

IN THE SUPREME COURT OF FLORIDA

THE LEAGUE OF WOMEN VOTERS  
OF FLORIDA, INC., *et al.*,

Appellants,

v.

KEN DETZNER, in his official capacity  
as Florida Secretary of State, *et al.*,

Appellees.

Case No. SC14-1905  
L.T. Case No. 1D14-3953  
L.T. Case No. 2012-CA-000412  
L.T. Case No. 2012-CA-000490

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**MOTION OF CONGRESSMAN DANIEL WEBSTER REPRESENTING  
FLORIDA’S TENTH CONGRESSIONAL DISTRICT TO INTERVENE AS  
PETITIONER**

Proposed Intervenor Congressman Daniel Webster (“**Congressman Webster**”), Representative for Florida’s Tenth Congressional District, through undersigned counsel hereby requests that this Court enter an Order permitting him to intervene in the above-captioned case as a Petitioner.

Congressman Webster recognizes that generally intervention is not authorized at the appellate level. *Tallahassee Democrat, Inc. v. O’Grady*, 421 So.2d 58 (1st DCA 1982)(considering proposed intervenor’s arguments on the merits in spite of not permitting appellate intervention). However, this is an extraordinary case. The Congressional District of a sitting United States Congressman is being transmuted into a majority minority district in which he stands no chance of re-election, and he has, to date, not been permitted “a seat at

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the table.” None of the parties currently before this Court have raised any issues regarding District 10. In fact, District 10 is virtually identical in all of their Proposed Remedial Plans. The currently Proposed District 10 has not been reviewed with any degree of judicial scrutiny, in spite of this Court’s findings as to prior District 10 maps. The trial court below, in reaching the October 9, 2015 Order currently before this Court, does not subject District 10 to constitutional scrutiny.

Ordinarily, redrawing the Congressional Districts is a matter for the Legislature. The nature of this case and the Fair District Amendments have created a unique judicial procedure. As in other electoral matters, the jurisdiction of the Courts in this arena is certainly one of equity. *Foulkes v. Hays*, 537 P.2d 777 (Wash. 1975); *People ex rel. Salazar v. Davidson*, 79 P. 3d 1221, 1232 (Colo. 2003). The unique judicial procedure includes this Court sifting through the trial court’s recommendations to propose new Congressional Districts.

One of the fundamental maxims of equity is: Equity will not suffer a wrong to be without a remedy. Snell’s Principles of Equity 24 (Robert Megarry & P.V. Baker, eds., 27th ed. 1973). Equity would require that all interests be heard on this issue, especially that of a sitting United States Congressman about to be radically impacted.

On July 9, 2015, this Court issued an opinion affirming the lower court's ruling that the Legislature's 2012 congressional redistricting plan was drawn in violation of the Florida Constitution's prohibition on partisan intent. *The League of Women Voters of Florida v. Detzner*, ---So.2d---, 2015 WL 4130852, at \* 2 (Fla. July 9, 2015)(“**Detzner II**”). This Court specifically found that Congressman Webster's District—District 10—was unconstitutional. *Id.* at \*27. This Court ordered the Redistricting Plan to be redrawn to correct certain Congressional Districts and relinquished jurisdiction to the trial court for a limited period of 100 days. *Id.* at \*47. While this Court did give specific instructions for the Legislature as to Districts 5, 13, 14, 21, 22, 25, 26 and 27, and in spite of this Court's finding of unconstitutionality, this Court did not give specific instructions regarding District 10's redrawing. *Id.* at \*44. This Court ordered a remand to the trial court for further proceedings on an expedited schedule in accordance with this Court's instructions. The trial court scheduled and conducted hearings on the Proposed Remedial Plans filed by the parties currently before this Court. Prior to the hearing, Congressman Webster filed a motion to intervene as a plaintiff in the proceedings. The trial court denied Congressman Webster's motion to intervene on the first day of hearings.

District 10 is virtually identical in all of the Proposed Remedial Plans. The Proposed Remedial District 10 is a radical departure from the history of the

District. Proposed District 10 has now become a majority minority district. The Proposed District 10 does not adhere to tier-two standards or comport with the Fair District Amendments.

Congressman Webster seeks to intervene for the purpose of challenging the Proposed Remedial Plans for District 10 as unconstitutional because they fail to comply with Art. III, § 20's tier-one requirements for having been drawn with the intent to disfavor a political party or incumbent. In addition, Congressman Webster seeks to intervene for the purpose of challenging the Proposed Remedial Plans for District 10 as unconstitutional because they do not adhere to Art. III, § 20's tier-two requirements of compactness and utilization of political and geographic boundaries. Tier-two mandates direct the Legislature to draw districts utilizing existing political boundaries including "cities and counties" and geographical boundaries including "rivers, railways, interstates and state roads." *Romo v. Detzner*, 2014 WL 3797315, at \*9 (Fla. Cir. Ct. July 10, 2014) ("**Detzner I**").

District 10 in the Proposed Remedial Plans does not adhere to the tier-two standards because it does not follow traditional political boundaries by failing to keep the city of Orlando whole. "The goal of keeping cities and counties whole is laudable and required where 'feasible'". *Detzner I*, 2014 WL 3797315, at \*17, fn. 14, citing *Re: Senate Joint Resolution of Legislative Apportionment 1176*, 83

So.3d 597, 597 (Fla. 2012) (“**Apportionment I**”). Splitting a large city is particularly suspect of prohibited intent to disfavor the Republican Party and the incumbent of District 10. The District must be redrawn to ensure both tier-one and tier-two requirements are satisfied with the city of Orlando intact and a neutral district.

There is no question that Congressman Webster has a legally-cognizable interest in the instant case before this Court. In *Johnson v. Mortham*, 915 F. Supp. 1529, 1538 (N.D. Fla. 1995), the Court found that, “[e]lected officials have personal interests in their office sufficient to give them standing when the district they represent is subject to a constitutional challenge.” *Id. citing League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 884 F.2d 185, 188 (5th Cir. 1989); *Williams v. State Bd. of Elections*, 696 F. Supp. 563, 1569-73 (N.D. Ill. 1988).

This Court previously recognized specific findings as to Congressman Webster. This Court recounted that the Deputy Chief of Staff for the then-speaker Dean Cannon and a consultant who worked with several Republican legislators and candidates, including then-speaker Cannon, “communicate[d] about the political performance of the maps”, and the trial court expressed concern “that the draft of a Central Florida district occupied by incumbent Republican Representative Daniel Webster was ‘a bit messed up.’” *Detzner II*, 2015 WL

4130852, at \*12. In the trial court's Final Judgment entered on July 10, 2014, the trial court found that District 10 was drawn to benefit the Republican Party and the incumbent Representative Webster by "returning to District 10 territory that was part of his benchmark District 8 and improved the Republican performance of District 10 in two out of the three elections relied upon by the Florida Supreme Court in *Apportionment I.*" *Detzner I*, 2014 WL 3797315, at \*17.

The issues that the Congressman seeks to raise, that is, the unconstitutionality of the Proposed Remedial Plans as to District 10, are encompassed by the present controversy between the parties to this current appeal. *See, e.g., Union Cent. Life Ins. Co. v. Carlisle*, 593 So.2d 505, 507 (Fla. 1992)(intervention should be granted where the parties' interests are "of such a direct and immediate character that the intervenor will gain or lose by the direct legal operation and effect of the judgment. In other words, the interest must be that created by a claim to the demand in suit or some part thereof . . . which is the subject of the litigation.") The Proposed Remedial Plans are specifically intended to disfavor Congressman Webster as the incumbent in District 10. Without intervention, the Congressman's interest would not be adequately represented by the current parties who are either unable or unwilling to demonstrate the intent behind Proposed Remedial Plans disfavor the incumbent and the Republican Party. Without intervention, Congressman Webster will "either gain or lose by the

direct legal operation and effect of the judgment” entered in this case.

Congressman Webster recognizes the time sensitive nature of this Court’s task in Congressional redistricting. However, significant interests cannot go unnoticed simply because of a desire to get this done quickly. This Court has already extended its own deadlines in order to accommodate the Florida House Session. Permitting intervention in this case can be accomplished without any delay.

WHEREFORE, Congressman Webster would request that this Court permit his intervention in this matter as a Petitioner. Congressman Webster would also request that this Court fix a short deadline for the filing of a brief before this Court. Lastly, Congressman Webster would request that this Court permit him a small allotment of time to participate at the oral argument of this case.

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been sent by Electronic Mail this 22nd day of October, 2015, to each of the following parties on the attached service list.

/s/Isaac R. Ruiz-Carus, Esq.

**James L. Wilkes, II, Esq.**

Florida Bar No. 040533

**Isaac R. Ruiz-Carus, Esq.**

Florida Bar No. 0017004

**WILKES & McHUGH, P.A.**

One N. Dale Mabry Hwy., #800

Tampa, FL 33609

Phone (813) 873-0026

Fax (813) 286-8820

E-Mail:

[Jimw@wilkesmchugh.com](mailto:Jimw@wilkesmchugh.com)

[Iruiz-carus@wilkesmchugh.com](mailto:Iruiz-carus@wilkesmchugh.com)

[fl@wilkesmchugh.com](mailto:fl@wilkesmchugh.com)

*Counsel for Proposed Petitioner*

*Congressman Daniel Webster*

**CERTIFICATE OF COMPLIANCE**

I **HEREBY CERTIFY** that the foregoing complies with the Florida Rules of Appellate Procedure 9.210.

/s/ Isaac R. Ruiz-Carus, Esq.

**Isaac R. Ruiz-Carus, Esq.**



## SERVICE LIST

<p>Abha Khanna Kevin J. Hamilton Ryan Spear Perkins Coie, LLP 1201 Third Avenue, Ste. 4800 Seattle, WA 98101-3099 Telephone (206) 359-8000 <a href="mailto:Akhanna@perkinscoie.com">Akhanna@perkinscoie.com</a> <a href="mailto:Khamilton@perkinscoie.com">Khamilton@perkinscoie.com</a> <a href="mailto:Rspear@perkinscoie.com">Rspear@perkinscoie.com</a></p>	<p>John M. Devaney Mark Erik Elias Elizabeth C. Frost Perkins Coie, LLP 700 Thirteenth Street, NW, Suite 700 Washington, D.C. 20005 Telephone (202) 654-6200 <a href="mailto:jdevaney@perkinscoie.com">jdevaney@perkinscoie.com</a> <a href="mailto:melias@perkinscoie.com">melias@perkinscoie.com</a> <a href="mailto:efrost@perkinscoie.com">efrost@perkinscoie.com</a></p>
<p>Mark Herron Robert Telfer Angelina Perez Messer, Caparello &amp; Self, P.A. PO Box 1876 Tallahassee, FL 32302-1876 Telephone (850) 222-0720 <a href="mailto:mherron@lawfla.com">mherron@lawfla.com</a> <a href="mailto:rtelfer@lawfla.com">rtelfer@lawfla.com</a> <a href="mailto:aperez@lawfla.com">aperez@lawfla.com</a> <a href="mailto:statecourtpleadings@lawfla.com">statecourtpleadings@lawfla.com</a></p>	

*Attorneys for Appellants, Rene Romo, Benjamin Weaver, William Everett Warinner, Jessica Barrett, June Kenner, Richard Quinn Boylan and Bonita Agan*

<p>David B. King  Thomas A. Zehnder  Frederick S. Wermuth  Vincent Falcone III  King Blackwell Zehnder Wermuth, P.A.  25 E. Pine Street  Orlando, FL 32802  Telephone (407) 422-2472  <a href="mailto:dking@kbzwlaw.com">dking@kbzwlaw.com</a>  <a href="mailto:tzehnder@kbzwlaw.com">tzehnder@kbzwlaw.com</a>  <a href="mailto:fwermuth@kbzwlaw.com">fwermuth@kbzwlaw.com</a>  <a href="mailto:vfalcone@kbzwlaw.com">vfalcone@kbzwlaw.com</a></p>	<p>John S. Mills  Andrew D. Manko  Courtney Brewer  The Mills Firm, P.A.  203 N. Gadsden Street, Suite 1A  Tallahassee, FL 32301  Telephone (850)765-0897  <a href="mailto:jmills@mills-appeals.com">jmills@mills-appeals.com</a>  <a href="mailto:amanko@mills-appeals.com">amanko@mills-appeals.com</a>  <a href="mailto:cbrewer@mills-appeals.com">cbrewer@mills-appeals.com</a>  <a href="mailto:service@mills-appeals.com">service@mills-appeals.com</a></p>
<p>Jessica Ring Amunson  Paul Smith  Michael B. DeSanctis  Kristen M. Rogers  Christopher Deal  Jenner &amp; Block, LLP  1099 New York Ave., NW Ste. 900  Washington, D.C. 2001-4412  Telephone (202) 639-6023  <a href="mailto:jamunson@jenner.com">jamunson@jenner.com</a>  <a href="mailto:psmith@jenner.com">psmith@jenner.com</a>  <a href="mailto:mdesantctis@jenner.com">mdesantctis@jenner.com</a>  <a href="mailto:krogers@jenner.com">krogers@jenner.com</a>  <a href="mailto:cdeal@jenner.com">cdeal@jenner.com</a></p>	<p>Ronald Meyer  Lynn Hearn  Meyer, Brooks, Demma &amp; Blohm, P.A.  131 North Gadsden Street  PO. Box 1547 (32302)  Tallahassee, FL 32301  Telephone (850) 878-5212  <a href="mailto:rmeyer@meyerbrookslaw.com">rmeyer@meyerbrookslaw.com</a>  <a href="mailto:lhearn@meyerbrookslaw.com">lhearn@meyerbrookslaw.com</a></p>
<p>J. Gerald Hebert  191 Somerville Street, #405  Alexandria, VA 22304  Telephone (703) 628-4673  <a href="mailto:Herbert@voterlaw.com">Herbert@voterlaw.com</a></p>	<p>Gerald E. Greenberg  Adam M. Schachter  Gelber Schachter &amp; Greenberg, P.A.  1441 Brickell Avenue, Ste. 1420  Miami, FL 33131  Telephone (305) 728-0950  <a href="mailto:ggrenberg@gsgpa.com">ggrenberg@gsgpa.com</a>  <a href="mailto:aschachter@gsgpa.com">aschachter@gsgpa.com</a></p>

*Attorneys for Appellants, The League of Women Voters of Florida, Common Cause, Brenda Ann Holt, Roland Sanchez-Medina Jr., J. Steele Olmstead and Robert Allen Schaeffer*

<p>Raoul G. Cantero  Jason N. Zakia  Jesse L. Green  White &amp; Case LLP  Southeast Financial Center  200 S. Biscayne Blvd, Suite 4900  Miami, FL 33131-2352  Telephone (305) 371-2700  <a href="mailto:rcantero@whitecase.com">rcantero@whitecase.com</a>  <a href="mailto:jzakia@whitecase.com">jzakia@whitecase.com</a>  <a href="mailto:jgreen@whitecase.com">jgreen@whitecase.com</a></p>	<p>George T. Levesque  General Counsel, The Florida Senate  305 Senate Office Building  404 South Monroe Street  Tallahassee, FL 32399-1100  Telephone (850) 487-5237  <a href="mailto:Levesque.george@flsenate.gov">Levesque.george@flsenate.gov</a></p>
<p>Michael A. Carvin  Louis K. Fisher  Jones Day  51 Louisiana Avenue, NW  Washington, D.C. 20001  Telephone (202) 879-7643  <a href="mailto:macarvin@jonesday.com">macarvin@jonesday.com</a>  <a href="mailto:lkipfisher@jonesday.com">lkipfisher@jonesday.com</a></p>	

*Attorneys for Appellees, the Florida Senate and President Andy Gardiner*

<p>Charles T. Wells  George N. Meros, Jr.  Jason L. Unger  Andy Bardos  Gray Robinson, P.A.  PO Box 11189  Tallahassee, FL 32302  Telephone (850) 577-9090  <a href="mailto:Charles.wells@gray-robinson.com">Charles.wells@gray-robinson.com</a>  <a href="mailto:George.meros@gray-robinson.com">George.meros@gray-robinson.com</a>  <a href="mailto:Jason.unger@gray-robinson.com">Jason.unger@gray-robinson.com</a>  <a href="mailto:Andy.bardos@gray-robinson.com">Andy.bardos@gray-robinson.com</a></p>	<p>Matthew J. Carson, General Counsel  Florida House of Representatives  422 The Capitol  402 South Monroe Street  Tallahassee, FL 32399-1300  <a href="mailto:Matthew.carson@myfloridahouse.gov">Matthew.carson@myfloridahouse.gov</a></p>
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*Attorneys for Appellees, the Florida House of Representatives and Speaker Steve Crisafulli*

<p>Victor L. Goode  Dorcas R. Gilmore  NAACP  4805 Mt. Hope Drive  Baltimore, MD 21215-3297  Telephone (410) 580-5790  <a href="mailto:vgoode@naacpnet.org">vgoode@naacpnet.org</a>  <a href="mailto:dgilmore@naacpnet.org">dgilmore@naacpnet.org</a></p>	<p>Allison J. Riggs  Anita S. Earls  George Eppsteiner  Southern Coalition for Social Justice  1415 West Highway 54, Ste. 101  Durham, NC 27707  Telephone (919) 323-3380  <a href="mailto:Allison@southerncoalition.org">Allison@southerncoalition.org</a>  <a href="mailto:George@southerncoalition.org">George@southerncoalition.org</a></p>
<p>Nancy Abudu  ACLU Foundation of Florida  4500 Biscayne Blvd., Ste. 340  Miami, FL 33137  Telephone (786) 363-2700  <a href="mailto:nabudu@aclufl.org">nabudu@aclufl.org</a></p>	

*Attorneys for Appellee, the Florida State Conference of NAACP Branches*

<p>J. Andrew Atkinson  Florida Department of State  R.A. Gray Building  500 S. Bronough Street  Tallahassee, FL 32399  Telephone (850) 245-6536  <a href="mailto:jandrew.atkinson@dos.myflorida.com">jandrew.atkinson@dos.myflorida.com</a>  <i>Attorneys for Appellee Ken Detzner, in his Official Capacity as Florida Secretary of State</i></p>	<p>Martha A. Pardo  LatinoJustice PRLDEF  523 West Colonial Drive  Orlando, FL 32804  Telephone (321) 418-6354  <a href="mailto:mpardo@latinojustice.org">mpardo@latinojustice.org</a>  <i>Counsel for Amici Curiae LatinoJustice PRLDEF, Florida NewMajority and Mi Familia Vota</i></p>
<p>Blaine H. Winship  Office of the Attorney General  Capitol P1-01  Tallahassee, FL 32399-1050  Telephone (850) 414-3300  <a href="mailto:Blaine.winship@myfloridalegal.com">Blaine.winship@myfloridalegal.com</a>  <i>Attorney for Appellee Pam Bondi, in her capacity as Florida Attorney General</i></p>	