

# **Exhibit A**

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

MICHAEL GONIDAKIS, MARY PARKER,  
MARGARET CONDITT, BETH  
VANDERKOOI, LINDA SMITH,  
DELBERT DUDUIT, THOMAS W. KIDD,  
JR., and DUCIA HAMM,

Plaintiffs,

THE OHIO ORGANIZING  
COLLABORATIVE, COUNCIL ON  
AMERICAN-ISLAMIC RELATIONS,  
OHIO, OHIO ENVIRONMENTAL  
COUNCIL, SAMUEL GRESHAM JR.,  
AHMAD ABOUKAR, MIKAYLA LEE,  
PRENTISS HANEY, PIERRETTE TALLEY,  
and CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity as  
Ohio Secretary of State,

Defendant.

Case No. 2:22-cv-00773

Judge Algenon L. Marbley

Magistrate Judge Elizabeth Preston Deavers

[Three-Judge District Court Requested]<sup>1</sup>

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**COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

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1. Plaintiffs the Ohio Organizing Collaborative (the “OOC”), Council on American-Islamic Relations, Ohio (“CAIR-Ohio”), Ohio Environmental Council (“OEC”), Samuel

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<sup>1</sup> While the claims at issue in this case would require a three-judge court to adjudicate, convening a three-judge court would be premature at this stage because this case should be stayed until the proceedings in the state court are complete. On February 24, 2022, the Commission adopted a new plan by a 4-3 vote, and the Ohio Supreme Court has not had an opportunity to review objections to that plan, if any. Because the redistricting proceedings and related litigation in the state court are not complete, the Court should not appoint a three-judge court at this time.

Gresham Jr., Ahmad Aboukar, Mikayla Lee, Prentiss Haney, Pierrette Talley, and Crystal Bryant (collectively, the “OOC Petitioners”), by and through their undersigned counsel, file this Complaint for Injunctive and Declaratory Relief against defendant Frank LaRose, in his official capacity as Ohio Secretary of State.

2. In this action, the Gonidakis Plaintiffs have asked this Court to adopt a General Assembly district plan that the Ohio Supreme Court has already declared invalid and unconstitutional. This extraordinary request is plainly premature, and even if it were not, this Court may not grant it. The OOC Petitioners have therefore moved to intervene to ask this Court to stay this case until redistricting proceedings before the Ohio Redistricting Commission and related litigation are complete. If, and only if, those proceedings conclude without the adoption of a valid General Assembly district plan and litigation in this Court must proceed, this Court should convene a three-judge panel and order the defendant Secretary of State to implement and use a General Assembly district plan that complies with both federal and state law. In the meantime, this case should be stayed.

3. Plaintiff-Intervenors are Ohio organizations and voters who are parties to ongoing litigation before Ohio Supreme Court concerning the validity of General Assembly district plans adopted by the Ohio Redistricting Commission in 2021 and 2022. *See The Ohio Organizing Collaborative et al. v. Ohio Redistricting Commission et al.*, No. 2021-1210. On February 24, 2022, the Ohio Redistricting Commission adopted a third plan, after the Ohio Supreme Court declared its earlier two General Assembly district plans to be invalid. The Ohio Supreme Court has not reviewed the third plan enacted on February 24. Thus, the Ohio proceedings are continuing and this case should be stayed.

4. If the Ohio redistricting process should conclude without any valid district plan, a scenario which has not yet occurred, then the OOC Petitioners and other voters would be left with no General Assembly districts or, alternatively, the districts that the Ohio Apportionment Board approved in 2011 (the “2011 Plan”). Either result, if it came to pass, would be unconstitutional because the State must have districts for candidates and voters to run and cast their votes, respectively, and because the 2011 Plan is malapportioned and cannot be used.

### **JURISDICTION AND VENUE**

5. This Court has original jurisdiction over the subject matter of this action pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States and involve the assertion of a deprivation, under color of state law, of a right under the Constitution of the United States. This Court has the authority to enter a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, and authority to enter injunctive relief under Federal Rule of Civil Procedure 65.

6. This Court has personal jurisdiction over the Defendant, who is sued in his official capacity and resides within this State.

7. Venue in this district is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims in this case occurred in this judicial district.

### **PARTIES**

#### **A. Plaintiffs**

8. The OOC is a nonprofit organization incorporated in Ohio with a multi-pronged mission of organizing everyday Ohioans to build transformative power for racial, social, and economic justice. It is organized and existing under Ohio law, with its principal place of business

at 25 E Boardman Street, Youngstown, OH 44503. The OOC is made up of four grassroots organizing membership projects and dozens of campaigns that span a broad range of leaders, communities, and issues, including college students, people of faith, people directly impacted by mass incarceration, unemployed workers, care providers and the families they serve, and people working in the care economy. The OOC has five current members on its Board of Directors, all of whom, on information and belief, are registered Ohio voters. It also has hundreds of members concentrated in Columbus, Cleveland, Dayton, and Cincinnati and thousands of supporters and volunteers in almost every metropolitan area across the State.

9. One of the OOC's state and local priorities is structural democracy reform, which it pursues through grassroots community organizing, large scale civic engagement, and strategic communication. Its non-partisan voter engagement program, for example, has registered hundreds of thousands of Ohioans to vote. The OOC is especially focused on engaging young voters and voters of color in the democratic process. And, over the past few years, the OOC helped to drive community organizing and public engagement strategies during the redistricting process to ensure that Ohio would get a fair map outcome. The OOC convened a nonpartisan citizens commission which modeled a thorough and robust community engagement process to produce constitutional, fair, and proportional maps within deadlines set out in Ohio's constitution. During the community information gathering process, the Ohio Citizens' Redistricting Commission engaged thousands of people, with a particular focus on uplifting the voices of Black, brown, and immigrant Ohioans. Members, officers, and volunteers of the OOC regularly engage with state lawmakers to advance their agenda of economic and racial justice and structural democracy reform.

10. The malapportioned 2011 Plan, if implemented for this election cycle, would directly impair the OOC's mission of encouraging civic engagement and fair districts. The 2011 Plan would deter and discourage its members and partners, along with other Ohio voters, from engaging in the political process, which, in turn, makes it more difficult for the OOC to engage voters through its registration and outreach efforts. The plan likewise would hamper the OOC's ability to advance a legislative agenda focused on policies that help improve economic, social, educational, and health outcomes for its members. These burdens would require the OOC to dedicate additional staff and resources to advance its goals. In addition, the OOC's concerns about the prospect of a gerrymandered or malapportioned General Assembly district plan has forced it during 2021 to divert time and resources to an advocacy campaign for fair districts. The OOC hired two dedicated employees and spent additional staff time to focus on redistricting in 2021, in order to ensure fair maps and a fair opportunity to advance its legislative agenda in the decade to come. Any malapportioned plan would require OOC to continue to divert time and resources to advocacy for fair districts and fair redistricting going forward.

11. The OOC is suing on its own behalf and on behalf of its members who are registered voters in Ohio.

12. CAIR-Ohio is the largest advocacy and civil rights organization for Muslims in the Midwest. Founded in 1998 in Columbus, Ohio, CAIR-Ohio is an affiliate of the Council on American-Islamic Relations, a nonprofit, grassroots national civil rights organization. CAIR-Ohio has three offices in Ohio: one in Columbus, one in Cincinnati, and one in Cleveland. It is a nonpartisan not-for-profit corporation organized and existing under Ohio law, with its principal place of business at 4985 Cemetery Road, Hilliard, OH 43026.

13. CAIR-Ohio's mission is to protect civil liberties, empower American Muslims, and build coalitions that promote justice and mutual understanding. It advances its mission through civic engagement, legislative advocacy at the local, state, and federal level, education, media relations, and legal advocacy. CAIR-Ohio's civic engagement and advocacy efforts include programs throughout the year to facilitate opportunities for Ohio Muslims to engage with elected officials and advocate for legislation that aims to preserve and expand voting rights, strengthen the political system for marginalized communities, protect civil liberties, and promote social justice. CAIR-Ohio also has a robust non-partisan voter mobilization program including voter registration drives, voter guides, candidate forums, phone banks, and get-out-the-vote events. As part of this program, CAIR-Ohio provides education on voter ID laws, early voting opportunities, and changes to the voting process.

14. CAIR-Ohio seeks to empower Ohio Muslims through voter registration drives, candidate forums, and civic engagement education. As a minority group, Ohio Muslims are sorely underrepresented in the political sphere, and this obstacle is compounded through malapportionment. With representatives who do not reflect the values of their respective communities, Muslim voters become apathetic towards policy advocacy and civic engagement efforts. Individual elected officials in safe non-competitive districts will feel no obligation to be responsive to the needs of their Muslim constituents, creating dissonance between communities and those who are meant to serve them. This negatively impacts the willingness of the community to be civically engaged as their efforts are often dismissed. Furthermore, these sentiments make it increasingly difficult for CAIR-Ohio to carry out its mission.

15. The OEC is a nonpartisan, not-for-profit corporation organized and existing under Ohio law, with its principal place of business at 1145 Chesapeake Avenue, Suite I, Columbus,

OH 43212. The OEC is an environmental justice organization whose mission is to secure healthy air, land, and water for all who call Ohio home. The OEC works for pragmatic solutions to keep Ohio clean and beautiful, and its communities safe. It fights for clean air and water, clean energy, and protected public lands. It holds polluters accountable in court while working with communities and companies that want to invest in a clean, more sustainable direction. For more than 50 years, the OEC has led many of the major environmental policy wins in Ohio.

16. One of the four pillars of the OEC's work is safeguarding the integrity and accessibility of Ohio's democracy, recognizing that civic engagement is critical in securing long-term environmental protections. The OEC advocates on behalf of a healthy democracy, because without a healthy democracy, it cannot create policies that benefit the people of Ohio and ensure clean water, vibrant public lands, renewable energy, and a stable climate. In support of this mission, the OEC advocates for fair representation and fair maps in Ohio, which help to amplify the voices of Ohioans and secure a healthy environment for the State.

17. The OEC has over 100 environmental and conservation member organizations and over 3,100 individual members, who live in 84 of Ohio's 88 counties. In the past two years, more than 5,352 individuals across the state have voluntarily taken action in furtherance of the OEC's work through calling and writing decision-makers, volunteering to support an OEC event, and assisting with organizing community members. The OEC regularly activates its members and volunteers to participate in political processes, including submitting testimony and comments to government agencies, contacting decision-makers about environmental and democracy-related issues, and attending hearings. The OEC also regularly holds educational events to inform its memberships about environmental issues impacting Ohio, the United States, and the planet. The OEC's headquarters is in Columbus, but it has regional coordinators in



Cleveland, Cincinnati, Toledo, and Youngstown. Upon information and belief, the vast majority of the OEC's members are registered voters in Ohio, and include Democrats, Republicans, and Independents.

18. The malapportioned 2011 Plan, if implemented for this election cycle, would affect the OEC's ability to educate its membership and activate them to improve Ohio's environment. Starting in 2019 and continuing through the present, the OEC has advocated for a stronger, more responsive democracy because a healthy environment is not possible without a healthy democracy, and when Ohio's districts are gerrymandered or malapportioned, it does not have a healthy democracy. Thus, the OEC is spending significant resources to educate its membership on the importance of voting rights and fair districts in response to gerrymandered or malapportioned districts. Since 2019, the OEC has funded voter registration efforts, held educational sessions on fair maps and redistricting, and educated membership and supporters directly about voting procedures for state legislative elections. A malapportioned plan perpetuates the need for continued investment in educational efforts regarding Ohio's democratic institutions. Because the plan encourages apathy and discourages voters from engaging in the democratic process, the OEC will need to expend additional resources over the next decade to continue encouraging its membership and supporters to engage in elections and other political activities and advocate for environmental issues.

19. The OEC is suing on its own behalf and on behalf of its members who are registered voters in Ohio.

20. Samuel Gresham Jr. lives at 255 Old Trail Drive, Columbus, OH 43213, which is in House district 26 and Senate district 15 in the 2011 Plan. Based on 2020 census data, both House district 26 and Senate district 16 are overpopulated by more than 5%.

21. Ahmad Aboukar lives at 5019 Noor Park Circle, Dublin, OH 43016, which is in House district 24 and Senate district 16 in the 2011 Plan. Based on 2020 census data, both House district 24 and Senate district 16 are overpopulated by more than 5%.

22. Mikayla Lee lives at 383 Oak Street, Columbus, OH 43215, which is in House district 18 and Senate district 15 in the 2011 Plan. Based on 2020 census data, both House district 18 and Senate district 15 are overpopulated by more than 5%.

23. Prentiss Haney lives at 918 Windsor Street, Cincinnati, OH 45206, which is in House district 32 and Senate district 9 in the 2011 Plan. Based on 2020 census data, House district 32 is overpopulated by more than 5%.

24. Pierrette “Petee” Talley lives at 935 Parkside Boulevard, Toledo, OH 43607, which is in House district 44 and Senate district 11 in the 2011 Plan.

25. Crystal Bryant lives at 2210 East 97th Street, Cleveland, OH 44106, which is in House district 11 and Senate district 21 in the 2011 Plan.

26. All of the organization and individual plaintiffs have devoted significant resources, including by collectively bringing litigation, to combatting efforts by the Commission and its Commissioners, including the Defendant, to enact an unfairly partisan plan in violation of Article XI of the Ohio Constitution.

27. According to 2020 census data, under the 2011 Plan, the individual Plaintiff-Intervenors’ districts, including House Districts 11, 18, 24, 26, 32 and 44, and Senate Districts 9, 11, 15, 16 and 21, are malapportioned.

**B. Defendant**

28. Defendant Secretary of State Frank LaRose is the Ohio Secretary of State and is the chief election officer in Ohio responsible for overseeing election administration pursuant to Ohio Rev. Code Ann. § 3501.04. Secretary LaRose is also a member of the Ohio Redistricting

Commission. *See* Ohio Constitution, Article XI, Section 1(A)(3). He is sued in his official capacity as Secretary of State.

### BACKGROUND

29. In 2011, the Ohio Apportionment Board drew a General Assembly district plan based on the 2010 census data and the version of the Ohio Constitution that existed before voters amended the Ohio Constitution in 2015.

30. Since 2010, as shown by the 2020 census, Ohio’s population has grown and shifted significantly. The State’s population has grown by 2.3%, with growth concentrated largely in central Ohio and entirely among communities of color. The Latino population alone grew by over 70,000 people and account for 63 percent of the statewide population growth.<sup>2</sup> As a result, the 2011 version of Ohio’s General Assembly districts now have significant variations in population. The total difference in population as between certain districts exceeds 10 percent.

31. The 2011 Plan is not only malapportioned but is also a partisan gerrymander. But when Ohio voters in 2012 sought to challenge that extreme gerrymander under Article XI, this Court ruled that Article XI, as it then existed, was of no help. “The words used in Article XI [of the Ohio Constitution],” this Court explained, “do not explicitly require political neutrality, or for that matter, politically competitive districts or representational fairness, in the apportionment board’s creation of state legislative districts.” *Wilson v. Kasich*, 134 Ohio St.3d 221, 2012-Ohio5367, 981 N.E.2d 814, ¶ 14.

32. In response to that ruling, the people of Ohio in 2015 issued a resounding declaration that partisan gerrymandering should have no place in this State. With more than 71 percent of the vote—and across party lines—Ohioans approved a constitutional amendment to

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<sup>2</sup> U.S. Census Bureau 2020 Decennial Census

end the legacy of such gerrymandering in Ohio and to encourage bipartisanship in the redistricting process. In so doing, the people instructed what is now the Ohio Redistricting Commission to attempt to adopt a General Assembly district plan under which the number of districts favoring each party is proportional to the statewide preferences of voters, and to refrain from drawing districts primarily to favor or disfavor a political party.

33. Flouting these clear constitutional commands and defying the will of the people, on September 16, 2021, just after midnight, the Ohio Redistricting Commission voted 5-2 along party lines to adopt a district plan that had the intent and effect of entrenching a veto-proof Republican supermajority in both chambers of the General Assembly for the next four years.

34. The Ohio Redistricting Commission's own analysis highlighted the brazenness of the district plan's partisan gerrymander and the bad faith of the underlying process. In a statement issued pursuant to Article XI, Section 8(C)(2) of the Ohio Constitution, the Ohio Redistricting Commission calculated that under the plan it enacted, 64.4 percent of districts favored Republicans, while the statewide proportion of voters favoring Republican candidates over the past 10 years was only 54 percent. The Ohio Redistricting Commission justified this disparity by pointing to the fact that Republican candidates won 13 of 16 statewide elections, or 81 percent of contests, during that period, asserting that the percentage of election wins is an appropriate measure of voters' statewide preferences. According to the Ohio Redistricting Commission's tortured reasoning, had Republicans won 100 percent of statewide elections over the past decade, even if only by a single vote in each instance, a plan drawn to favor Republicans to win every single seat in the General Assembly would be proportional to Ohio voters' statewide preferences.

35. The resulting plan enacted by the Ohio Redistricting Commission was intended to and had the effect of favoring and giving disproportionate political power and control over the future of Ohio to one political party and its members. For example, with a statewide average of 54 percent voter support, Republican candidates would win an estimated 64 of 99 seats in the House of Representatives, nearly two-thirds of all seats. By contrast, because of the way the Commission drew the districts, Democrats would win only 49 seats with an equivalent percentage of statewide support. In other words, under the Commission's September 2021 plan, the number of votes that would secure a veto-proof *supermajority* for Republicans would likely not be enough to obtain a simple majority for Democrats. Even some of the Commissioners who voted for the plan cast doubt on its legality. For example, Governor Mike DeWine commented, “[w]hat I am sure in my heart is that this Committee could have come up with a bill that was much more clearly, clearly constitutional, and I’m sorry we did not do that.”

36. The OOC Petitioners commenced an apportionment case against the Ohio Redistricting Commission and its members in September 2021, after the Commission adopted the General Assembly district plan that violated 2015 amendments to the Ohio Constitution. Their complaint alleged that the plan violated Sections 6(A) and 6(B) of Article XI of the Ohio Constitution, which governs redistricting. The OOC Petitioners also alleged that the plan violated Ohio's equal protection clause, and therefore also violated Article XI's provision that requires compliance with the Ohio Constitution as a redistricting standard. *See* Ohio Constitution, Article XI, Section 3(B)(2). The League of Women Voters et al. also commenced an apportionment case docketed as number 2021-1193, and another group of voters, Bria Bennett et al., commenced an apportionment case docketed as number 2021-1198.

37. On January 12, 2022, the Ohio Supreme Court ruled in favor of all the challengers (Nos. 2021-1193, 2021-1198, and 2021-1210), invalidated the plan, and ordered the Commission to adopt a new one. *See League of Women Voters of Ohio v. Ohio Redistricting Commission*, -- Ohio St. 3d--, 2022-Ohio-65.

38. In the wake of the January 12 ruling, the reconstituted Commission once again split into caucuses and delegated the map drawing to partisan actors. The Republican caucus map drawers used the unconstitutional plan as a template, tweaked it slightly, and presented a new plan that the Commission once again adopted along party lines. On January 22, 2022, the Commission approved another General Assembly district plan, after which the OOC Petitioners and other challengers filed objections to the amended plan.

39. On February 7, 2022, the Ohio Supreme Court again sided with the OOC Petitioners and again declared that the plan was invalid. The Court ordered the Commission to adopt a new plan by February 17, 2022.

40. The Commission failed to comply with the Ohio Supreme Court's order, and instead declared an "impasse" in a document filed in that court on February 18, 2022. That same day, the Gonidakis Plaintiffs commenced this action (S.D. Ohio Case No. 2:22-cv-00773).

41. The OOC Petitioners thereafter asked the Ohio Supreme Court to issue an order directing the Commission and individual commissioners to show cause why they should not be held in contempt of court for failure to comply with the order to adopt new maps.

42. On February 18, 2022, the Ohio Supreme Court filed a decision stating, "It is ordered by the court, sua sponte, that respondents show cause by filing a response with the clerk of this court no later than 12:00 p.m. on February 23, 2022, why respondents should not be found in contempt for failure to comply with this court's February 7, 2022 order."

43. On February 23, 2022, the Commission and individual respondents submitted their responses. The Commission stated that it “is continuing in its efforts to adopt a new compliant plan.” Ohio Redistricting Commission’s Response to Order to Show Cause, at 14, Nos. 2021-1193, 2021-1198, 2021-1210 (Feb. 23, 2022).

44. On February 24, 2022, the Ohio Supreme Court issued an order directing all respondents (the Ohio Redistricting Commission and its seven members) to “appear in person in this court for a hearing on March 1, 2022 at 10:00 a.m.” The Court further ordered that the “hearing will continue until the matter is heard.” The Ohio Supreme Court thus continues to manage ongoing litigation to secure compliance with its orders and ensure that the Commission adopts a new plan in compliance with the Ohio Constitution.

45. Also on February 24, 2022, after 6:00 p.m., the Commission enacted a third set of maps by a 4-3 vote. As noted, the Ohio Supreme Court has not had an opportunity to review this third plan or any objections thereto, including from the OOC Petitioners.

46. As indicated, the proceedings in the state system have not concluded. The Ohio Supreme Court may determine that the February 24 plan is valid and constitutional or, alternatively, if the Court invalidates the third plan, the Commission may yet enact a constitutional plan on its fourth try. If and only if the Commission does not adopt a new plan, then intervenors and the people of Ohio will have no valid or constitutional district plan, leaving them unable to vote under fair maps in upcoming elections for state representatives in the State of Ohio. If that occurs, this Court should convene a three-judge panel and order the Defendant to implement and use a General Assembly district plan that complies with both federal and state law.

**CLAIM FOR RELIEF**

**COUNT I**

**Violation of Equal Protection Under the First and Fourteenth Amendments of the United States Constitution and Violation of 42 U.S.C. § 1983 (*Malapportionment*)**

47. The OOC Petitioners reallege and incorporate by reference the allegations above as though fully set forth herein.

48. Under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution “seats in both houses of a bicameral state legislature must be apportioned on a population basis.” *Reynolds v. Sims*, 377 U.S. 533, 568 (1964). Under this principle, state legislative districts must be roughly equal in population. Where the total population deviation in a map—the difference between the largest and smallest district—is greater than 10%, the deviation is presumptively impermissible.

49. The 2011 district plan’s maximum deviation in each chamber of the Ohio General Assembly exceeds 10 percent, is unjustified by any state interest, and is therefore unconstitutional under the Equal Protection Clause.

**REQUEST FOR RELIEF**

WHEREFORE, the OOC Petitioners request that this Court enter the following relief against the Defendant:

A. Stay this matter until it is clear that state processes, including Ohio Supreme Court proceedings, concerning the redrawing of General Assembly districts following the 2020 Census have concluded, pursuant to the abstention principle articulated in *Grove v. Emison*, 507 U.S. 25, 34 (1993).



- B. If this matter is not resolved through Ohio’s state legislative redistricting process:
1. Declare that the 2011 Plan for Ohio’s General Assembly districts is malapportioned and therefore violates the Fourteenth Amendment to the United States Constitution;
  2. Permanently enjoin the Defendant from administering any elections for the legislature to be seated in January 2023 using the 2011 General Assembly district plan;
  3. Establish a process for implementing a new legally compliant plan for Ohio’s General Assembly districts for use beginning with the November 2022 general election and any related nominating primaries;
  4. Make such adjustments to the process for nominating candidates for election to the Ohio House of Representatives and Ohio Senate in 2022 as are necessary to allow for the process of developing a new plan to be robust and inclusive;
  5. Pursuant to Ohio Supreme Court Rule of Practice 9.01, certify to the Ohio Supreme Court the question of whether the plan or plans under consideration by this Court for Ohio’s General Assembly districts complies with the Ohio Constitution.
- C. Award the OOC Petitioners attorneys’ fees and costs in this action pursuant to 42 U.S.C. § 1988;
- D. Grant such other further relief as this Court deems just and proper.

DATED: February 24, 2022

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Respectfully submitted,

/s/ Peter M. Ellis

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*\* Pro Hac Vice Motion Forthcoming*