpecialCounsel@OhioAttorneyGeneral.gov)), the Client, and the Section Chief or other identified Assistant Attorney General in the Assignment Letter not later than the fifth (5th) day of the months of January, April, July and October. Status reports must be identified by the AGO number provided in the Assignment Letter and include: a description of each matter assigned; a report on the current status of the particular cases, transactions, or advice involved; any significant events that have occurred since the previous status report; a prospective analysis of any significant future events, along with a section containing the current budget for the assignment; the amount currently unbilled; and a budget estimate for the next quarter. Special Counsel shall not be compensated for the time spent preparing and sending quarterly status reports. Invoices submitted without a corresponding status report during the months in which a quarterly status report is required, or when a quarterly status report is past due, shall be considered incomplete and shall not be eligible for compensation.

##### **B. Communication of Significant Events**

Certain significant events during the course of representation are time-sensitive and require Special Counsel's timely report to the Attorney General. In such an event, Special Counsel shall immediately inform the Director of Outside Counsel, and applicable Section Chief or other designee identified in the Assignment Letter ("Supervising Attorney"), and submit a Significant

Event Update when a criterion set forth below is met, or upon the request of the Attorney General or his designee. An event is “significant” if it involves:

1. Recovery sought against the Client (or which the State is seeking) in an amount equal to or greater than One Hundred Thousand Dollars (\$100,000.00);
2. An important and/or novel legal or constitutional issue;
3. A challenge to a law of the State of Ohio;
4. Injunctive relief that would be extremely detrimental to the State;
5. An issue that is likely to generate significant media or high public interest;
6. A federal district court final judgment or interlocutory appealable order;
7. Where Special Counsel, the opposing party, or a federal district court seeks to certify a state law question to the Ohio Supreme Court;
8. A potential administrative or rule-making appeal to the Sixth Circuit or any other federal appellate court;
9. The possibility that Special Counsel or an opposing party may seek en banc rehearing with the Sixth Circuit or any other federal appellate court; or
10. The possibility of Special Counsel filing a Petition for a Writ of Certiorari or the filing of a Petition for a Writ of Certiorari by an opposing party;
11. Special Counsel or an opposing party seeking attorney’s fees.

**C. Communication of Significant Dates and Deadlines**

Special Counsel shall timely inform the Supervising Attorney via email of the scheduled date for any of the following, if applicable:

1. Pleadings;
2. Discovery cutoffs;
3. Dispositive motions;
4. Court decisions and rulings;
5. Schedule for hearings, conferences, or other court appearances;
6. Trials;
7. Settlement negotiation or other alternative dispute resolution efforts;
8. Appeal or Notice of an Appeal.

Upon the filing of any pleading or the receipt of any communication from a court, Special Counsel shall timely provide a time-stamped copy via email of such filing to the Supervising Attorney.

**D. Communication Regarding Case Initiation and Settlement**

The Attorney General shall approve both the initiation of litigation on behalf of the Client and commencement of formal settlement negotiations of claims on behalf of the State, as well as any final settlement. Special Counsel understands and agrees that the initiation of litigation on behalf of the State and all final settlements must receive the prior approval of the Attorney General and that decisions regarding settlement are reserved exclusively to the discretion of the Attorney General. Special Counsel shall confer with the Supervising Attorney early on in the settlement

Special Counsel Retention Agreement FY 2022 & FY 2023

The Ohio Attorney General

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negotiation process and shall timely notify the Supervising Attorney of any settlement conferences or other alternative dispute resolution events to allow the Supervising Attorney to participate. Without limitation, Special Counsel agrees to confer with the Attorney General about the following matters when applicable:

1. Confidentiality provisions in settlement agreements;
2. The Ohio Constitution's biennial limitation;
3. Indemnification provisions;
4. Release language;
5. Naming of the State as a party.

#### **E. Communication Regarding Appeals**

In the event of an appeal to any state or federal appellate court, the Attorney General reserves the right to transfer all or part of the representation of the matter to the State Solicitor and Attorney General's Appeals Section, including the filing of any briefs or motions. Special Counsel shall cooperate to effectuate any transition of legal services to the State Solicitor and Attorney General's Appeals Section, although Special Counsel may still be responsible for representation of the Client in the trial or lower appellate courts. The Attorney General may also elect to have Special Counsel continue as co-counsel in the appeal.

### **Section 2. Confidentiality and the Public Records Act**

All material commissioned or gathered by Special Counsel or in Special Counsel's possession that fulfills an obligation of this Retention Agreement shall be considered the property of the Attorney General and the Client and must be turned over to the Attorney General or the Client immediately upon request. Special Counsel agrees to adhere to Ohio's Public Records Act, ORC 149.43, and maintain all public records in accordance with state law, including any applicable record retention and destruction requirements. Special Counsel shall consult with and obtain the approval of the Attorney General before responding to any public records request. Moreover, Special Counsel shall not disclose any information obtained in performing its services hereunder in violation of any state or federal law including, but not limited to, the Family Education Rights and Privacy Act ("FERPA") and/or the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as the same may be amended or modified from time to time.

### **Section 3. Media Statements**

Neither Special Counsel nor any partner, associate, employee or any other person assisting with the work contemplated by this Retention Agreement shall publish any material, including online or social media publications, or speak to or otherwise communicate with any representative of a television station, radio station, newspaper, magazine, website, or any other media outlet concerning the work outlined or contemplated by this Retention Agreement without first obtaining approval by the Director of Outside Counsel or the Attorney General's Director of Communications. This Retention Agreement specifically excludes any right or ability on the part of Special Counsel to speak on behalf of the Attorney General to any member of the news media. Provided, however, the restrictions in this Section shall not apply to any professional or other

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publication of (i) the fact that Special Counsel is representing or has represented a Client as to a specific matter (the “Representation”) and (ii) the nature of the Representation.

#### **Article IV COMPENSATION**

Special Counsel shall only be compensated for the satisfactory performance of the services provided as set forth herein and in the Assignment Letter. In view of the personal nature of the services to be rendered, the Attorney General shall be the sole judge of the adequacy of those services.

Special Counsel shall be compensated on an hourly basis established by the Attorney General in the Assignment Letter (“the Hourly Rate”) unless otherwise specified in the Assignment Letter.

Special Counsel shall not be compensated in excess of the express budget amount within the Assignment Letter or Amended Assignment Letter (the “Budget Limit”), or in excess of the Hourly Rate, without first receiving an Amended Assignment Letter from the Attorney General.

In providing legal services under this Retention Agreement, Special Counsel shall act with reasonable diligence and promptness in the representation of the Client in a cost-effective and efficient manner. Special Counsel may bill for reasonable travel time as set forth in Article VI of this Retention Agreement subject to the Attorney General and the Client’s approval as long as the time is not also spent doing work on other matters. The Attorney General will not approve compensation for Special Counsel’s actions that do not meet this standard, including but not limited to the following: clerical or administrative work; introductory work, such as familiarizing and training new attorneys regarding factual and legal issues; duplicative work, such as multiple attorneys billing for the same task; or legal research into areas of law for which the Attorney General is uniquely qualified to provide a cost-effective answer, such as public records or sovereign immunity. If Special Counsel is providing common services to multiple Clients, Special Counsel will only be compensated for each Client’s proportionate share of the services rendered. Special Counsel shall not be compensated for time spent arranging the assignment with the Director of Outside Counsel or other designee, including but not limited to running conflict checks, nor for services rendered prior to the date of the Assignment Letter. Additional restrictions on billing and/or compensation may be provided in the Assignment Letter or by the Client. The Client and the Attorney General reserve the right to disapprove specific charges in Special Counsel’s bill that the Client or the Attorney General do not find reasonable, appropriate, or within the scope of legal representation contemplated by the Client and the Attorney General under the terms of the Assignment Letter.

Except for expenses and reimbursements as outlined in Article VI of this Retention Agreement, no other compensation shall be paid to Special Counsel, except as otherwise provided in the Assignment Letter. Special Counsel shall only be compensated by the Client upon the final approval of Special Counsel invoices, by the Director of Outside Counsel as set forth in Article VII of this Retention Agreement.

It is expressly understood and agreed by the Parties that none of the rights, duties or obligations described in this Retention Agreement shall be binding on either Party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, ORC 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio.

In the event that any other comparable client negotiates a lower fee structure for comparable services, Special Counsel shall promptly notify the Attorney General and shall extend the lower negotiated rate to the Attorney General retroactively to the first date the lower rate was offered to another client. Should Special Counsel fail to provide the Attorney General the lower negotiated rate within ninety (90) days, Special Counsel shall be required to reimburse the Attorney General the difference between the amount the Attorney General was charged under its original rate as set forth in the Assignment Letter and the amount the Attorney General would have been charged under the lower negotiated rate. This paragraph shall not apply to pro bono work or work done for charitable clients.

## **Article V BUDGET LIMITS**

Special Counsel understands it has sole responsibility to monitor its Budget Limit monthly. Special Counsel must notify the Director of Outside Counsel and the Client via email or telephone promptly when Special Counsel reasonably believes billings under the Assignment Letter will exceed 80% of the applicable Budget Limit.

## **Article VI EXPENSES AND REIMBURSEMENTS**

### **Section 1. Advancement of Expenses and Costs**

Special Counsel shall advance all litigation costs, expenses and disbursements, including expert witness fees and costs, deposition costs, and document production. Special Counsel shall not be compensated for the time or work performed by expert witnesses in the employ of the Client. Neither the Client nor the Attorney General shall advance payment for any services rendered or costs, expenses or disbursements incurred.

### **Section 2. Expenses and Format**

Special Counsel shall only be reimbursed for expenses incurred in the performance of Special Counsel's duties in accordance with the terms of this Retention Agreement and the Assignment Letter. Reimbursement shall only be provided for invoices submitted with itemized receipt documentation.

All expenses must include the following information: (1) the name of the attorney incurring the expense; (2) a legible copy of an itemized receipt documenting the expense, and (3) a detailed description of the expenses. No reimbursement shall be made for "miscellaneous" listings or for

expenses missing any of the requirements listed above. No reimbursement shall be made for expenses that are not a proper public purpose.

### **Section 3. Receipts**

All receipts shall be retained for at least one (1) full year following the Termination Date and shall be made available to the Attorney General and the Client upon request or as otherwise set forth herein.

### **Section 4. Maximum Reimbursement**

Unless otherwise expressly approved by the Attorney General in writing prior to invoicing, the following permitted expenses shall be reimbursed only in accordance with Section 2, above, and only as follows:

#### **A. Paralegals / Law Clerks / Litigation Support Staff**

Reimbursement for the services of paralegals, law clerks, summer associates, litigation support staff, nurse practitioners and other legal assistants shall be made at the greater of One Hundred Dollars (\$100.00) per hour or sixty percent (60%) of the Hourly Rate. In no event shall the hourly billing rate for such individuals exceed One Hundred Seventy-Five Dollars (\$175.00) per hour without written consent of the Attorney General prior to invoicing. No reimbursement shall be made for information technologies, case managers, secretaries, docket clerks/managers, , or librarians, nor for any work deemed clerical/administrative in nature.

#### **B. Experts and Consultants**

Special Counsel shall be reimbursed for retention of outside experts or consultants, including fees and other reasonable costs, only when expressly authorized by the Attorney General. Upon request by the Attorney General, Special Counsel must provide the Attorney General with any written agreements between Special Counsel and any expert or consultant doing work for or with Special Counsel on any matter under this Retention Agreement.

#### **C. Travel**

Approval of travel expenses for reimbursement to Special Counsel is subject to the State of Ohio Travel Policy as set forth by the State's Office of Budget and Management and found at Ohio Administrative Code 126-1-02. Subject to the Attorney General and the Client's approval, Special Counsel may be reimbursed for necessary flights and accompanying use of rideshare services pursuant to the State of Ohio Travel Policy. Special Counsel shall not be reimbursed for mileage. Subject to the Attorney General and the Client's approval, Special Counsel may charge the Hourly Rate for travel by car, with reimbursement at 100% of the Hourly Rate for the first hour of the trip and 50% of the Hourly Rate for every hour thereafter in the trip. Subject to the Attorney General and the Client's approval, Special Counsel shall be reimbursed for lodging, meals, and incidentals at Per Diem Rates. See <http://www.gsa.gov/portal/category/100120>. No reimbursement shall be made for the purchase of alcohol.

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#### **D. Photocopying / Document Imaging / Electronic Storage**

In-house photocopying/document imaging (including faxing, scanning and color copies) shall be reimbursed at Special Counsel's actual expense, not to exceed fifteen cents (\$0.15) per copy and is to be itemized on the invoice as "photocopies, document images, faxes, or scanned pages" (number of copies @ rate per copy/image). Reasonable amounts for outside photocopying/document imaging/electronic storage shall be reimbursed at actual cost if receipts are provided at the time of invoicing. Special Counsel shall strive to find the most cost-efficient method of storing records electronically, whether in the normal course of preparing the Client's file, or for the purpose of transmitting records to the Client or another party. The Client and the Attorney General reserve the right to reject the reimbursement amount charged by Special Counsel to store records on compact disks (CD), external drives, flash drives, or such other applicable technology if it is determined that a less expensive method was reasonably available to Special Counsel. If Special Counsel seeks reimbursement for cloud storage, Special Counsel shall only be reimbursed for that portion of the cloud storage incurred for records pertaining to the assigned matter. Special Counsel shall not be reimbursed for routine printing costs incurred during the performance of legal work.

#### **E. Priority / Overnight Mail**

Charges for priority or overnight mail and courier services shall be reimbursed only if a reasonable basis exists for using the service and only if itemized receipts are provided at the time of invoicing. In no event shall Special Counsel be reimbursed for the cost of sending invoices or status reports to the Attorney General by overnight or priority mail services.

#### **F. Other Expenses**

Actual costs shall be reimbursed for certain extraordinary expenses including transcripts, deposition costs, witness fees, subpoena service, postage, printing, cab and bus fares, parking, and long-distance telephone calls when itemized receipts are provided at the time of invoicing. Routine expenses, such as office supplies, online legal research fees (i.e. LexisNexis or Westlaw), or secretarial costs, are not reimbursable. Special Counsel shall obtain the Attorney General's approval before incurring any individual expense exceeding Two Thousand Five Hundred Dollars (\$2,500.00) as well as any other extraordinary or unusual expenses or significant category of expenses incurred in fulfilling the terms of this Retention Agreement.

### **Article VII INVOICES**

Unless approved otherwise by the Director of Outside Counsel or his designee, Special Counsel shall submit monthly invoices for services rendered under each Assignment Letter (each a "Special Counsel invoice") electronically through Tymetrix ("e-billing system"). Special Counsel invoices should be submitted the month following the date the service is rendered or cost incurred. Special Counsel shall clearly identify the name or initials of the attorney or paralegal and titles of other experts who performed work on a given assignment, the date the

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services were rendered, a detailed description of the services rendered, and the number of hours worked on all invoices submitted through the e-billing system.

Compensation for services rendered shall be computed from the Special Counsel invoice. The Director of Outside Counsel or his designee will then forward approval notification to the Client for payment as approved by the Attorney General. For purposes of ORC 126.30, the required payment date of a Special Counsel invoice may be enforceable, but only after the Client first receives a proper approval notification prepared by the Attorney General. Special Counsel shall not submit invoices for work performed more than 18 months prior to the date submitted, and invoices received more than 18 months after the date the services were rendered shall not be eligible for compensation.

If the Attorney General finds discrepancies or errors in a Special Counsel invoice, an adjustment to the invoice will be made and may be viewed, along with the reason for the adjustment, by Special Counsel in the e-billing system with the amount approved for payment by the Client reflecting such adjustment. Invoices submitted in excess of the Budget Limit for the assignment or in contradiction of any billing guidelines set forth by the Attorney General may be rejected in their entirety upon submission. The Attorney General may also request that Special Counsel submit a corrected invoice. Special Counsel shall not resubmit any invoice unless requested to do so by the Attorney General.

## **Article VIII OTHER TERMS AND CONDITIONS**

### **Section 1. Equal Opportunity**

In the hiring of employees for the performance of work under this Retention Agreement, Special Counsel agrees not to discriminate on the basis of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation or gender identity, characteristics, or expression in the employment of a person qualified and available to perform the work to which this Retention Agreement relates.

Special Counsel further agrees not to discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Retention Agreement on account of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation, or gender identity, characteristics or expression.

ORC 125.111 requires any company doing business with the State of Ohio to maintain a written affirmative action program addressing employment practices and to file a copy of this program annually with the Department of Administrative Services, Equal Opportunity Division.

Special Counsel represents that it has a written affirmative action program and has filed a description of the affirmative action program with the Equal Opportunity Division of the Ohio Department of Administrative Services. Compliance and the liability for non-compliance with ORC 125.111(B) is the sole responsibility of Special Counsel.

When retaining individuals, companies or firms to aid in the performance of work under this Retention Agreement, Special Counsel is responsible for obtaining the representation of each contractor that it abides by the requirements of this Section. Contractors and subcontractors must agree not to discriminate on the basis of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation or gender identity, characteristics, or expression in the employment of a person qualified and available to perform the work to which this Retention Agreement relates. Additionally, contractors, subcontractors and any person acting on behalf of any contractor or subcontractor in any manner may not discriminate against, intimidate, or retaliate against any employee hired for the performance of work in relation to this Retention Agreement on account of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation, or gender identity, characteristics or expression.

## **Section 2. Jurisdiction and Choice of Law**

This Retention Agreement and the rights of the Parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Only Ohio state courts shall have jurisdiction over any action or proceeding concerning the Retention Agreement and/or performance hereunder. Special Counsel hereby irrevocably consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.

## **Section 3. Indemnification**

Special Counsel agrees to indemnify and hold the Attorney General, the State of Ohio, and the Client harmless and immune from any and all claims for injury or damage arising from this Retention Agreement that are attributable to Special Counsel's own actions or omissions or those of its partners, associates, officers, employees, subcontractors, suppliers, third parties utilized by Special Counsel, or joint ventures while acting under this Retention Agreement. Claims means any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving collection activities. Special Counsel shall bear all costs and fees associated with defending the Attorney General, the State of Ohio, and the Client against any such claims.

## **Section 4. Termination**

### **A. Termination by the Parties**

The Attorney General reserves the right to modify or cancel the appointment of Special Counsel and/or terminate this Retention Agreement at any time, in its sole discretion, and without cause or duty of explanation. Special Counsel may terminate this appointment and this Retention Agreement upon thirty (30) days' written notice to the Attorney General. If there is pending litigation, termination by Special Counsel shall not be effective unless Special Counsel first obtains leave of court to terminate its representation in the matter.

## **B. Compensation in the Event of Termination**

In the event this Retention Agreement is terminated by either Party, Special Counsel shall be paid for all properly documented services and expenses rendered prior to termination at the agreed upon rate. Invoices for such services and expenses with required receipts shall be submitted in accordance with Articles VI and VII of this Retention Agreement.

## **C. Transfer of Work**

If Special Counsel is removed from any case or matter, Special Counsel agrees to effectuate a speedy and efficient transfer of the work and to cooperate fully with the Director of Outside Counsel. Special Counsel agrees to protect the Client's interests in any transfer of work. The Attorney General or Client may withhold any outstanding payments due to Special Counsel if Special Counsel fails to transfer all files, documents and materials when so requested by the Attorney General.

## **Section 5. Campaign Finance Compliance**

Special Counsel hereby certifies that neither Special Counsel nor, to Special Counsel's knowledge, any of Special Counsel's partners, officers, directors, shareholders, or employees, nor the spouse of any such person, has made contributions in excess of the limitation specified in ORC 3517.13.

Special Counsel shall, at all times, have a completed, notarized Affidavit of Eligibility on file with the Attorney General. Failure to provide a completed, notarized Affidavit of Eligibility may result in termination of the Special Counsel appointment.

## **Section 6. Compliance with Rules of Professional Conduct**

Special Counsel represents and warrants that the attorneys performing the legal work contemplated by this Retention Agreement are currently licensed to practice in, and in good standing before the bar of, the applicable jurisdiction or jurisdictions listed on the RFQ Response (each an "Admission Jurisdiction"). If necessary, those attorneys will comply with all out-of-state attorney pro hac vice registration requirements of the Ohio Supreme Court or the applicable jurisdiction. If, during the appointment as Special Counsel, a complaint is issued against Special Counsel or any attorney providing services pursuant to this Retention Agreement, alleging a violation of the Supreme Court Rules for the Government of the Bar of Ohio, the Ohio Rules of Professional Conduct, or the applicable rules governing the state bar in any Admission Jurisdiction, Special Counsel must give timely written notice, with a copy via email, of such complaint to the Director of Outside Counsel. Such notice must include the nature of the allegations set forth in the complaint.

## **Section 7. Conflicts of Interest and Ethics Compliance**

Special Counsel represents and warrants that, as of the date of this Retention Agreement, Special Counsel has no conflict of interest that has not been consented to in writing under the Ohio Rules

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of Professional Conduct in undertaking Special Counsel’s representation hereunder. Special Counsel agrees that if a conflict of interest, potential or otherwise, arises pursuant to Rule 1.7 of the Ohio Rules of Professional Conduct, then Special Counsel will give timely written notice to the Client and the Attorney General.

Special Counsel must request and obtain a written consent or waiver prior to undertaking representation adverse to any Client if Special Counsel is then engaged under an Assignment Letter to represent such Client. It is unnecessary for Special Counsel to request written consent or a waiver prior to undertaking representation adverse to a Client if Special Counsel is not then engaged under an Assignment Letter to represent that Client, except that Special Counsel must request and obtain a written consent or waiver prior to undertaking representation adverse to the State of Ohio as a named party (except in criminal proceedings), the Attorney General as a party, including but not limited to, as a relator on behalf of the State of Ohio (e.g., *State ex rel. Attorney General v. Respondent*), the Governor, and/or the Ohio General Assembly, irrespective of whether Special Counsel is then engaged under an Assignment Letter to represent the State of Ohio, the Attorney General, the Governor, or the General Assembly. If Special Counsel’s representation of a party adverse to the State of Ohio as a named party pre-dates the initiation of the case by the Attorney General that creates the conflict, Special Counsel shall promptly notify (not to exceed 30 days from the time the conflict arises) the Director of Outside Counsel and obtain a written consent or waiver.

Special Counsel represents, warrants and certifies that, to Specials Counsel’s knowledge, it and its partners, associates, employees, and other persons assisting with the legal work contemplated by this Retention Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws set forth in ORC Chapter 102 and ORC 2921.01, 2921.42, 2921.421, and 2921.43. Special Counsel further represents, warrants, and certifies that neither Special Counsel, nor any of its partners, associates, employees or other persons assisting with the legal work contemplated by this Retention Agreement will do any act that is inconsistent with such laws.

## **Section 8. Findings for Recovery**

Special Counsel warrants that it is not subject to an “unresolved” finding for recovery under ORC 9.24. If the warranty is deemed to be false, this Retention Agreement is void ab initio, and Special Counsel must immediately repay to the State of Ohio any funds paid under this Retention Agreement.

## **Section 9. Insurance**

Special Counsel shall maintain, or cause to be maintained at no cost or expense to the Attorney General, adequate professional liability insurance in accordance with Gov. Bar R. III, Section 4. Unless otherwise stated, such insurance shall remain in force at all times from the date hereof through the term of this Retention Agreement, with companies authorized to do business in Ohio with an A.M. Best or Fitch Rating of at least “A” unless otherwise approved in writing by the Attorney General.

Special Counsel warrants that it will comply with all conditions of each policy to assure that each policy is kept in full force and effect. Any and all insurance claims must be made on a timely basis as required in the conditions of each policy.

### **Section 10. Compliance with Law**

Special Counsel agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances in the conduct of the work hereunder.

### **Section 11. Boycotting**

Pursuant to ORC 9.76(B), Special Counsel warrants that Special Counsel is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Retention Agreement.

### **Section 12. Miscellaneous**

#### **A. Counterparts**

This Retention Agreement may be executed in one or more counterpart(s), each of which shall be an original and all of which shall constitute one and the same instrument.

#### **B. Severability of Terms and Conditions**

If any provision of this Retention Agreement shall be held invalid, illegal, or unenforceable in any respect, said provision shall be severed. The validity, legality and enforceability of all other provisions of this Retention Agreement shall not in any way be affected or impaired unless such severance would cause this Retention Agreement to fail of its essential purpose.

#### **C. Waiver of Terms and Conditions**

Failure to enforce or insist on compliance with any of the terms and conditions of this Retention Agreement by the Attorney General shall not constitute a waiver or relinquishment of any such term or condition of the Retention Agreement on the part of the Attorney General but the same shall remain at all times in full force and effect.

#### **D. Entire Agreement / Integration**

This Retention Agreement, and any Assignment Letter issued pursuant to the Retention Agreement, constitute the entire understanding of the Parties. Both Parties agree that there is no other understanding or agreement other than the terms expressly stated herein or in the Assignment Letter.

**E. Amendment or Modification**

No amendment or modification of this Retention Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

**F. Headings**

The headings herein are for reference and convenience only. They are not intended and shall not be construed to be a substantive part of this Retention Agreement or in any other way to affect the validity, construction or interpretation of any of the provisions of this Retention Agreement.

**G. Conflict**

In the event of conflict between the terms of this Retention Agreement and the terms of any Assignment Letter, the terms of the Assignment Letter shall control.

**H. Successors and Assigns**

Neither this Retention Agreement nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by Special Counsel, without the prior written consent of the Attorney General.

[Remainder of Page Intentionally Left Blank]

The undersigned represent that they are authorized to enter into this Retention Agreement. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the Parties evidence their intent to be bound hereto.

OHIO ATTORNEY GENERAL

SPECIAL COUNSEL

By: \_\_\_\_\_

Name: Shawn Busken

Title: Director of Outside Counsel

Date: \_\_\_\_\_

Firm: Cooper + Elliott, LLC

By: 

Name: C. Benjamin Cooper

Title: Partner

Date: 2/19/2022

Special Counsel Retention Agreement FY 2022 & FY 2023

The Ohio Attorney General

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**From:** Nitro Sign <noreply@cloud.gonitro.com>

**To:** shawn.busken@ohioago.gov

**Subject:** Signing complete on Conflicts waiver - FINAL

**Date:** Thu, 24 Feb 2022 21:11:36 +0000

**Importance:** Normal

**Attachments:** Conflicts\_waiver\_-\_FINAL.pdf



## Success! Conflicts waiver - FINAL has been completed.

The following signers have completed the document:

shawn.busken@ohioago.gov

The completed document is attached to this email.

Click here to view the document:

<https://cloud.gonitro.com/sign?s=nuS83oC5MBDbxImqFz6giQ>

Powered by  Nitro Logo

150 Spear Street

San Francisco, CA, 94105, USA

## Conflict Waiver

The Ohio Attorney General has been advised that Cooper & Elliott is currently in suit against one or more State Clients (*i.e.*, the State of Ohio, including its various agencies, boards, commissions, departments, colleges, universities, and retirement systems), including the following matters:

- *Julia Brake v. OSU Wexner Medical Center* (Court of Claims, 2020-00389JD)
- *Nancy Ruth Carl, Admin'r v. OSU Wexner Medical Center* (Court of Claims, 2022-00022JD)
- *Estate of Stone Foltz v. Bowling Green State University* (pre-suit negotiations)
- *Kim Hoover v. State of Ohio* (Franklin County C.P., 22-CV-846)
- *Virginia LeFever v. State of Ohio* (Court of Claims, 2021-00337WI; Licking County C.P. 19 CV 452; 5th Dist. 21 CA 47)
- *Joseph Mulheren, Admin'r v. Northeast Ohio Medical University* (Court of Claims, 2018-001420JD)
- *State of Ohio v. FirstEnergy Corp., et al.* (Franklin County C.P., 20-CV-6281, 20-CV-7005, 20-CV-7386) -- we represent Juan Cespedes
- *TNSWS v. Ohio Dep't of Rehabilitation and Correction* (Court of Claims, 2020-00440JD)
- *Aaron Weisman v. Fitzpatrick* (S.D. Ohio, 2:21-cv-4027) -- Ohio State Highway Patrol is adverse
- *Wade Wiant, Admin'r v. Ohio University* (Court of Claims, 2021-00362JD)
- *Derek Woods v. Ohio Dep't of Rehabilitation and Correction* (Court of Claims, 2019-001045JD)
- *Manuel Wright, Exec. v. OSU Wexner Medical Center* (Court of Claims, 2020-00107JD)

The Attorney General has also been advised that Cooper & Elliott anticipates filing suit against one or more State Clients in the future.

The Attorney General has also been advised that Cooper & Elliott does not currently have any matters in which Attorney General Dave Yost, the Ohio General Assembly, Governor Mike DeWine, Secretary of State Frank LaRose, Auditor Keith Faber, Speaker Robert Cupp, Senator

Matt Huffman, Senator Vernon Sykes, or Representative Allison Russo would be named as an adverse party.

The Attorney General consents to and waives any and all current conflicts of interest of State Clients with respect to Cooper & Elliott, except for conflicts arising from representation adverse to Senator Vernon Sykes or Representative Allison Russo as a named party.

In addition, the Attorney General consents to and waives any and all future conflicts of interest of State Clients with respect to Cooper & Elliott that may arise during the firm's representation of Senator Vernon Sykes and Representative Allison Russo in the redistricting cases (*i.e.*, Ohio Supreme Court Case Nos. 2021-1193, 2021-1198, and 2021-1210; S.D. Ohio Case No. 2:22-cv-773), except for conflicts arising from representation adverse to Senator Vernon Sykes or Representative Allison Russo as a named party. This waiver shall only cover the period of time when Cooper & Elliott is representing Senator Vernon Sykes and Representative Allison Russo in litigation related to the Ohio Redistricting Commission.

OHIO ATTORNEY GENERAL



By: \_\_\_\_\_  
2022-Feb-24 16:09

Name: Shawn Busken

Title: Director of Outside Counsel

Date: 2022-Feb-24 16:09

**To:** "Sarah.Cherry@ohiohouse.gov" <Sarah.Cherry@ohiohouse.gov>

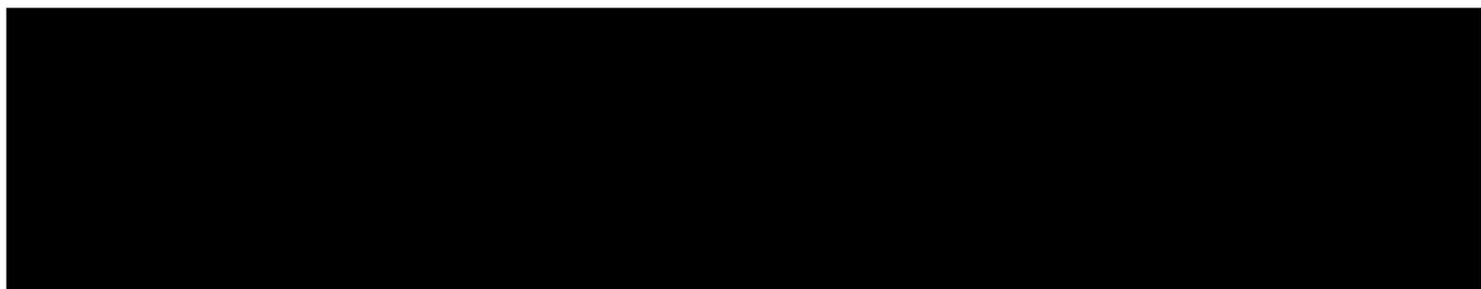
**Subject:** FW: Current conflicts

**Date:** Thu, 24 Feb 2022 20:39:39 -0000

**Importance:** Normal

**Attachments:** Conflicts\_waiver\_-\_DRAFT.docx

**Inline-Images:** image002.png; image001.png



**From:** Ben Cooper <benc@cooperelliott.com>  
**Sent:** Thursday, February 24, 2022 1:16 PM  
**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>  
**Subject:** Re: Current conflicts

Shawn, I am still confirming that the attached language is accurate for everyone on our side, but in the meantime I wanted to get this to you.

I believe I captured our discussion and the points you mention below. Could you please let me know if this language would be acceptable on your side?

Ben

**C. Benjamin Cooper**

Cooper Elliott

305 West Nationwide Boulevard, Columbus, Ohio 43215

[benc@cooperelliott.com](mailto:benc@cooperelliott.com) | (614) 481-6000 | Fax: (614) 481-6001

[linkedin.com/in/cbenjamincooper](https://www.linkedin.com/in/cbenjamincooper) | [www.cooperelliott.com](http://www.cooperelliott.com)

---

**From:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>  
**Date:** Wednesday, February 23, 2022 at 9:20 AM  
**To:** Ben Cooper <[benc@cooperelliott.com](mailto:benc@cooperelliott.com)>  
**Subject:** RE: Current conflicts

Thanks Ben, we can waive the conflicts of these cases.

In the waiver letter, would you be able to state affirmatively that no undisclosed conflict is a matter adverse to the AG, Legislature, or a party to the redistricting cases?

Regarding future conflicts, can we just put a temporal limit on it, saying we waive conflicts that may arise, excluding a matter adverse to the AG, Legislature or a party to the redistricting cases, during the time of this litigation? The waiver would expire upon the termination of your engagement in the litigation.

That would do it for us on our side.

Thanks,

Shawn

---

**From:** Ben Cooper <[benc@cooperelliott.com](mailto:benc@cooperelliott.com)>  
**Sent:** Tuesday, February 22, 2022 11:34 PM  
**To:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>  
**Subject:** Current conflicts

Shawn, attached are what I believe are our firm's non-privileged current conflicts with the State of Ohio. I will need to do a final check tomorrow before finalizing this list. If you are able to make progress on your end in light of our discussion this evening, please let me know. Thanks.

Ben



**C. Benjamin Cooper, Partner**

**Because people experiencing life-changing harm deserve protection, answers, and meaning.**

305 West Nationwide Boulevard, Columbus, Ohio 43215

[benc@cooperelliott.com](mailto:benc@cooperelliott.com) | (614) 481-6000 | Fax: (614) 481-6001

[linkedin.com/in/cbenjamincooper](https://www.linkedin.com/in/cbenjamincooper) | [www.cooperelliott.com](http://www.cooperelliott.com)

**CONFIDENTIALITY NOTICE:**

The information in this electronic mail transmission and any documents accompanying it contain confidential information belonging to the sender, which is legally privileged. The information is intended only for the use of the individual or entities named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this e-mail in error, please destroy the message in its entirety.

## Conflict Waiver [DRAFT]

The Ohio Attorney General has been advised that Cooper & Elliott is currently in suit against one or more State Clients (*i.e.*, the State of Ohio, including its various agencies, boards, commissions, departments, colleges, universities, and retirement systems), including the following matters:

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- *Nancy Ruth Carl, Admin'r v. OSU Wexner Medical Center* (Court of Claims, 2022-00022JD)
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The Attorney General has also been advised that Cooper & Elliott anticipates filing suit against one or more State Clients in the future.

The Attorney General has also been advised that Cooper & Elliott does not currently have any matters in which Attorney General Dave Yost, the Ohio General Assembly, Governor Mike DeWine, Secretary of State Frank LaRose, Auditor Keith Faber, Speaker Robert Cupp, Senator

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**From:** "Shawn Busken" </O=AG OF OHIO/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B28A91BBD6FB43059C8D3DE833BA8E2C-JOSEPH S BUSK>

**To:** "Ben Cooper" <benc@cooperelliott.com>

**Subject:** Conflicts waiver - DRAFT (002)

**Date:** Thu, 24 Feb 2022 19:10:36 -0000

**Importance:** Normal

**Attachments:** Conflicts\_waiver\_-\_DRAFT\_(002).docx

---

Thanks Ben, I am comfortable with this. I added an additional sentence at the very end just for clarification purposes. Please send via docusign for my signature.

Thanks,

Shawn

## Conflict Waiver [DRAFT]

The Ohio Attorney General has been advised that Cooper & Elliott is currently in suit against one or more State Clients (*i.e.*, the State of Ohio, including its various agencies, boards, commissions, departments, colleges, universities, and retirement systems), including the following matters:

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**From:** Ben Cooper <benc@cooperelliott.com>

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Subject:** Re: Current conflicts

**Date:** Thu, 24 Feb 2022 18:15:59 +0000

**Importance:** Normal

**Attachments:** Conflicts\_waiver\_-\_DRAFT.docx

**Inline-Images:** image002.png

---

Shawn, I am still confirming that the attached language is accurate for everyone on our side, but in the meantime I wanted to get this to you.

I believe I captured our discussion and the points you mention below. Could you please let me know if this language would be acceptable on your side?

Ben

**C. Benjamin Cooper**

Cooper Elliott

305 West Nationwide Boulevard, Columbus, Ohio 43215

[benc@cooperelliott.com](mailto:benc@cooperelliott.com) | [\(614\) 481-6000](tel:(614)481-6000) | Fax: [\(614\) 481-6001](tel:(614)481-6001)

[linkedin.com/in/cbenjamincooper](https://www.linkedin.com/in/cbenjamincooper) | [www.cooperelliott.com](http://www.cooperelliott.com)

---

**From:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Date:** Wednesday, February 23, 2022 at 9:20 AM

**To:** Ben Cooper <benc@cooperelliott.com>

**Subject:** RE: Current conflicts

Thanks Ben, we can waive the conflicts of these cases.

In the waiver letter, would you be able to state affirmatively that no undisclosed conflict is a matter adverse to the AG, Legislature, or a party to the redistricting cases?

Regarding future conflicts, can we just put a temporal limit on it, saying we waive conflicts that may arise, excluding a matter adverse to the AG, Legislature or a party to the redistricting cases, during the time of this litigation? The waiver would expire upon the termination of your engagement in the litigation.

That would do it for us on our side.

Thanks,

Shawn

---

**From:** Ben Cooper <benc@cooperelliott.com>

**Sent:** Tuesday, February 22, 2022 11:34 PM

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Subject:** Current conflicts

Shawn, attached are what I believe are our firm's non-privileged current conflicts with the State of Ohio. I will need to do a final check tomorrow before finalizing this list. If you are able to make progress on your end in light of our discussion this evening, please let me know. Thanks.

Ben



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- *Estate of Stone Foltz v. Bowling Green State University* (pre-suit negotiations)
- *Kim Hoover v. State of Ohio* (Franklin County C.P., 22-CV-846)
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- *Joseph Mulheren, Admin'r v. Northeast Ohio Medical University* (Court of Claims, 2018-001420JD)
- *State of Ohio v. FirstEnergy Corp., et al.* (Franklin County C.P., 20-CV-6281, 20-CV-7005, 20-CV-7386) -- we represent Juan Cespedes
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- *Wade Wiant, Admin'r v. Ohio University* (Court of Claims, 2021-00362JD)
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**From:** Charles Miller <Charles.Miller@OhioAGO.gov>

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>, Ben Cooper <benc@cooperelliott.com>

**Subject:** RE: Conflict Waiver and Outside Counsel paperwork

**Date:** Tue, 22 Feb 2022 15:51:35 -0500

**Importance:** Normal

**Inline-Images:** image001.jpg; image001(1).jpg

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Ben,

Basically, we want to know what we waive when we waive it. This is a policy that we use for all firms, including ones with complex relationships with the state.

It sounds like you have current matters that you do not want to disclose, but still want us to waive. We would need to know the state entities that you are contemplating bringing claims against and the general type of claim.

Happy to discuss,  
Chip  
513.477.5657

Sent with BlackBerry Work  
(www.blackberry.com)

---

**From:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>

**Date:** Tuesday, Feb 22, 2022, 3:32 PM

**To:** Ben Cooper <[benc@cooperelliott.com](mailto:benc@cooperelliott.com)>

**Cc:** Charles Miller <[Charles.Miller@OhioAGO.gov](mailto:Charles.Miller@OhioAGO.gov)>

**Subject:** RE: Conflict Waiver and Outside Counsel paperwork

Hi Ben, I left you a voicemail. Hopefully we can talk.

Just to be clear, I am not asking for a list of matters that have not yet been filed. I am asking for a list of current, public cases that are adverse to the State of Ohio or any of its agencies. We realize you may have future matters for which a conflict waiver is necessary. With the 70 firms that do work for the state, we waive those as they come along, not as a blanket waiver. I cannot waive all future conflicts.

I am copying our Office Counsel, Charles Miller, as he may have some further clarification for you.

Thanks,

Shawn

---

**From:** Ben Cooper <[benc@cooperelliott.com](mailto:benc@cooperelliott.com)>

**Sent:** Tuesday, February 22, 2022 1:33 PM

**To:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>

**Subject:** RE: Conflict Waiver and Outside Counsel paperwork

Thanks Shawn. As I mentioned, besides the public matters, there are some matters in which we have representation that is adverse to the state, but we cannot share those matters with you because they have not been

filed or are still being investigated. That information is privileged. But the representation could still potentially trigger a conflicts issue. In addition, there will be future matters in which we will have representation that is adverse to the state, which also could potentially trigger a conflicts issue.

Because of that, it will not be sufficient for us to get a waiver only for matters currently in litigation. We need a waiver for all current and future conflicts, except for conflicts arising from representation adverse to Senator Vernon Sykes or Representative Allison Russo as a named party.

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The rest of the paperwork is ready to go. But we cannot submit it or agree to the retention agreement without an agreement on the waiver first.

Ben

### C. Benjamin Cooper

Cooper Elliott

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---

**From:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>

**Sent:** Tuesday, February 22, 2022 11:42 AM

**To:** Ben Cooper <[benc@cooperelliott.com](mailto:benc@cooperelliott.com)>

**Subject:** Conflict Waiver and Outside Counsel paperwork

Hi Ben,

Just following up on the waiver request. As I mentioned via text, we can waive these conflicts but I need to see a list of current cases so I can waive those specific cases. I am not permitted to grant a blanket waiver. Please send to me as soon as possible. How is the rest of the paperwork coming?

Thanks,

Shawn

Shawn Busken

Director of Outside Counsel

Office of Ohio Attorney General Dave Yost

Direct Number: 614-728-2647



Fax Number: 855-400-5012

[Shawn.Busken@OhioAttorneyGeneral.gov](mailto:Shawn.Busken@OhioAttorneyGeneral.gov)

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**To:** "Ben Cooper" <benc@cooperelliott.com>

**Cc:** "Charles Miller" <Charles.Miller@OhioAGO.gov>

**Subject:** RE: Conflict Waiver and Outside Counsel paperwork

**Date:** Tue, 22 Feb 2022 20:32:12 -0000

**Importance:** Normal

**Inline-Images:** image001.jpg

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**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Subject:** RE: Conflict Waiver and Outside Counsel paperwork

**Date:** Tue, 22 Feb 2022 18:32:30 +0000

**Importance:** Normal

**Inline-Images:** image002.jpg

---

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**To:** "benc@cooperelliott.com" <benc@cooperelliott.com>

**Cc:** "Kelly Woods" <Kelly.Woods@OhioAGO.gov>

**Subject:** Assignment

**Date:** Tue, 22 Feb 2022 14:59:35 -0000

**Importance:** Normal

**Inline-Images:** image001.jpg

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Ben:

I write to clarify the scope of your assignment. You have been appointed special counsel to represent minority members of the Redistricting Commission, Allison Russo and Vernon Sykes in the litigation currently before the Supreme Court of Ohio. You have not been appointed or authorized as special counsel to represent these clients in federal court. That being said, you are permitted to represent these clients pro bono in federal court. Should that status change, please be advised that you will not be compensated for representing these clients in the matter in federal court unless your assignment letter is amended to include that litigation.

Thank you,

Shawn

Shawn Busken

Director of Outside Counsel

Office of Ohio Attorney General Dave Yost

Direct Number: 614-728-2647

Fax Number: 855-400-5012



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**From:** "Shawn Busken" <Shawn.Busken@OhioAGO.gov>

**To:** "Sarah.Cherry@ohiohouse.gov" <Sarah.Cherry@ohiohouse.gov>,  
"Kristin.Rothey@ohiosenate.gov" <Kristin.Rothey@ohiosenate.gov>

**Subject:** FW: 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation

**Date:** Sun, 20 Feb 2022 18:41:02 -0000

**Importance:** Normal

**Attachments:** image001.jpg

**Inline-Images:** image003.jpg; image005.jpg; image007.png

---

Sent with BlackBerry Work  
(www.blackberry.com)

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**From:** Kelly Woods <[Kelly.Woods@OhioAGO.gov](mailto:Kelly.Woods@OhioAGO.gov)>

**Date:** Saturday, Feb 19, 2022, 11:12 AM

**To:** [benc@cooperelliott.com](mailto:benc@cooperelliott.com) <[benc@cooperelliott.com](mailto:benc@cooperelliott.com)>

**Cc:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>, Erin Ley <[Erin.Ley@OhioAGO.gov](mailto:Erin.Ley@OhioAGO.gov)>, [sd28@ohiosenate.gov](mailto:sd28@ohiosenate.gov) <[sd28@ohiosenate.gov](mailto:sd28@ohiosenate.gov)>, [rep24@ohiohouse.gov](mailto:rep24@ohiohouse.gov) <[rep24@ohiohouse.gov](mailto:rep24@ohiohouse.gov)>, [sarah.cherry@ohiohouse.gov](mailto:sarah.cherry@ohiohouse.gov) <[sarah.cherry@ohiohouse.gov](mailto:sarah.cherry@ohiohouse.gov)>, [Scott.Stockman@ohiosenate.gov](mailto:Scott.Stockman@ohiosenate.gov) <[Scott.Stockman@ohiosenate.gov](mailto:Scott.Stockman@ohiosenate.gov)>, Henry Appel <[Henry.Appel@OhioAGO.gov](mailto:Henry.Appel@OhioAGO.gov)>, Jonathan Fulkerson <[Jonathan.Fulkerson@OhioAGO.gov](mailto:Jonathan.Fulkerson@OhioAGO.gov)>, Frank Strigari <[frank.strigari@ohiosenate.gov](mailto:frank.strigari@ohiosenate.gov)>, [Paul.Disantis@ohiohouse.gov](mailto:Paul.Disantis@ohiohouse.gov) <[Paul.Disantis@ohiohouse.gov](mailto:Paul.Disantis@ohiohouse.gov)>, [Traevon.Leak@ohiosenate.gov](mailto:Traevon.Leak@ohiosenate.gov) <[Traevon.Leak@ohiosenate.gov](mailto:Traevon.Leak@ohiosenate.gov)>, [mindy.spain@ohiohouse.gov](mailto:mindy.spain@ohiohouse.gov) <[mindy.spain@ohiohouse.gov](mailto:mindy.spain@ohiohouse.gov)>

**Subject:** 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation



**DAVE YOST**  
OHIO ATTORNEY GENERAL

Outside Counsel

Office 614-466-8240

Fax 614-728-2392

30 E. Broad Street, 17<sup>th</sup> Floor

Columbus, OH 43215

February 19, 2022

Dear Ben,

Cooper Elliott has been appointed Special Counsel to defend Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Allison Russo, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et*

*al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio). Please contact Sarah Cherry, Legal Counsel, Ohio House of Representatives (614-466-6040), and Scott Stockman, Legal Counsel, Ohio Senate (614-995-5794), to begin work immediately. Henry Appel, Principal Assistant Attorney General, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your assignment letter. This assignment will terminate June 30, 2022, unless terminated earlier by the Attorney General or renewed by the Attorney General at the conclusion of the fiscal year.

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Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Dave Yost

Ohio Attorney General



Shawn Busken

Director of Outside Counsel

[Outside Counsel Webpage](#)

cc: Sarah Cherry

Scott Stockman

Henry Appel



Kelly A. M. Woods  
Deputy Director of Outside Counsel  
Office of Ohio Attorney General Dave Yost  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
Office: 614-466-6173

Cell: 614-364-1245

[Kelly.Woods@OhioAttorneyGeneral.gov](mailto:Kelly.Woods@OhioAttorneyGeneral.gov)

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**DAVE YOST**

OHIO ATTORNEY GENERAL

**From:** Ben Cooper <benc@cooperelliott.com>

**To:** "shawn.busken@ohioago.gov" <shawn.busken@ohioago.gov>

**Cc:** "Chip Cooper" <chipc@cooperelliott.com>

**Subject:** Special Counsel - conflict waiver

**Date:** Sun, 20 Feb 2022 01:47:32 +0000

**Importance:** Normal

**Inline-Images:** image001.png

---

Shawn,

Here is the proposed conflict waiver language. Please let me know if you have any issues. Pursuant to Section 7 of the Retention Agreement, I believe we will need this consent/waiver agreed to before we can enter the Retention Agreement.

The Ohio Attorney General has been advised that Cooper & Elliott is currently in suit against one or more State Clients (*i.e.*, the State of Ohio, including its various agencies, boards, commissions, departments, colleges, universities, and retirement systems). The Attorney General has also been advised that Cooper & Elliott anticipates filing suit against one or more State Clients in the future. The Attorney General consents to and waives any and all current and future conflicts of interest of State Clients with respect to Cooper & Elliott, except for conflicts arising from representation adverse to Senator Vernon Sykes or Representative Allison Russo as a named party.

Thank you,

Ben



**C. Benjamin Cooper, Partner**

305 West Nationwide Boulevard, Columbus, Ohio 43215

[benc@cooperelliott.com](mailto:benc@cooperelliott.com) | (614) 481-6000 | Fax: (614) 481-6001

[linkedin.com/in/cbenjamincooper](https://www.linkedin.com/in/cbenjamincooper) | [www.cooperelliott.com](http://www.cooperelliott.com)

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**From:** Bridget Coontz <Bridget.Coontz@OhioAGO.gov>

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Subject:** RE: 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation

**Date:** Sat, 19 Feb 2022 14:11:46 -0500

**Importance:** Normal

**Inline-Images:** image004.jpg; image008.jpg; image009.png; image001.png; image002.jpg

---

No comment.



Bridget C. Coontz  
Section Chief – Constitutional Offices Section  
Office of Ohio Attorney General Dave Yost  
Office number: 614-728-2035  
Fax number: 866-914-1621  
[Bridget.Coontz@OhioAttorneyGeneral.gov](mailto:Bridget.Coontz@OhioAttorneyGeneral.gov)

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---

**From:** Shawn Busken

**Sent:** Saturday, February 19, 2022 12:07 PM

**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; AG Dave Yost <Dave@OhioAGO.gov>; Ben Marrison <Benjamin.Marrison@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Bridget Coontz <Bridget.Coontz@OhioAGO.gov>

**Subject:** FW: 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation

FYI

---

**From:** Kelly Woods

**Sent:** Saturday, February 19, 2022 11:12 AM

**To:** [benc@cooperelliott.com](mailto:benc@cooperelliott.com)

**Cc:** Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>; Erin Ley <[Erin.Ley@OhioAGO.gov](mailto:Erin.Ley@OhioAGO.gov)>; [sd28@ohiosenate.gov](mailto:sd28@ohiosenate.gov); [rep24@ohiohouse.gov](mailto:rep24@ohiohouse.gov); [sarah.cherry@ohiohouse.gov](mailto:sarah.cherry@ohiohouse.gov); [Scott.Stockman@ohiosenate.gov](mailto:Scott.Stockman@ohiosenate.gov); Henry Appel <[Henry.Appel@OhioAGO.gov](mailto:Henry.Appel@OhioAGO.gov)>; Jonathan Fulkerson <[Jonathan.Fulkerson@OhioAGO.gov](mailto:Jonathan.Fulkerson@OhioAGO.gov)>; Frank Strigari <[frank.strigari@ohiosenate.gov](mailto:frank.strigari@ohiosenate.gov)>; [Paul.Disantis@ohiohouse.gov](mailto:Paul.Disantis@ohiohouse.gov); [Traevon.Leak@ohiosenate.gov](mailto:Traevon.Leak@ohiosenate.gov); [mindy.spain@ohiohouse.gov](mailto:mindy.spain@ohiohouse.gov)

**Subject:** 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation

Outside Counsel

Office 614-466-8240

Fax 614-728-2392

30 E. Broad Street, 17<sup>th</sup> Floor

Columbus, OH 43215

February 19, 2022

Dear Ben,

Cocner Elliott has been appointed Special Counsel to defend Senator Vernon Sykes, as Co-  
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Mei  
Ohi  
al. v  
Ohi  
2021-1210 (Sup. Ct. Ohio). Please contact Sarah Cherry, Legal Counsel, Ohio House of  
Representatives (614-466-6040), and Scott Stockman, Legal Counsel, Ohio Senate (614-  
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will be responsible for ongoing oversight of this engagement on behalf of the Attorney  
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or renewed by the Attorney General at the conclusion of the fiscal year.



**DAVE YOST**  
OHIO ATTORNEY GENERAL

se Minority Leader Allison Russo, as a  
*igue of Women Voters of Ohio, et al. v.*  
.1193 (Sup. Ct. Ohio); *Bria Bennett, et*  
2021-1198 (Sup. Ct. Ohio); and *The*  
*cting Commission, et al.*, Case No.

The budget for this matter is \$49,000 and the hourly rate is \$325. The AGO# is 7801. Please  
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to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you  
have any questions.

Thank you for your service.

Sincerely,

Dave Yost

Ohio Attorney General

Shawn Busken

Director of Outside Counsel

[Outside Counsel Webpage](#)

cc: Sarah Cherry

Scott Stockman

Henry Appel



Kelly A. M. Woods  
Deputy Director of Outside Counsel  
Office of Ohio Attorney General Dave Yost  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
Office: 614-466-6173

Cell: 614-364-1245  
[Kelly.Woods@OhioAttorneyGeneral.gov](mailto:Kelly.Woods@OhioAttorneyGeneral.gov)

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**From:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>, AG Dave Yost <Dave@OhioAGO.gov>, Ben Marrison <Benjamin.Marrison@OhioAGO.gov>, "Jonathan Blanton" <Jonathan.Blanton@OhioAGO.gov>, Bridget Coontz <Bridget.Coontz@OhioAGO.gov>

**Subject:** FW: 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation

**Date:** Sat, 19 Feb 2022 12:07:25 -0500

**Importance:** Normal

**Inline-Images:** image001.jpg; image005.jpg; image007.png; image002.jpg

---

FYI

---

**From:** Kelly Woods

**Sent:** Saturday, February 19, 2022 11:12 AM

**To:** benc@cooperelliott.com

**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>; Erin Ley <Erin.Ley@OhioAGO.gov>; sd28@ohiosenate.gov; rep24@ohiohouse.gov; sarah.cherry@ohiohouse.gov; Scott.Stockman@ohiosenate.gov; Henry Appel <Henry.Appel@OhioAGO.gov>; Jonathan Fulkerson <Jonathan.Fulkerson@OhioAGO.gov>; Frank Strigari <frank.strigari@ohiosenate.gov>; Paul.Disantis@ohiohouse.gov; Traevon.Leak@ohiosenate.gov; mindy.spain@ohiohouse.gov

**Subject:** 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation

Outside Counsel

Office 614-466-8240

Fax 614-728-2392

30 E. Broad Street, 17<sup>th</sup> Floor

Columbus, OH 43215



Dea

**DAVE YOST** 2  
OHIO ATTORNEY GENERAL

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Thank you for your service.

Sincerely,

Dave Yost

Ohio Attorney General



Shawn Busken

Director of Outside Counsel

[Outside Counsel Webpage](#)

cc: Sarah Cherry

Scott Stockman

Henry Appel



Kelly A. M. Woods  
Deputy Director of Outside Counsel  
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**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>, Erin Ley <Erin.Ley@OhioAGO.gov>, "sd28@ohiosenate.gov" <sd28@ohiosenate.gov>, "rep24@ohiohouse.gov" <rep24@ohiohouse.gov>, "sarah.cherry@ohiohouse.gov" <sarah.cherry@ohiohouse.gov>, "Scott.Stockman@ohiosenate.gov" <Scott.Stockman@ohiosenate.gov>, Henry Appel <Henry.Appel@OhioAGO.gov>, Jonathan Fulkerson <Jonathan.Fulkerson@OhioAGO.gov>, Frank Strigari <frank.strigari@ohiosenate.gov>, "Paul.Disantis@ohiohouse.gov" <Paul.Disantis@ohiohouse.gov>, "Traevon.Leak@ohiosenate.gov" <Traevon.Leak@ohiosenate.gov>, "mindy.spain@ohiohouse.gov" <mindy.spain@ohiohouse.gov>

**Subject:** 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader - Litigation

**Date:** Sat, 19 Feb 2022 11:12:13 -0500

**Importance:** Normal

**Inline-Images:** image001.jpg; image003.jpg; image005.jpg; image007.png



**DAVE YOST**  
OHIO ATTORNEY GENERAL

Outside Counsel

Office 614-466-8240

Fax 614-728-2392

30 E. Broad Street, 17<sup>th</sup> Floor

Columbus, OH 43215

February 19, 2022

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Dave Yost

Ohio Attorney General



Shawn Busken

Director of Outside Counsel

[Outside Counsel Webpage](#)

cc: Sarah Cherry

Scott Stockman

Henry Appel



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Deputy Director of Outside Counsel  
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Columbus, Ohio 43215  
Office: 614-466-6173

Cell: 614-364-1245  
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**From:** "Shawn Busken" </O=AG OF OHIO/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B28A91BBD6FB43059C8D3DE833BA8E2C-JOSEPH S BUSK>

**To:** "Bridget Coontz" <Bridget.Coontz@OhioAGO.gov>, "Jonathan Blanton" <Jonathan.Blanton@OhioAGO.gov>, "Jonathan Fulkerson" <Jonathan.Fulkerson@OhioAGO.gov>, "Michael Rodgers" <Michael.Rodgers@OhioAGO.gov>

**Subject:** FW: time stamped copy attached

**Date:** Mon, 31 Jan 2022 20:26:50 -0000

**Importance:** Normal

**Attachments:** Intervention\_and\_convert\_to\_amicus\_motion\_(file\_stamped).pdf

**Inline-Images:** image001.png

---

FYI

---

**From:** Charles Miller

**Sent:** Monday, January 31, 2022 3:09 PM

**To:** AG Dave Yost <Dave@OhioAGO.gov>; Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>

**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>; Bethany McCorkle <Bethany.McCorkle@OhioAGO.gov>

**Subject:** time stamped copy attached

All,

Here is the version that appears on the Court's docket.

Bethany—FYI. This is public now.

Chip



**Charles M Miller**

*Counsel to the Attorney General*  
Office of Ohio Attorney General Dave Yost

Columbus: 614-752-8237

Cincinnati: 513-852-1565

Office Cell: 513-607-0406

[Charles.Miller@OhioAGO.gov](mailto:Charles.Miller@OhioAGO.gov)

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In the  
Supreme Court of Ohio

LEAGUE OF WOMEN VOTERS OF OHIO, et al.,	:
	:
<i>Relators,</i>	: Case No. 2021-1193
	:
v.	: Original Action Pursuant to
	: Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:
	: Apportionment Case
<i>Respondents.</i>	:
<hr/>	
BRIA BENNETT, et al.,	:
	:
<i>Relators,</i>	: Case No. 2021-1198
	:
v.	: Original Action Pursuant to
	: Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:
	: Apportionment Case
<i>Respondents.</i>	:
<hr/>	
OHIO ORGANIZING COLLABORATIVE, et al.,	:
	:
<i>Relators,</i>	: Case No. 2021-1210
	:
v.	: Original Action Pursuant to
	: Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:
	: Apportionment Case
<i>Respondents.</i>	:

---

MOTION FOR LIMITED INTERVENTION BY ATTORNEY GENERAL &  
MOTION TO CONVERT "RESPONSE" TO AMICI BRIEF

---

DAVE YOST  
Ohio Attorney General

CHARLES MILLER\* (0073844)  
Counsel to the Attorney General

SHAWN BUSKEN (0083585)  
Director of Outside Counsel

*\*Counsel of Record*

30 East Broad Street, 17th Floor  
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Charles.Miller@OhioAGO.gov

*Counsel for Limited Intervenor  
Attorney General Dave Yost*

Freda J. Levenson\* (0045916)  
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Joshua Gonzalez (PHV 25424-2021)  
Juliana Goldrosen (PHV 25193-2021)  
David Denuyl (PHV 25452-2021)  
Donald Brown (PHV 25480-2021)  
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*\*Counsel of Record*  
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Special Counsel to Attorney General  
Dave Yost

*Counsel for Respondent The Ohio  
Redistricting Commission*

Dave Yost  
Ohio Attorney General

Bridget C. Coontz (0072919)  
*\*Counsel of Record*  
Julie M. Pfeiffer (006762)  
Michael A. Walton (0092201)  
Michael J. Hendershot (0081842)  
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Megan C. Keenan (PHV 25410-2021)  
Laura B. Bender (PHV 25192-2021)  
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## MOTION

Ohio Attorney General Dave Yost moves, pursuant to S.Ct.Prac.R. 4.01 and Civil R. 24 (incorporated into Original Actions by S.Ct.Prac.R. 12.01(A)(2)(b)), to intervene in for the limited purpose of filing this motion, which seeks to convert the January 28, 2022 “Response of respondents Senator Vernon Sykes and House Minority Leader Allison Russo to the petitioners’ objections” (“Response”) into an *amici curiae* filing.

As the Response itself thoroughly details, the Attorney General decided that only the Redistricting Commission itself should respond to the Petitioners’ Objections. No individual member was authorized to file in their official capacity. The Republican Statewide Office Holders were denied the right to file official separate responses. So were *both* legislative factions—Republican and Democrat alike. The actions of the Commission as a body were the subject of the Objections—not the separate actions of any individual member. Accordingly, as more fully discussed below, the Attorney General, as the Chief Law Officer of the State of Ohio, deemed that a single response was in order.

Of course, this Court regularly accepts filings by *amici curiae*. The self-described “pro se” filing is better categorized as an amicus filing by the individuals in their personal capacities. *See, e.g.*, S.Ct.Prac.R. 16.06. As such, the Attorney General requests he be permitted limited intervention to protect his powers as Chief Law Officer of the State of Ohio, and that the Response be deemed an amicus brief. *Derolph v. State*, 2001-Ohio-5092, 94 Ohio St. 3d 40, 43, 760 N.E.2d 351, 354; *See also, Id.* at 47-48, 357 (Cook, J., dissenting).

## LIMITED STATEMENT OF RELEVANT FACTS

The Response was, as admitted by the filers, an unauthorized filing on behalf of a State entity. In response to the Court's Order, and subsequent Objections, no individual member of the Commission – Republican or Democrat – has been permitted to make an individual filing. The Commission speaks through its official actions and through its votes. Accordingly, Counsel to the Commission is the only counsel permitted to represent the Commission to respond to Petitioners' Objections.

Respondents Allison Russo and Vernon Sykes filed the *pro se* Response, asserting they were *denied* legal counsel in this proceeding. This is false. At all relevant times, the minority members of the Commission have had counsel. At their earlier request, the Attorney General assigned the then Democrat members of the Commission (prior to Commissioner Russo's substitution as a member) the outside counsel they requested— Ice Miller.

On Thursday, January 27, 2022, Respondents requested that their appointed counsel, Ice Miller, withdraw as counsel. On Friday January 28, 2022, Ice Miller complied with the request. Upon that withdrawal, Respondents Allison Russo and Vernon Sykes were still represented by counsel – the Attorney General's Office, their statutory counsel under R.C. §109.361. Indeed, a specific Assistant Attorney General, walled off from other in-house attorneys, was specifically tasked with representing Russo and Sykes should they have decided not to engage outside counsel. Importantly,

the “8(C) Minority Report” of Commissioners Sykes and Russo is of record with this court, setting forth their position.<sup>1</sup>

The filers of the *pro se* Response knew and acknowledged that the Attorney General decided that only the Redistricting Commission, and no individual Commissioner would be authorized to file an official response on behalf of the State or any of its components. The *pro se* filers elected to proceed independently. As such, Respondents’ Response, agreeing with Petitioners’ Objections, should have been filed in the form of an amicus brief.

### ARGUMENT

The Attorney General is the Chief Law Officer of the State of Ohio. R.C. §109.02. “[N]o state officer or board, or head of a department or institution of the state shall employ, or be represented by, other counsel or attorneys at law. The attorney general shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested.” *Id.* The decisions of how to afford legal counsel, and how to conduct litigation, are within the control of the Attorney General. *Accord, Bd. of Trs. of the Tobacco Use Prevention & Control Found. v. Boyce*, 2010-Ohio-6207, ¶ 29, 127 Ohio St. 3d 511, 518, 941 N.E.2d 745, 753 (rejecting State

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<sup>1</sup> A copy of the Minority Report is available as Exhibit 11 to the Commission’s Response (Jan 28, 2022).

Board’s argument that the Attorney General “sabotaged” the board by declining to provide legal counsel for an executive session).

In the waning days of the *DeRolph* litigation, this Court ruled on the Attorney General’s objection to the participation of certain State actor *amici* in court ordered mediation, citing the above law. This Court responded: “We acknowledge the import of these statutory provisions. What is surprising, however, is that the Attorney General in her November 26 response acknowledges that the counsel who have represented two Governors and four leaders of the houses of the General Assembly over the course of this appeal were not appointed special counsel pursuant to this statutory authority. She had not, however, objected before November 26 to the representation of any elected official as an amicus curiae by private counsel or rebutted the inference that the counsel had been appointed special counsel.” *DeRolph*, 94 Ohio St.3d, at 42. The majority concluded, “The Attorney General has failed to timely object to numerous elected officials’ appearing as amici in their official capacities,” and found the argument waived. *Id.* at 43. The *DeRolph* majority recognizes the Attorney General’s right to control State litigation, and thus, the need for his limited intervention here. Also here, the Attorney General has objected the very day after the unauthorized filing. Thus, there has been no waiver.

The dissent in *DeRolph* did not find waiver, and thus, reached the merits. Its analysis is informative here. “The majority does not explicitly find that the Attorney

General is wrong to seek to exclude the amici from settlement proceedings based on the status of those individuals. Rather, the majority contends that it is simply too late to object to the involvement of the amici to keep them from the negotiating table. But nowhere does the law accord amici the status of parties.” *Id.* at 48 (Cook, J., dissenting). The dissent concluded, “To treat the amici as if they were parties ignores this court's own rules and law on the subject.” *Id.* Where the majority and the dissent agree is that had the Attorney General timely asserted her right (the then Attorney General was female) to control litigation, she would have prevailed.

Of course, under Ohio law, dissenting members of a board or legislative body lack standing to challenge the action in their official capacity. *See ProgressOhio.org, Inc. v. JobsOhio*, 2012-Ohio-2655, ¶ 28, 973 N.E.2d 307, 316 (10<sup>th</sup> Dist.), (“The [Supreme] court indicated that a legislator voting in the minority would not have standing”), *citing State ex rel. Ohio Gen. Assembly v. Brunner*, 114 Ohio St.3d 386, 2007 Ohio 3780, ¶¶ 17-19, 20, 872 N.E.2d 912.

To do anything other than grant this motion will cause this Court (and others in the future) to be flooded with multiple, competing filings offering the purported legal positions of the State, or components thereof, thereby depriving the Attorney General of his longstanding statutory and inherent power to ensure the State speaks with one voice—or multiple voices only when so authorized. Granting this motion “serves to prevent the judicial process from being used to usurp the powers of the political

branches” by granting official governmental standing to a person who does not hold it. *Hollingsworth v. Perry*, 570 U.S. 693, 704-05, 133 S. Ct. 2652, 2661 (2013) Accordingly, the *pro se* filing should be treated as an amicus filing. *State ex rel. Citizen Action v. Hamilton Cty. Bd. of Elections*, 2007-Ohio-5379, ¶ 24, 115 Ohio St. 3d 437, 440, 875 N.E.2d 902, 906 (“Although we have denied the city’s motion to intervene for the reasons previously set forth, the city is entitled to file an amicus curiae brief without leave of court.”)

Dated: January 31, 2022

Respectfully submitted,

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**Subject:** Limited Intervention Motion to Convert

**Date:** Mon, 31 Jan 2022 20:19:03 -0000

**Importance:** Normal

**Attachments:** 2022-01-31\_Limited\_Intervention\_Motion\_to\_Convert.pdf

**Inline-Images:** image001.jpg

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In the  
Supreme Court of Ohio

LEAGUE OF WOMEN VOTERS OF OHIO, et al., :  
: *Relators*, : Case No. 2021-1193  
:   
v. : Original Action Pursuant to  
: Ohio Const., Art. XI  
OHIO REDISTRICTING COMMISSION, et al., :  
: *Respondents*. : Apportionment Case  
:   
\_\_\_\_\_  
BRIA BENNETT, et al., :  
: *Relators*, : Case No. 2021-1198  
:   
v. : Original Action Pursuant to  
: Ohio Const., Art. XI  
OHIO REDISTRICTING COMMISSION, et al., :  
: *Respondents*. : Apportionment Case  
:   
\_\_\_\_\_  
OHIO ORGANIZING COLLABORATIVE, et al., :  
: *Relators*, : Case No. 2021-1210  
:   
v. : Original Action Pursuant to  
: Ohio Const., Art. XI  
OHIO REDISTRICTING COMMISSION, et al., :  
: *Respondents*. : Apportionment Case  
:   
\_\_\_\_\_

MOTION FOR LIMITED INTERVENTION BY ATTORNEY GENERAL &  
MOTION TO CONVERT "RESPONSE" TO AMICI BRIEF

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## MOTION

Ohio Attorney General Dave Yost moves, pursuant to S.Ct.Prac.R. 4.01 and Civil R. 24 (incorporated into Original Actions by S.Ct.Prac.R. 12.01(A)(2)(b)), to intervene in this matter for the limited purpose of filing this motion, which seeks to convert the January 28, 2022 “Response of respondents Senator Vernon Sykes and House Minority Leader Allison Russo to the petitioners’ objections” (“Response”) into an *amici curiae* filing.

As the Response itself thoroughly details, the Attorney General decided that only the Redistricting Commission itself should respond to the Petitioners’ Objections. No individual member was authorized to file in their official capacity. The Republican Statewide Office Holders were denied the right to file official separate responses. So were *both* legislative factions—Republican and Democrat alike. The actions of the Commission as a body were the subject of the Objections—not the separate actions of any individual member. Accordingly, as more fully discussed below, the Attorney General, as the Chief Law Officer of the State of Ohio, deemed that a single response was in order.

Of course, this Court regularly accepts filings by *amici curiae*. Accordingly, the self-described “pro se” filing is better categorized as an amicus filing by the individuals in their personal capacities. *See, e.g.*, S.Ct.Prac.R. 16.06. As such, the Attorney General requests he be permitted limited intervention to protect his powers as Chief Law Officer of the State of Ohio, and that the Response be deemed an amicus brief. *Derolph v. State*,

2001-Ohio-5092, 94 Ohio St. 3d 40, 43, 760 N.E.2d 351, 354; *See also, Id.* at 47-48, 357 (Cook, J., dissenting).

### LIMITED STATEMENT OF RELEVANT FACTS

The Response was, as admitted by the filers, an unauthorized filing on behalf of a State entity. In response to the Court's Order, and subsequent Objections, no individual member of the Commission – Republican or Democrat – has been permitted to make an individual filing. The Commission speaks through its official actions and through its votes. Accordingly, Counsel to the Commission is the only counsel permitted to represent the Commission to respond to Petitioners' Objections.

Respondents Allison Russo and Vernon Sykes filed the *pro se* Response, asserting they were *denied* legal counsel in this proceeding. This is false. At all relevant times, the minority members of the Commission have had counsel. At their earlier request, the Attorney General assigned the then Democrat members of the Commission (prior to Commissioner Russo's substitution as a member) the outside counsel they requested – Ice Miller.

On Thursday, January 27, 2022, Respondents requested that their appointed counsel, Ice Miller, withdraw as counsel. On Friday January 28, 2022, Ice Miller complied with the request. Upon that withdrawal, Respondents Allison Russo and Vernon Sykes were still represented by counsel – the Attorney General's Office, their statutory counsel under R.C. §109.361. Indeed, a specific Assistant Attorney General,

walled off from other in-house attorneys, was specifically tasked with representing Russo and Sykes should they have decided not to engage outside counsel. Importantly, the “8(C) Minority Report” of Commissioners Sykes and Russo is of record with this court, setting forth their position.<sup>1</sup>

The filers of the *pro se* Response knew and acknowledged that the Attorney General decided that only the Redistricting Commission, and no individual Commissioner would be authorized to file an official response on behalf of the State or any of its components. The *pro se* filers elected to proceed independently. As such, Respondents’ Response, agreeing with Petitioners’ Objections, should have been filed in the form of an amicus brief.

### ARGUMENT

The Attorney General is the Chief Law Officer of the State of Ohio. R.C. §109.02. “[N]o state officer or board, or head of a department or institution of the state shall employ, or be represented by, other counsel or attorneys at law. The attorney general shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested.” *Id.* The decisions of how to afford legal counsel, and how to conduct litigation, are within the control of the Attorney General. *Accord, Bd. of Trs. of the Tobacco Use Prevention & Control Found. v.*

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<sup>1</sup> A copy of the Minority Report is available as Exhibit 11 to the Commission’s Response (Jan 28, 2022).

*Boyce*, 2010-Ohio-6207, ¶ 29, 127 Ohio St. 3d 511, 518, 941 N.E.2d 745, 753 (rejecting State Board’s argument that the Attorney General “sabotaged” the board by declining to provide legal counsel for an executive session).

In the waning days of the *DeRolph* litigation, this Court ruled on the Attorney General’s objection to the participation of certain State actor *amici* in court ordered mediation, citing the above law. This Court responded: “We acknowledge the import of these statutory provisions. What is surprising, however, is that the Attorney General in her November 26 response acknowledges that the counsel who have represented two Governors and four leaders of the houses of the General Assembly over the course of this appeal were not appointed special counsel pursuant to this statutory authority. She had not, however, objected before November 26 to the representation of any elected official as an amicus curiae by private counsel or rebutted the inference that the counsel had been appointed special counsel.” *DeRolph*, 94 Ohio St.3d, at 42. The majority concluded, “The Attorney General has failed to timely object to numerous elected officials’ appearing as amici in their official capacities,” and found the argument waived. *Id.* at 43. The *DeRolph* majority recognizes the Attorney General’s right to control State litigation, and thus, the need for his limited intervention here. Also here, the Attorney General has objected the very day after the unauthorized filing. Thus, there has been no waiver.

The dissent in *DeRolph* did not find waiver, and thus, reached the merits. Its analysis is informative here. “The majority does not explicitly find that the Attorney General is wrong to seek to exclude the amici from settlement proceedings based on the status of those individuals. Rather, the majority contends that it is simply too late to object to the involvement of the amici to keep them from the negotiating table. But nowhere does the law accord amici the status of parties.” *Id.* at 48 (Cook, J., dissenting). The dissent concluded, “To treat the amici as if they were parties ignores this court's own rules and law on the subject.” *Id.* Where the majority and the dissent agree is that had the Attorney General timely asserted her right (the then Attorney General was female) to control litigation, she would have prevailed.

Of course, under Ohio law, dissenting members of a board or legislative body lack standing to challenge the action in their official capacity. *See ProgressOhio.org, Inc. v. JobsOhio*, 2012-Ohio-2655, ¶ 28, 973 N.E.2d 307, 316 (10<sup>th</sup> Dist.), (“The [Supreme] court indicated that a legislator voting in the minority would not have standing”), *citing State ex rel. Ohio Gen. Assembly v. Brunner*, 114 Ohio St.3d 386, 2007 Ohio 3780, ¶¶ 17-19, 20, 872 N.E.2d 912.

To do anything other than grant this motion will cause this Court (and others in the future) to be flooded with multiple, competing filings offering the purported legal positions of the State, or components thereof, thereby depriving the Attorney General of his longstanding statutory and inherent power to ensure the State speaks with one

voice—or multiple voices only when so authorized. Granting this motion “serves to prevent the judicial process from being used to usurp the powers of the political branches” by granting official governmental standing to a person who does not hold it. *Hollingsworth v. Perry*, 570 U.S. 693, 704-05, 133 S. Ct. 2652, 2661 (2013) Accordingly, the *pro se* filing should be treated as an amicus filing. *State ex rel. Citizen Action v. Hamilton Cty. Bd. of Elections*, 2007-Ohio-5379, ¶ 24, 115 Ohio St. 3d 437, 440, 875 N.E.2d 902, 906 (“Although we have denied the city's motion to intervene for the reasons previously set forth, the city is entitled to file an amicus curiae brief without leave of court.”)

Dated: January 31, 2022

Respectfully submitted,

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**Subject:** Ohio Redistricting Commission, et al., 2021-1193, 2021-1198, 2021-1210

**Date:** Mon, 31 Jan 2022 15:16:11 -0500

**Importance:** Normal

**Attachments:** 2022-01-31\_Limited\_Intervention\_Motion\_to\_Convert.pdf

**Inline-Images:** image003.png

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Counsel,

Please see the attached motion, which was filed today in the three redistricting cases. This will be the only form of service. Thank you.

Regards,

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In the  
Supreme Court of Ohio

LEAGUE OF WOMEN VOTERS OF OHIO, et al.,	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1193
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	
<hr/>		
BRIA BENNETT, et al.,	:	
	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1198
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	
<hr/>		
OHIO ORGANIZING COLLABORATIVE, et al.,	:	
	:	
	:	
<i>Relators,</i>	:	Case No. 2021-1210
	:	
v.	:	Original Action Pursuant to
	:	Ohio Const., Art. XI
OHIO REDISTRICTING COMMISSION, et al.,	:	
	:	Apportionment Case
<i>Respondents.</i>	:	

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MOTION FOR LIMITED INTERVENTION BY ATTORNEY GENERAL &  
MOTION TO CONVERT "RESPONSE" TO AMICI BRIEF

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## MOTION

Ohio Attorney General Dave Yost moves, pursuant to S.Ct.Prac.R. 4.01 and Civil R. 24 (incorporated into Original Actions by S.Ct.Prac.R. 12.01(A)(2)(b)), to intervene in for the limited purpose of filing this motion, which seeks to convert the January 28, 2022 “Response of respondents Senator Vernon Sykes and House Minority Leader Allison Russo to the petitioners' objections” (“Response”) into an *amici curiae* filing.

As the Response itself thoroughly details, the Attorney General decided that only the Redistricting Commission itself should respond to the Petitioners’ Objections. No individual member was authorized to file in their official capacity. The Republican Statewide Office Holders were denied the right to file official separate responses. So were *both* legislative factions—Republican and Democrat alike. The actions of the Commission as a body were the subject of the Objections—not the separate actions of any individual member. Accordingly, as more fully discussed below, the Attorney General, as the Chief Law Officer of the State of Ohio, deemed that a single response was in order.

Of course, this Court regularly accepts filings by *amici curiae*. The self-described “pro se” filing is better categorized as an amicus filing by the individuals in their personal capacities. *See, e.g.*, S.Ct.Prac.R. 16.06. As such, the Attorney General requests he be permitted limited intervention to protect his powers as Chief Law Officer of the State of Ohio, and that the Response be deemed an amicus brief. *Derolph v. State*, 2001-Ohio-5092, 94 Ohio St. 3d 40, 43, 760 N.E.2d 351, 354; *See also, Id.* at 47-48, 357 (Cook, J., dissenting).

## LIMITED STATEMENT OF RELEVANT FACTS

The Response was, as admitted by the filers, an unauthorized filing on behalf of a State entity. In response to the Court's Order, and subsequent Objections, no individual member of the Commission – Republican or Democrat – has been permitted to make an individual filing. The Commission speaks through its official actions and through its votes. Accordingly, Counsel to the Commission is the only counsel permitted to represent the Commission to respond to Petitioners' Objections.

Respondents Allison Russo and Vernon Sykes filed the *pro se* Response, asserting they were *denied* legal counsel in this proceeding. This is false. At all relevant times, the minority members of the Commission have had counsel. At their earlier request, the Attorney General assigned the then Democrat members of the Commission (prior to Commissioner Russo's substitution as a member) the outside counsel they requested— Ice Miller.

On Thursday, January 27, 2022, Respondents requested that their appointed counsel, Ice Miller, withdraw as counsel. On Friday January 28, 2022, Ice Miller complied with the request. Upon that withdrawal, Respondents Allison Russo and Vernon Sykes were still represented by counsel – the Attorney General's Office, their statutory counsel under R.C. §109.361. Indeed, a specific Assistant Attorney General, walled off from other in-house attorneys, was specifically tasked with representing Russo and Sykes should they have decided not to engage outside counsel. Importantly,

the “8(C) Minority Report” of Commissioners Sykes and Russo is of record with this court, setting forth their position.<sup>1</sup>

The filers of the *pro se* Response knew and acknowledged that the Attorney General decided that only the Redistricting Commission, and no individual Commissioner would be authorized to file an official response on behalf of the State or any of its components. The *pro se* filers elected to proceed independently. As such, Respondents’ Response, agreeing with Petitioners’ Objections, should have been filed in the form of an amicus brief.

### ARGUMENT

The Attorney General is the Chief Law Officer of the State of Ohio. R.C. §109.02. “[N]o state officer or board, or head of a department or institution of the state shall employ, or be represented by, other counsel or attorneys at law. The attorney general shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested.” *Id.* The decisions of how to afford legal counsel, and how to conduct litigation, are within the control of the Attorney General. *Accord, Bd. of Trs. of the Tobacco Use Prevention & Control Found. v. Boyce*, 2010-Ohio-6207, ¶ 29, 127 Ohio St. 3d 511, 518, 941 N.E.2d 745, 753 (rejecting State

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<sup>1</sup> A copy of the Minority Report is available as Exhibit 11 to the Commission’s Response (Jan 28, 2022).

Board’s argument that the Attorney General “sabotaged” the board by declining to provide legal counsel for an executive session).

In the waning days of the *DeRolph* litigation, this Court ruled on the Attorney General’s objection to the participation of certain State actor *amici* in court ordered mediation, citing the above law. This Court responded: “We acknowledge the import of these statutory provisions. What is surprising, however, is that the Attorney General in her November 26 response acknowledges that the counsel who have represented two Governors and four leaders of the houses of the General Assembly over the course of this appeal were not appointed special counsel pursuant to this statutory authority. She had not, however, objected before November 26 to the representation of any elected official as an amicus curiae by private counsel or rebutted the inference that the counsel had been appointed special counsel.” *DeRolph*, 94 Ohio St.3d, at 42. The majority concluded, “The Attorney General has failed to timely object to numerous elected officials’ appearing as amici in their official capacities,” and found the argument waived. *Id.* at 43. The *DeRolph* majority recognizes the Attorney General’s right to control State litigation, and thus, the need for his limited intervention here. Also here, the Attorney General has objected the very day after the unauthorized filing. Thus, there has been no waiver.

The dissent in *DeRolph* did not find waiver, and thus, reached the merits. Its analysis is informative here. “The majority does not explicitly find that the Attorney

General is wrong to seek to exclude the amici from settlement proceedings based on the status of those individuals. Rather, the majority contends that it is simply too late to object to the involvement of the amici to keep them from the negotiating table. But nowhere does the law accord amici the status of parties.” *Id.* at 48 (Cook, J., dissenting). The dissent concluded, “To treat the amici as if they were parties ignores this court's own rules and law on the subject.” *Id.* Where the majority and the dissent agree is that had the Attorney General timely asserted her right (the then Attorney General was female) to control litigation, she would have prevailed.

Of course, under Ohio law, dissenting members of a board or legislative body lack standing to challenge the action in their official capacity. *See ProgressOhio.org, Inc. v. JobsOhio*, 2012-Ohio-2655, ¶ 28, 973 N.E.2d 307, 316 (10<sup>th</sup> Dist.), (“The [Supreme] court indicated that a legislator voting in the minority would not have standing”), *citing State ex rel. Ohio Gen. Assembly v. Brunner*, 114 Ohio St.3d 386, 2007 Ohio 3780, ¶¶ 17-19, 20, 872 N.E.2d 912.

To do anything other than grant this motion will cause this Court (and others in the future) to be flooded with multiple, competing filings offering the purported legal positions of the State, or components thereof, thereby depriving the Attorney General of his longstanding statutory and inherent power to ensure the State speaks with one voice—or multiple voices only when so authorized. Granting this motion “serves to prevent the judicial process from being used to usurp the powers of the political

branches” by granting official governmental standing to a person who does not hold it. *Hollingsworth v. Perry*, 570 U.S. 693, 704-05, 133 S. Ct. 2652, 2661 (2013) Accordingly, the *pro se* filing should be treated as an amicus filing. *State ex rel. Citizen Action v. Hamilton Cty. Bd. of Elections*, 2007-Ohio-5379, ¶ 24, 115 Ohio St. 3d 437, 440, 875 N.E.2d 902, 906 (“Although we have denied the city’s motion to intervene for the reasons previously set forth, the city is entitled to file an amicus curiae brief without leave of court.”)

Dated: January 31, 2022

Respectfully submitted,

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**Subject:** time stamped copy attached

**Date:** Mon, 31 Jan 2022 15:09:09 -0500

**Importance:** Normal

**Attachments:** Intervention\_and\_convert\_to\_amicus\_motion\_(file\_stamped).pdf

**Inline-Images:** image003.png

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All,

Here is the version that appears on the Court's docket.

Bethany—FYI. This is public now.

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In the  
Supreme Court of Ohio

LEAGUE OF WOMEN VOTERS OF OHIO, et al., :  
:   
: *Relators*, : Case No. 2021-1193  
:   
: **v.** : Original Action Pursuant to  
: Ohio Const., Art. XI  
OHIO REDISTRICTING COMMISSION, et al., :  
: *Respondents.* : Apportionment Case  
:   
: 

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 :  
BRIA BENNETT, et al., :  
:   
: *Relators*, : Case No. 2021-1198  
:   
: **v.** : Original Action Pursuant to  
: Ohio Const., Art. XI  
OHIO REDISTRICTING COMMISSION, et al., :  
: *Respondents.* : Apportionment Case  
:   
: 

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 :  
OHIO ORGANIZING COLLABORATIVE, et al., :  
:   
: *Relators*, : Case No. 2021-1210  
:   
: **v.** : Original Action Pursuant to  
: Ohio Const., Art. XI  
OHIO REDISTRICTING COMMISSION, et al., :  
: *Respondents.* : Apportionment Case  
:   
: 

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MOTION FOR LIMITED INTERVENTION BY ATTORNEY GENERAL &  
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## MOTION

Ohio Attorney General Dave Yost moves, pursuant to S.Ct.Prac.R. 4.01 and Civil R. 24 (incorporated into Original Actions by S.Ct.Prac.R. 12.01(A)(2)(b)), to intervene in for the limited purpose of filing this motion, which seeks to convert the January 28, 2022 “Response of respondents Senator Vernon Sykes and House Minority Leader Allison Russo to the petitioners’ objections” (“Response”) into an *amici curiae* filing.

As the Response itself thoroughly details, the Attorney General decided that only the Redistricting Commission itself should respond to the Petitioners’ Objections. No individual member was authorized to file in their official capacity. The Republican Statewide Office Holders were denied the right to file official separate responses. So were *both* legislative factions—Republican and Democrat alike. The actions of the Commission as a body were the subject of the Objections—not the separate actions of any individual member. Accordingly, as more fully discussed below, the Attorney General, as the Chief Law Officer of the State of Ohio, deemed that a single response was in order.

Of course, this Court regularly accepts filings by *amici curiae*. The self-described “pro se” filing is better categorized as an amicus filing by the individuals in their personal capacities. *See, e.g.*, S.Ct.Prac.R. 16.06. As such, the Attorney General requests he be permitted limited intervention to protect his powers as Chief Law Officer of the State of Ohio, and that the Response be deemed an amicus brief. *Derolph v. State*, 2001-Ohio-5092, 94 Ohio St. 3d 40, 43, 760 N.E.2d 351, 354; *See also, Id.* at 47-48, 357 (Cook, J., dissenting).

## LIMITED STATEMENT OF RELEVANT FACTS

The Response was, as admitted by the filers, an unauthorized filing on behalf of a State entity. In response to the Court's Order, and subsequent Objections, no individual member of the Commission – Republican or Democrat – has been permitted to make an individual filing. The Commission speaks through its official actions and through its votes. Accordingly, Counsel to the Commission is the only counsel permitted to represent the Commission to respond to Petitioners' Objections.

Respondents Allison Russo and Vernon Sykes filed the *pro se* Response, asserting they were *denied* legal counsel in this proceeding. This is false. At all relevant times, the minority members of the Commission have had counsel. At their earlier request, the Attorney General assigned the then Democrat members of the Commission (prior to Commissioner Russo's substitution as a member) the outside counsel they requested— Ice Miller.

On Thursday, January 27, 2022, Respondents requested that their appointed counsel, Ice Miller, withdraw as counsel. On Friday January 28, 2022, Ice Miller complied with the request. Upon that withdrawal, Respondents Allison Russo and Vernon Sykes were still represented by counsel – the Attorney General's Office, their statutory counsel under R.C. §109.361. Indeed, a specific Assistant Attorney General, walled off from other in-house attorneys, was specifically tasked with representing Russo and Sykes should they have decided not to engage outside counsel. Importantly,

the “8(C) Minority Report” of Commissioners Sykes and Russo is of record with this court, setting forth their position.<sup>1</sup>

The filers of the *pro se* Response knew and acknowledged that the Attorney General decided that only the Redistricting Commission, and no individual Commissioner would be authorized to file an official response on behalf of the State or any of its components. The *pro se* filers elected to proceed independently. As such, Respondents’ Response, agreeing with Petitioners’ Objections, should have been filed in the form of an amicus brief.

### ARGUMENT

The Attorney General is the Chief Law Officer of the State of Ohio. R.C. §109.02. “[N]o state officer or board, or head of a department or institution of the state shall employ, or be represented by, other counsel or attorneys at law. The attorney general shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested.” *Id.* The decisions of how to afford legal counsel, and how to conduct litigation, are within the control of the Attorney General. *Accord, Bd. of Trs. of the Tobacco Use Prevention & Control Found. v. Boyce*, 2010-Ohio-6207, ¶ 29, 127 Ohio St. 3d 511, 518, 941 N.E.2d 745, 753 (rejecting State

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<sup>1</sup> A copy of the Minority Report is available as Exhibit 11 to the Commission’s Response (Jan 28, 2022).

Board's argument that the Attorney General "sabotaged" the board by declining to provide legal counsel for an executive session).

In the waning days of the *DeRolph* litigation, this Court ruled on the Attorney General's objection to the participation of certain State actor *amici* in court ordered mediation, citing the above law. This Court responded: "We acknowledge the import of these statutory provisions. What is surprising, however, is that the Attorney General in her November 26 response acknowledges that the counsel who have represented two Governors and four leaders of the houses of the General Assembly over the course of this appeal were not appointed special counsel pursuant to this statutory authority. She had not, however, objected before November 26 to the representation of any elected official as an amicus curiae by private counsel or rebutted the inference that the counsel had been appointed special counsel." *DeRolph*, 94 Ohio St.3d, at 42. The majority concluded, "The Attorney General has failed to timely object to numerous elected officials' appearing as amici in their official capacities," and found the argument waived. *Id.* at 43. The *DeRolph* majority recognizes the Attorney General's right to control State litigation, and thus, the need for his limited intervention here. Also here, the Attorney General has objected the very day after the unauthorized filing. Thus, there has been no waiver.

The dissent in *DeRolph* did not find waiver, and thus, reached the merits. Its analysis is informative here. "The majority does not explicitly find that the Attorney

General is wrong to seek to exclude the amici from settlement proceedings based on the status of those individuals. Rather, the majority contends that it is simply too late to object to the involvement of the amici to keep them from the negotiating table. But nowhere does the law accord amici the status of parties.” *Id.* at 48 (Cook, J., dissenting). The dissent concluded, “To treat the amici as if they were parties ignores this court's own rules and law on the subject.” *Id.* Where the majority and the dissent agree is that had the Attorney General timely asserted her right (the then Attorney General was female) to control litigation, she would have prevailed.

Of course, under Ohio law, dissenting members of a board or legislative body lack standing to challenge the action in their official capacity. *See ProgressOhio.org, Inc. v. JobsOhio*, 2012-Ohio-2655, ¶ 28, 973 N.E.2d 307, 316 (10<sup>th</sup> Dist.), (“The [Supreme] court indicated that a legislator voting in the minority would not have standing”), *citing State ex rel. Ohio Gen. Assembly v. Brunner*, 114 Ohio St.3d 386, 2007 Ohio 3780, ¶¶ 17-19, 20, 872 N.E.2d 912.

To do anything other than grant this motion will cause this Court (and others in the future) to be flooded with multiple, competing filings offering the purported legal positions of the State, or components thereof, thereby depriving the Attorney General of his longstanding statutory and inherent power to ensure the State speaks with one voice—or multiple voices only when so authorized. Granting this motion “serves to prevent the judicial process from being used to usurp the powers of the political

branches” by granting official governmental standing to a person who does not hold it. *Hollingsworth v. Perry*, 570 U.S. 693, 704-05, 133 S. Ct. 2652, 2661 (2013) Accordingly, the *pro se* filing should be treated as an amicus filing. *State ex rel. Citizen Action v. Hamilton Cty. Bd. of Elections*, 2007-Ohio-5379, ¶ 24, 115 Ohio St. 3d 437, 440, 875 N.E.2d 902, 906 (“Although we have denied the city’s motion to intervene for the reasons previously set forth, the city is entitled to file an amicus curiae brief without leave of court.”)

Dated: January 31, 2022

Respectfully submitted,

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Ohio Attorney General

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**Date:** Mon, 31 Jan 2022 15:29:37 -0000

**Importance:** Normal

**Inline-Images:** image001.png

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0083585

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**From:** Shawn Busken  
**Sent:** Monday, January 31, 2022 10:25 AM  
**To:** Charles Miller <[Charles.Miller@OhioAGO.gov](mailto:Charles.Miller@OhioAGO.gov)>

**From:** Charles Miller <Charles.Miller@OhioAGO.gov>

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

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**Importance:** Normal

**Inline-Images:** image002.png

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**Sent:** Monday, January 31, 2022 10:25 AM

**To:** Charles Miller <Charles.Miller@OhioAGO.gov>

**From:** Charles Miller <Charles.Miller@OhioAGO.gov>

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Subject:** RE: Draft Intro and Statement of Facts

**Date:** Mon, 31 Jan 2022 10:27:38 -0500

**Importance:** Normal

**Inline-Images:** image002.png

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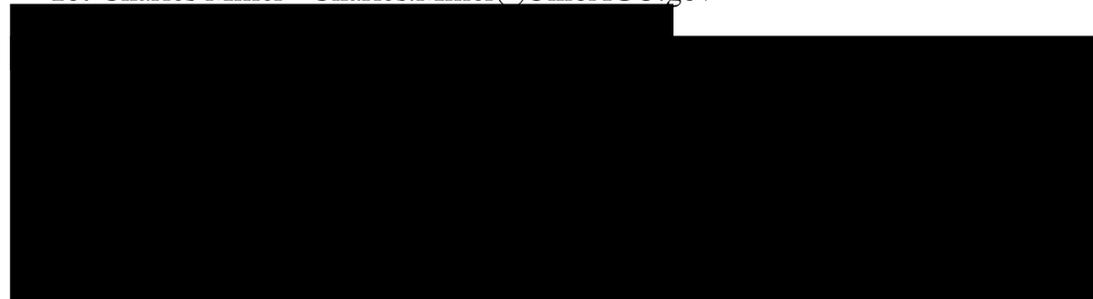
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**To:** "Charles Miller" <Charles.Miller@OhioAGO.gov>

**Subject:** FW: Service

**Date:** Mon, 31 Jan 2022 14:43:38 -0000

**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

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**From:** Julie Pfeiffer

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**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Shawn Busken <Shawn.Busken@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>

**Subject:** FW: Service

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**Subject:** Fwd: Service

I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

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**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)

**Date:** January 28, 2022 at 12:06:21 PM EST

**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfeiffer@ohioago.gov](mailto:Julie.Pfeiffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenan@cov.com](mailto:mkeenan@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudensky@brennan.law.nyu.edu](mailto:rudensky@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abran@elias.law](mailto:abran@elias.law), [jjasrasaria@elias.law](mailto:jjasrasaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alyssa.riggins@nelsonmullins.com](mailto:alyssa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandra-law.com](mailto:subodh.chandra@chandra-law.com), [donald.screen@chandra-law.com](mailto:donald.screen@chandra-law.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org), [erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)

**Subject:** Service

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader

IN THE SUPREME COURT OF OHIO

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

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

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

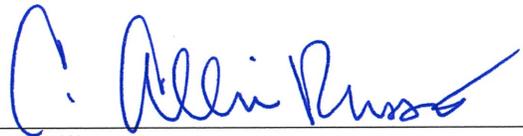
18. I tried to reach the Attorney General by phone on January 26 and spoke to his First Assistant Attorney General Brenda Rinehart who informed me that not only could we not have outside counsel, but that the Attorney General would oppose our retaining pro bono counsel. When I spoke to the Attorney General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

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

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

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
C. Allison Russo

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

  
\_\_\_\_\_  
Notary Public



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

IN THE SUPREME COURT OF OHIO

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

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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
: **Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
: **Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
: **Respondents.** :  
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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
: **Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
: **Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
: **Respondents.** :  
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:

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AFFIDAVIT OF CHRIS GLASSBURN

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State of Ohio  
County of Franklin, SS:

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

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

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

3. Attached to my affidavit are the following exhibits:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

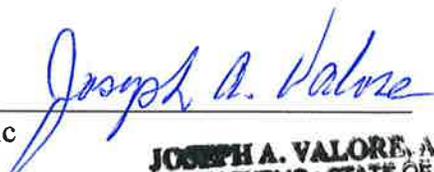
20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

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

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, ADV.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

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

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

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

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State of Ohio  
County of Franklin, SS:

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

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

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

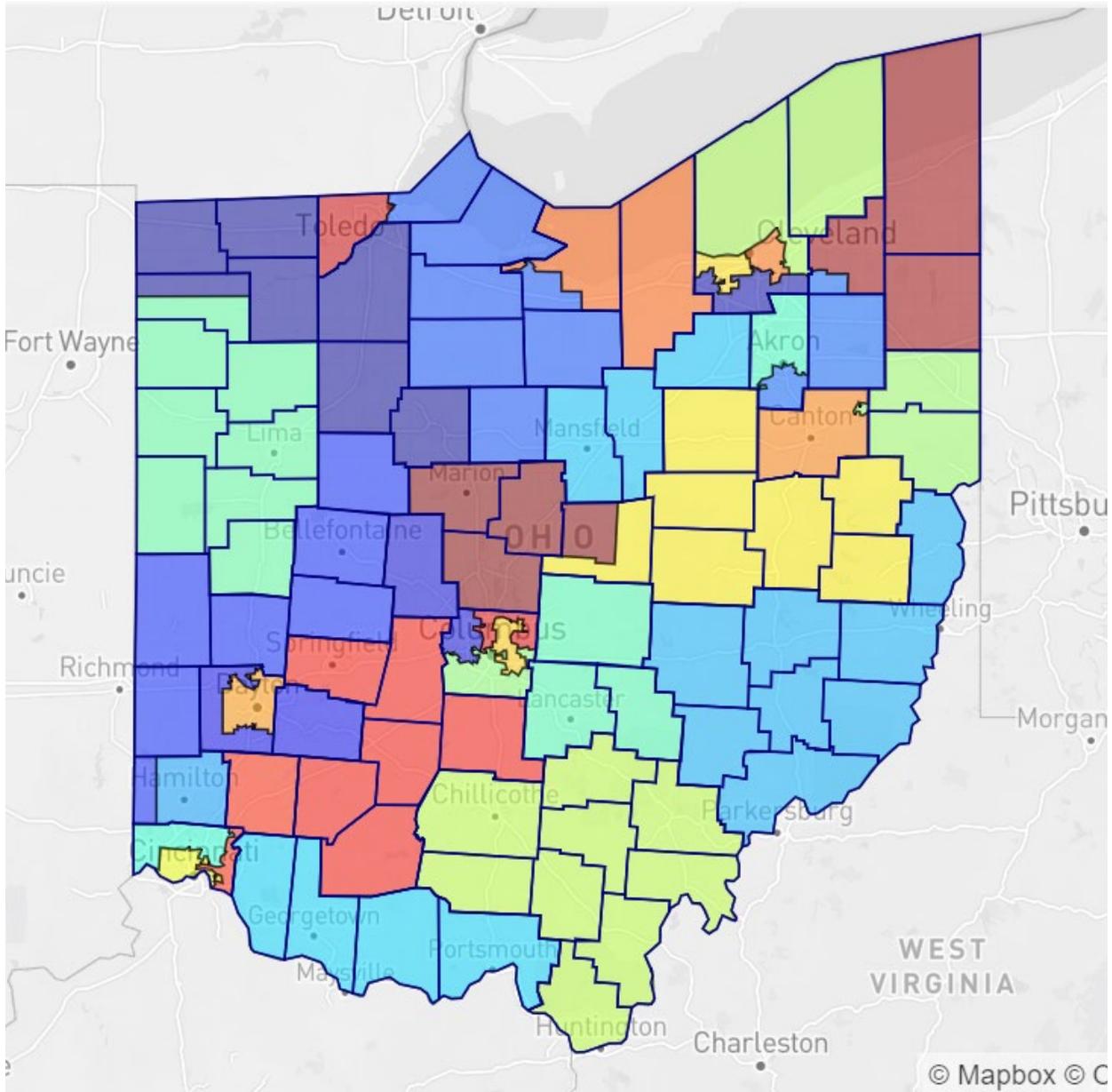
Sworn to before me and subscribed in my presence this 28<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
Notary Public

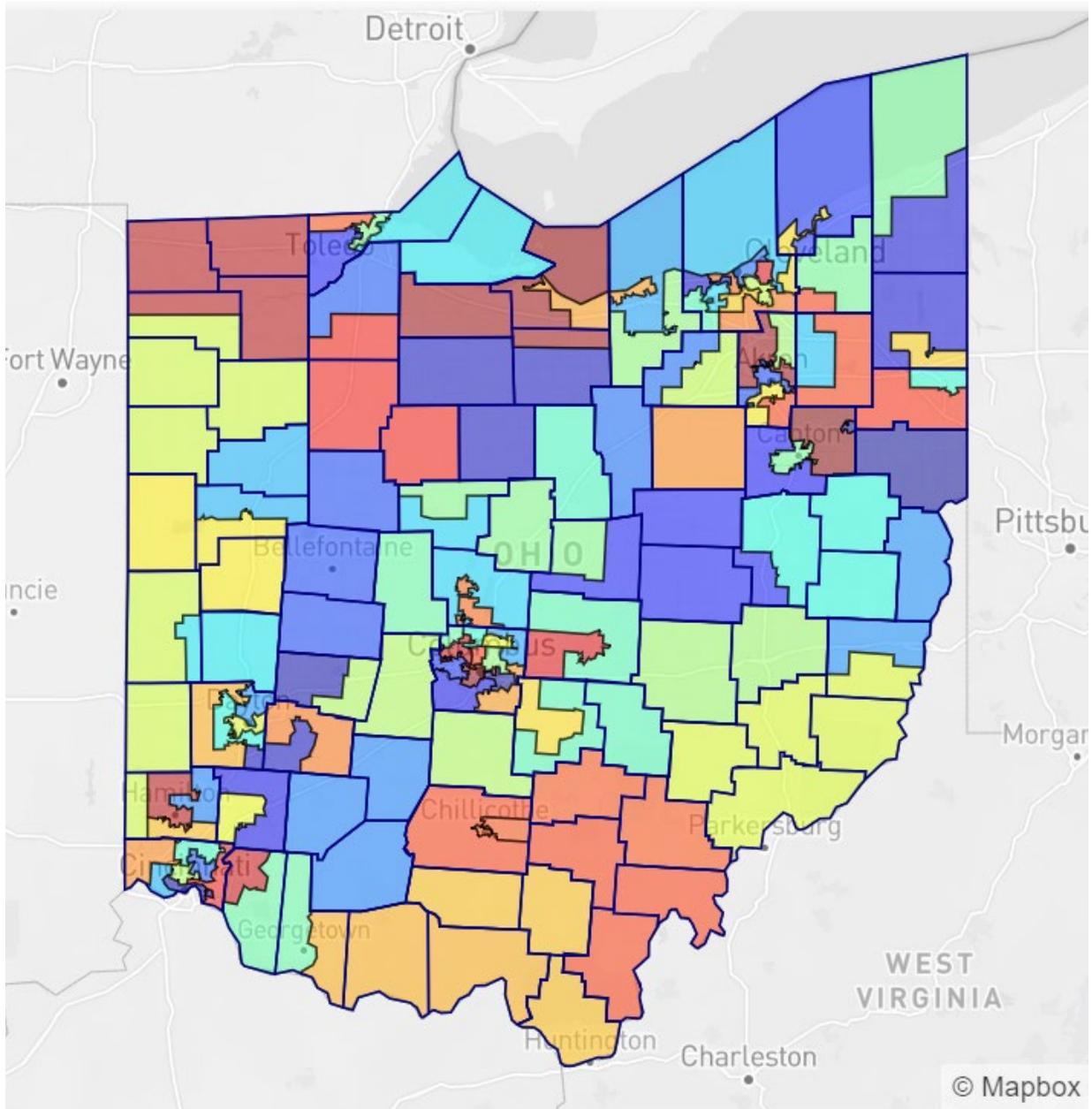


**Exhibit A**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022

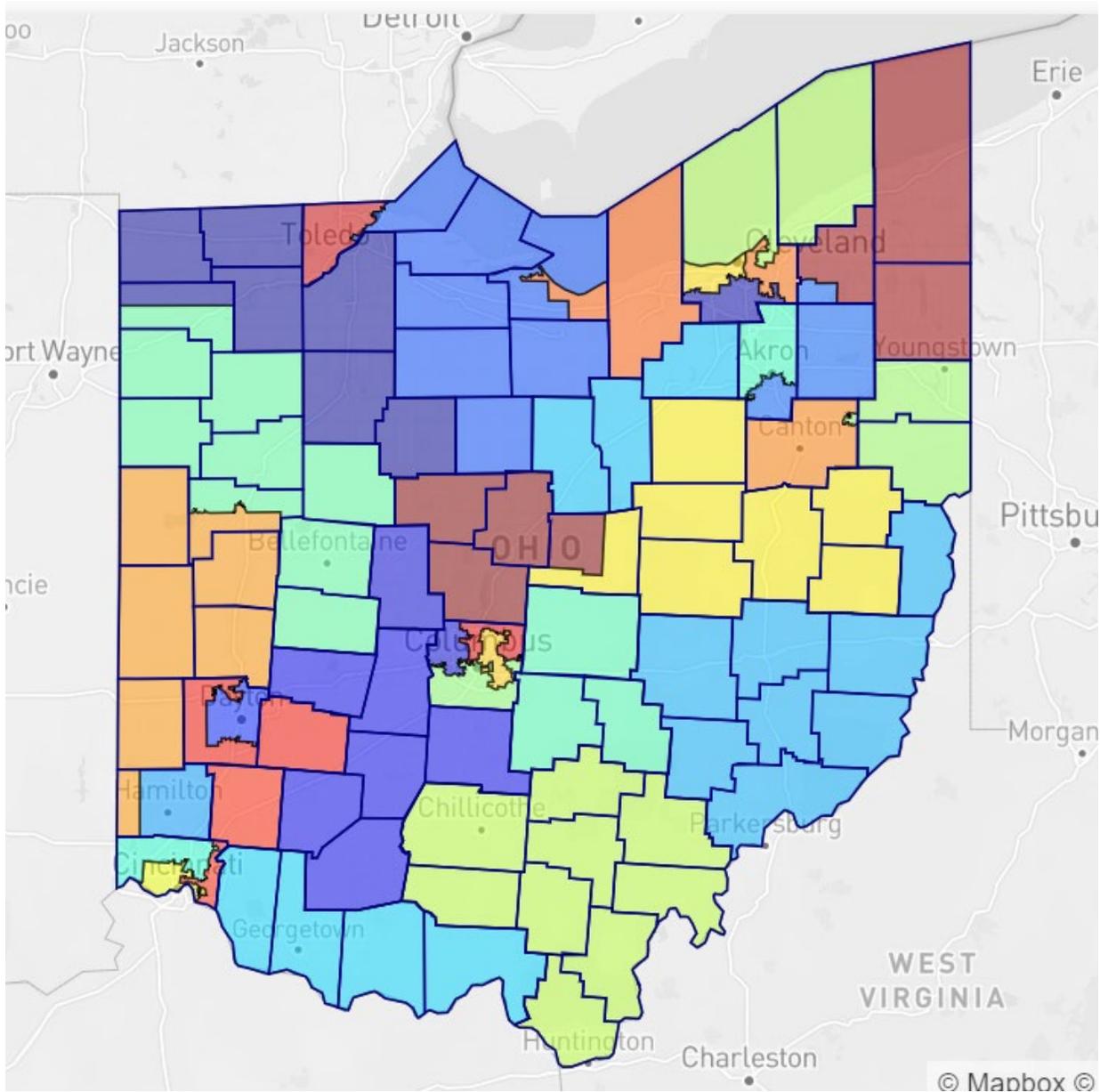


Dems House Proposal – January 22, 2022

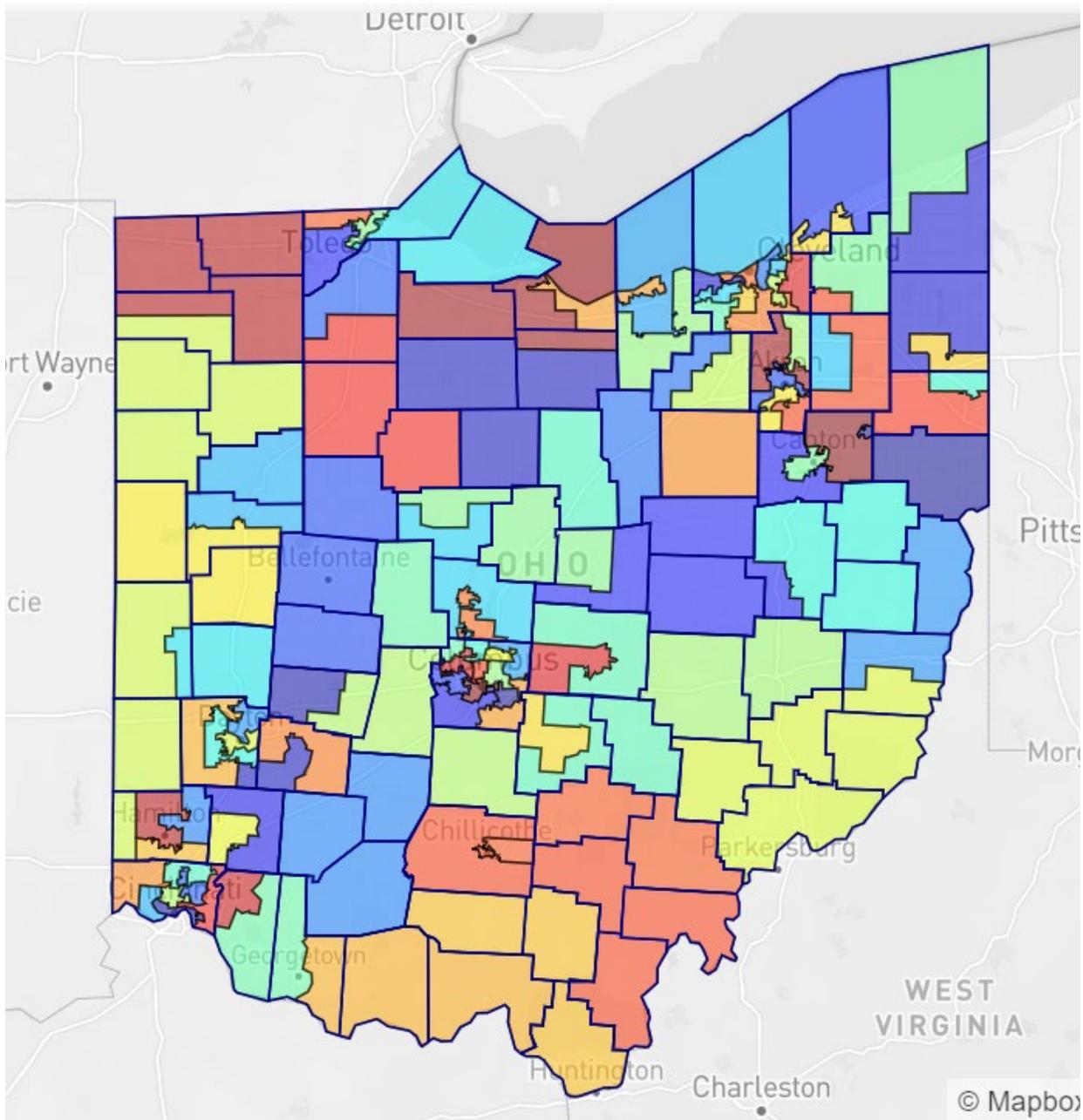


**Exhibit B**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

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

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

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

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

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

Symantec Mail Security replaced Glassburn Ex. C - USB flash drive.zip with this text message. The original file contained a filtering violation and was quarantined.

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IN THE SUPREME COURT OF OHIO

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

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

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

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

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

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

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

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

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

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

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

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

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

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

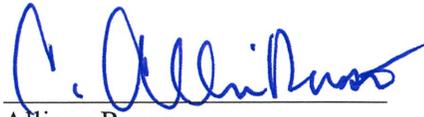
We ask that the Court again invalidate the map adopted by the Republican Commissioners, order the Commission to draw a map that complies with the Ohio Constitution and this Court's pronouncements, and direct the Legislature and Secretary of State to make the necessary adjustments to the election schedule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

Respectfully submitted,



---

Vernon Sykes



---

Allison Russo

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

## CERTIFICATE OF SERVICE

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

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*Counsel for Amicus Curiae Ohio State  
Conference of the NAACP*

/s/ 

**From:** "Erik J. Clark" <ejclark@organlegal.com>  
**To:** Shawn Busken <Shawn.Busken@ohioago.gov>  
**Subject:** Re: Service  
**Date:** Fri, 28 Jan 2022 18:18:21 +0000

**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

**Inline-Images:** image001.png; image001(1).png

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I did receive it. Thanks. Did you receive a copy of the Commission's brief?

Erik J. Clark  
Organ Law LLP  
1330 Dublin Road  
Columbus, OH 43215  
614.481.0908 (direct)

On Jan 28, 2022, at 1:16 PM, Shawn Busken <Shawn.Busken@ohioago.gov> wrote:

Didn't know if you saw this.

---

**From:** Julie Pfeiffer  
**Sent:** Friday, January 28, 2022 12:46 PM  
**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Shawn Busken <Shawn.Busken@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>  
**Subject:** FW: Service

Here it is! It went straight to my junk mail.

**Julie M. Pfeiffer**

Assistant Section Chief – Constitutional Offices

Office of Ohio Attorney General Dave Yost

Office Number: 614-466-2872

Fax Number: 866-422-9192

[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)

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**From:** Erik J. Clark <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>  
**Sent:** Friday, January 28, 2022 12:26 PM  
**To:** Julie Pfeiffer <[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)>  
**Subject:** Fwd: Service

I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

Erik J. Clark

Organ Law LLP

1330 Dublin Road

Columbus, OH 43215

614.481.0908 (direct)

Begin forwarded message:

**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)  
**Date:** January 28, 2022 at 12:06:21 PM EST  
**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfeiffer@ohioago.gov](mailto:Julie.Pfeiffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenanan@cov.com](mailto:mkeenanan@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudensky@brennan.law.nyu.edu](mailto:rudensky@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abbranch@elias.law](mailto:abbranch@elias.law), [jjasrasaria@elias.law](mailto:jjasrasaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alysa.riggins@nelsonmullins.com](mailto:alysa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandalaw.com](mailto:subodh.chandra@chandalaw.com), [donald.screen@chandalaw.com](mailto:donald.screen@chandalaw.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org), [erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)  
**Subject:** Service

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader



IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

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

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
C. Allison Russo

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

  
Notary Public



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

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF CHRIS GLASSBURN

---

State of Ohio  
County of Franklin, SS:

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

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

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

3. Attached to my affidavit are the following exhibits:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

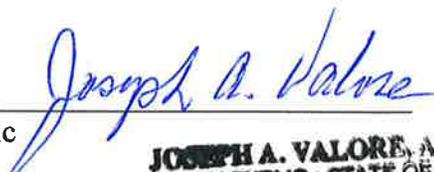
20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

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

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, ADV.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

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

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

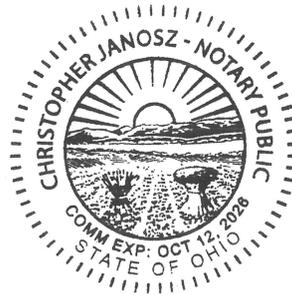
26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

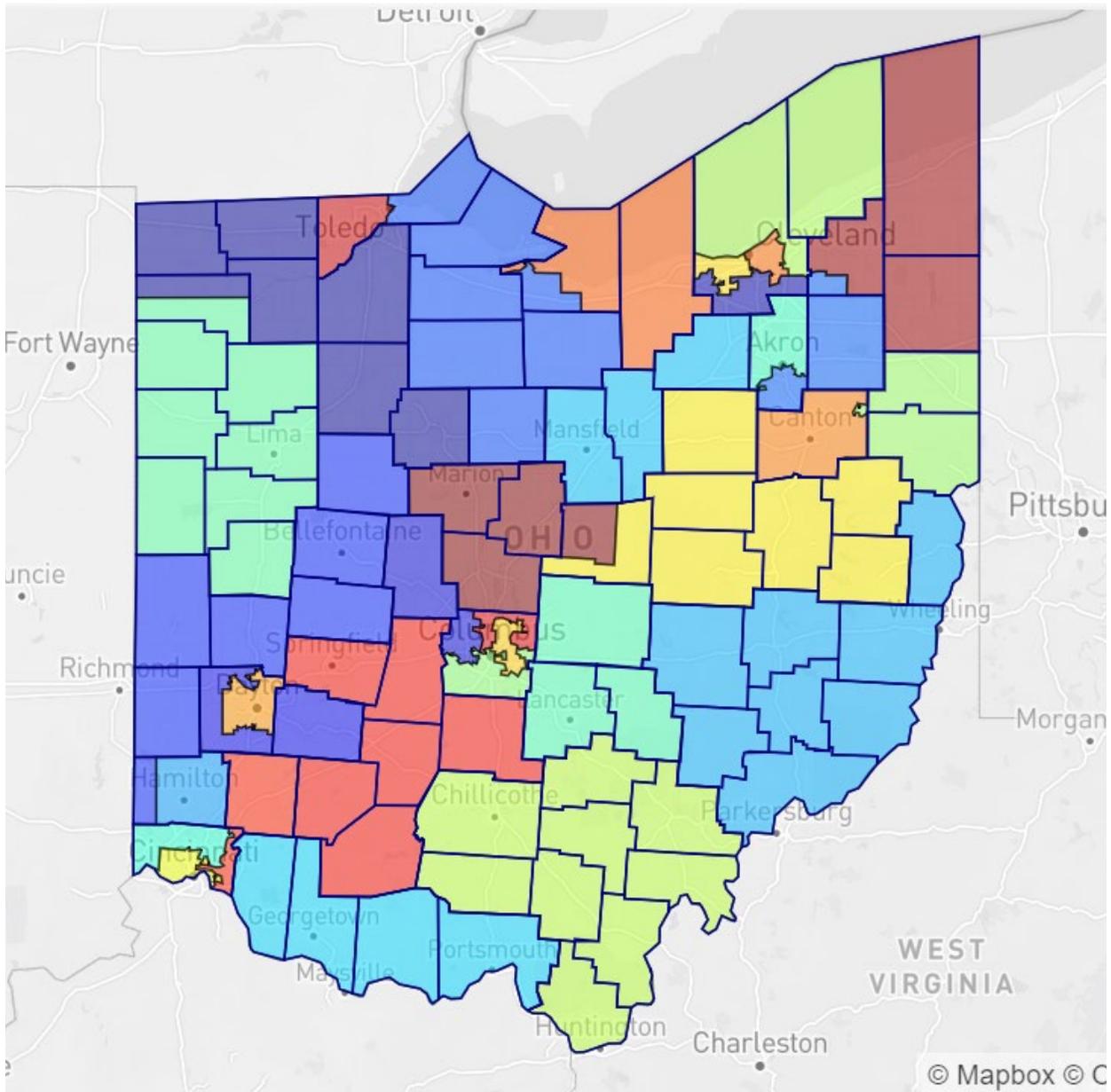
Sworn to before me and subscribed in my presence this 28<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
Notary Public

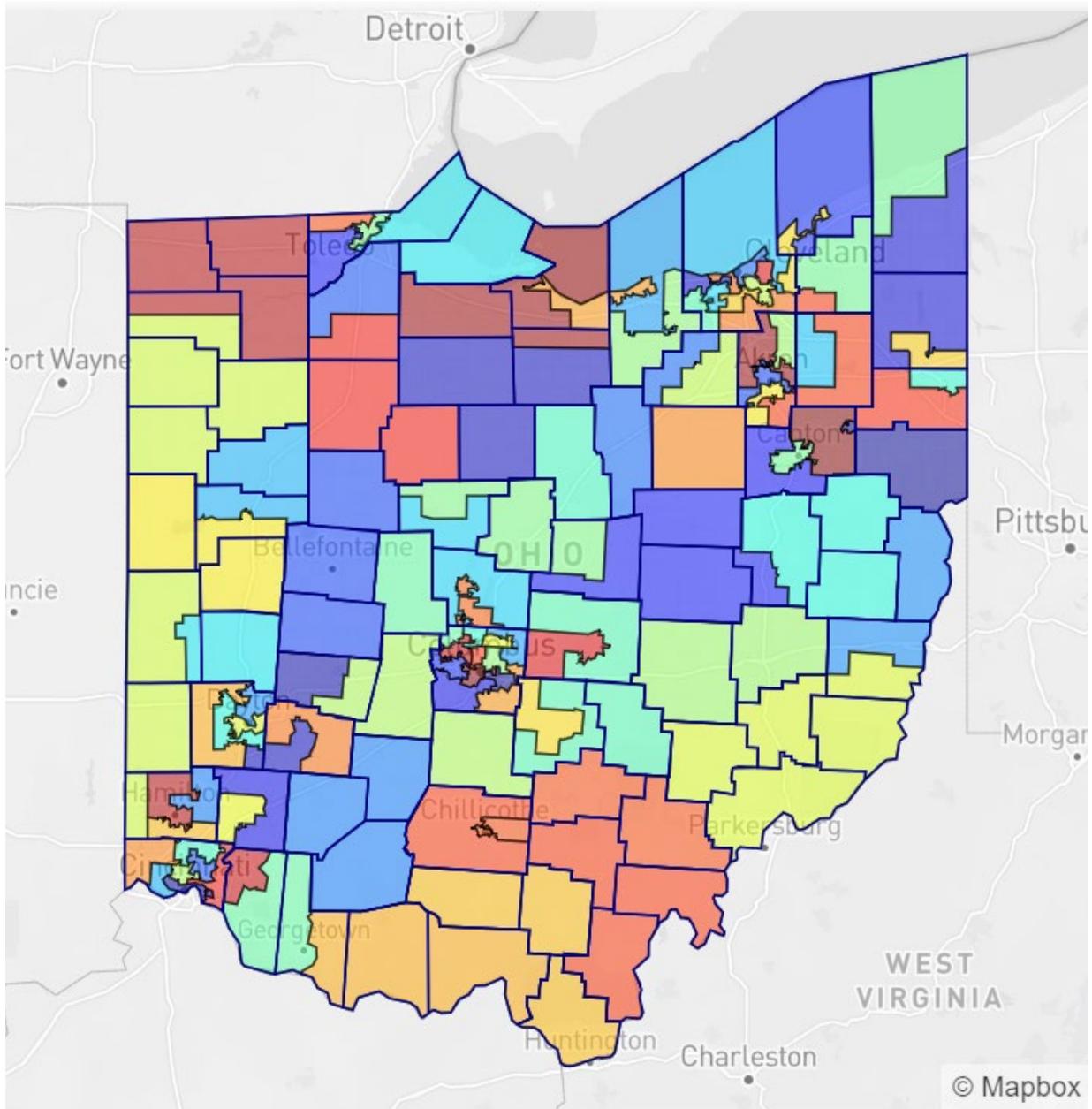


**Exhibit A**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022



Dems House Proposal – January 22, 2022

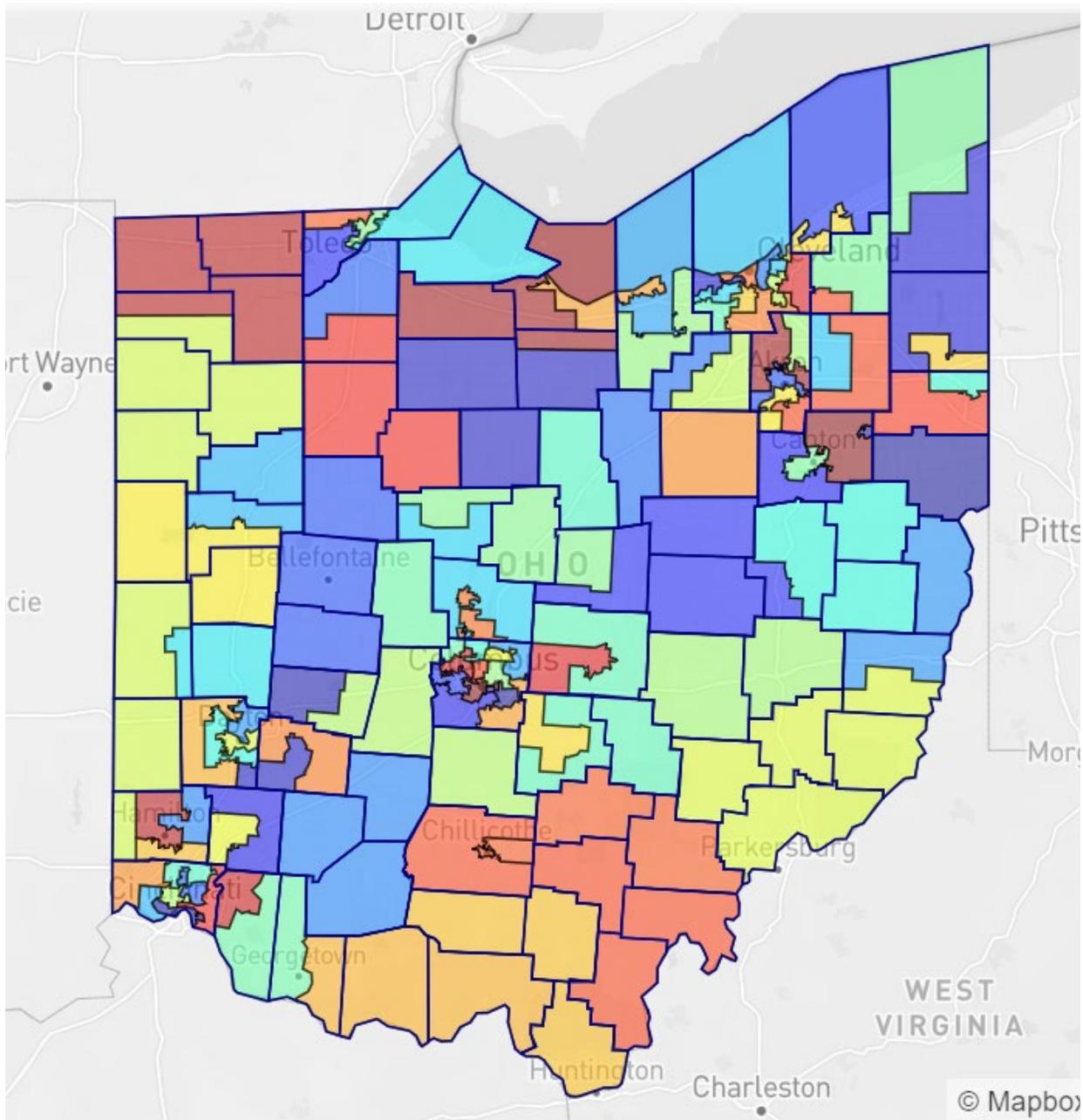


# **Exhibit B**

## **to Affidavit of Chris Glassburn**



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

23993 Fairlawn Drive  
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Chris Glassburn is one of the top consultants providing campaign management, public engagement, and electoral data services in Ohio. In 2011, Glassburn served as the redistricting consultant and mapmaker for the Ohio House Democratic Caucus for Congressional Redistricting. Glassburn also served as the Democratic minority consultant and mapmaker for the Ohio Apportionment Board and as the Democratic mapmaker for plaintiffs in *Wilson v. Kasich* (decided 4-3 against, with current Supreme Court Chief Justice O'Connor dissenting).

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

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

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

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

Symantec Mail Security replaced Glassburn Ex. C - USB flash drive.zip with this text message. The original file contained a filtering violation and was quarantined.

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IN THE SUPREME COURT OF OHIO

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

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

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

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

---

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House Speaker Robert Cupp**

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**\*Not admitted to Ohio Bar**

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,



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Vernon Sykes



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Allison Russo

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

## CERTIFICATE OF SERVICE

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

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/s/ 

**From:** "Shawn Busken" </O=AG OF OHIO/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B28A91BBD6FB43059C8D3DE833BA8E2C-JOSEPH S BUSK>

**To:** "Erik J. Clark" <ejclark@organlegal.com>

**Subject:** FW: Service

**Date:** Fri, 28 Jan 2022 18:16:46 -0000

**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

**Inline-Images:** image001.png

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Didn't know if you saw this.

---

**From:** Julie Pfeiffer

**Sent:** Friday, January 28, 2022 12:46 PM

**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Shawn Busken <Shawn.Busken@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>

**Subject:** FW: Service

Here it is! It went straight to my junk mail.



*Julie M. Pfeiffer*

Assistant Section Chief – Constitutional Offices

Office of Ohio Attorney General Dave Yost

Office Number: 614-466-2872

Fax Number: 866-422-9192

[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)

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**From:** Erik J. Clark <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>  
**Sent:** Friday, January 28, 2022 12:26 PM  
**To:** Julie Pfeiffer <[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)>  
**Subject:** Fwd: Service

I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

Erik J. Clark

Organ Law LLP

1330 Dublin Road

Columbus, OH 43215

614.481.0908 (direct)

Begin forwarded message:

**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)  
**Date:** January 28, 2022 at 12:06:21 PM EST  
**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfeiffer@ohioago.gov](mailto:Julie.Pfeiffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenana@cov.com](mailto:mkeenana@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudenskyy@brennan.law.nyu.edu](mailto:rudenskyy@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abranche@elias.law](mailto:abranche@elias.law), [jjasarsaria@elias.law](mailto:jjasarsaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alyssa.riggins@nelsonmullins.com](mailto:alyssa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandrahalaw.com](mailto:subodh.chandra@chandrahalaw.com), [donald.screen@chandrahalaw.com](mailto:donald.screen@chandrahalaw.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org), [erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)  
**Subject:** Service

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

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

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

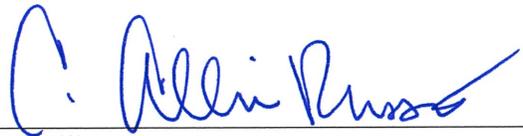
18. I tried to reach the Attorney General by phone on January 26 and spoke to his First Assistant Attorney General Brenda Rinehart who informed me that not only could we not have outside counsel, but that the Attorney General would oppose our retaining pro bono counsel. When I spoke to the Attorney General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

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

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

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
C. Allison Russo

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

  
Notary Public



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

IN THE SUPREME COURT OF OHIO

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

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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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AFFIDAVIT OF CHRIS GLASSBURN

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State of Ohio  
County of Franklin, SS:

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

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

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

3. Attached to my affidavit are the following exhibits:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

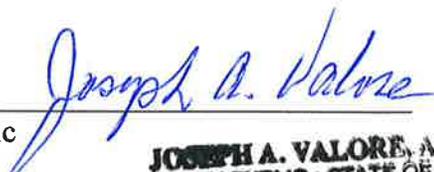
20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

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

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, ADV.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

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

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

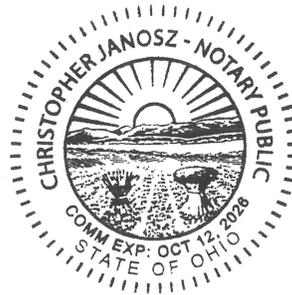
26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

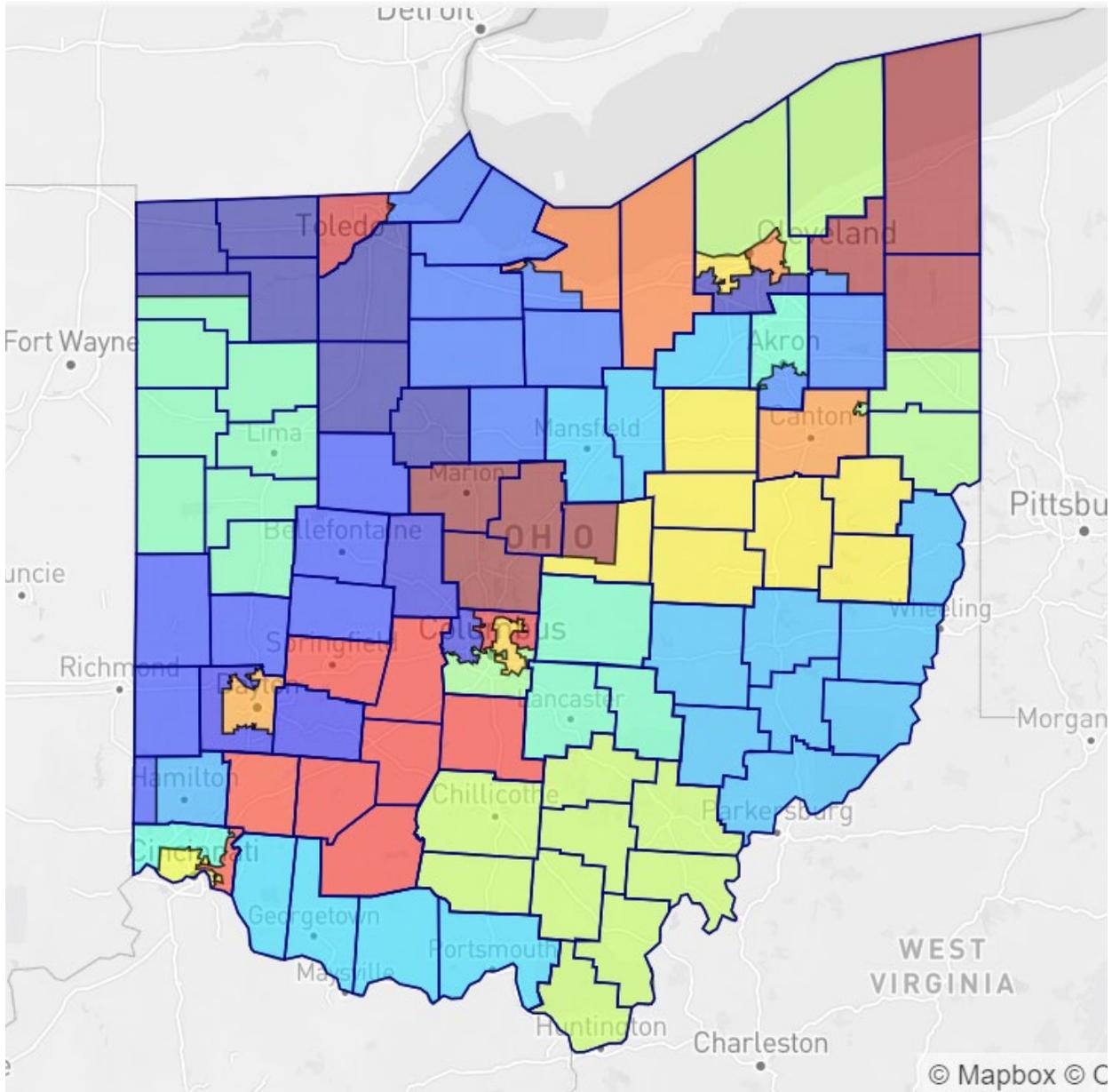
Sworn to before me and subscribed in my presence this 28<sup>th</sup> day of January, 2022.

  
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Notary Public

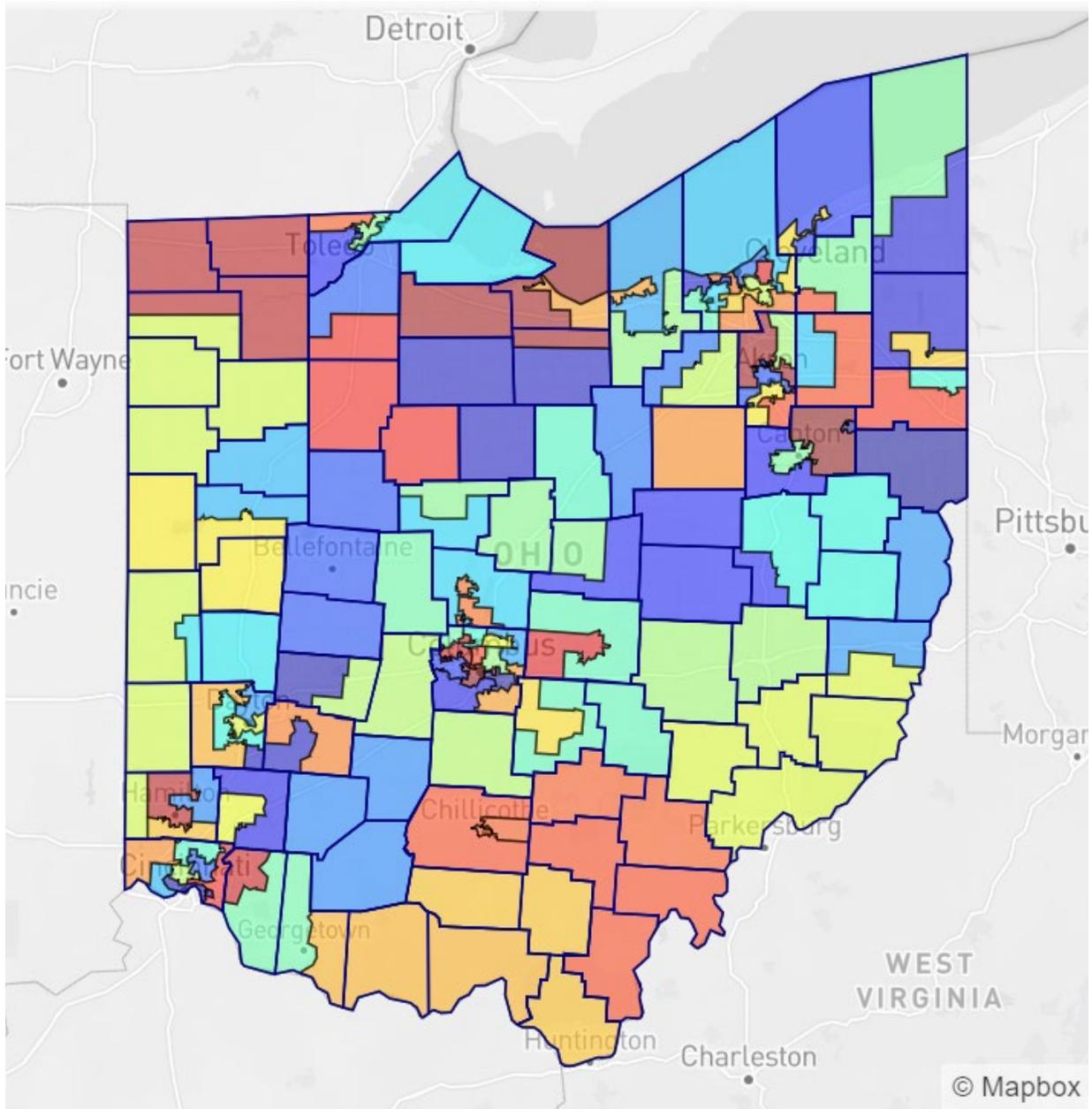


**Exhibit A**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022

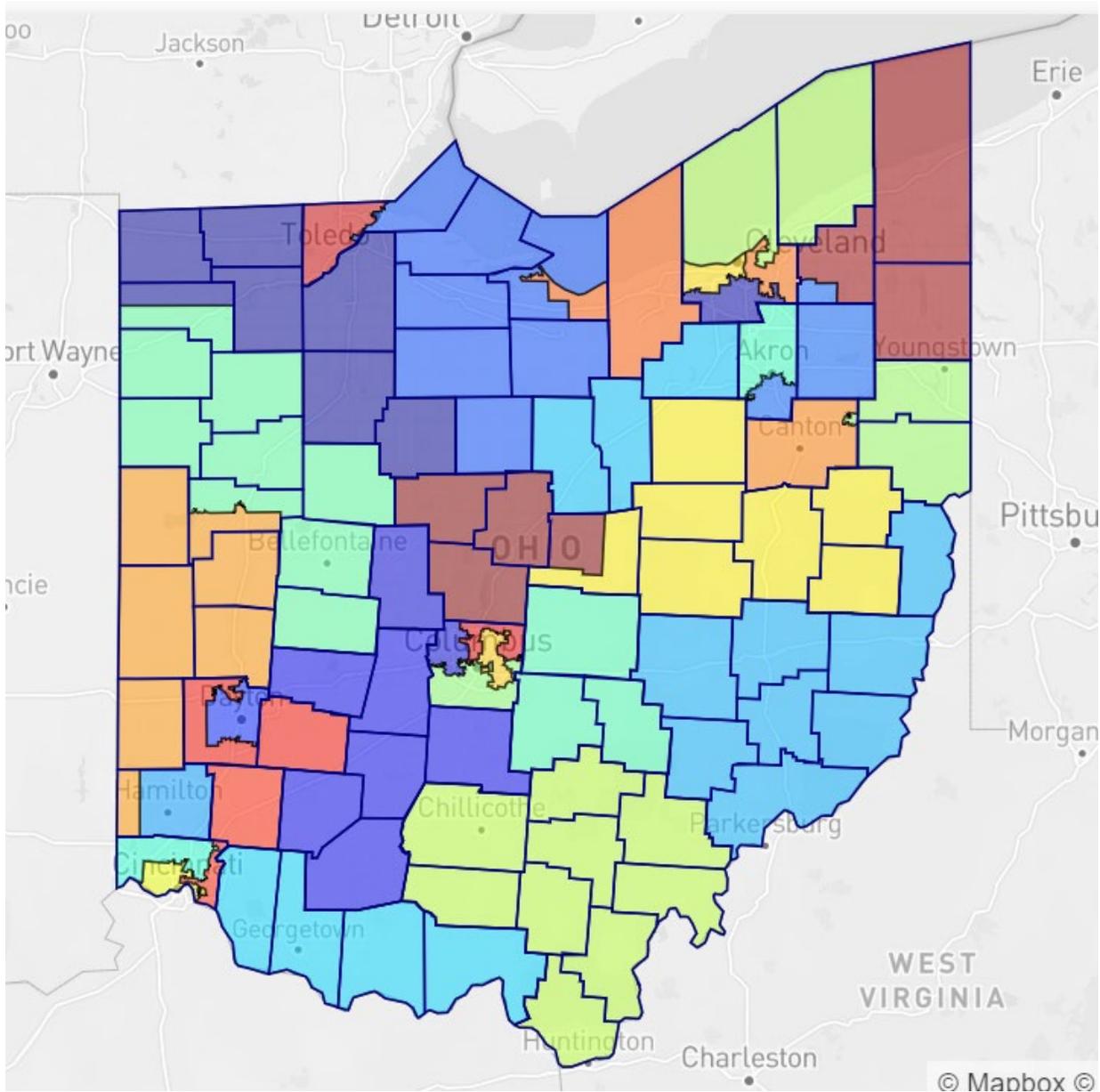


Dems House Proposal – January 22, 2022

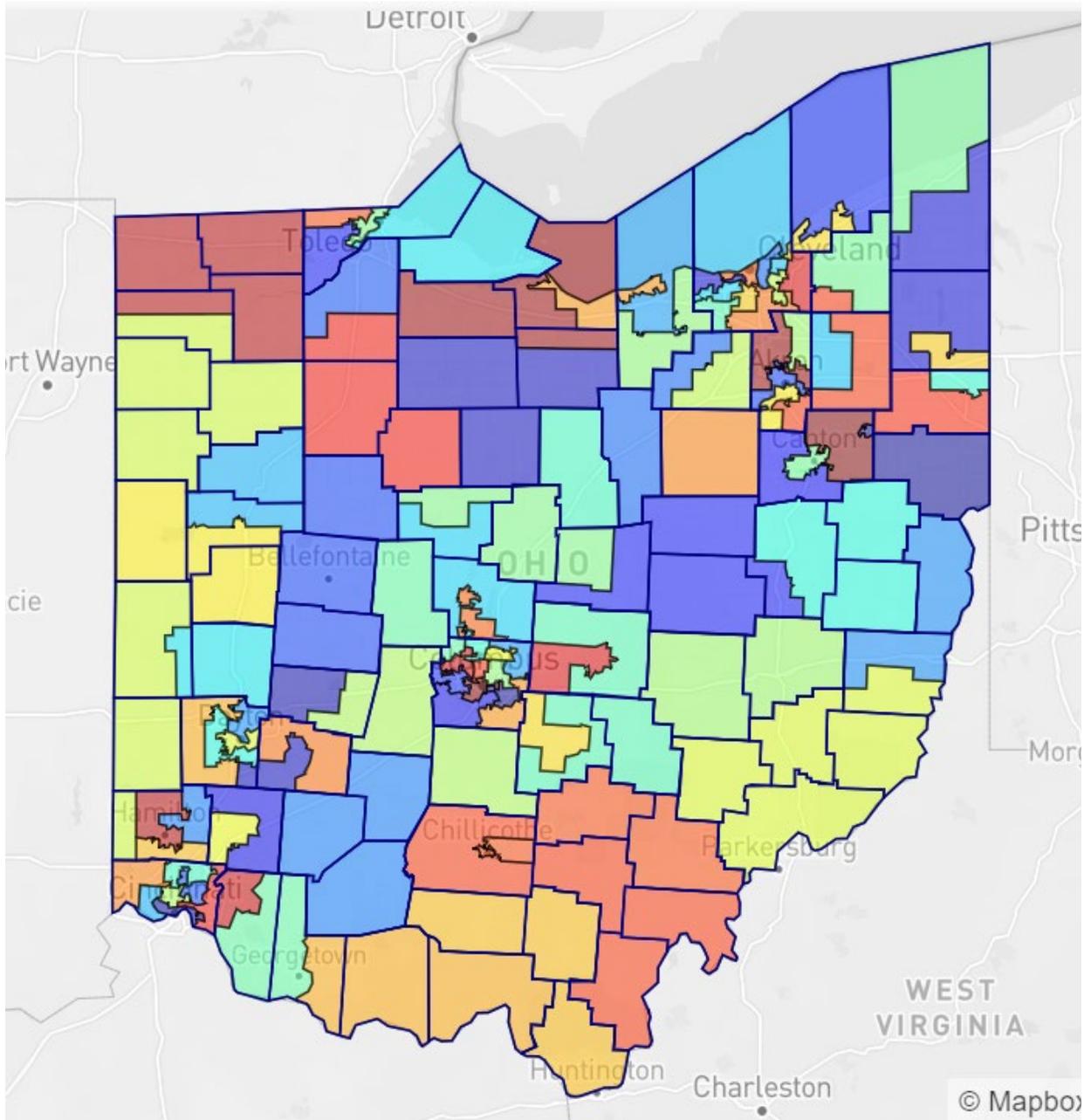


**Exhibit B**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

23993 Fairlawn Drive  
North Olmsted, OH 44070  
440-570-9726  
[Chris@ProjectGovern.com](mailto:Chris@ProjectGovern.com)

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

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

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

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

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

Symantec Mail Security replaced Glassburn Ex. C - USB flash drive.zip with this text message. The original file contained a filtering violation and was quarantined.

ID:OCS01::SYQ63805ec71

IN THE SUPREME COURT OF OHIO

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

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

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The Ohio Organizing Collaborative, *et al.*, :  
: Case No. 2021-1210  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
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RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE  
MINORITY LEADER ALLISON RUSSO TO PETITIONERS' OBJECTIONS

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,



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Vernon Sykes



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Allison Russo

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

## CERTIFICATE OF SERVICE

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

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**Subject:** FW: Service

**Date:** Fri, 28 Jan 2022 17:59:29 -0000

**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

**Inline-Images:** image001.png

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Ugh

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I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

Erik J. Clark

Organ Law LLP

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Columbus, OH 43215

614.481.0908 (direct)

Begin forwarded message:

**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)  
**Date:** January 28, 2022 at 12:06:21 PM EST  
**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfeiffer@ohioago.gov](mailto:Julie.Pfeiffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenana@cov.com](mailto:mkeenana@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudenskyy@brennan.law.nyu.edu](mailto:rudenskyy@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abranche@elias.law](mailto:abranche@elias.law), [jjasarsaria@elias.law](mailto:jjasarsaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alyssa.riggins@nelsonmullins.com](mailto:alyssa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandrahalaw.com](mailto:subodh.chandra@chandrahalaw.com), [donald.screen@chandrahalaw.com](mailto:donald.screen@chandrahalaw.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org), [erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)  
**Subject:** Service

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader

IN THE SUPREME COURT OF OHIO

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

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

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

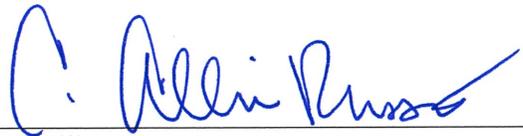
18. I tried to reach the Attorney General by phone on January 26 and spoke to his First Assistant Attorney General Brenda Rinehart who informed me that not only could we not have outside counsel, but that the Attorney General would oppose our retaining pro bono counsel. When I spoke to the Attorney General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

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

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

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
C. Allison Russo

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

  
\_\_\_\_\_  
Notary Public



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

IN THE SUPREME COURT OF OHIO

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

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

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State of Ohio  
County of Franklin, SS:

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

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

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

3. Attached to my affidavit are the following exhibits:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

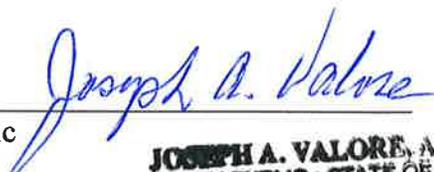
20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

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

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, A.M.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

**League of Women Voters of Ohio, et al.,** :  
: **Case No. 2021-1193**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

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

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

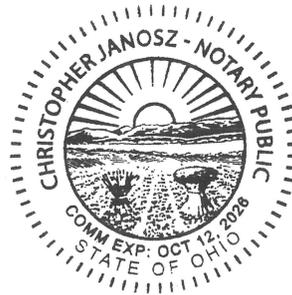
26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

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

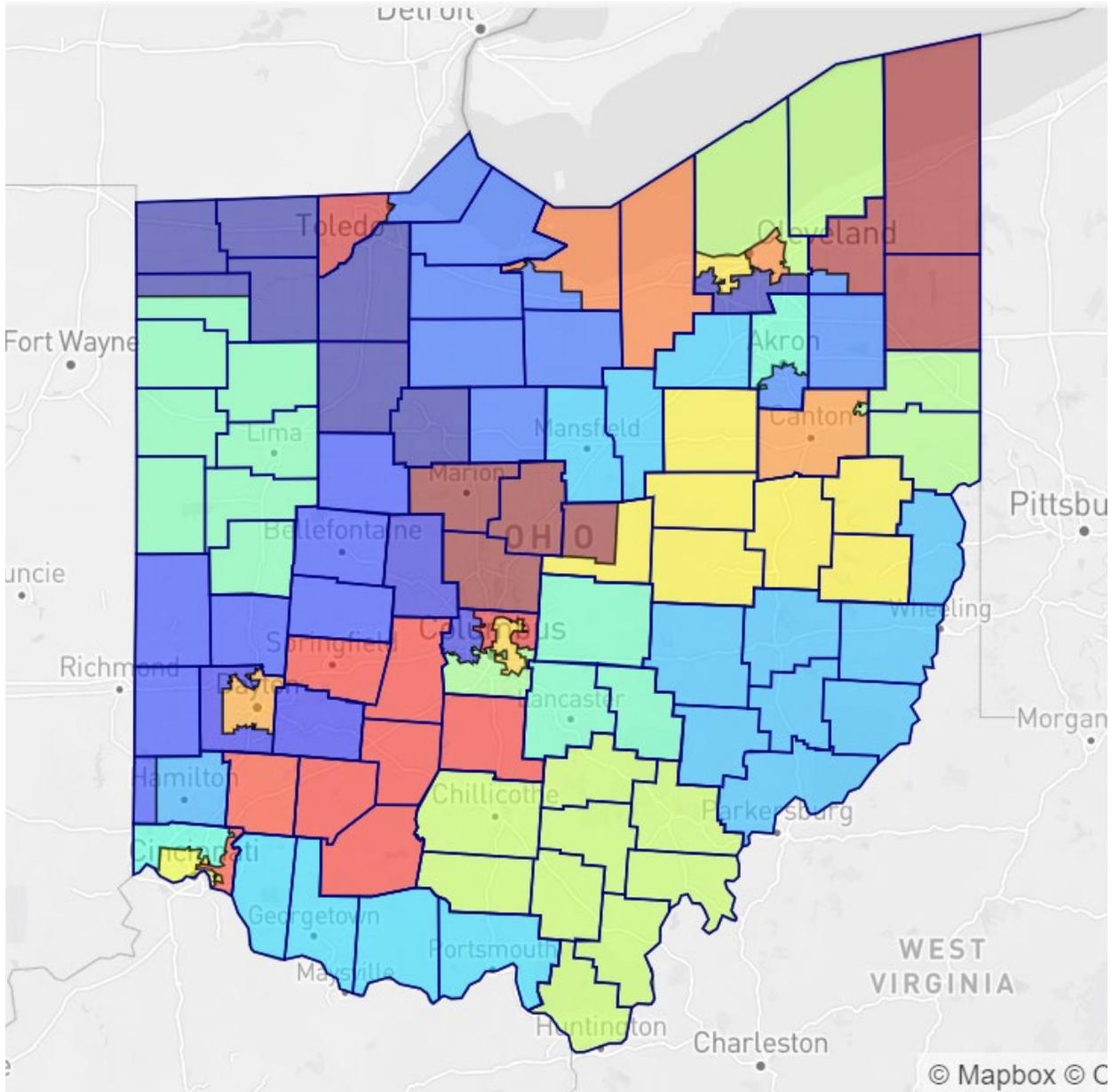
  
\_\_\_\_\_  
Notary Public



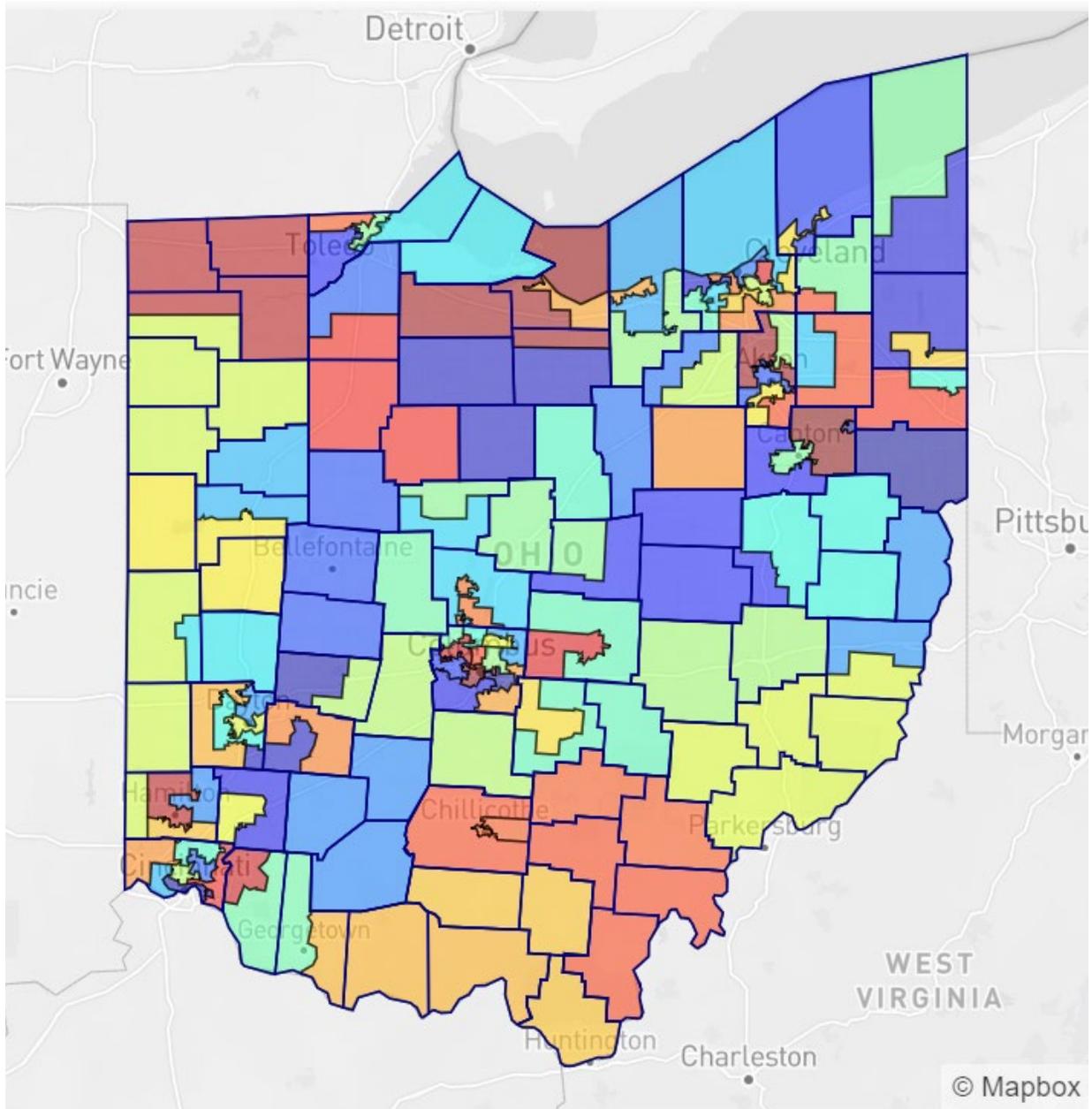
# **Exhibit A**

## **to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022

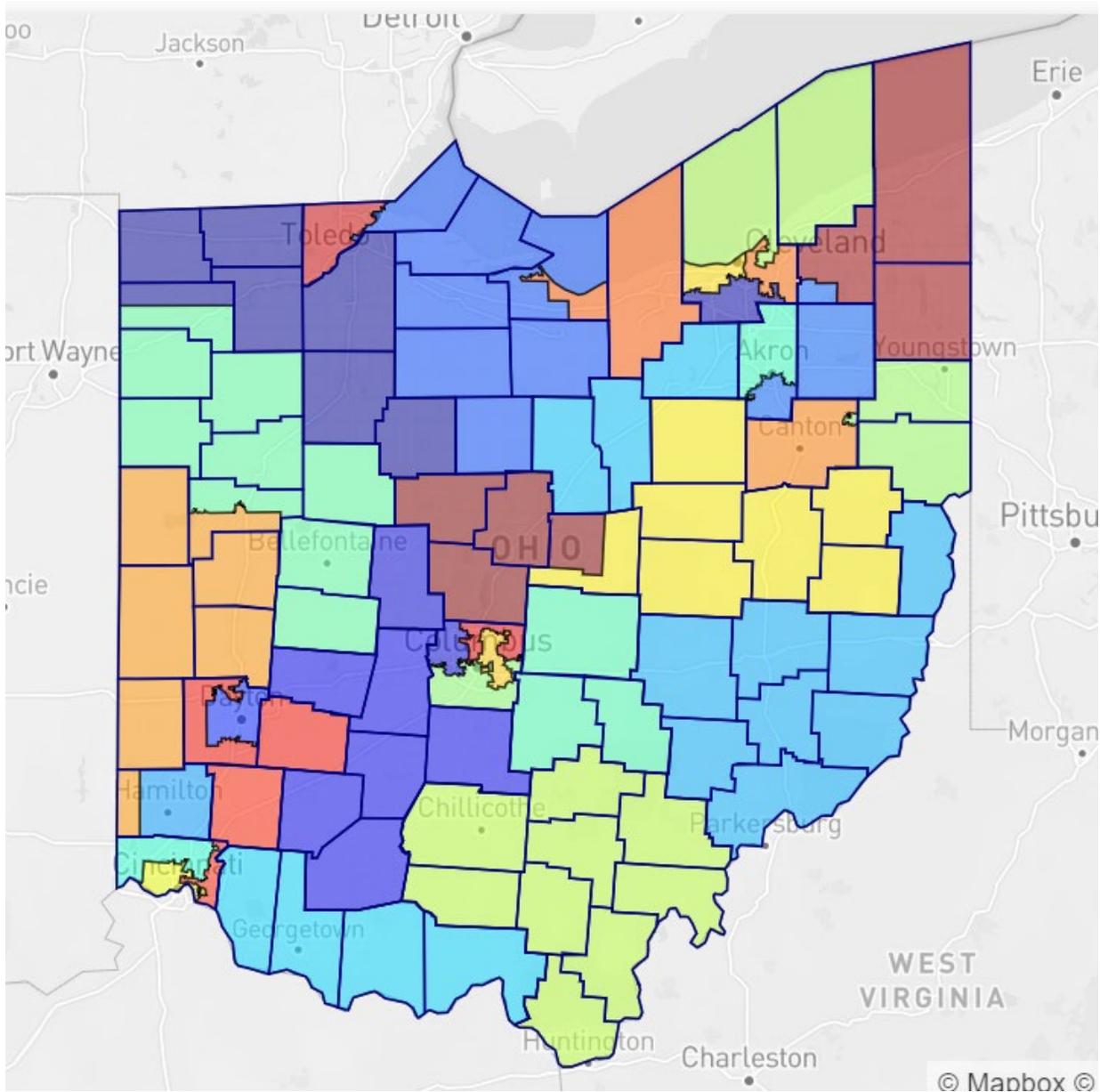


Dems House Proposal – January 22, 2022

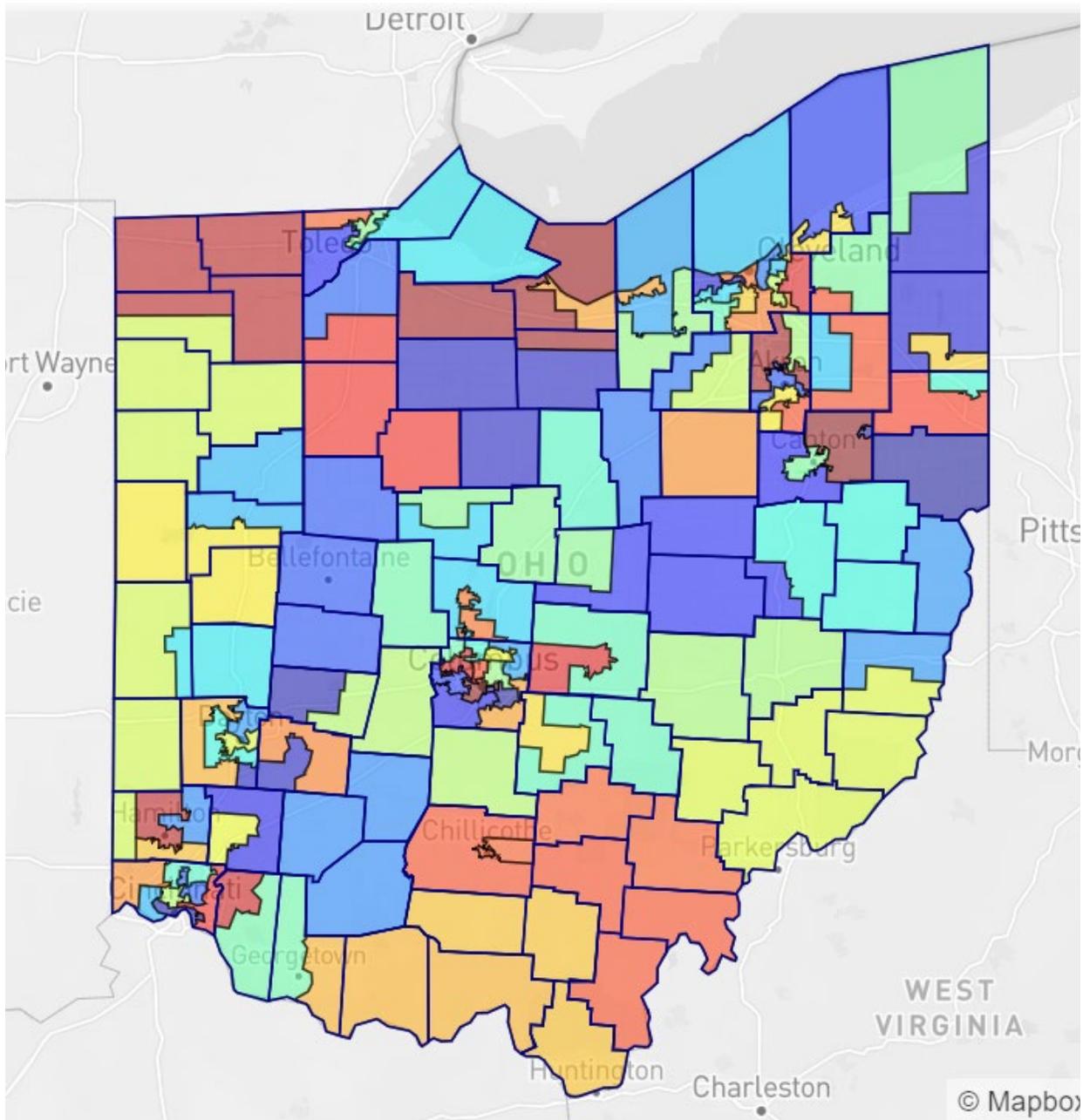


**Exhibit B**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

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

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

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

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

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

Symantec Mail Security replaced Glassburn Ex. C - USB flash drive.zip with this text message. The original file contained a filtering violation and was quarantined.

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IN THE SUPREME COURT OF OHIO

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,



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Vernon Sykes



---

Allison Russo

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

## CERTIFICATE OF SERVICE

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

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*Counsel for Amicus Curiae Ohio State  
Conference of the NAACP*

/s/ 

**From:** "Shawn Busken" </O=AG OF OHIO/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B28A91BBD6FB43059C8D3DE833BA8E2C-JOSEPH S BUSK>

**To:** "Bethany McCorkle" <Bethany.McCorkle@OhioAGO.gov>

**Subject:** FW: Service

**Date:** Fri, 28 Jan 2022 17:52:40 -0000

**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

**Inline-Images:** image001.png

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**From:** Julie Pfeiffer

**Sent:** Friday, January 28, 2022 12:46 PM

**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Shawn Busken <Shawn.Busken@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>

**Subject:** FW: Service

Here it is! It went straight to my junk mail.



*Julie M. Pfeiffer*

Assistant Section Chief – Constitutional Offices

Office of Ohio Attorney General Dave Yost

Office Number: 614-466-2872

Fax Number: 866-422-9192

[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)

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**From:** Erik J. Clark <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>

**Sent:** Friday, January 28, 2022 12:26 PM

**To:** Julie Pfeiffer <[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)>

**Subject:** Fwd: Service

I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

Erik J. Clark

Organ Law LLP

1330 Dublin Road

Columbus, OH 43215

614.481.0908 (direct)

Begin forwarded message:

**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)

**Date:** January 28, 2022 at 12:06:21 PM EST

**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfeiffer@ohioago.gov](mailto:Julie.Pfeiffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenan@cov.com](mailto:mkeenan@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudensky@brennan.law.nyu.edu](mailto:rudensky@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abran@elias.law](mailto:abran@elias.law), [jjasrasaria@elias.law](mailto:jjasrasaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alyssa.riggins@nelsonmullins.com](mailto:alyssa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandrahalaw.com](mailto:subodh.chandra@chandrahalaw.com), [donald.screen@chandrahalaw.com](mailto:donald.screen@chandrahalaw.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org), [erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)

**Subject:** Service

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

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

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

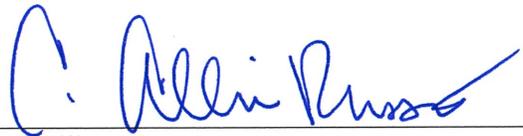
18. I tried to reach the Attorney General by phone on January 26 and spoke to his First Assistant Attorney General Brenda Rinehart who informed me that not only could we not have outside counsel, but that the Attorney General would oppose our retaining pro bono counsel. When I spoke to the Attorney General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

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

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

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
C. Allison Russo

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

  
\_\_\_\_\_  
Notary Public



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

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF CHRIS GLASSBURN

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State of Ohio  
County of Franklin, SS:

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

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

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

3. Attached to my affidavit are the following exhibits:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

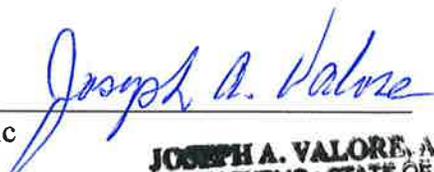
20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

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

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, ADV.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

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

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

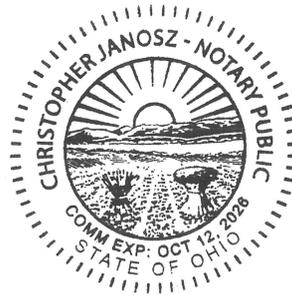
26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

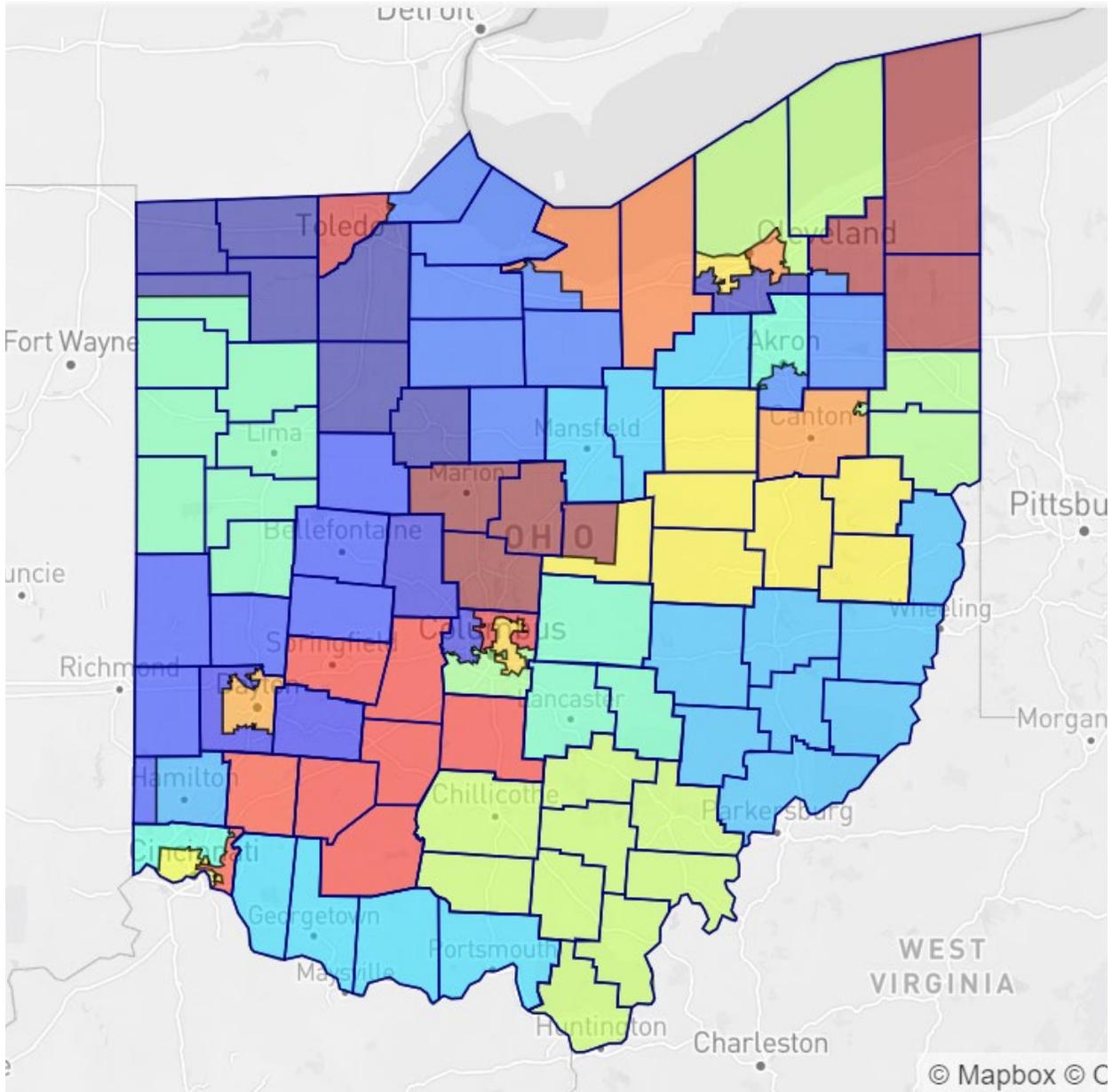
Sworn to before me and subscribed in my presence this 28<sup>th</sup> day of January, 2022.

  
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Notary Public

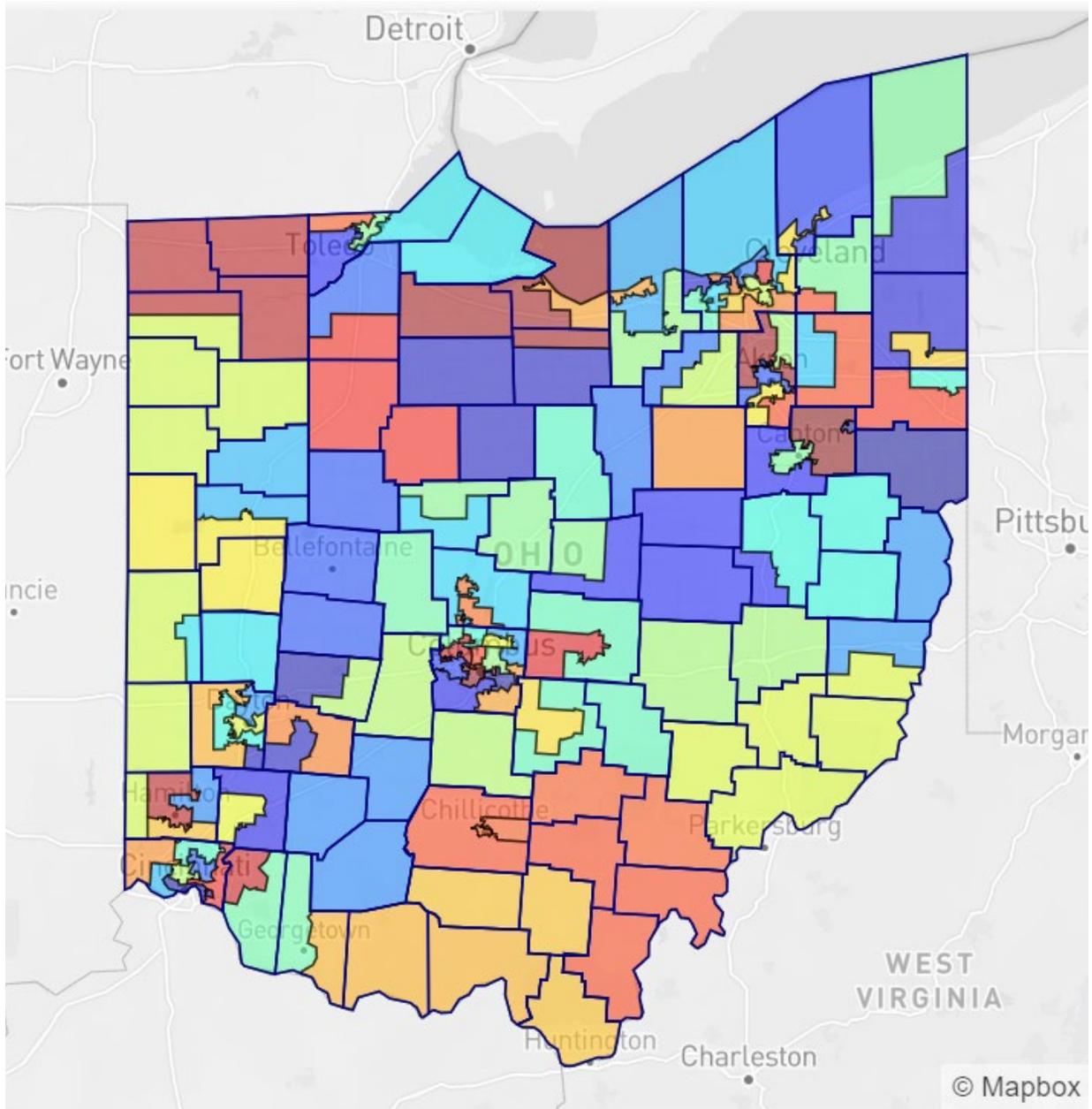


**Exhibit A**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022

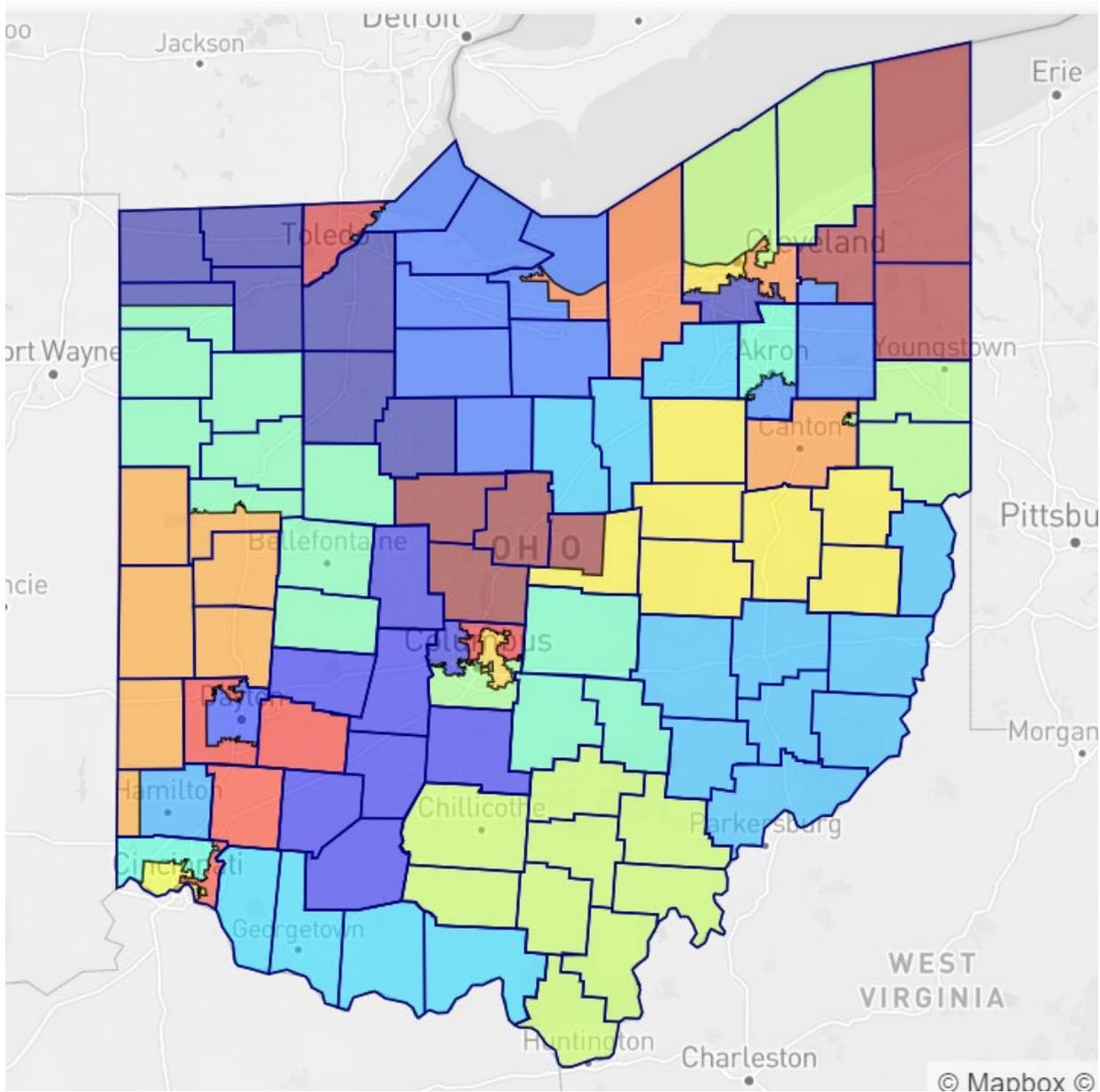


Dems House Proposal – January 22, 2022

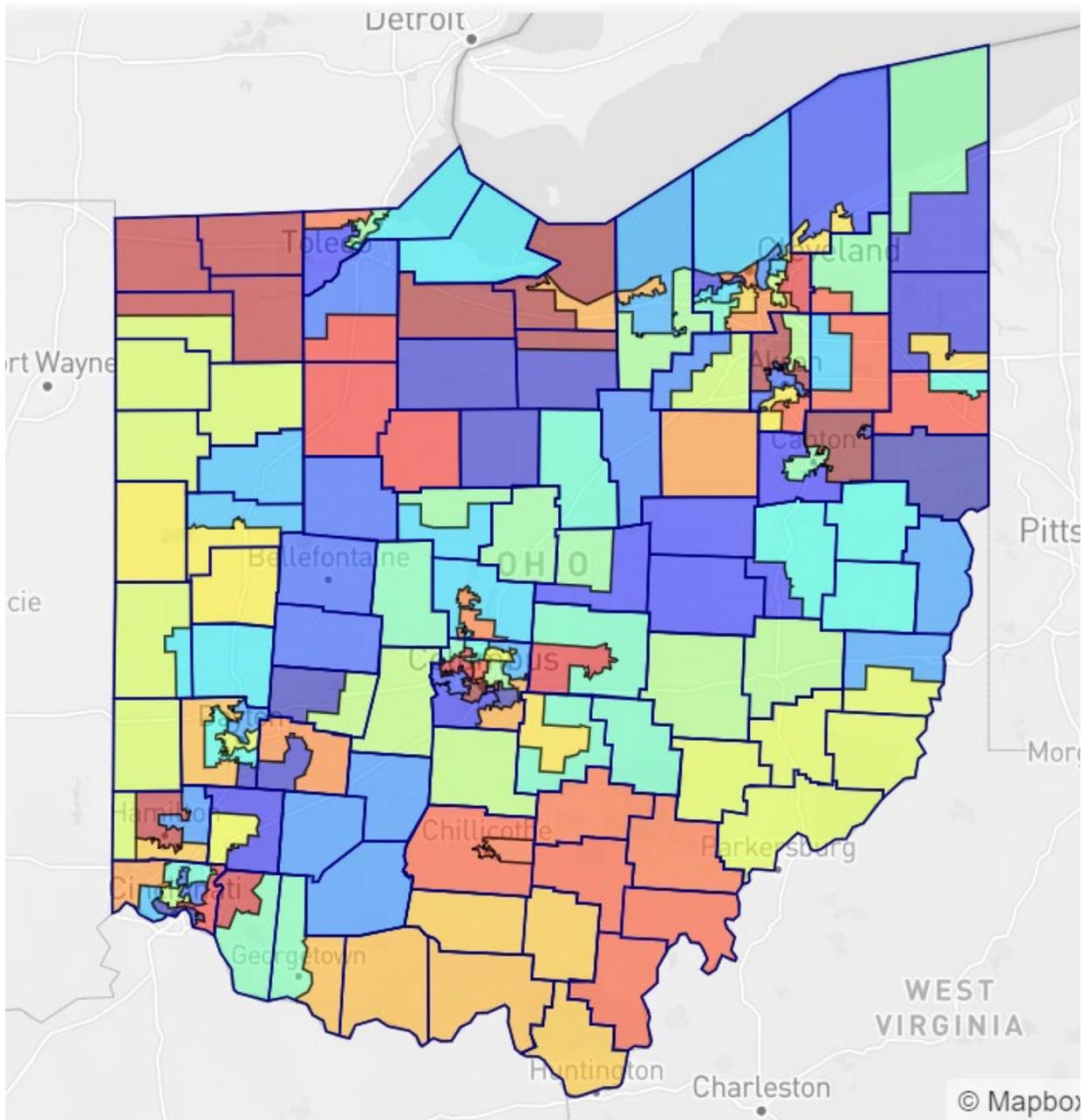


**Exhibit B**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

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

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

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

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

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

IN THE SUPREME COURT OF OHIO

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,



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Vernon Sykes



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Allison Russo

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

## CERTIFICATE OF SERVICE

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

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*Counsel for Amicus Curiae Ohio State  
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/s/ 

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**To:** "Jonathan Fulkerson" <Jonathan.Fulkerson@OhioAGO.gov>

**Subject:** FW: Service

**Date:** Fri, 28 Jan 2022 17:52:14 -0000

**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

**Inline-Images:** image001.png

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Deputy Attorney General for Major Litigation

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**From:** Julie Pfeiffer

**Sent:** Friday, January 28, 2022 12:46 PM

**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>; Shawn Busken <Shawn.Busken@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>; Michael Hendershot <Michael.Hendershot@OhioAGO.gov>

**Subject:** FW: Service

Here it is! It went straight to my junk mail.



*Julie M. Pfeiffer*

Assistant Section Chief – Constitutional Offices

Office of Ohio Attorney General Dave Yost

Office Number: 614-466-2872

Fax Number: 866-422-9192

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**From:** Erik J. Clark <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>  
**Sent:** Friday, January 28, 2022 12:26 PM  
**To:** Julie Pfeiffer <[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)>  
**Subject:** Fwd: Service

I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

Erik J. Clark

Organ Law LLP

1330 Dublin Road

Columbus, OH 43215

614.481.0908 (direct)

Begin forwarded message:

**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)  
**Date:** January 28, 2022 at 12:06:21 PM EST  
**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfeiffer@ohioago.gov](mailto:Julie.Pfeiffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenan@cov.com](mailto:mkeenan@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudenskyy@brennan.law.nyu.edu](mailto:rudenskyy@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abranh@elias.law](mailto:abranh@elias.law), [jjasrasaria@elias.law](mailto:jjasrasaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alyssa.riggins@nelsonmullins.com](mailto:alyssa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandalaw.com](mailto:subodh.chandra@chandalaw.com), [donald.screen@chandalaw.com](mailto:donald.screen@chandalaw.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org), [erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)  
**Subject:** Service

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

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

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

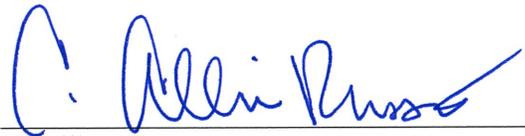
18. I tried to reach the Attorney General by phone on January 26 and spoke to his First Assistant Attorney General Brenda Rinehart who informed me that not only could we not have outside counsel, but that the Attorney General would oppose our retaining pro bono counsel. When I spoke to the Attorney General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

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

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

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
C. Allison Russo

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

  
\_\_\_\_\_  
Notary Public



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

IN THE SUPREME COURT OF OHIO

**League of Women Voters of Ohio, et al.,** :  
: **Case No. 2021-1193**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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AFFIDAVIT OF CHRIS GLASSBURN

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all of the information below. I am more than 18 years of age.
2. I am the President of Project Govern, a company that provides map drawing services and advises on redistricting matters. I contracted with the Ohio House and Senate Democratic caucuses on January 16, 2022, for the purpose of drawing a proportional map consistent with the Supreme Court's January 12, 2022, directives.
3. Attached to my affidavit are the following exhibits:
  - a. Exhibit A: Democrats' Proposed House and Senate Maps (1/22/22).
  - b. Exhibit B: Democrats' Proposed House and Senate Maps (1/26/22).
  - c. Exhibit C: USB flash drive containing block equivalency data for the Democrats' Proposed Maps (1/22/22 and 1/26/22).
  - d. Exhibit D: My company bio.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

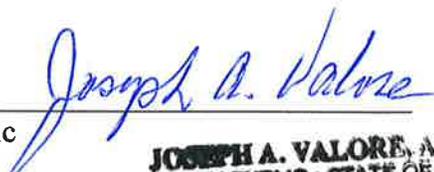
20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

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

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, ADV.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

**League of Women Voters of Ohio, et al.,** :  
: **Case No. 2021-1193**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

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

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

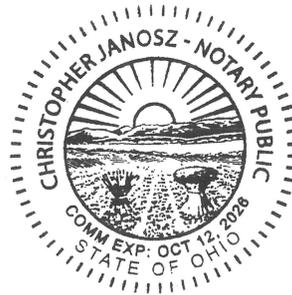
26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

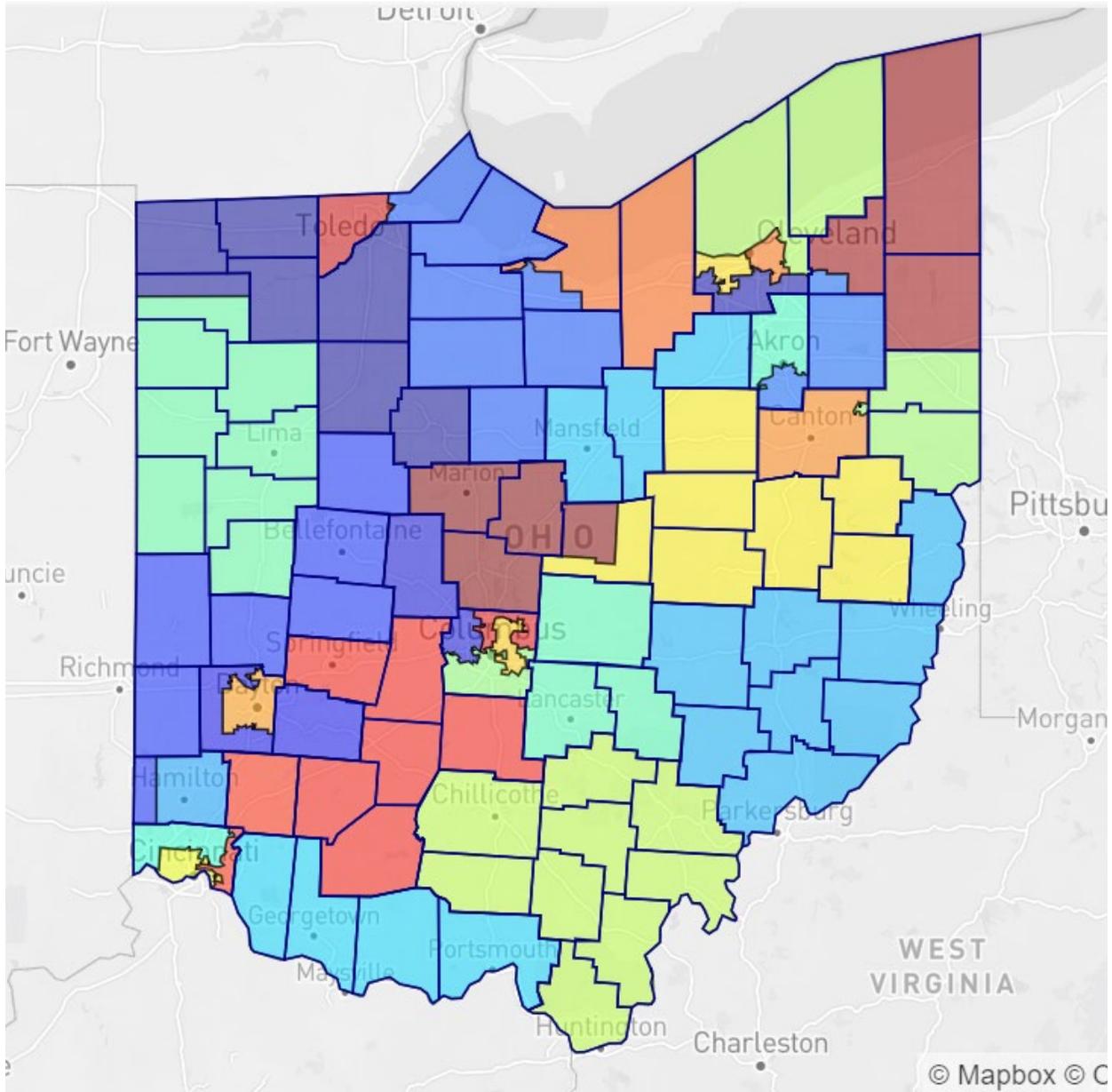
Sworn to before me and subscribed in my presence this 28<sup>th</sup> day of January, 2022.

  
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Notary Public

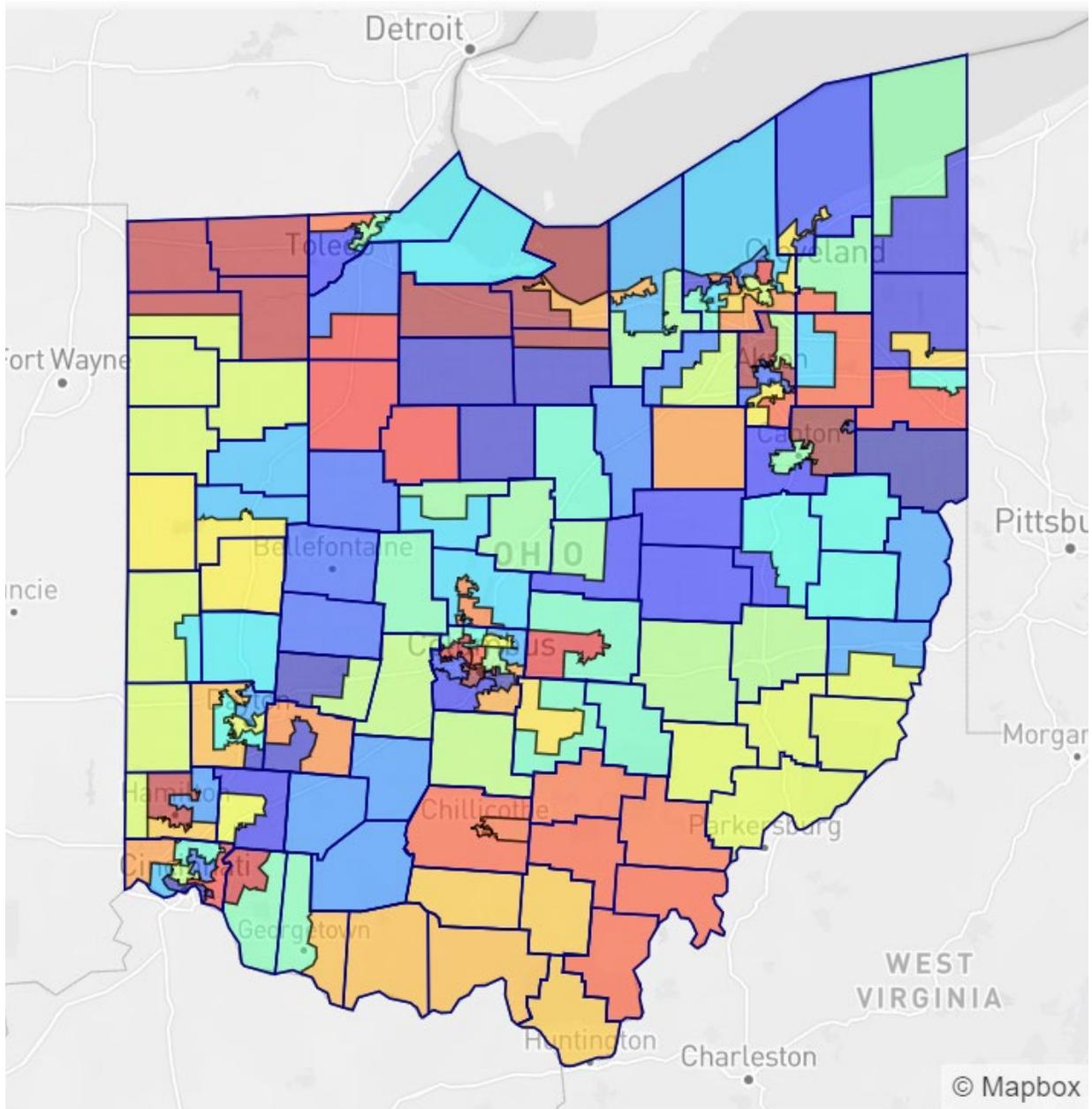


**Exhibit A**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022

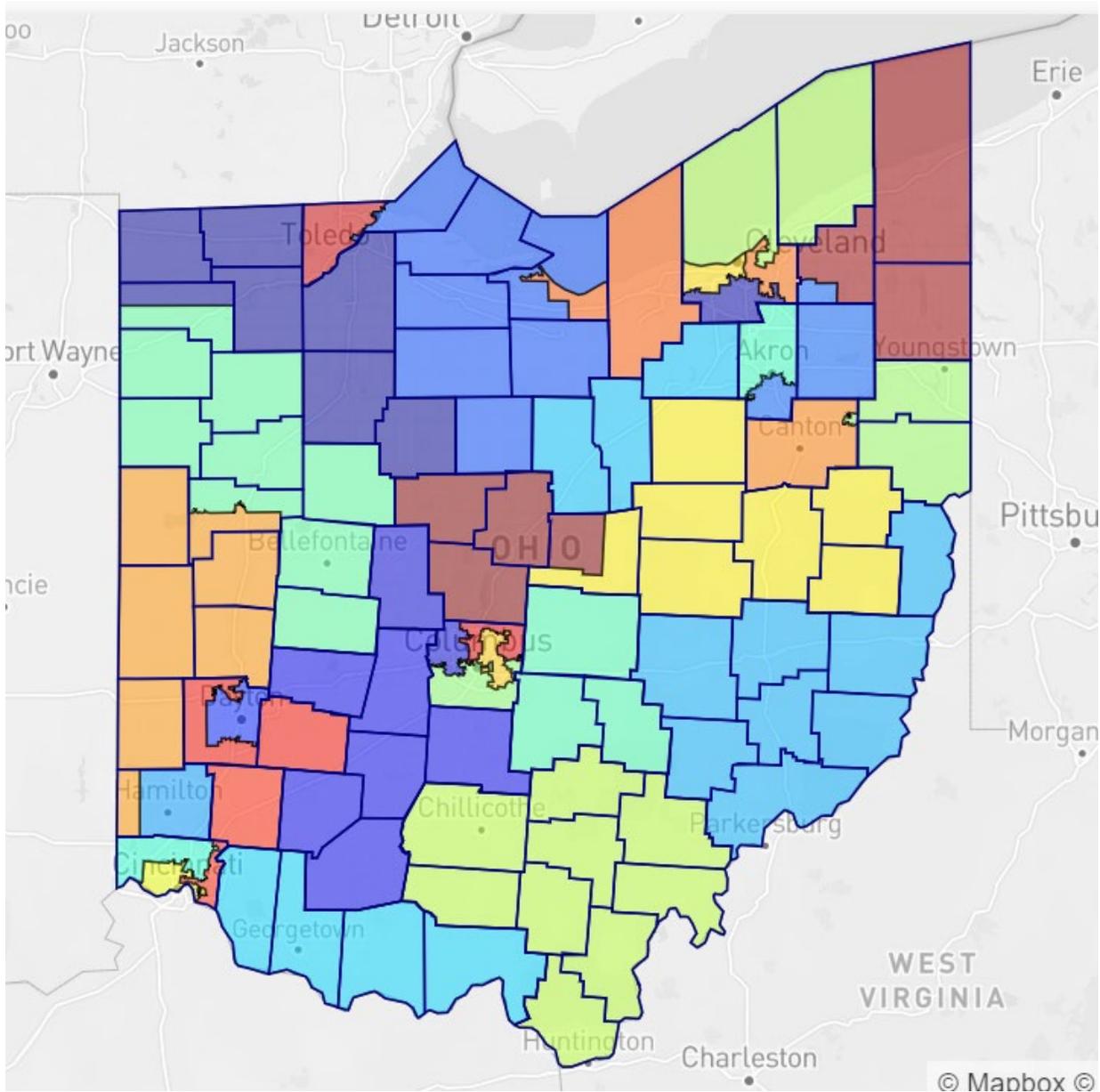


Dems House Proposal – January 22, 2022

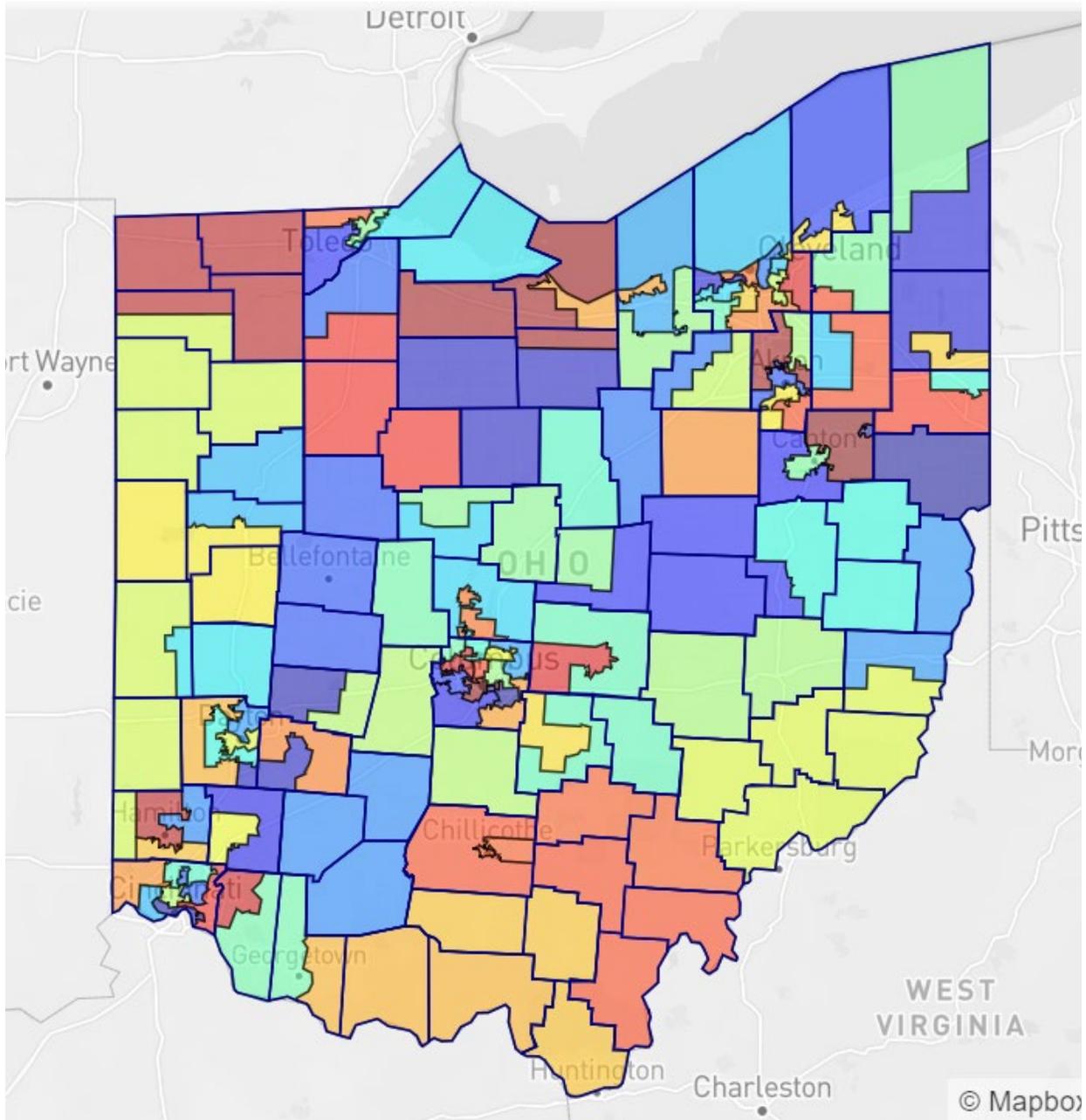


**Exhibit B**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

23993 Fairlawn Drive  
North Olmsted, OH 44070  
440-570-9726  
[Chris@ProjectGovern.com](mailto:Chris@ProjectGovern.com)

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

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

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

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

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

Symantec Mail Security replaced Glassburn Ex. C - USB flash drive.zip with this text message. The original file contained a filtering violation and was quarantined.

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IN THE SUPREME COURT OF OHIO

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

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

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The Ohio Organizing Collaborative, *et al.*, :  
: Case No. 2021-1210  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
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RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE  
MINORITY LEADER ALLISON RUSSO TO PETITIONERS' OBJECTIONS

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,



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Vernon Sykes



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Allison Russo

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

## CERTIFICATE OF SERVICE

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

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**Subject:** FW: Service

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**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

**Inline-Images:** image001.png; image002.png



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[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)

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**From:** Erik J. Clark <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>  
**Sent:** Friday, January 28, 2022 12:26 PM  
**To:** Julie Pfeiffer <[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)>  
**Subject:** Fwd: Service

I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

Erik J. Clark

Organ Law LLP

1330 Dublin Road

Columbus, OH 43215

614.481.0908 (direct)

Begin forwarded message:

**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)  
**Date:** January 28, 2022 at 12:06:21 PM EST  
**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfeiffer@ohioago.gov](mailto:Julie.Pfeiffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenan@cov.com](mailto:mkeenan@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudensky@brennan.law.nyu.edu](mailto:rudensky@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abran@elias.law](mailto:abran@elias.law), [jjasrasaria@elias.law](mailto:jjasrasaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alyssa.riggins@nelsonmullins.com](mailto:alyssa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandra-law.com](mailto:subodh.chandra@chandra-law.com), [donald.screen@chandra-law.com](mailto:donald.screen@chandra-law.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org),

[erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)

**Subject: Service**

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader

IN THE SUPREME COURT OF OHIO

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

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

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

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

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

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

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

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
C. Allison Russo

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

  
Notary Public



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

IN THE SUPREME COURT OF OHIO

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

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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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:

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AFFIDAVIT OF CHRIS GLASSBURN

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State of Ohio  
County of Franklin, SS:

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

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

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

3. Attached to my affidavit are the following exhibits:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

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

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, ADV.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

**League of Women Voters of Ohio, et al.,** :  
: **Case No. 2021-1193**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

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

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

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. The only maps ever considered by the Commission were the Republican Commissioners' map (drawn by Messrs. DiRossi and Springhetti) and the Democratic Commissioners' map (drawn by Mr. Glassburn).

21. At the meeting, Mr. Glassburn presented a map that reached the 54% and 46% proportionality the Court designated. He again testified that the Republican Commissioners' mapmakers were not trying to reach that ratio, so his few interactions with them had been unsuccessful. And he expressed his willingness to continue working with the Commission and asked for their preferences for drawing districts, particularly in rural counties. But the Republican Commissioners instead just attacked the map. There were still over 7 hours left to create a fair map. I was prepared to continue working together to have an agreed-upon map.

22. The Republican Commissioners' map drawers also presented their map. I repeatedly asked Republican map drawers to identify any requirement in Article XI of Ohio's

Constitution that would prevent the Commission from drafting a proportional map. They would not do so.

23. To make my point that a more proportional map could be achieved without violating other parts of Article XI, I also asked Republican Commissioners and map drawers whether anything prevented the Commission from pairing a different combination of House Districts in Hamilton County to draw one additional Democratic-leaning Senate seat. My proposal would not have required the Commission to change any House district lines. The Republican map drawers paused—again, not answering my question. Speaker Cupp spoke up to say cursorily that the map drawers had “given the answer that [they] can give.” He then immediately and abruptly recessed the meeting.

24. During that recess, I spoke directly with Speaker Cupp and made an appeal for collaboration in reaching a constitutional map compliant with the Court’s decision. Specifically, I asked him whether all the map drawers could meet again to work together to get closer to the proportionality ratios set forth by the Court. I noted that my staff had specific suggestions that would push the map towards those ratios. For example, Mr. Glassburn suggested that another Democratic Senate district could be drawn in Hamilton County and that a Democratic House district could be drawn in the Athens area with relative ease. In the time remaining before the end of the day, Mr. Glassburn could work to fix any technical errors in his proposed map that the Republican Commissioners’ map-drawers identified. That would result in a map that was compliant with all the constitutional requirements, including Section 6’s proportionality standard.

25. Speaker Cupp indicated that he would speak with the Republican Commissioners. Approximately twenty minutes later, he responded to tell me that he had spoken with each Republican Commissioner and they just “didn’t feel there was enough time” and it was “too late.”

Yet there were over six hours remaining before the Commission's purported deadline. That was plenty of time to make significant changes to reach proportionality.

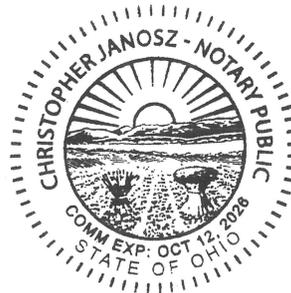
26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

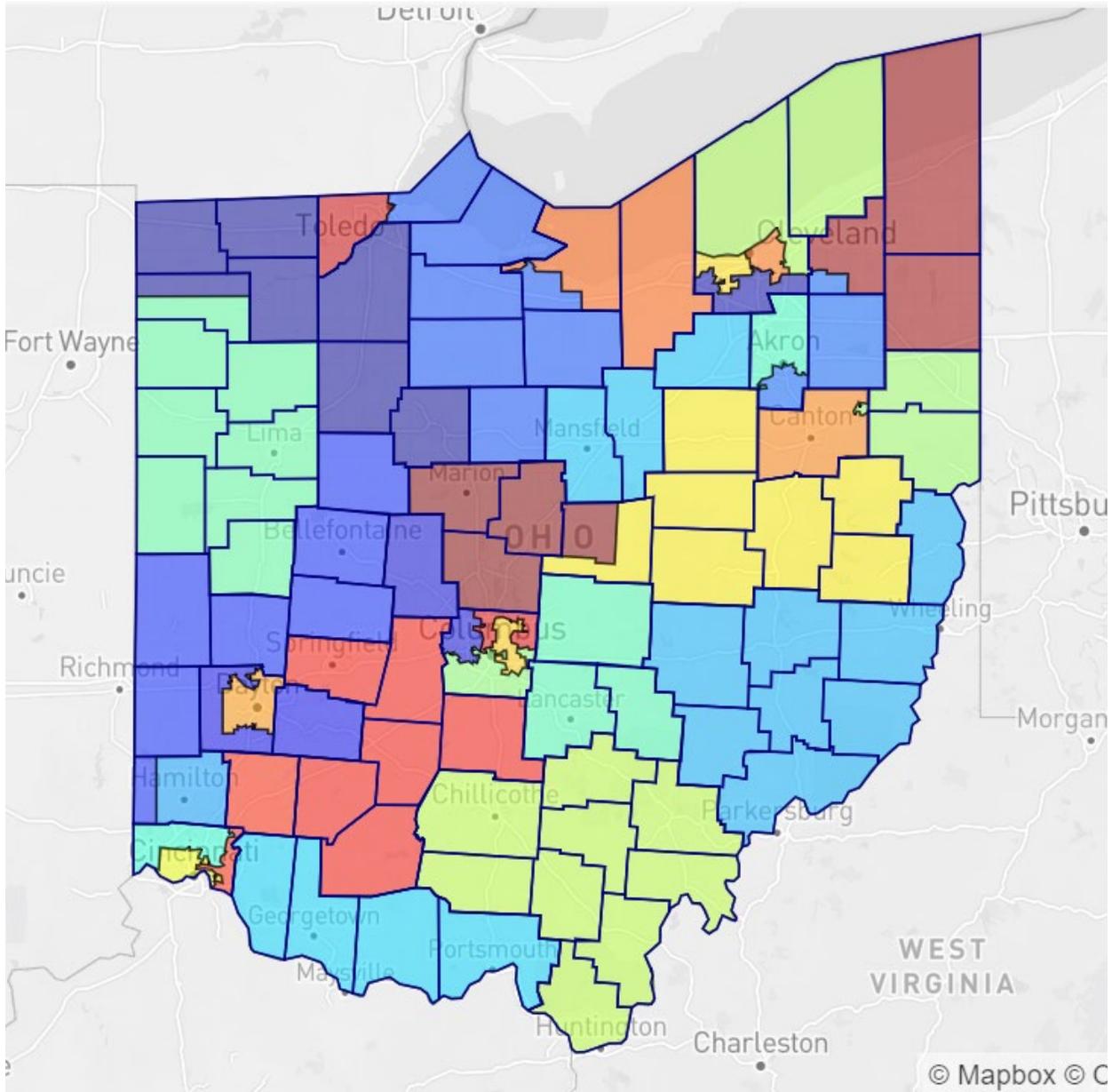
Sworn to before me and subscribed in my presence this 28<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
Notary Public

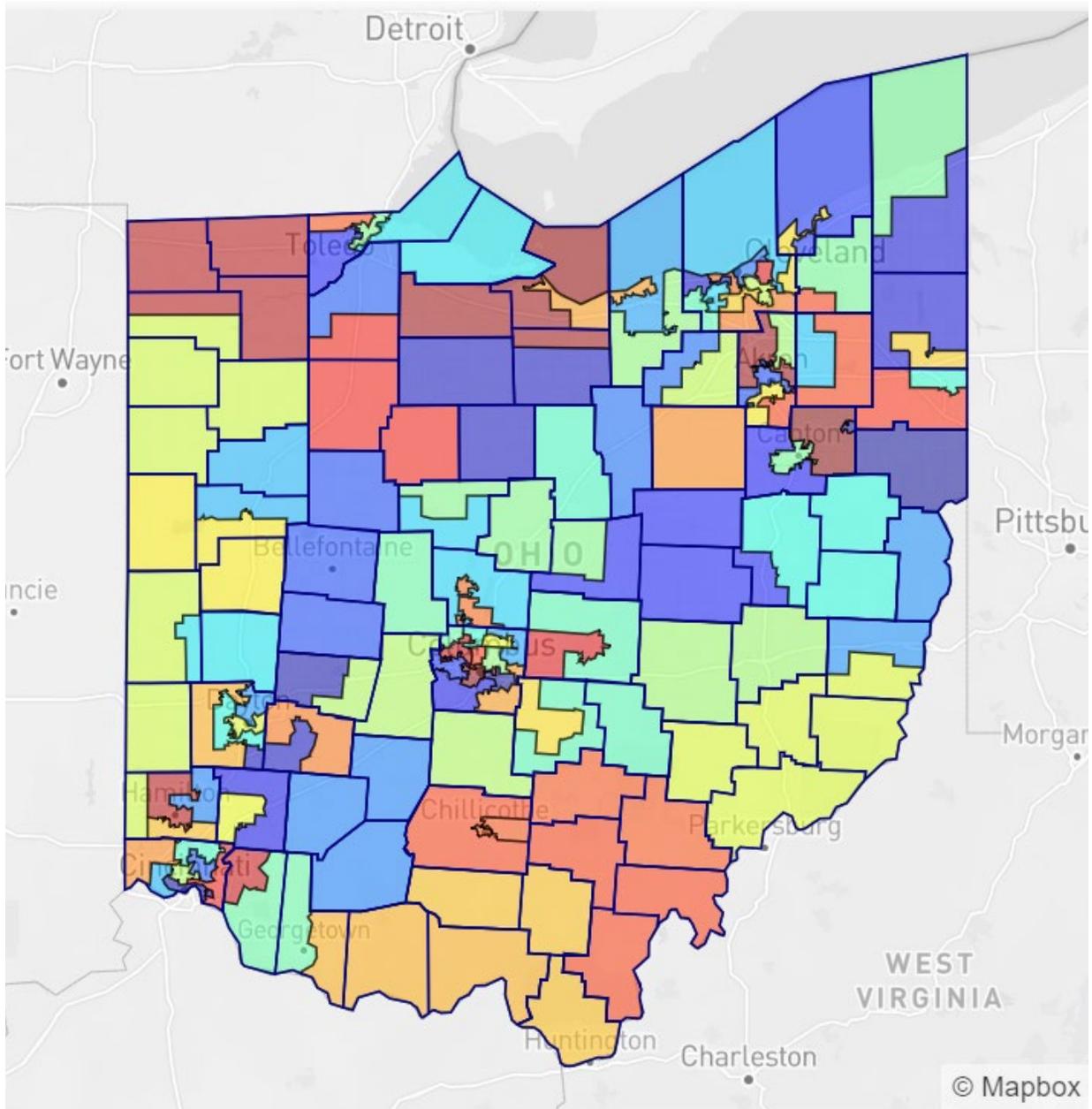


**Exhibit A**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022



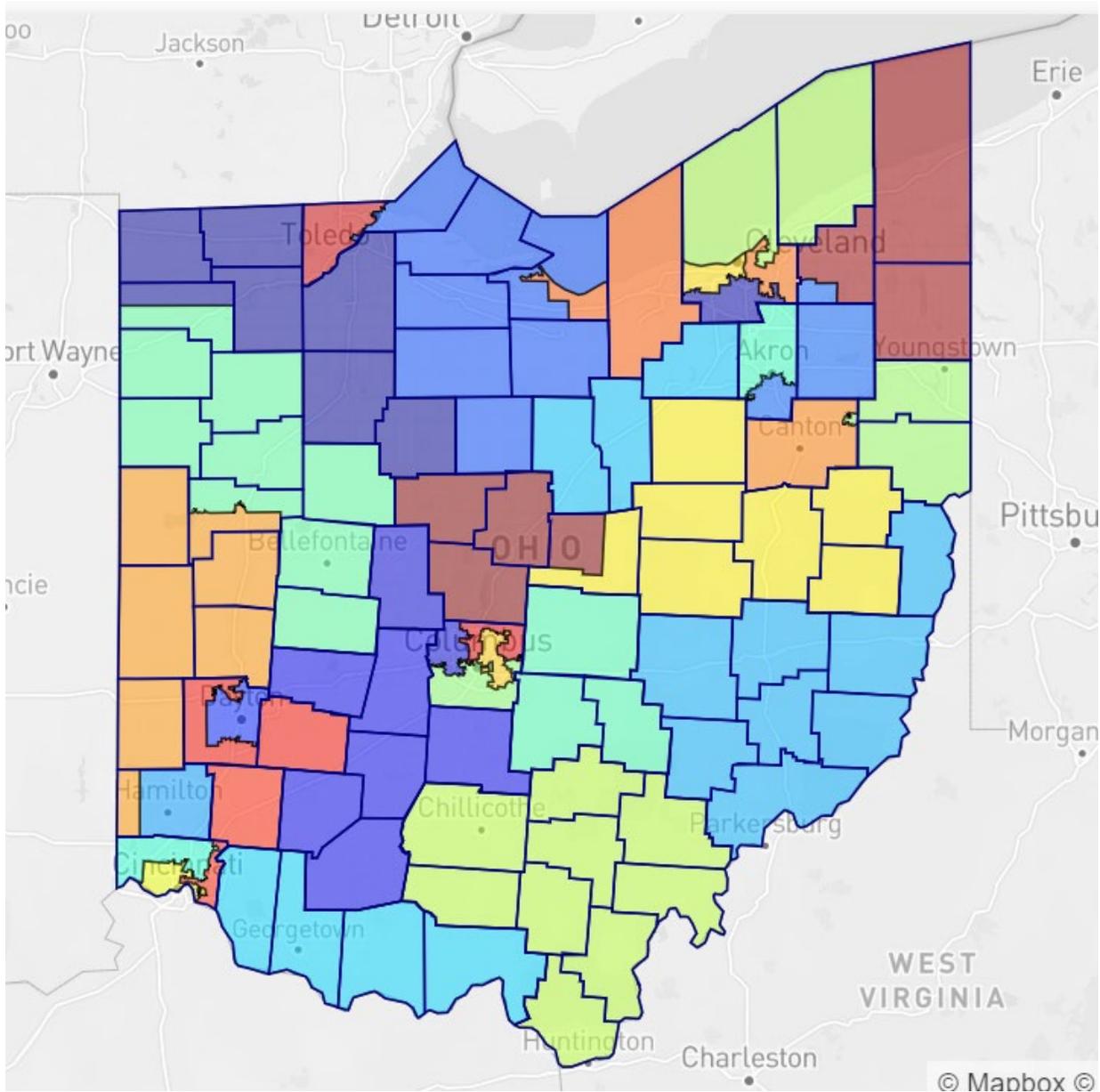
Dems House Proposal – January 22, 2022



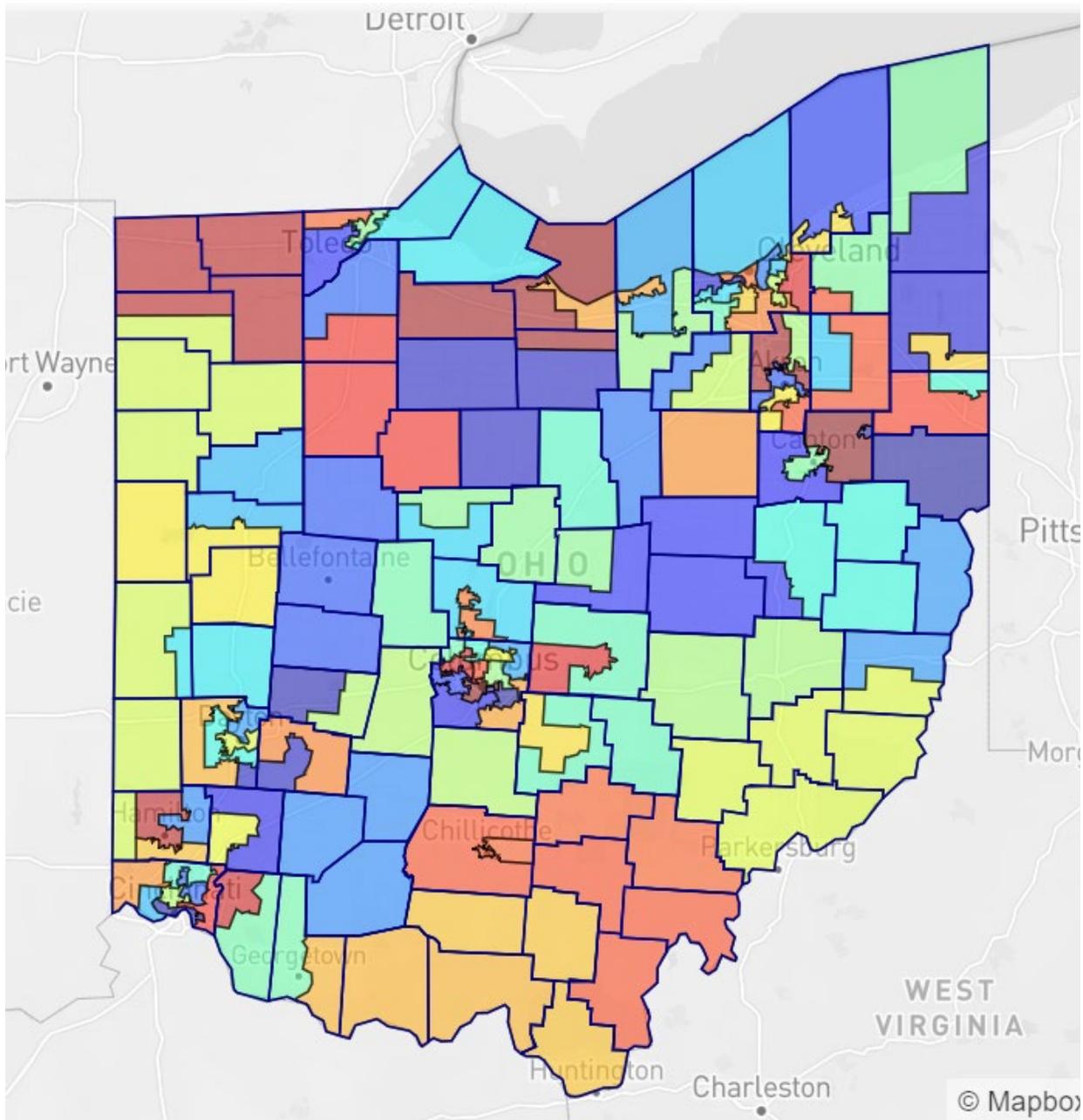
# **Exhibit B**

## **to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

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Chris Glassburn is one of the top consultants providing campaign management, public engagement, and electoral data services in Ohio. In 2011, Glassburn served as the redistricting consultant and mapmaker for the Ohio House Democratic Caucus for Congressional Redistricting. Glassburn also served as the Democratic minority consultant and mapmaker for the Ohio Apportionment Board and as the Democratic mapmaker for plaintiffs in *Wilson v. Kasich* (decided 4-3 against, with current Supreme Court Chief Justice O'Connor dissenting).

A vigorous advocate of fair redistricting practices, Glassburn has spoken on dozens of public panels on redistricting reform. Since 2014, Glassburn has periodically served as a redistricting consultant to the Ohio League of Women Voters in their efforts to end gerrymandering. He was a lead co-author of both Ohio Constitutional Amendments that were overwhelmingly passed by voters to reform apportionment of the Ohio General Assembly (2015) and redistricting for Congress (2018).

From 2014 to 2016 Glassburn served as the Senior Policy Advisor to Cuyahoga County Executive Armond Budish. In his role for Cuyahoga County Glassburn held responsibility for assisting in the creation and passage of the biennial budget, supervising the agenda and alternate chairing the board of control, policy lead on behalf of the County Executive and lead of appointments to board and commissions.

In January 2017, Glassburn founded the firm Project Govern. Glassburn most recently has served as a consultant to issue campaigns in the May, 2021 Primary Election. In total, Glassburn has served as the lead consultant and/or campaign manager to over 120 individual candidate or issues campaigns with over a 90%-win rate. Some of his non-partisan/candidate clients have included the Sherwin Williams, Innovation Ohio, The Cuyahoga County Port Authority, the County Action Committee (Cuyahoga County HHS Levy), The Cleveland Clergy Coalition, LEAD Ohio and numerous confidential private sector clients.

Glassburn is a lifelong Northeast Ohioan and serves as a City Councilman and Leader of the Democratic Party in North Olmsted, Ohio. He and his wife Megan and daughter Adrianna live in North Olmsted.

Symantec Mail Security replaced Glassburn Ex. C - USB flash drive.zip with this text message. The original file contained a filtering violation and was quarantined.

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :  
: Case No. 2021-1193  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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Bria Bennett, *et al.*, :  
: Case No. 2021-1198  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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The Ohio Organizing Collaborative, *et al.*, :  
: Case No. 2021-1210  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
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RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE  
MINORITY LEADER ALLISON RUSSO TO PETITIONERS' OBJECTIONS

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**RESPONSE OF RESPONDENTS VERNON SYKES AND ALLISON RUSSO  
TO PETITIONERS' OBJECTIONS**

We offer this pro se filing in response to the petitioners' objections to the purportedly remedial map approved by a majority of the Ohio Redistricting Commission on Saturday, January 22, 2022. We are: (1) Senator Vernon Sykes Co-Chair of the Ohio Redistricting Commission and State Senator for the 28th District of the Ohio Senate, and (2) Respondent House Minority Leader Allison Russo, Commissioner and Leader of the Minority Caucus in the Ohio House.<sup>1</sup> We are the only Democrats on the Commission. We are also the only woman and African American on the Commission.

As this Court well knows from prior proceedings, the interests of the Democratic Commissioners conflict with the Republican Commissioners' interests. Because of that conflict, the Ohio Attorney General appointed the Democratic Commissioners separate legal counsel. This appointment enabled the Democratic Commissioners, through legal counsel, to file their own pleadings and give voice to the efforts and perspectives of the Democratic Commissioners. This Court has recognized the Democratic Commissioners' distinct interests by allowing them to file their own briefs and allotting them time for oral argument to be shared not with the Republican Commissioners but with the petitioners (which time they ultimately ceded to the petitioners' counsel).

The Attorney General has now denied us, the current Democratic Commissioners, separate counsel and has unilaterally asserted that we will be represented by the Commission's counsel only. The Attorney General's Office first advised us that we were not allowed to file

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<sup>1</sup> On January 12, 2022, Allison Russo, a Democrat and Representative for House District 24, was elected Leader of the House Minority Caucus, replacing former Minority Leader Emilia Sykes. On January 18, 2022, Leader Russo was sworn in as a member of the Ohio Redistricting Commission, and a notice was filed with the Court substituting Leader Russo as a party in this matter.

objections to the Commission’s maps alongside the petitioners, despite the fact that we had objections to the constitutionality of the majority’s ostensibly remedial map. After the petitioners’ objections, this Court afforded the respondents—which includes us—the opportunity to respond to the objections. However, the Attorney General has denied our assigned special counsel permission to file such a response or even consult with us. On January 26, 2022, our counsel told us that they would no longer represent or advise us. Indeed, the Attorney General has taken the position that we are not allowed to file a separate response at all, despite the fact the Court ordered “respondents” to file a response, if any, and the fact we are respondents. The Attorney General unilaterally declared, through his spokesperson, that “one counsel will respond to the court on behalf of the entire commission” and “[n]one of the individual members will respond separately.” *See* Jake Zuckerman, Ranking Dem says GOP Attorney General blocked her from lawyers in redistricting suit,” Ohio Capital Journal (Jan. 27, 2022), available at <https://perma.cc/U9YX-ETKK>. This is a shameless effort to thwart our ability to comply with the Court’s order and to separately inform the Court about what transpired in the Commission following the Court’s January 12, 2022, decision invalidating the General Assembly district plan.

There is a clear conflict between our interests, as Democratic Commissioners who are separately-named respondents, and the Republican Commissioners. The Democratic Commissioners’ multiple filings in these proceedings, including Answers to the Petitions, make that clear. The Commission and the Republican Respondents acknowledged this conflict when they advocated for a realignment, for oral argument purposes, of the “Relators and the Respondents who filed Answers in support of the Relators or whose interests are aligned with Relators.” *See* “Respondents The Ohio Redistricting Commission, Governor Mike Dewine,

Auditor of State Keith Faber, Ohio Secretary of State Frank LaRose, Ohio Senate President Matt Huffman and Ohio Speaker of the House Robert Cupp’s Joint Response to Relators’ Request for Oral Argument,” filed Nov. 3, 2021 in Case Nos. 2021-1193, 2021-1198 and 2021-1210, at p. 5. The Court has recognized this, realigning, for oral argument purposes, the Democratic Commissioners with the petitioners.

For the Attorney General to now insist that one pleading be filed on behalf of the entire Commission and all its individual members in response to the petitioners’ objections, and to forbid a separate filing by the Democratic Commissioners, blatantly ignores the conflicting interests and is unacceptable. We are named individually as respondents and will continue to file our own pleadings, regardless of the Attorney General’s improper moves, unless and until the Court instructs us otherwise. Because, at this juncture, we do not have the time to challenge the Attorney General’s decision before the Court’s deadline for the respondents’ responses, we have no choice but to file this pleading *pro se*.

Our pleading consists of three affidavits, from: (1) Co-Chair Sykes; (2) Leader Russo; and (3) Chris Glassburn, the map drawing expert we were able to retain to help us after the Court’s decision invalidating the maps. Through these affidavits, we are able to provide the Court with information about our discussions and actions that is within our personal knowledge and that is not public. We adopt the legal arguments submitted by the petitioners, but these affidavits provide further evidence substantiating the unconstitutionality of the maps, and, in particular, how the Commission’s majority violated Article XI, Section 6 of the Ohio Constitution. In addition, the affidavit of Chris Glassburn demonstrates—as the petitioners have also argued—that a proportional map complying with the requirements of Section 6 can be drawn without violating any other sections of Article XI.

We ask that the Court again invalidate the map adopted by the Republican Commissioners, order the Commission to draw a map that complies with the Ohio Constitution and this Court's pronouncements, and direct the Legislature and Secretary of State to make the necessary adjustments to the election schedule to accommodate this Court's orders.

Respectfully submitted,



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Vernon Sykes



---

Allison Russo

*Respondents Senator Vernon Sykes  
and House Minority Leader  
Allison Russo, pro se*

## CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2022, a copy of the foregoing Response of Senator Vernon Sykes and House Minority Leader Allison Russo was filed by hand and sent via email to the following:

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*Counsel for Amicus Curiae Ohio State  
Conference of the NAACP*

/s/ 

**From:** Julie Pfeiffer <Julie.Pfeiffer@OhioAGO.gov>

**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>, Jonathan Blanton <Jonathan.Blanton@OhioAGO.gov>, Shawn Busken <Shawn.Busken@OhioAGO.gov>, Michael Hendershot <Michael.Hendershot@OhioAGO.gov>, Michael Hendershot <Michael.Hendershot@OhioAGO.gov>

**Subject:** FW: Service

**Date:** Fri, 28 Jan 2022 12:45:30 -0500

**Importance:** Normal

**Attachments:** Response\_of\_Skyes\_and\_Russo\_to\_Petitioners'\_Objections\_WITH\_SIGNATURES\_1-28-22.pdf; Affidavit\_of\_Vernon\_Sykes\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Allison\_Russo\_WITH\_SIGNATURE\_1-28-22.pdf; Affidavit\_of\_Chris\_Glassburn\_WITH\_SIGNATURE\_1-28-22.pdf; Glassburn\_Exhibits\_COMBINED\_1-28-22.pdf; Quarantined\_Attachment.txt

**Inline-Images:** image001.png

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Here it is! It went straight to my junk mail.



*Julie M. Pfeiffer*

Assistant Section Chief – Constitutional Offices

Office of Ohio Attorney General Dave Yost

Office Number: 614-466-2872

Fax Number: 866-422-9192

[Julie.Pfeiffer@OhioAGO.gov](mailto:Julie.Pfeiffer@OhioAGO.gov)

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**From:** Erik J. Clark <ejclark@organlegal.com>

**Sent:** Friday, January 28, 2022 12:26 PM

**To:** Julie Pfeiffer <Julie.Pfeiffer@OhioAGO.gov>

**Subject:** Fwd: Service

I believe you were included on this email, but in case you did not receive it, I am forwarding it to you.

Best,

Erik

Erik J. Clark

Organ Law LLP

1330 Dublin Road

Columbus, OH 43215

614.481.0908 (direct)

Begin forwarded message:

**From:** [Allison.Russo@ohiohouse.gov](mailto:Allison.Russo@ohiohouse.gov)

**Date:** January 28, 2022 at 12:06:21 PM EST

**To:** [flevenson@acluohio.org](mailto:flevenson@acluohio.org), "Erik J. Clark" <[ejclark@organlegal.com](mailto:ejclark@organlegal.com)>, [dcarey@acluohio.org](mailto:dcarey@acluohio.org), Ashley Merino <[amerino@organlegal.com](mailto:amerino@organlegal.com)>, [athomas@aclu.org](mailto:athomas@aclu.org), [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov), [jepstein@aclu.org](mailto:jepstein@aclu.org), [Julie.Pfieffer@ohioago.gov](mailto:Julie.Pfieffer@ohioago.gov), [rfram@cov.com](mailto:rfram@cov.com), [michael.walton@ohioago.gov](mailto:michael.walton@ohioago.gov), [jgonzalez@cov.com](mailto:jgonzalez@cov.com), [mkeenana@cov.com](mailto:mkeenana@cov.com), [asharma@cov.com](mailto:asharma@cov.com), [marent@cov.com](mailto:marent@cov.com), [akhanna@elias.law](mailto:akhanna@elias.law), [bstafford@elias.law](mailto:bstafford@elias.law), [pellis@reedsmith.com](mailto:pellis@reedsmith.com), [MPYingling@reedsmith.com](mailto:MPYingling@reedsmith.com), [nsalazar@reedsmith.com](mailto:nsalazar@reedsmith.com), [bsutherland@reedsmith.com](mailto:bsutherland@reedsmith.com), [bfliegel@reedsmith.com](mailto:bfliegel@reedsmith.com), [alicia.bannon@nyu.edu](mailto:alicia.bannon@nyu.edu), [rudensky@brennan.law.nyu.edu](mailto:rudensky@brennan.law.nyu.edu), [herensteine@brennan.law.nyu.edu](mailto:herensteine@brennan.law.nyu.edu), [klein@elias.law](mailto:klein@elias.law), [abranche@elias.law](mailto:abranche@elias.law), [jjasrasaria@elias.law](mailto:jjasrasaria@elias.law), [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com), [dornette@taftlaw.com](mailto:dornette@taftlaw.com), [john.branch@nelsonmullins.com](mailto:john.branch@nelsonmullins.com), [bryan@taftlaw.com](mailto:bryan@taftlaw.com), [tom.farr@nelsonmullins.com](mailto:tom.farr@nelsonmullins.com), [alyssa.riggins@nelsonmullins.com](mailto:alyssa.riggins@nelsonmullins.com), [phillip.strach@nelsonmullins.com](mailto:phillip.strach@nelsonmullins.com), [pwilliamson@taftlaw.com](mailto:pwilliamson@taftlaw.com), [stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com), [Mary.Csarny@thompsonhine.com](mailto:Mary.Csarny@thompsonhine.com), [skaufman@ulmer.com](mailto:skaufman@ulmer.com), [dgarcia@ulmer.com](mailto:dgarcia@ulmer.com), [sdorland@ulmer.com](mailto:sdorland@ulmer.com), [rweiner@campaignlegalcenter.org](mailto:rweiner@campaignlegalcenter.org), [clamar@campaignlegalcenter.org](mailto:clamar@campaignlegalcenter.org), [vrichardson@campaignlegalcenter.org](mailto:vrichardson@campaignlegalcenter.org), [emily.woerner@cincinnati-oh.gov](mailto:emily.woerner@cincinnati-oh.gov), [shannon.price@cincinnati-oh.gov](mailto:shannon.price@cincinnati-oh.gov), [haseley@goconnorlaw.com](mailto:haseley@goconnorlaw.com), [subodh.chandra@chandrahalaw.com](mailto:subodh.chandra@chandrahalaw.com), [donald.screen@chandrahalaw.com](mailto:donald.screen@chandrahalaw.com), [jlouard@naacpnet.org](mailto:jlouard@naacpnet.org), [aashton@naacpnet.org](mailto:aashton@naacpnet.org), [abarnes@naacpnet.org](mailto:abarnes@naacpnet.org), [jgreenbaum@lawyerscommittee.org](mailto:jgreenbaum@lawyerscommittee.org), [erosenberg@lawyerscommittee.org](mailto:erosenberg@lawyerscommittee.org), [pchaudhuri@lawyerscommittee.org](mailto:pchaudhuri@lawyerscommittee.org)

**Subject:** Service

Counsel:

Attached you will find the documents that were filed today by Co-Chair Vernon Sykes and myself that we are hereby serving upon you.

Thank you.

C. Allison Russo

Ohio House Minority Leader

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :  
: Case No. 2021-1193  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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Bria Bennett, *et al.*, :  
: Case No. 2021-1198  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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The Ohio Organizing Collaborative, *et al.*, :  
: Case No. 2021-1210  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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AFFIDAVIT OF RESPONDENT ALLISON RUSSO

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State of Ohio  
County of Franklin, SS:

I, C. Allison Russo, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. On January 12, 2022, the Ohio Supreme Court, in the above-captioned case, declared the General Assembly plan invalid and directed the Ohio Redistricting Commission ("Commission") to create a new plan in ten days.

**Republican Commissioners delayed funding for experts the Democratic Commissioners needed to comply with the Court's order.**

4. Because of my Republican colleagues' deliberate delays, there was no funding for a mapping expert who was dedicated to draw proportional districts in accordance with this Court's order until almost half of the period to redraw the maps had expired.
5. On January 13, 2022, Acting Minority Leader Kristin Boggs appointed me as Co-chair of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research. My co-chair is Senator Rob McColley, who was appointed by Commissioner and Senate President Matt Huffman. The legislature appropriates funds for redistricting support, and the Task Force allocates those funds to the legislative caucuses authorizing them to purchase equipment, software, and other useful redistricting services. On that same day, I signed a memorandum allocating Task Force funds to the Republican and Democratic legislative caucuses and sent it to my Task Force Co-Chair, Senator Rob McColley for his signature.

6. Beginning on January 14, 2022, I called and texted Sen. McColley about returning the signed funding memorandum. On the afternoon of January 16, 2022, still having not received his approval, I spoke with Commission Co-Chairman Speaker Bob Cupp and shared my concern that the funding memorandum had not been signed and we had been unable to engage a consultant to help us with the map drawing work.

7. Senator McColley's staff finally returned the signed memo late in the afternoon of Sunday, January 16. Only then could we enter a contract with Chris Glassburn to assist with map drawing and analysis. There were 6 days left before January 22, which the Commission stated was its deadline.

**The Republican Commissioners and Republican staff would not work collaboratively with the Democratic Commissioners and Democratic staff to achieve a proportional map.**

8. On January 17, 2022, I instructed my staff, including Mr. Glassburn, to work with the Republican Commissioners on a map containing 45 Democratic-leaning House Districts and 15 Democratic-leaning Senate Districts. I made clear to my staff that it was my objective to create a map that complied with Oh. Const. Article XI, Sections 2, 3, 4, 5, and 7 and also corresponded closely with statewide voter preferences in compliance with Section 6(B).

9. I asked my staff, including Mr. Glassburn and Sarah Cherry (Legal Counsel to the House Democratic Caucus), to report the substance of their attempts to collaborate with the Republican Commissioners and their team. It seemed to me that little substance emerged from the few meetings they had. As my staff reported, the Republican map drawers were not committed to drawing proportional maps even when presented with suggestions for doing so.

10. The Commission formally met on January 22, 2022 to adopt a map. Prior to that day, I had not received a copy of the map that the Republican Commissioners were going to

propose. I did not get that proposal until the morning of the vote. Indeed, I had little clue what was coming, given that the Republic map-makers had not made their plans—aside from a few counties—known and had not agreed that achieving proportionality, without violating any of the other constitutional requirements, was a goal.

11. At the meeting, Mr. Glassburn presented our Democratic proposal. Republican Commission members raised issues with the proposal. Mr. Glassburn made clear that he and the other map drawers, Ray DiRossi and Blake Springhetti, could resolve these issues if the Commission gave them time and directed them to work together to do so. But instead of directing Mr. DiRossi and Mr. Springhetti to work together with Mr. Glassburn to address the issues raised, the Commission abruptly recessed and then never again returned to work on or consider Mr. Glassburn’s proposal.

12. During the recess, I participated in a conversation with Co-Chair Sykes and staff about asking the Commission Co-Chairman Speaker Bob Cupp for more time to work together to resolve issues with the map. Co-Chair Sykes and Mr. Glassburn left the room to make the request of Speaker Cupp. When they returned, Co-Chair Sykes told me that Co-Chair Cupp did not think there would be a willingness to work together on improving either the Democratic or Republican proposals or on a consensus map. A short time later, Co-Chair Sykes told me that the Speaker rejected the request and that the Commission would reconvene and vote on the Republican map with no additional changes. When the Commission reconvened, I voted against adoption of the legislative Republicans’ maps.

13. The lack of collaboration doomed the Commission’s map. Had improvements been allowed to the proposed maps, they could have satisfied this Court’s decision. But the Republican Commissioners voted for their map without a single amendment.

14. After the Commission meeting ended, Co-Chair Sykes and I instructed Mr. Glassburn to continue work on an alternative set of map proposals. Specifically, I instructed him to address any issues raised by Republican Commission members. We were in agreement that there are various ways to draw a map that closely corresponds to voters' statewide preferences, does not favor or disfavor a political party, complies with the other provisions of Article XI, and satisfies the standards laid out by the Ohio Supreme Court in its January 12, 2022, decision. Mr. Glassburn's current proposal does just that.

**The Attorney General has denied us access to counsel that can render conflict-free representation.**

15. Not only did the Republican leaders refuse to collaborate with us on the maps, but now the Attorney General is attempting to muzzle us before this Court.

16. On January 26, 2022, our attorneys in this litigation informed me that the Attorney General of Ohio would not allow them to represent Co-Chair Sykes and me in this stage of the litigation, and consequently could not assist us in filing a response, despite the fact that the Court had ordered respondents—which we are—to file any responses by noon on Friday, January 28.

17. Recognizing that our interests diverge, the Attorney General has previously assigned the Democratic Commissioners outside counsel in this litigation separately from the Republican Commissioners.

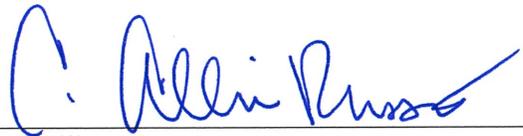
18. I tried to reach the Attorney General by phone on January 26 and spoke to his First Assistant Attorney General Brenda Rinehart who informed me that not only could we not have outside counsel, but that the Attorney General would oppose our retaining pro bono counsel. When I spoke to the Attorney General the next day and asked him to reconsider, I expressed my concerns about being denied counsel given the conflict of interest between the

Respondents. Though he felt that the Commission was a single entity that deserves only one counsel, I expressed that I have also been named individually as a respondent in this lawsuit, and that my interests diverge from that of the Republican individuals named as Respondents. Certainly the map did not come from the Commission; as the process showed, it was the product of the Republican Commissioners without collaboration.

19. Because the Attorney General has denied Co-Chair Sykes and me counsel, we have no choice but to file pro se. Otherwise, the personal knowledge that we hold about this process would never get before the Court for its consideration of whether the Republican Commissioners' second map meets the requirements of Article XI, Section 6.

20. Our experience shows that it doesn't.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
C. Allison Russo

Sworn to before me and subscribed in my presence this 28th day of January, 2022.

  
\_\_\_\_\_  
Notary Public



Charles Benjamin Cooper, Attorney At Law  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date  
Sec. 147.03 R.C.

IN THE SUPREME COURT OF OHIO

**League of Women Voters of Ohio, et al.,** :  
: **Case No. 2021-1193**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
:  
:

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**Bria Bennett, et al.,** :  
: **Case No. 2021-1198**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
:  
:

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**The Ohio Organizing Collaborative, et al.,** :  
: **Case No. 2021-1210**  
**Relators,** :  
v. : **Original Action Filed Pursuant to Ohio**  
: **Constitution, Article XI, Section 9(A)**  
**Ohio Redistricting** :  
**Commission, et al.,** : **[Apportionment Case Pursuant to S. Ct.**  
: **Prac. R. 14.03]**  
**Respondents.** :  
:  
:

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**AFFIDAVIT OF CHRIS GLASSBURN**

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State of Ohio  
County of Franklin, SS:

I, Chris Glassburn, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

1. I have personal knowledge of all of the information below. I am more than 18 years of age.

2. I am the President of Project Govern, a company that provides map drawing services and advises on redistricting matters. I contracted with the Ohio House and Senate Democratic caucuses on January 16, 2022, for the purpose of drawing a proportional map consistent with the Supreme Court's January 12, 2022, directives.

3. Attached to my affidavit are the following exhibits:

- a. Exhibit A: Democrats' Proposed House and Senate Maps (1/22/22).
- b. Exhibit B: Democrats' Proposed House and Senate Maps (1/26/22).
- c. Exhibit C: USB flash drive containing block equivalency data for the Democrats' Proposed Maps (1/22/22 and 1/26/22).
- d. Exhibit D: My company bio.

**The Republican map drawers would not collaborate with me to reach a proportional General Assembly map, nor would they even agree that proportionality was a goal.**

4. As a contracted expert for the Ohio House and Senate Democrats, I attended four meetings with varying staff from the Republican and Democratic Commissioners, including Randall Routt (Senate Democratic Caucus staffer), Sarah Cherry (Legal Counsel to the House Democratic Caucus), Ray DiRossi (the Senate Republicans' map drawer), and Blake Springhetti (the House Republicans' map drawer). These meetings reflect that the Republicans were both unwilling to accept proportionality as a goal for the maps and rejected many of my suggestions for

achieving proportionality for reasons wholly unconnected to the Constitution's line-drawing requirements.

5. At the first staff meeting, on January 17, 2022, Mr. DiRossi expressed that he wished to use the map previously adopted by the Commission, but struck down by the Supreme Court, as the basis for the next map drawing. Ms. Cherry responded that because the map was declared unconstitutional, it would not be appropriate to use as a starting point. Regardless, Mr. DiRossi stated that he would still prefer to use the invalidated map.

6. Throughout all of these meetings, I consistently asked Mr. DiRossi and Mr. Springhetti if they agreed that our goal was to reach the Supreme Court's ordered proportionality of districts, 54% Republican and 46% Democratic, so long as it is possible without violating any other constitutional requirements. They would never agree. For instance, in our first meeting, when I asked if a 54% to 46% breakdown was our goal, Mr. DiRossi responded that he would attempt to comply with the Supreme Court order. Yet it became clear that the Republican map drawers' view of complying with the Court's order was not proportionality. I kept asking Mr. DiRossi if the 54% Republican and 46% Democratic proportionality was the objective, and he would not agree. Mr. DiRossi would only respond evasively that he would attempt to comply with the Supreme Court order. This trend continued throughout all our meetings. Because the Republican map drawers did not seek proportionality overall, it was impossible to collaborate with them. We could not have any fruitful conversations about drawing districts in any region—and what pressure that would put on linedrawing in other parts of the State—because the Republicans would not agree to aim for proportionality.

7. At every single meeting I asked the Republican map drawers if the goal was to get to proportionality (54% - 46%) while complying with the other constitutional linedrawing requirements. At every meeting they would *not* accept that goal.

8. In all of our meetings, I made multiple suggestions as to how we could reach proportionality while complying with all other constitutional requirements, but the Republican map drawers would not agree to my suggestions. For example, in our second meeting on January 18, throughout the meeting, I made various suggestions about how various regions of the state needed to have districts drawn in order to achieve proportionality statewide. Throughout our discussions, it became clear that Mr. DiRossi was considering a series of districts that were 50%+1 Democratic throughout the state. I stated that if districts were consistently drawn as 50%+1 Democratic throughout the state, it would lead to an asymmetry in the balance of Democratic seats and reflect that the map was disproportionately favoring or disfavoring a party. Mr. DiRossi and the Republican representatives did not respond.

9. Throughout our discussions it was clear that the Republican mapmakers were unwilling to adopt suggestions to reach proportionality if it harmed their partisan concerns. For example, I demonstrated how it was possible to draw 2 Democratic Senate seats (of 2) and 6 Democratic House seats (of 7) in Hamilton County. Mr. DiRossi and Mr. Springhetti stated that the Republicans would not be supportive of drawing the 6th Democratic House seat or the 2nd Democratic Senate seat in Hamilton County. Mr. Springhetti stated, without reference to constitutional linedrawing requirements, that the Republicans needed both Republican House seats to be on the Western side of Hamilton County. I understand that two existing Republican incumbents live on the Western side of the county. Additionally, Mr. DiRossi responded that the Republicans needed the 7th Hamilton County seat to be connected to Warren County instead of

Butler County as in previous Democratic plans—again, without reference to constitutional line-drawing constraints.

10. I frequently told the Republican map drawers that their districts were not as compact as they could be, nor were they targeted to reaching a proportional map. For instance, during our third staff meeting on January 19, Mr. DiRossi passed out a proposed map of Franklin County with a district that was irregular and stretched from the middle of the western edge of the county, cut completely across the southern edge of the county, and then ran up to the middle of the eastern side. I noted that the seat was drawn very marginally Democratic and appeared to be gerrymandered. Mr. DiRossi stated that there was no requirement on how Democratic a seat could be, just that it had to be “sub 50” (i.e., under 50% Republican). I replied that the district was not compact and was unnecessary to achieve statewide proportionality or to meet goals inside of Franklin County for doing so. My concerns were rejected, and that unusually drawn district is now part of the Republican Commissioners’ adopted map.

**Because the Republican map drawers would not collaborate with me, I drew a proportional map complying with all constitutional requirements.**

11. Because the Republican map drawers would not collaborate with me, or even agree on the proportionality objective, I began focusing on drawing a separate map to demonstrate that a proportional map could be achieved while complying with all the constitutional requirements. I did not complete this map until the early morning hours of January 22. This map has 45 Democratic House seats (54 Republican) and 15 Democratic Senate Seats (18 Republican).

12. Later in the morning on January 22, I asked Mr. Routt to send these files to all the Republican Commissioners’ staff and to post the files to the Commission website. He did so.

13. The House and Senate maps I put together on January 22 were uploaded to the Commission website at <https://www.redistricting.ohio.gov/assets/district-maps/district-map->

580.zip. A true and accurate copy of that map is attached as Exhibit A, and the respective block equivalency files on the USB flash drive enclosed as Exhibit C.

14. The January 22, 2022 maps are also available here:

- a. Democrats' Proposed House Map (1/22/22):  
<https://davesredistricting.org/maps#viewmap::5fcc3511-629b-40ec-9220-85ef943415e6>.
- b. Democrats' Proposed Senate Map (1/22/22):  
<https://davesredistricting.org/maps#viewmap::2af4b8a3-58f3-4f73-99b3-cbcf29d45035>.

15. I presented the map I drafted to the Commission on the afternoon of January 22, 2022. I answered questions before the Commission and offered my continued willingness to work on the maps. If I had been provided several hours, I could have addressed the issues the Republican map drawers raised with this map. But I was not provided that opportunity, as the Republicans pushed through a vote on their map.

16. After the meeting, Co-Chair Sykes and Leader Russo instructed me to work on an alternative set of map proposals to address issues flagged by Republican Commission members. I have addressed all the issues flagged and am still able to draw a map that mirrors the partisan proportionality of the state (*i.e.*, 45/54 in the House; 15/18 in the Senate). The revised map is attached as Exhibit B, and the respective block equivalency files on the USB flash drive enclosed as Exhibit C.

17. The January 26, 2022 maps are also available here:

- a. Democrats' Proposed House Map (1/26/22):  
<https://davesredistricting.org/maps#viewmap::744e3245-b230-48aa-b0ae-ccf9e700654e>.
- b. Democrats' Proposed Senate Map (1/26/22):  
<https://davesredistricting.org/join/353fbfd5-09fa-4b8f-bf56-03a08848e885>.

**The Republican Commissioner would not allow me to suggest amendments to their last-minute proposed map before it was adopted.**

18. I received notice of the proposed Republican map at approximately 9:00am on January 22, the morning the map was voted on. The meeting was originally scheduled for 9:30am, then delayed several times. Overall, I was given the files less than six hours before the Commission reconvened. I had very little time to analyze it because I was only provided with the block assignment files and it takes time to make the data usable and evaluate whether it complies with all the constitutional provisions, including proportionality.

19. During the meeting, Auditor Faber asked for amendments to the Republican map. I remarked that the map was not proportional because so many so-called Democratic seats were in fact toss-ups, and that drawing so many so-called Democratic districts with such a razor thin margin was evidence of the map drawers' partisan bias. I offered suggestions for additional Democratic House seats in the areas of Hamilton, Franklin, Lucas, Montgomery and Athens Counties. I also noted that a Democratic Senate seat could be created in Hamilton County by simply changing which districts were paired together in the Senate Seats. I made other suggestions to reach proportionality while complying with the other constitutional requirements. The meeting recessed.

20. During the recess, Co-Chair Sykes and I met briefly with Speaker Cupp. Co-Chair Sykes indicated that the Democrats would like to offer amendments to the Republican plan. Speaker Cupp asked me how long it would take. I responded that it could be as little as two hours if we could sit at a computer and draw maps together. Speaker Cupp stated that he was doubtful that he could get support, but that he would speak to the Republican Commission members. Our offer to collaborate was rejected. A short time later, Republican Commission Members returned

to the meeting room and resumed the full Commission meeting. No amendments or joint drawing efforts were agreed to or made by the Republicans.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Chris Glassburn

Sworn to before me and subscribed in my presence this 28th day of January, 2022.

  
\_\_\_\_\_  
Notary Public

**JOSEPH A. VALORE, ADV.**  
**NOTARY PUBLIC • STATE OF OH**  
My commission has no expiration date  
Section 147.03 O.R.C.

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :  
: Case No. 2021-1193  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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Bria Bennett, *et al.*, :  
: Case No. 2021-1198  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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The Ohio Organizing Collaborative, *et al.*, :  
: Case No. 2021-1210  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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AFFIDAVIT OF RESPONDENT VERNON SYKES

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State of Ohio  
County of Franklin, SS:

I, Vernon Sykes, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

1. I have personal knowledge of all the information below.

2. I am a State Senator for Ohio's 28th Senate District. I also serve as a Commissioner and Co-Chair of the Ohio Redistricting Commission.

**Republican Commissioners waited nearly a week after the Court's ruling to agree to reconvene the Commission to work on drafting new General Assembly maps.**

3. Despite the Court's tight timeframe to convene the Commission in the days immediately after this Court's decision, Speaker Cupp did not schedule the Commission to reconvene until January 18, 2022—nearly a week after the Court's ruling and well into the Court's ten-day deadline for a new map.

4. Following the Supreme Court's decision on January 12, 2022, in the above-captioned case directing the Commission to develop a new map and my reappointment to the Redistricting Commission by Leader Kenny Yuko, I immediately began working with staff members of the Senate and House Democratic Caucuses about next steps and developing an action plan. Indeed, I was in communication with Speaker Cupp shortly after the Court's decision.

5. When I spoke with Speaker Cupp on Thursday, January 13, he indicated that the Commission would meet Friday (the following day), Saturday, or Monday. I indicated that sooner is better. Speaker Cupp's indication turned out to be incorrect, as the Commission did not agree to meet until six days after the Court's decision—over halfway through the time allotted by the Court to draw a constitutionally-compliant map.

6. In the meantime, I instructed my staff to prepare a statement for the Commission as a whole to release prior to its first meeting. In phone calls with Speaker Cupp during the weekend of January 15, I emphasized several points that I wanted to be included in the statement. *First*, I wanted the Commission to commit to achieving a 54% Republican and 46% Democratic map as directed by the Court. *Second*, I wanted the Commission to state an intent to provide opportunities for public input, including through public hearings. *Finally*, I wanted the Commission to state its intent to work together. Speaker Cupp told me that Republican Commissioners did not intend to include the 54%/46% metric or the opportunity for the public to testify in its statement.

7. On several other occasions over the ensuing days, I emphasized to Speaker Cupp that I wanted the Commission to hold public hearings and suggested some of them could be conducted virtually. I also made clear that, after proposing a revised map, the Commission should hold hearings across the state or virtually before formally adopting the proposed map in accordance with Article XI of the Ohio Constitution and the Court's decision. As the deadline approached, I continued to advocate to Speaker Cupp that the public should have an opportunity to provide input. Speaker Cupp rebuffed all my requests, indicating that there was not an appetite among the Republican members of the Commission for hearing more public testimony.

**The Republican Commissioners refused to work together with the Democratic Commissioners on a single map.**

8. The process leading to the Commission's adoption of its new, so-called "remedial" map was much like the process the Court condemned in analyzing the first map. The Republican Commission members kept me and the other Democratic Commissioner in the dark about their plans and actions and did not collaborate with us on proposed maps.

9. The first Commission meeting on January 18 was largely a pro forma session, and not one that advanced a collaborative map-drawing process. The Commission swore in new House Minority Leader-Elect Allison Russo but did not engage in any substantive discussion of any maps.

10. The next Commission meeting—and the first substantive meeting—was not until January 20, 2022, eight days from the Court’s decision and two days before the Commission’s declared deadline. At the outset of the January 20 Commission meeting, I was caught off guard and concerned when Republican Commissioners’ staff were handing out their copies of the Franklin County and Hamilton County maps, which they had just posted on the Commission website. Up to this point, I had directed my staff to meet with Republican staff members to work on a single map on a region-by-region basis. Republican staff had given similar (but not the same) county maps to my staff the day before, but there had been no agreement on them. I did not know that the Republican Commissioners would be submitting their own county maps on the Commission website before we could reach a consensus as a Commission on how those districts should be drawn.

11. Because Republican Commissioners posted only PDF versions of their maps with no accompanying hard data, I could not meaningfully review their proposals.

12. I asked Chris Glassburn, the expert the Democratic Commissioners retained to help in the map-drawing process, to present his draft Hamilton and Franklin County maps to the Commission that afternoon. The Republican Commissioners’ map drawers, however, did not present the Republicans’ maps to the Commission; indeed, Ray DiRossi and Blake Springhetti did not testify at all at that meeting. Instead, Speaker Cupp summarily discussed the maps. Mr. Glassburn, on the other hand, answered questions for about an hour about his draft. In questioning, Mr. Glassburn emphasized that the Republican staff would not agree that they were all working

toward a goal of a proportional map with 45 Democratic-leaning seats in the House and 15 in the Senate.

13. After the Commission's meeting, I had still hoped that we could agree to come up with a joint plan. I continued to assert to Speaker Cupp that there were pathways to reach a proportional map. He said he did not see a way of accomplishing it, but stated that if I could find one that Leader Russo and I should present it to the Commission.

14. Following the recess of the January 20, 2022 meeting, Leader Russo and I directed our map drawers, Chris Glassburn and Randall Routt, to draft a statewide map that was consistent with the Court's order and to address any issues raised by Republicans at the meeting. We also directed our staff to continue to work with Republican staff members with the goal of the Commission producing a single, jointly agreed-to map.

**The Republican Commissioners did not disclose their statewide map until the day of the vote and refused to take feedback from the Democratic Commissioners or the public on their proposed maps.**

15. The Commission did not reconvene again until Saturday, January 22, 2022—the Commission's stated deadline for approving a new map. Prior to that day, I had never been presented with any complete statewide map from the Republican Commissioners. I had only seen their proposals for a few counties. I was otherwise in the dark about their proposal. Because they did not share their work with my staff or me, I was excluded from collaborating and making suggestions on what they would propose that the Commission adopt.

16. That morning, I directed my staff to post Mr. Glassburn's proposed statewide General Assembly maps publicly, along with the supporting data.

17. On the day of the vote, the Republican Commissioners finally released their proposed maps. My staff received an email with the Republican Commissioners' map block assignment file in the morning, giving me little time to have my expert look at it prior to the

Commission's meeting and vote that afternoon. The Republican Commissioners did not post these maps publicly until a few hours before the convening of the Commission meeting. The public posting was only PDF images. So the public was left only with pictures—not meaningful data—to try to understand how those districts were drawn.

18. Throughout the day on January 22, I implored Speaker Cupp to allow public testimony and a panel discussion with Commissioners now that statewide maps had been released to the public.

19. But Speaker Cupp told me there was no appetite for public testimony, from him or his fellow Republican Commissioners. He told me that he believed any testimony would be repetitive, and the Republican Commissioners did not want to hear it again.

**During the final Commission meeting, the Republican Commissioners refused to collaborate or make changes to make their map more proportional.**

20. The only maps ever considered by the Commission were the Republican Commissioners' map (drawn by Messrs. DiRossi and Springhetti) and the Democratic Commissioners' map (drawn by Mr. Glassburn).

21. At the meeting, Mr. Glassburn presented a map that reached the 54% and 46% proportionality the Court designated. He again testified that the Republican Commissioners' mapmakers were not trying to reach that ratio, so his few interactions with them had been unsuccessful. And he expressed his willingness to continue working with the Commission and asked for their preferences for drawing districts, particularly in rural counties. But the Republican Commissioners instead just attacked the map. There were still over 7 hours left to create a fair map. I was prepared to continue working together to have an agreed-upon map.

22. The Republican Commissioners' map drawers also presented their map. I repeatedly asked Republican map drawers to identify any requirement in Article XI of Ohio's

Constitution that would prevent the Commission from drafting a proportional map. They would not do so.

23. To make my point that a more proportional map could be achieved without violating other parts of Article XI, I also asked Republican Commissioners and map drawers whether anything prevented the Commission from pairing a different combination of House Districts in Hamilton County to draw one additional Democratic-leaning Senate seat. My proposal would not have required the Commission to change any House district lines. The Republican map drawers paused—again, not answering my question. Speaker Cupp spoke up to say cursorily that the map drawers had “given the answer that [they] can give.” He then immediately and abruptly recessed the meeting.

24. During that recess, I spoke directly with Speaker Cupp and made an appeal for collaboration in reaching a constitutional map compliant with the Court’s decision. Specifically, I asked him whether all the map drawers could meet again to work together to get closer to the proportionality ratios set forth by the Court. I noted that my staff had specific suggestions that would push the map towards those ratios. For example, Mr. Glassburn suggested that another Democratic Senate district could be drawn in Hamilton County and that a Democratic House district could be drawn in the Athens area with relative ease. In the time remaining before the end of the day, Mr. Glassburn could work to fix any technical errors in his proposed map that the Republican Commissioners’ map-drawers identified. That would result in a map that was compliant with all the constitutional requirements, including Section 6’s proportionality standard.

25. Speaker Cupp indicated that he would speak with the Republican Commissioners. Approximately twenty minutes later, he responded to tell me that he had spoken with each Republican Commissioner and they just “didn’t feel there was enough time” and it was “too late.”

Yet there were over six hours remaining before the Commission's purported deadline. That was plenty of time to make significant changes to reach proportionality.

26. Moments later, the Commission reconvened and voted along party lines to adopt the Republicans' disproportionate map.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Vernon Sykes

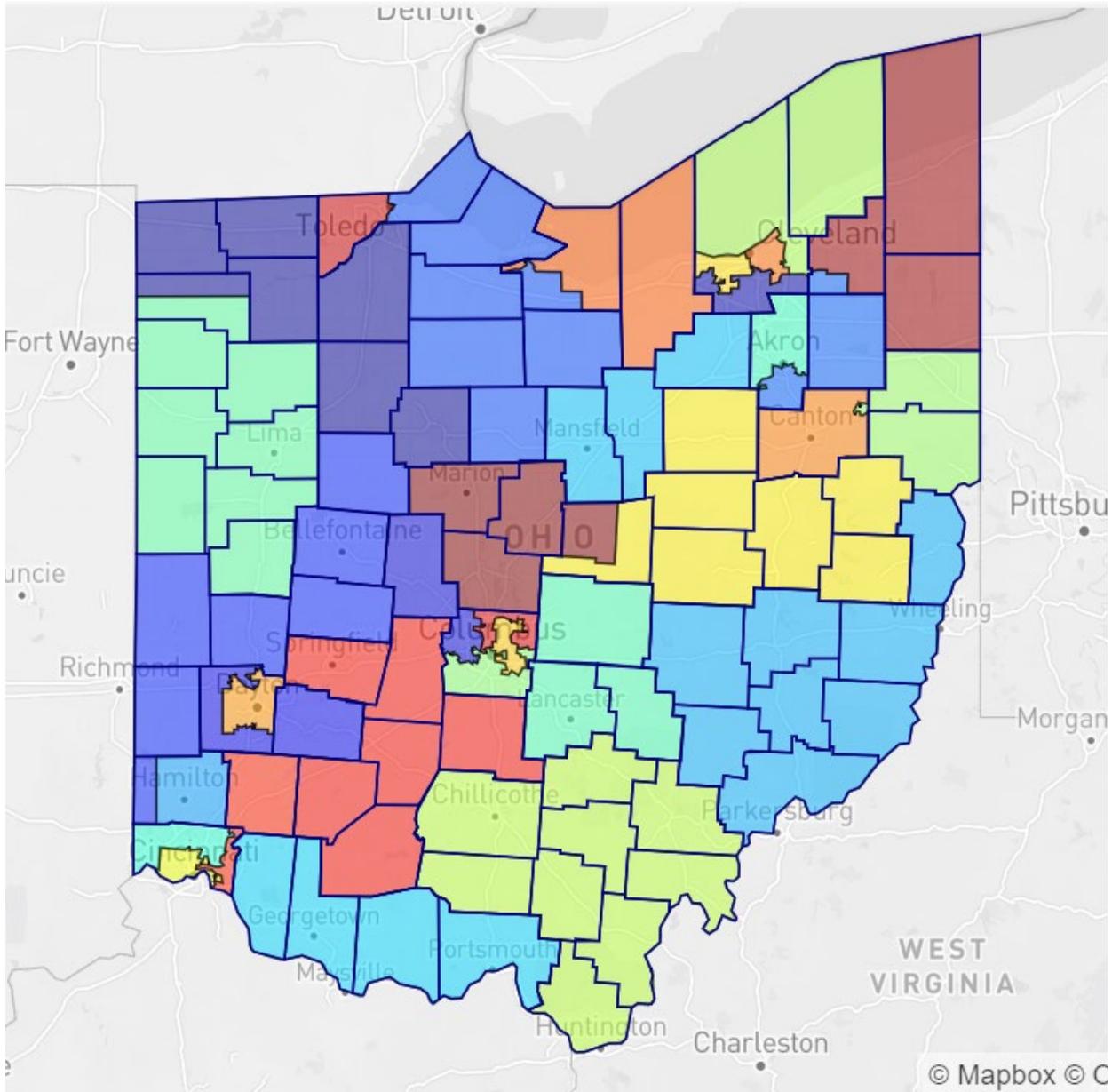
Sworn to before me and subscribed in my presence this 28<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
Notary Public

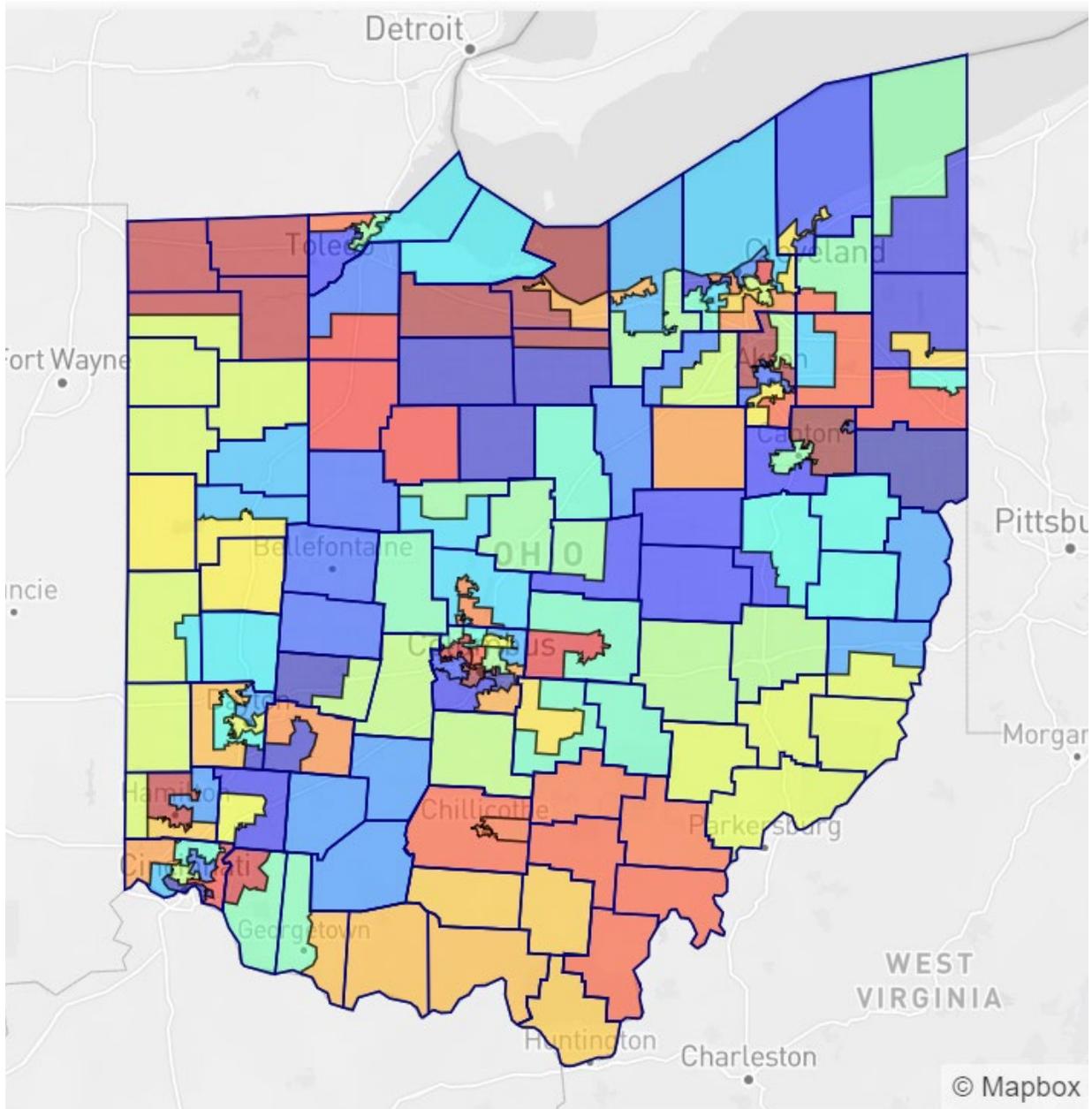


**Exhibit A**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 22, 2022

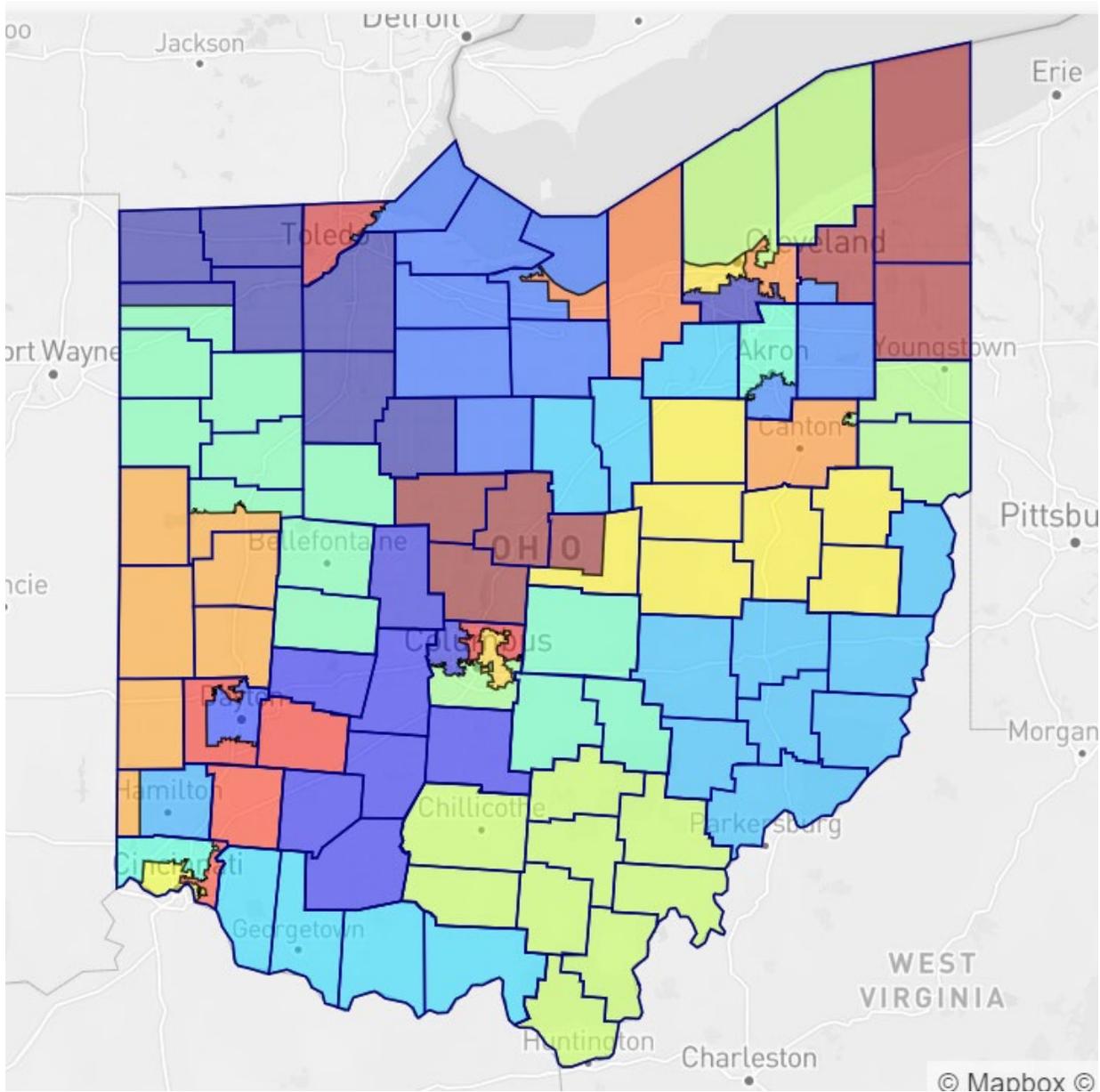


Dems House Proposal – January 22, 2022

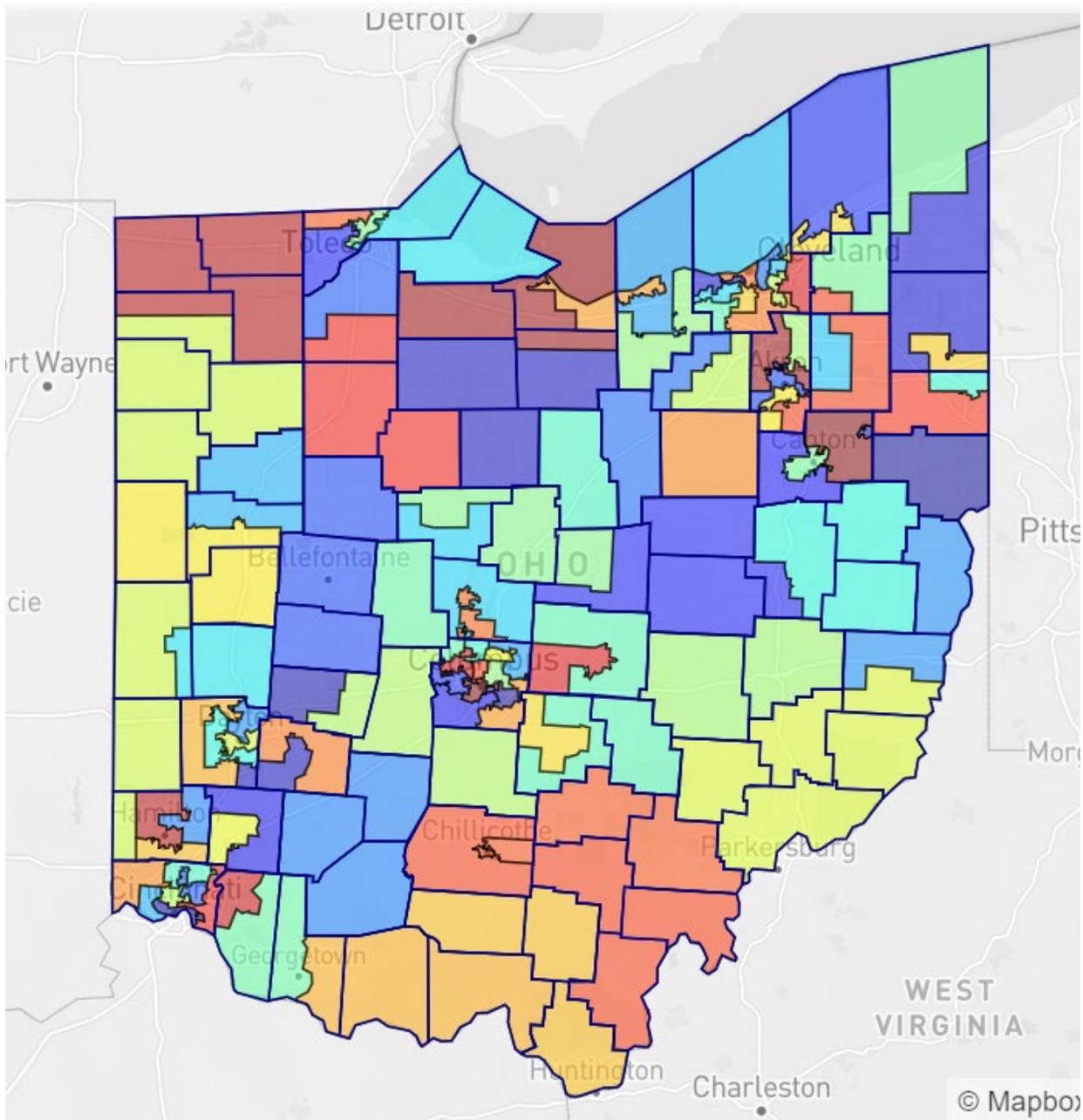


**Exhibit B**  
**to Affidavit of Chris Glassburn**

Dems Senate Proposal – January 26, 2022



Dems House Proposal – January 26, 2022



# **Exhibit C**

## **to Affidavit of Chris Glassburn**

# **Exhibit D**

## **to Affidavit of Chris Glassburn**

# Organizational Profile

## Project Govern



### Chris Glassburn, Lead Consultant & Mapmaker

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[Chris@ProjectGovern.com](mailto:Chris@ProjectGovern.com)

Chris Glassburn is one of the top consultants providing campaign management, public engagement, and electoral data services in Ohio. In 2011, Glassburn served as the redistricting consultant and mapmaker for the Ohio House Democratic Caucus for Congressional Redistricting. Glassburn also served as the Democratic minority consultant and mapmaker for the Ohio Apportionment Board and as the Democratic mapmaker for plaintiffs in *Wilson v. Kasich* (decided 4-3 against, with current Supreme Court Chief Justice O'Connor dissenting).

A vigorous advocate of fair redistricting practices, Glassburn has spoken on dozens of public panels on redistricting reform. Since 2014, Glassburn has periodically served as a redistricting consultant to the Ohio League of Women Voters in their efforts to end gerrymandering. He was a lead co-author of both Ohio Constitutional Amendments that were overwhelmingly passed by voters to reform apportionment of the Ohio General Assembly (2015) and redistricting for Congress (2018).

From 2014 to 2016 Glassburn served as the Senior Policy Advisor to Cuyahoga County Executive Armond Budish. In his role for Cuyahoga County Glassburn held responsibility for assisting in the creation and passage of the biennial budget, supervising the agenda and alternate chairing the board of control, policy lead on behalf of the County Executive and lead of appointments to board and commissions.

In January 2017, Glassburn founded the firm Project Govern. Glassburn most recently has served as a consultant to issue campaigns in the May, 2021 Primary Election. In total, Glassburn has served as the lead consultant and/or campaign manager to over 120 individual candidate or issues campaigns with over a 90%-win rate. Some of his non-partisan/candidate clients have included the Sherwin Williams, Innovation Ohio, The Cuyahoga County Port Authority, the County Action Committee (Cuyahoga County HHS Levy), The Cleveland Clergy Coalition, LEAD Ohio and numerous confidential private sector clients.

Glassburn is a lifelong Northeast Ohioan and serves as a City Councilman and Leader of the Democratic Party in North Olmsted, Ohio. He and his wife Megan and daughter Adrianna live in North Olmsted.

Symantec Mail Security replaced Glassburn Ex. C - USB flash drive.zip with this text message. The original file contained a filtering violation and was quarantined.

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :  
: Case No. 2021-1193  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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Bria Bennett, *et al.*, :  
: Case No. 2021-1198  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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The Ohio Organizing Collaborative, *et al.*, :  
: Case No. 2021-1210  
Relators, :  
v. : Original Action Filed Pursuant to Ohio  
: Constitution, Article XI, Section 9(A)  
Ohio Redistricting :  
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.  
: Prac. R. 14.03]  
Respondents. :  
:  
:

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RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE  
MINORITY LEADER ALLISON RUSSO TO PETITIONERS' OBJECTIONS

---

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**Counsel for Amicus Curiae Ohio State  
Conference of the NAACP**

**\*Not admitted to Ohio Bar**

**RESPONSE OF RESPONDENTS VERNON SYKES AND ALLISON RUSSO  
TO PETITIONERS' OBJECTIONS**

We offer this pro se filing in response to the petitioners' objections to the purportedly remedial map approved by a majority of the Ohio Redistricting Commission on Saturday, January 22, 2022. We are: (1) Senator Vernon Sykes Co-Chair of the Ohio Redistricting Commission and State Senator for the 28th District of the Ohio Senate, and (2) Respondent House Minority Leader Allison Russo, Commissioner and Leader of the Minority Caucus in the Ohio House.<sup>1</sup> We are the only Democrats on the Commission. We are also the only woman and African American on the Commission.

As this Court well knows from prior proceedings, the interests of the Democratic Commissioners conflict with the Republican Commissioners' interests. Because of that conflict, the Ohio Attorney General appointed the Democratic Commissioners separate legal counsel. This appointment enabled the Democratic Commissioners, through legal counsel, to file their own pleadings and give voice to the efforts and perspectives of the Democratic Commissioners. This Court has recognized the Democratic Commissioners' distinct interests by allowing them to file their own briefs and allotting them time for oral argument to be shared not with the Republican Commissioners but with the petitioners (which time they ultimately ceded to the petitioners' counsel).

The Attorney General has now denied us, the current Democratic Commissioners, separate counsel and has unilaterally asserted that we will be represented by the Commission's counsel only. The Attorney General's Office first advised us that we were not allowed to file

---

<sup>1</sup> On January 12, 2022, Allison Russo, a Democrat and Representative for House District 24, was elected Leader of the House Minority Caucus, replacing former Minority Leader Emilia Sykes. On January 18, 2022, Leader Russo was sworn in as a member of the Ohio Redistricting Commission, and a notice was filed with the Court substituting Leader Russo as a party in this matter.

objections to the Commission’s maps alongside the petitioners, despite the fact that we had objections to the constitutionality of the majority’s ostensibly remedial map. After the petitioners’ objections, this Court afforded the respondents—which includes us—the opportunity to respond to the objections. However, the Attorney General has denied our assigned special counsel permission to file such a response or even consult with us. On January 26, 2022, our counsel told us that they would no longer represent or advise us. Indeed, the Attorney General has taken the position that we are not allowed to file a separate response at all, despite the fact the Court ordered “respondents” to file a response, if any, and the fact we are respondents. The Attorney General unilaterally declared, through his spokesperson, that “one counsel will respond to the court on behalf of the entire commission” and “[n]one of the individual members will respond separately.” *See* Jake Zuckerman, Ranking Dem says GOP Attorney General blocked her from lawyers in redistricting suit,” Ohio Capital Journal (Jan. 27, 2022), available at <https://perma.cc/U9YX-ETKK>. This is a shameless effort to thwart our ability to comply with the Court’s order and to separately inform the Court about what transpired in the Commission following the Court’s January 12, 2022, decision invalidating the General Assembly district plan.

There is a clear conflict between our interests, as Democratic Commissioners who are separately-named respondents, and the Republican Commissioners. The Democratic Commissioners’ multiple filings in these proceedings, including Answers to the Petitions, make that clear. The Commission and the Republican Respondents acknowledged this conflict when they advocated for a realignment, for oral argument purposes, of the “Relators and the Respondents who filed Answers in support of the Relators or whose interests are aligned with Relators.” *See* “Respondents The Ohio Redistricting Commission, Governor Mike Dewine,

Auditor of State Keith Faber, Ohio Secretary of State Frank LaRose, Ohio Senate President Matt Huffman and Ohio Speaker of the House Robert Cupp’s Joint Response to Relators’ Request for Oral Argument,” filed Nov. 3, 2021 in Case Nos. 2021-1193, 2021-1198 and 2021-1210, at p. 5. The Court has recognized this, realigning, for oral argument purposes, the Democratic Commissioners with the petitioners.

For the Attorney General to now insist that one pleading be filed on behalf of the entire Commission and all its individual members in response to the petitioners’ objections, and to forbid a separate filing by the Democratic Commissioners, blatantly ignores the conflicting interests and is unacceptable. We are named individually as respondents and will continue to file our own pleadings, regardless of the Attorney General’s improper moves, unless and until the Court instructs us otherwise. Because, at this juncture, we do not have the time to challenge the Attorney General’s decision before the Court’s deadline for the respondents’ responses, we have no choice but to file this pleading *pro se*.

Our pleading consists of three affidavits, from: (1) Co-Chair Sykes; (2) Leader Russo; and (3) Chris Glassburn, the map drawing expert we were able to retain to help us after the Court’s decision invalidating the maps. Through these affidavits, we are able to provide the Court with information about our discussions and actions that is within our personal knowledge and that is not public. We adopt the legal arguments submitted by the petitioners, but these affidavits provide further evidence substantiating the unconstitutionality of the maps, and, in particular, how the Commission’s majority violated Article XI, Section 6 of the Ohio Constitution. In addition, the affidavit of Chris Glassburn demonstrates—as the petitioners have also argued—that a proportional map complying with the requirements of Section 6 can be drawn without violating any other sections of Article XI.

We ask that the Court again invalidate the map adopted by the Republican Commissioners, order the Commission to draw a map that complies with the Ohio Constitution and this Court's pronouncements, and direct the Legislature and Secretary of State to make the necessary adjustments to the election schedule to accommodate this Court's orders.

Respectfully submitted,



---

Vernon Sykes



---

Allison Russo

*Respondents Senator Vernon Sykes  
and House Minority Leader  
Allison Russo, pro se*

## CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2022, a copy of the foregoing Response of Senator Vernon Sykes and House Minority Leader Allison Russo was filed by hand and sent via email to the following:

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*Counsel for Amicus Curiae Ohio State  
Conference of the NAACP*

/s/ 

**From:** "Brenda Rinehart" </O=AG OF OHIO/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=30EB41CBC6C14114BC853E241BA329F0-BRENDA L RINE>

**To:** "Kelly Woods" <Kelly.Woods@OhioAGO.gov>

**Subject:** RE: 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader Member - Litigation

**Date:** Thu, 27 Jan 2022 20:43:48 -0000

**Importance:** Normal

**Inline-Images:** image002.png; image004.jpg; image006.jpg; image008.jpg; image009.png

Thank you



Brenda L. Rinehart  
First Assistant Attorney General  
Office of Ohio Attorney General Dave Yost  
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Columbus, Ohio 43215

Office number 614/728-2318

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[Brenda.Rinehart@OhioAttorneyGeneral.gov](mailto:Brenda.Rinehart@OhioAttorneyGeneral.gov)

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**From:** Kelly Woods

**Sent:** Thursday, September 30, 2021 4:09 PM

**To:** Matthew.Fornshell@icemiller.com

**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>; Erin Ley <Erin.Ley@OhioAGO.gov>; rep34@ohiohouse.gov; sd28@ohiosenate.gov; sarah.cherry@ohiohouse.gov; Scott.Stockman@ohiosenate.gov; Henry Appel <Henry.Appel@OhioAGO.gov>; Heather Buchanan <Heather.Buchanan@OhioAGO.gov>; Jonathan Fulkerson <Jonathan.Fulkerson@OhioAGO.gov>; Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; Charles Miller <Charles.Miller@OhioAGO.gov>; Frank Strigari <frank.strigari@ohiosenate.gov>; Paul.Disantis@ohiohouse.gov; Traevon.Leak@ohiosenate.gov; mindy.spain@ohiohouse.gov

**Subject:** 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader Member - Litigation



**DAVE YOST**  
OHIO ATTORNEY GENERAL

Outside Counsel

Office 614-466-8240

Fax 614-728-2392

30 E. Broad Street, 17<sup>th</sup> Floor

Columbus, OH 43215

September 30, 2021

AMERICAN  
OVERSIGHT

OH-AG-22-0302-A-000711

PRR-22-107\_000711

Dear Matt,

Ice Miller has been appointed Special Counsel to defend Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Emilia Sykes, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio). Please contact Sarah Cherry, Legal Counsel, Ohio House of Representatives (614-466-6040), and Scott Stockman, Legal Counsel, Ohio Senate (614-995-5794), to begin work immediately. Henry Appel, Principal Assistant Attorney General, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your assignment letter. This assignment will terminate June 30, 2022, unless terminated earlier by the Attorney General or renewed by the Attorney General at the conclusion of the fiscal year.

The budget for this matter is \$45,000 and the hourly rate is \$325. The AGO# is 7732. Please note that all subsequent or new legal matters first require the approval of the Attorney General before they may be billed under the AGO number designated in this Assignment Letter. The Ohio General Assembly will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Dave Yost

Ohio Attorney General



Shawn Busken

Director of Outside Counsel

[Outside Counsel Webpage](#)

cc: Sarah Cherry

Scott Stockman

Henry Appel



Kelly A. M. Woods  
Deputy Director of Outside Counsel  
Office of Ohio Attorney General Dave Yost  
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*\* Please note that, in adherence to best practices brought about in response to COVID-19, the Ohio Attorney General's Outside Counsel Section moved to a "remote work" status effective March 18, 2020. All members of the section remain available remotely during normal business hours. Thank you for your patience.*

**From:** Kelly Woods <Kelly.Woods@OhioAGO.gov>

**To:** Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>

**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Subject:** Ice Miller - Redistricting Assignment Letter

**Date:** Thu, 27 Jan 2022 15:40:19 -0500

**Importance:** Normal

**Attachments:** (2022.01.14)\_FY22\_Amended\_Assignment\_Letter-Senator\_Co-Chair\_&\_House\_Minority\_Leader-Ice\_Miller.PDF

**Embedded:** 2022\_Special\_Counsel\_Assignment\_-\_Senator\_Co-Chair\_&\_House\_Minority\_Leader\_Member\_-\_Litigation

**Inline-Images:** image001.png

---

Hi Brenda

Attached is the Assignment Letter for Ice Miller for redistricting.

The second attachment is the amended assignment letter we sent to reflect the change from Leader Skyes to Leader Russo.

Please let me know if you need anything additional.

Thank you,



Kelly A. M. Woods  
Deputy Director of Outside Counsel  
Office of Ohio Attorney General Dave Yost  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
Office: 614-466-6173

Cell: 614-364-1245  
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**DAVE YOST**  
OHIO ATTORNEY GENERAL

Outside Counsel  
Office 614-466-8240  
Fax 614-728-2392

30 E. Broad Street, 17<sup>th</sup> Floor  
Columbus, OH 43215

January 14, 2022

**AMENDED ASSIGNMENT LETTER**

Dear Mr. Fornshell,

Pursuant to the assignment letter dated September 30, 2021, and the subsequent Amended Assignment Letters, Ice Miller has appointed to defend Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Emilia Sykes, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio) (the "Assignment"). The AGO# for the Assignment is 7732. This Letter serves to amend the scope of the Assignment to include that Ice Miller has been appointed to defend, in the aforementioned cases, the individual appointed by the House Minority Leader to the Ohio Redistricting Commission, as a Member of said Commission. The budget for this Assignment has also been increased to \$190,000.

All other terms of the assignment letter remain unchanged. The Assignment will still terminate June 30, 2022, unless terminated earlier by the Attorney General or renewed by the Attorney General at the conclusion of the fiscal year. The Ohio General Assembly will continue to compensate your firm for your services. You are still required to bill monthly using the TyMetrix online billing system.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Dave Yost  
Ohio Attorney General

A handwritten signature in black ink, appearing to read "S. Busken".

Shawn Busken  
Director of Outside Counsel

cc: Sarah Cherry  
Scott Stockman  
Henry Appel

**From:** Kelly Woods <Kelly.Woods@OhioAGO.gov>

**To:** "Matthew.Fornshell@icemiller.com" <Matthew.Fornshell@icemiller.com>

**Cc:** Shawn Busken <Shawn.Busken@OhioAGO.gov>, Erin Ley <Erin.Ley@OhioAGO.gov>, "rep34@ohiohouse.gov" <rep34@ohiohouse.gov>, "sd28@ohiosenate.gov" <sd28@ohiosenate.gov>, "sarah.cherry@ohiohouse.gov" <sarah.cherry@ohiohouse.gov>, "Scott.Stockman@ohiosenate.gov" <Scott.Stockman@ohiosenate.gov>, Henry Appel <Henry.Appel@OhioAGO.gov>, Heather Buchanan <Heather.Buchanan@OhioAGO.gov>, Jonathan Fulkerson <Jonathan.Fulkerson@OhioAGO.gov>, Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>, Charles Miller <Charles.Miller@OhioAGO.gov>, Frank Strigari <frank.strigari@ohiosenate.gov>, "Paul.Disantis@ohiohouse.gov" <Paul.Disantis@ohiohouse.gov>, "Traevon.Leak@ohiosenate.gov" <Traevon.Leak@ohiosenate.gov>, "mindy.spain@ohiohouse.gov" <mindy.spain@ohiohouse.gov>

**Subject:** 2022 Special Counsel Assignment - Senator Co-Chair & House Minority Leader Member - Litigation

**Date:** Thu, 30 Sep 2021 16:08:30 -0400

**Importance:** Normal

**Inline-Images:** image001.jpg; image003.jpg; image005.jpg; image007.png



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Outside Counsel

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30 E. Broad Street, 17<sup>th</sup> Floor

Columbus, OH 43215

September 30, 2021

Dear Matt,

Ice Miller has been appointed Special Counsel to defend Senator Vernon Sykes, as Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Emilia Sykes, as a Member of the Ohio Redistricting Commission, in *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1193 (Sup. Ct. Ohio); *Bria Bennett, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1198 (Sup. Ct. Ohio); and *The Ohio Organizing Collaborative, et al. v. Ohio Redistricting Commission, et al.*, Case No. 2021-1210 (Sup. Ct. Ohio). Please contact Sarah Cherry, Legal Counsel, Ohio House of Representatives (614-466-6040), and Scott Stockman, Legal Counsel, Ohio Senate (614-995-5794), to begin work immediately. Henry Appel, Principal Assistant Attorney General, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your

assignment letter. This assignment will terminate June 30, 2022, unless terminated earlier by the Attorney General or renewed by the Attorney General at the conclusion of the fiscal year.

The budget for this matter is \$45,000 and the hourly rate is \$325. The AGO# is 7732. Please note that all subsequent or new legal matters first require the approval of the Attorney General before they may be billed under the AGO number designated in this Assignment Letter. The Ohio General Assembly will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Dave Yost

Ohio Attorney General

A handwritten signature in black ink, appearing to read "S. Busken", with a long horizontal flourish extending to the right.

Shawn Busken

Director of Outside Counsel

[Outside Counsel Webpage](#)

cc: Sarah Cherry

Scott Stockman

Henry Appel



Kelly A. M. Woods  
Deputy Director of Outside Counsel  
Office of Ohio Attorney General Dave Yost  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
Office: 614-466-6173

Cell: 614-364-1245  
[Kelly.Woods@OhioAttorneyGeneral.gov](mailto:Kelly.Woods@OhioAttorneyGeneral.gov)

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*\* Please note that, in adherence to best practices brought about in response to COVID-19, the Ohio Attorney General's Outside Counsel Section moved to a "remote work" status effective March 18, 2020. All members of the section remain available remotely during normal business hours. Thank you for your patience.*

**From:** AG Dave Yost <Dave@OhioAGO.gov>

**To:** Bridget Coontz <Bridget.Coontz@OhioAGO.gov>, Bethany McCorkle <Bethany.McCorkle@OhioAGO.gov>, Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>, Shawn Busken <Shawn.Busken@OhioAGO.gov>, "Ben Marrison" <Benjamin.Marrison@OhioAGO.gov>

**Subject:** RE: Yost blocking ORC Democrats from independent counsel?

**Date:** Wed, 26 Jan 2022 19:57:31 -0500

**Importance:** Normal

**Inline-Images:** image001.png

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That's quite good

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**From:** Bridget Coontz <Bridget.Coontz@OhioAGO.gov>

**Date:** Wednesday, Jan 26, 2022, 7:56 PM

**To:** AG Dave Yost <Dave@OhioAGO.gov>, Bethany McCorkle <Bethany.McCorkle@OhioAGO.gov>, Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>, Shawn Busken <Shawn.Busken@OhioAGO.gov>, Ben Marrison <Benjamin.Marrison@OhioAGO.gov>

**Subject:** RE: Yost blocking ORC Democrats from independent counsel?



Bridget C. Coontz  
Section Chief – Constitutional Offices Section  
Office of Ohio Attorney General Dave Yost  
Office number: 614-728-2035  
Fax number: 866-914-1621  
[Bridget.Coontz@OhioAttorneyGeneral.gov](mailto:Bridget.Coontz@OhioAttorneyGeneral.gov)

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**From:** AG Dave Yost

**Sent:** Wednesday, January 26, 2022 7:41 PM

**To:** Bethany McCorkle <Bethany.McCorkle@OhioAGO.gov>; Brenda Rinehart <Brenda.Rinehart@OhioAGO.gov>; Shawn Busken <Shawn.Busken@OhioAGO.gov>; Ben Marrison <Benjamin.Marrison@OhioAGO.gov>; Bridget Coontz <Bridget.Coontz@OhioAGO.gov>

**Subject:** RE: Yost blocking ORC Democrats from independent counsel?

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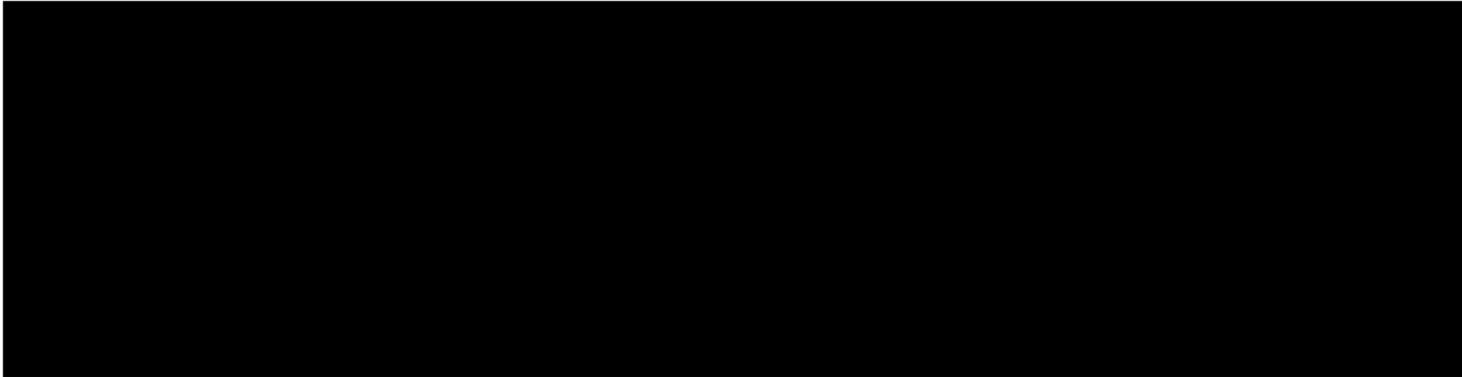
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**From:** Bethany McCorkle <[Bethany.McCorkle@OhioAGO.gov](mailto:Bethany.McCorkle@OhioAGO.gov)>

**Date:** Wednesday, Jan 26, 2022, 7:38 PM

**To:** AG Dave Yost <[Dave@OhioAGO.gov](mailto:Dave@OhioAGO.gov)>, Brenda Rinehart <[Brenda.Rinehart@OhioAGO.gov](mailto:Brenda.Rinehart@OhioAGO.gov)>, Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto:Shawn.Busken@OhioAGO.gov)>, Ben Marrison <[Benjamin.Marrison@OhioAGO.gov](mailto:Benjamin.Marrison@OhioAGO.gov)>, Bridget Coontz <[Bridget.Coontz@OhioAGO.gov](mailto:Bridget.Coontz@OhioAGO.gov)>

**Subject:** FW: Yost blocking ORC Democrats from independent counsel?



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**From:** Jake Zuckerman <[jzuckerman@ohiocapitaljournal.com](mailto:jzuckerman@ohiocapitaljournal.com)>

**Date:** Wednesday, Jan 26, 2022, 7:04 PM

**To:** Luke Sullivan <[Lucas.Sullivan@OhioAGO.gov](mailto:Lucas.Sullivan@OhioAGO.gov)>, Bethany McCorkle <[Bethany.McCorkle@OhioAGO.gov](mailto:Bethany.McCorkle@OhioAGO.gov)>

**Subject:** Re: Yost blocking ORC Democrats from independent counsel?

Hey Lucas and Bethany, I didn't hear back on this but just received this on-record statement from Minority Leader Russo.

"Currently, Attorney General Yost is denying Leader Russo the ability to consult with her legal counsel (Ice Miller) about the objections filed to the latest state legislative maps. This evening, Leader Russo contacted Yost directly about her concerns for this lack of representation, but she has not heard back from him yet."

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THanks.

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Is that accurate? If so, can you please provide details and explain why?

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Jake Zuckerman

Ohio Capital Journal

847-767-9876 - cell

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**Subject:** RE: Yost blocking ORC Democrats from independent counsel?

**Date:** Wed, 26 Jan 2022 19:56:32 -0500

**Importance:** Normal

**Inline-Images:** image001.png



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Section Chief – Constitutional Offices Section  
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**Subject:** FW: Yost blocking ORC Democrats from independent counsel?

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**From:** "AG Dave Yost" <Dave@OhioAGO.gov>

**To:** "Bethany McCorkle" <Bethany.McCorkle@OhioAGO.gov>

**Subject:** RE: Yost blocking ORC Democrats from independent counsel?

**Date:** Thu, 27 Jan 2022 00:40:04 -0000

**Importance:** Normal

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No comment

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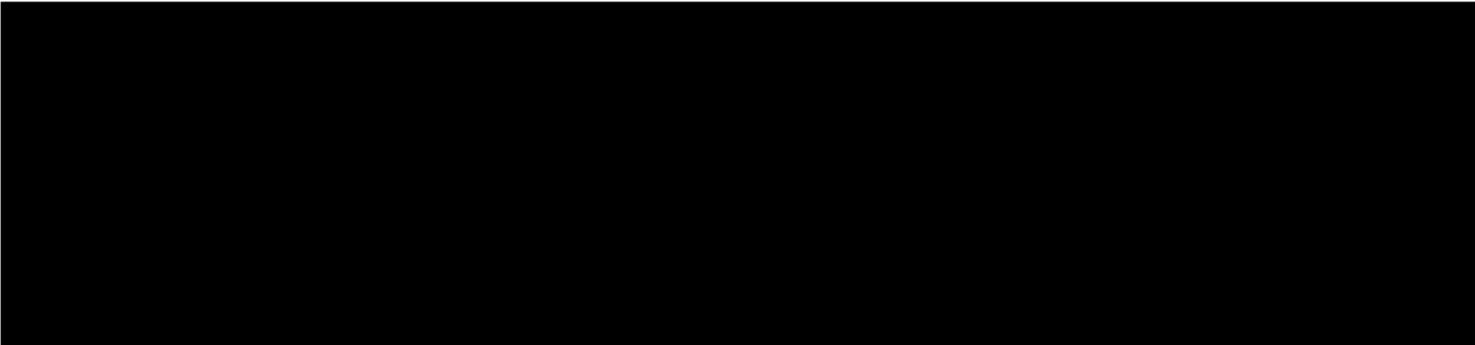
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**To:** AG Dave Yost <[Dave@OhioAGO.gov](mailto: Dave@OhioAGO.gov)>, Brenda Rinehart <[Brenda.Rinehart@OhioAGO.gov](mailto: Brenda.Rinehart@OhioAGO.gov)>, Shawn Busken <[Shawn.Busken@OhioAGO.gov](mailto: Shawn.Busken@OhioAGO.gov)>, Ben Marrison <[Benjamin.Marrison@OhioAGO.gov](mailto: Benjamin.Marrison@OhioAGO.gov)>, Bridget Coontz <[Bridget.Coontz@OhioAGO.gov](mailto: Bridget.Coontz@OhioAGO.gov)>

**Subject:** FW: Yost blocking ORC Democrats from independent counsel?



Bethany

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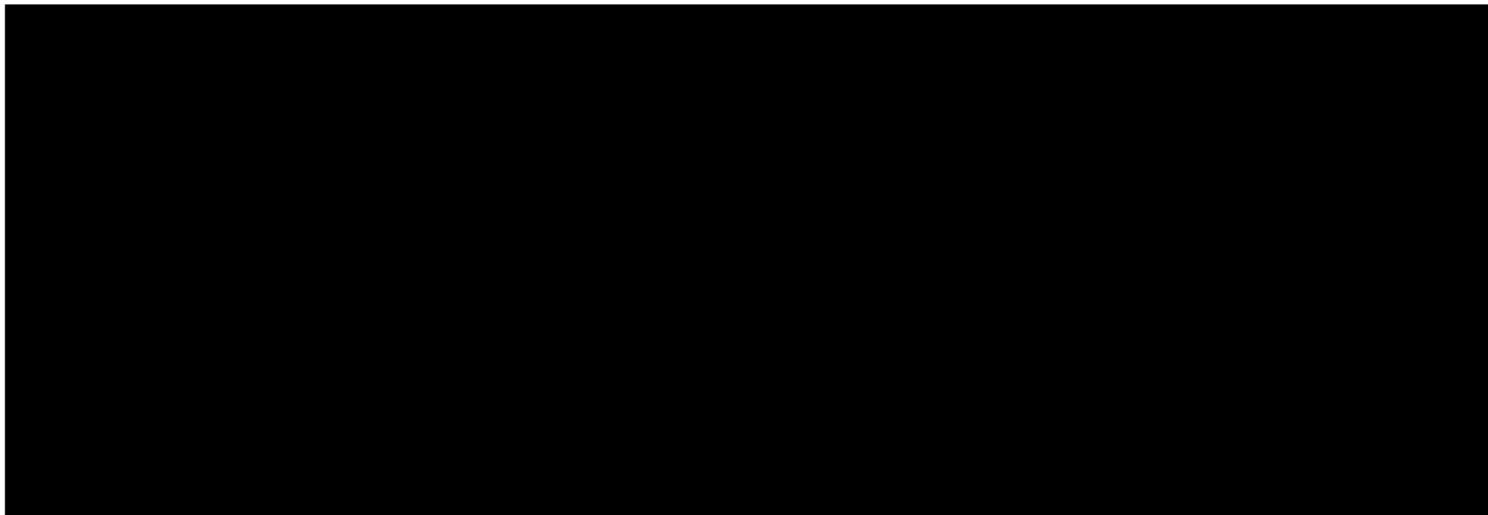
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**Subject:** FW: Yost blocking ORC Democrats from independent counsel?

**Date:** Wed, 26 Jan 2022 19:38:44 -0500

**Importance:** Normal



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**From:** Bethany McCorkle <Bethany.McCorkle@OhioAGO.gov>

**To:** Shawn Busken <Shawn.Busken@OhioAGO.gov>

**Subject:** FW: Yost blocking ORC Democrats from independent counsel?

**Date:** Wed, 26 Jan 2022 19:16:54 -0500

**Importance:** Normal

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**From:** Jake Zuckerman <[jzuckerman@ohiocapitaljournal.com](mailto:jzuckerman@ohiocapitaljournal.com)>

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