

NORTH CAROLINA

WAKE COUNTY

COMMON CAUSE, et al.,

Plaintiffs,

v.

REPRESENTATIVE DAVID R. LEWIS, IN
HIS OFFICIAL CAPACITY AS SENIOR
CHAIRMAN OF THE HOUSE SELECT
COMMITTEE ON REDISTRICTING, et al.,

Defendants.

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18-CVS-014001

**PLAINTIFF NORTH CAROLINA
DEMOCRATIC PARTY'S
OPPOSITION TO LEGISLATIVE
DEFENDANTS' MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS FROM
N.C. DEMOCRATIC PARTY**

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INTRODUCTION

In response to sweeping discovery requests from Legislative Defendants, the North Carolina Democratic Party (NCDP) timely produced 6,176 documents totaling 39,343 pages, at enormous cost. The NCDP's massive document production included sensitive district-by-district analytics possessed by the NCDP, including proprietary projections of the expected Democratic performance for each and every state House and state Senate district. The NCDP produced these analytics a month and a half ago, on April 1, and they are fully responsive to the request for production at issue in the instant motion.

But now, weeks after the close of written fact discovery, as part of an ongoing effort to abuse the discovery process in this case to hunt for proprietary political intelligence, Legislative Defendants seek to compel production of extraordinarily sensitive political data that is irrelevant to the legal issues in this case. Specifically, Legislative Defendants seek to compel production from the NCDP of "support scores," which are analytics of *individual voters* that the Democratic National Committee (DNC) generates and provides to Democratic candidates and local parties. Make no mistake: these support scores and work product derived from them are among the most sensitive political data that exist, and the demand that the NCDP turn this data over to its political rivals is a patent attempt to misuse the discovery process for political gain.

Of central importance here, the NCDP does not have legal authority to produce this data. The support scores are maintained in a DNC-hosted database over which the NCDP does not have possession, custody, or control, and the NCDP's legal agreement with the DNC to access this data precludes the NCDP from producing any work product reflecting or compiling the data. Indeed, Legislative Defendants fail to disclose in their motion to compel that they have issued a

third-party subpoena seeking the same information from the DNC itself, and they recently filed a motion in the Superior Court of the District of Columbia seeking to enforce that subpoena.

Beyond the NCDP's lack of legal authority to produce the requested information, Legislative Defendants' motion to compel independently should be denied because their request is grossly disproportionate to the needs of this case—especially in light of the extensive information NCDP has already produced—and because it is not reasonably likely to lead to the discovery of information relevant to this case. The NCDP does *not* use support scores to assess a district's overall partisan leanings or competitiveness; rather, the scores are used primarily for outreach by Democratic campaigns to individual voters. Unsurprisingly, then, Plaintiffs do not intend to rely upon the support scores or any related data to advance their partisan gerrymandering claims in this case, and Legislative Defendants have not articulated how they would use support scores or related data in aid of any of their defenses either. In all events, the information sought by Legislative Defendants is protected by the NCDP's First Amendment associational privilege. Legislative Defendants have not come close to meeting their heightened burden of showing that the information is “highly relevant” to this case, as they must in the face of a legitimate First Amendment privilege assertion.

Legislative Defendants' own misconduct in discovery in this case further undermines their request that the NCDP conduct a further burdensome search and produce some of the nation's most sensitive, proprietary political data. For months, Legislative Defendants have consistently stonewalled Plaintiffs' discovery requests. As of this filing, Legislative Defendants have produced barely a handful of substantive, non-public documents. For its part, the North Carolina Republican Party did not respond at all to Plaintiffs' third-party subpoena, and as of this

filing still has not produced a single document—not one. Against this backdrop, Legislative Defendants’ motion to compel should be denied.

FACTUAL BACKGROUND

Legislative Defendants did not serve discovery requests on Plaintiffs until February 15, 2019, three months after Plaintiffs filed this action and moved to expedite the proceedings. Also on February 15, the parties stipulated to a case schedule that set a deadline of April 17 to complete all written fact discovery. The NCDP completed its discovery responses by that deadline. In all, NCDP produced 6,176 documents totaling 39,343 pages between April 1 and April 17.

The very first set of documents that NCDP produced, on April 1, were “district snapshots” of every state House and state Senate district. These district snapshots contain district-level information collected by the NCDP, including demographic information on registered voters within the district and the percentage of the vote that Democratic candidates received in the district in recent statewide elections. *See, e.g.*, Ex. B. In addition, the snapshots contain estimates of the expected Democratic performance in the relevant state House or state Senate district for the 2018 elections, as measured by a proprietary metric known as the “Democratic Performance Index” or “DPI.” *Id.* The NCDP also produced a spreadsheet containing information on campaign contributions and expenditures for each state legislative race in the 2018 election cycle. *See* Legislative Defs.’ Mot., Ex. 3 at 3.

The district snapshots and campaign expenditure reports produced by the NCDP were directly responsive to the request for production at issue here, Request No. 12 from Legislative Defendants’ first set of requests for production. That request sought documents “containing

District-by-District Analytics Reports, DNC Support Scores, and/or similar or related analyses for any North Carolina Legislative Districts.” Legislative Defs.’ Mot., Ex. 2 at 22.

On April 22, almost a week after the close of written fact discovery, Legislative Defendants sent Plaintiffs an e-mail inquiring whether “Support Scores or some similar analytics exist for the districts at issue in this case or the voters who live in those districts,” and whether the NCDP would produce them. Legislative Defs.’ Mot., Ex. 3 (4/26/19 e-mail from McKnight to counsel). At a meet and confer two days later, the NCDP explained that the “support scores” are generated by the DNC and maintained in a database known as the “Voter Activation Network” or “VAN” that is owned and controlled by the DNC, not the NCDP. The NCDP explained that it does not have legal possession, custody, or control over the VAN database, and that the NCDP’s legal agreement with the DNC concerning access to the database also precludes the NCDP from turning over derivative work product that reflects support scores. Legislative Defendants waited until May 7, a full two weeks after the NCDP made its position clear at the meet and confer, to file the instant motion to compel.

In the meantime, Legislative Defendants have sought the same information from the DNC. On March 8, 2019, Legislative Defendants served a third-party subpoena on the DNC seeking, among many other things, “[a]ll documents in [the DNC’s] possession, custody, or control containing District-by-District Analytics Reports, Analysis of Competitiveness, Analysis comparing districts drawn in 2011 and 2017, DNC Support Scores, and/or similar or related analyses for any North Carolina Legislative District.” Ex. C at Exhibit B, Request No. 15. On May 3, 2019, Legislative Defendants filed a motion in the D.C. Superior Court seeking to compel the DNC to produce such materials. *See id.* As of now, that motion remands pending.

ARGUMENT

The North Carolina Rules of Civil Procedure generally allow parties to obtain discovery of information that is within the “possession, custody, or control” of another party and that is “reasonably calculated to lead to the discovery of admissible evidence.” N.C. R. Civ. P. 26(a), 34. The Rules also provide, however, that discovery “shall be limited by the court” in the event that “(i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties’ resources, and the importance of the issues at stake in the litigation.” N.C. R. Civ. P. 26(b)(1)-(1a). Rule 26(g) similarly requires that discovery requests must not be “interposed for any improper purpose, such as to harass,” and must not be “unreasonable or unduly burdensome or expensive, given the needs of the case [and] the discovery already had in the case.” N.C. R. Civ. P. 26(g)(2)-(3). Consistent with these limitations, Local Rule 5.1 makes clear that discovery requests must be “proportional” to the needs of the case, and that requests that are disproportional or are interposed for an improper purpose “are beyond the scope of proper discovery and are considered an impediment to the proper administration of justice.” Under these baseline principles, Legislative Defendants’ motion to compel support scores and information derived from them should be denied.

A. The NCDP Does Not Have Legal Authority to Produce Support Scores

Legislative Defendants’ motion to compel should be denied for the simple reason that the NCDP lacks legal authority to produce the requested information. As explained in the affidavit of Kimberly Reynolds attached as Exhibit A to this brief, the DNC—not the NCDP—produces,

maintains, and controls the VAN database that houses the support scores. Ex. A (Reynolds Aff.), ¶ 7. The database is not on a server owned or controlled by the NCDP, *id.*, and thus the NCDP lacks legal possession, custody, or control of the data. The NCDP, moreover, lacks authority to produce any compilations of support scores or derivative work product that reflects support scores. The relevant legal agreement between the NCDP and the DNC precludes the NCDP from disseminating support scores, and further precludes the NCDP from allowing any other entity to use information “derived in whole or in part” from support scores for any purpose not approved by the DNC. Specifically, the legal agreement contains the following prohibitions:

Section I(G): “neither the DNC nor the State Party may license, transfer, or swap the Proprietary Data of the other party, except as permitted under this Agreement or separate explicit grant.”

Section I(L): “[w]ithout the express prior written approval of the DNC, the State Party shall not give, sell, trade, rent, loan or in any way transfer any DNC Proprietary Data to any other person, organization or entity other than a state or local Democratic party committee or a Democratic candidate for federal, state or local office in the state.”

Section I(N)(2): “State Party agrees that at all times during the term of this Agreement and following termination thereof, the State Party shall not make any use, *or knowingly permit any other person or entity to make any use, of the DNC Proprietary Data and models, databases, lists or programs derived in whole or in part from such DNC Proprietary Data* for any purpose not permitted by this Agreement”

Id. ¶ 5.

Legislative Defendants identify no authority for the proposition that the Court could or should order the NCDP to produce documents in violation of its contractual obligations with a third party. *See SciGrip, Inc v. Osa*, 2015 WL 5676989, at *4 (N.C. Super. Sept. 28, 2015) (denying motion to compel discovery of a non-party corporation’s proprietary information from a former employee, even where that employee had actual possession of the information at issue).

Indeed, the NCDP not only lacks legal possession, custody, or control of the support scores, but compelling the NCDP to violate its obligations to the DNC—a national political party with which the NCDP must work to fulfill its mission—would “unduly burden[]”the NCDP’s First Amendment association rights, and therefore is contrary to Rule 26(b)(1a) for that reason as well. *See also infra* (explaining First Amendment association privilege).

The NCDP does not believe that support scores are discoverable in this case, but to the extent the support scores are properly “obtainable” at all, it is from “some other source”—the DNC. N.C. R. Civ. P. 26(b)(1a). Legislative Defendants know this, as their RFP specifically refers to this data as “DNC Support Scores.” Legislative Defs.’ Mot., Ex. 2 at 22 (emphasis added). Presumably for this reason, Legislative Defendants issued a third-party subpoena seeking the same information *from the DNC*, and have gone so far in their quest for this political intelligence that they have filed a motion in the D.C. Superior Court seeking to enforce that subpoena. Legislative Defendants should be limited to seeking relief in that forum. *See, e.g., Barger v. First Data Corp.*, No. 1:17-CV-04869-FB-LB, 2018 WL 6591883, at *9 (N.D. Ala. Dec. 14, 2018) (denying motion to compel where documents sought were “in possession of [another entity], to which Defendants have also issued a subpoena seeking the same records”).

B. The Request at Issue Is Cumulative, Disproportionate to the Needs of the Case, and Not Designed to Lead to the Discovery of Admissible Evidence

This Court should independently deny the motion to compel because Legislative Defendants’ request is cumulative, disproportionate to the needs of the case, and not designed to lead to the discovery of admissible evidence. The NCDP has already produced scores of e-mails and data about the districts at issue in this case, including the “district snapshots” that include sensitive, proprietary “DPI” scores that estimate the expected Democratic performance in each state House and Senate district. *See, e.g., Ex. B.* Accordingly, to the extent Legislative

Defendants seek information about the NCDP's analysis of the competitiveness of, and expected performance in, each district, the NCDP has already provided that information through the district snapshots. Any request for further information is "cumulative" and disproportionate "given the needs of the case [and] the discovery already had in the case," N.C. R. Civ. P. 26(b)(1a), (g)(3), particularly given that the NCDP does not even use support scores to assess a district's competitiveness. Ex. A (Reynolds Aff.), ¶ 9.

Legislative Defendants' request is further disproportionate given the enormous time, resources, and money that the NCDP has already expended in responding to Legislative Defendants' sweeping discovery requests. The NCDP and counsel worked long hours for more than a month to timely respond to Legislative Defendants' exceptionally broad discovery requests, reviewing tens of thousands of potentially responsive NCDP documents and ultimately producing 6,176 NCDP documents totaling 39,343 pages. This thorough search and production stands in stark contrast to the meager productions of Legislative Defendants, which as of this filing have provided only a handful of substantive, non-public documents. And the North Carolina Republican Party—the NCDP's political counterpart—failed to respond at all to Plaintiffs' subpoena issued months ago and still has not produced a single document. In these circumstances, the NCDP should not be compelled to dedicate additional time and resources in responding to Legislative Defendants' cumulative and unreasonable discovery demands, especially given the minimal, if any, relevance of the information sought to the legal issues in this case.

Indeed, Legislative Defendants' demand for support scores is not designed to lead to the discovery of admissible information at all. Legislative Defendants do not articulate how they would use support scores as evidence to support any defense in this case. Notably, none of

Legislative Defendants’ six expert reports analyzed or relied upon any of the data and analytics that the NCDP did produce, including the DPI estimates for each district. Plaintiffs likewise have no intention of relying on support scores or data related to support scores in support of their claims. The support scores are therefore divorced from the issues in this case, which center on whether Legislative Defendants—not the NCDP or any other Plaintiff—engaged in intentional partisan gerrymandering in drawing the challenged districts.

C. The Request at Issue Is Interposed for an Improper Purpose

Rather than seeking information relevant to the legal issues in this case, Legislative Defendants’ discovery request is patently made for an improper purpose—to hunt for sensitive political intelligence. It cannot be overstated how extraordinarily sensitive the support scores are, and how valuable they would be for a rival political party to obtain. The scores reflect analytics of *individual voters* and their partisan leanings, which the national and local Democratic Party and its candidates rely upon for voter targeting and outreach. Ex. A (Reynolds Aff.) ¶ 9. The scores are the political equivalent of the secret formula for Coca-Cola, and Legislative Defendants’ request is the political equivalent of Pepsi asking Coke to turn over its formula in discovery in a case about some ancillary issue.

Legislative Defendants’ effort to obtain this sensitive data marks the culmination of their efforts to use the discovery process in this case to gather political intelligence. In addition to their requests to the NCDP, Legislative Defendants have issued dozens of third-party subpoenas in this case to perceived political adversaries. In total, Legislative Defendants have issued third-party subpoenas to the following *twenty-four* individuals and entities:

- The DNC
- The Democratic Congressional Campaign Committee (DCCC)

- The Democratic Legislative Campaign Committee (DLCC)
- Representative Darren G. Jackson
- Representative Graig R. Meyer
- Representative Ken Goodman
- Representative Raymond e. Smith, Jr.
- Representative Yvonne Lewis Holley
- Representative Rosa U. Gill
- Representative George W. Graham, Jr.
- Senator Ben Clark
- Senator Dan Blue
- Senator Eric D. Smith
- Senator Floy B. McKissick, Jr.
- Senator Paul A. Lowe, Jr.
- Senator Jay Chaudhuri
- Senator Jeff Jackson
- Morgan Jackson (advisor to Governor Cooper)
- Dr. Kareem Crayton (Executive Director of the Southern Coalition for Social Justice)
- William Gilkeson
- Democracy North Carolina
- Democracy Project II
- Blueprint NC
- North Carolina A. Philip Randolph Institute

Legislative Defendants' campaign of harassment of its political adversaries and attempts to obtain information from them via this lawsuit reflects "a fishing or ransacking expedition which the law will not permit either by subpoena duces tecum or a bill of discovery." *Vaughan v. Broadfoot*, 267 N.C. 691, 699, 149 S.E.2d 37, 43-44 (1966). Their request here is "interposed for an[] improper purpose," and should be denied for that reason alone. N.C. R. Civ. P. 26(g)(2).

D. The Requested Information Is Privileged Under the First Amendment

Finally, the NCDP has asserted a valid First Amendment privilege over the requested information, and Legislative Defendants have not come close to meeting their burden to overcome this legitimate privilege assertion. "The First Amendment's associational privilege recognizes that . . . the right to freedom of association can outweigh the need for disclosure of information." *Ohio Org. Collaborative v. Husted*, No. 2:15-CV-01802, 2015 WL 7008530, at *3 (S.D. Ohio Nov. 12, 2015). Courts apply a two-part framework to evaluate a party's invocation of a First Amendment associational privilege to resist discovery. First, "[t]he party asserting the privilege . . . must make a prima facie showing of arguable first amendment infringement," which it can satisfy by plausibly asserting that the compelled disclosure will result in "consequences which objectively suggest an impact on, or 'chilling' of, . . . associational rights." *Democratic Nat'l Comm. v. Az. Sec'y of State's Office*, No. CV-16-01065-PHX-DLR, 2017 WL 3149914, at *1 (D. Ariz. July 25, 2017) (internal quotation marks omitted). If the party makes that prima facie showing, "the burden shifts" to the party seeking discovery, which "must show that the information sought is *highly relevant* to the claims or defenses in the litigation—a more demanding standard of relevance than under [Rule] 26(b)(1)." *Id.* (quoting *Perry v. Schwarzenegger*, 591 F.3d 1126, 1141 (9th Cir. 2009)) (emphasis added).

The NCDP has clearly made a prima facie showing that compelled disclosure of support scores and work product derived from support scores would burden its First Amendment rights. The NCDP relies upon this extraordinarily sensitive and proprietary political data in coordinating with campaigns and in targeting and communicating with voters, all in support of the NCDP's mission of working to elect Democrats to office. There can be "no doubt that the compelled disclosure of such sensitive information in the context of highly charged litigation involving issues of great political controversy would have a chilling effect on plaintiffs' freedom of association by adversely impacting their ability to organize, promote their message(s), and conduct their affairs." *Husted*, 2015 WL 7008530, at *3. The chilling effects would be particularly pronounced here given that the NCDP is provided access to this data by the DNC, a national political party with which the NCDP must work to effectively carry out its mission. If this Court were to compel production of the support scores or work product derived from them, it could jeopardize the NCDP's ability to obtain data and analytics from the DNC in the future.

The burden thus shifts to Legislative Defendants to demonstrate that "the information sought is highly relevant to the claims or defenses in the litigation." *Perry*, 591 F.3d at 1141. Legislative Defendant cannot meet that burden. They have asserted only a vague and tangential relationship between the requested information and the legal issues in this case, and they certainly have not demonstrated that the support scores are "highly relevant" to Plaintiffs' claims or Legislative Defendants' defenses. Plaintiffs "have not relied and do not plan to rely on any privileged materials" to establish their legal standing or the merits of their claims, *DNC*, 2017 WL 3149914, at *3, and Legislative Defendants and their experts have not relied on any of this type of information either.

In short, Legislative Defendants present no sufficient justification for “compelling [the NCDP] . . . to disclose its internal strategic [data] to its political rival.” *Id.* (declining to compel the Arizona Democratic Party to produce voter analytics and data in case involving Arizona Republican Party); *see also Husted*, 2015 WL 7008530, at *3-4 (denying motion to compel the DNC to produce “financial information,” “strategic plans,” and “internal and external communications”).¹

CONCLUSION

For the foregoing reasons, the Court should deny Legislative Defendants’ motion to compel, and correspondingly deny Legislative Defendants’ request for attorney’s fees and costs and to amend the Case Management Order.

¹ Any suggestion that the NCDP has waived its First Amendment privilege by filing this suit would be without merit. “Political parties and other civic organizations often are plaintiffs in constitutional . . . litigation challenging state election laws and procedures,” and “[r]equiring these types of organizations to forfeit their First Amendment associational rights in order to challenge suspect voting practices could have a chilling effect on such litigation and on the vindication of voting rights.” *DNC*, 2017 WL 3149914, at *4.

Respectfully submitted this the 14 day of May, 2019.

POYNER SPRUILL LLP

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing by email, addressed to the following persons at the following addresses which are the last addresses known to me:

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This the 14th day of May, 2019.

/s/Edwin M. Speas
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EXHIBIT A

STATE OF NORTH CAROLINA
COUTNY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case No. 18 CVS 014001

COMMON CAUSE; *et al.*

Plaintiffs,

v.

DAVID R. LEWIS, et al.

Defendants.

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AFFIDAVIT OF KIMBERLY REYNOLDS

KIMBERLY REYNOLDS, after being first duly sworn, deposes and says of her own personal knowledge as follows:

1. I am a citizen and resident of Wake County. I am of majority and am competent to testify to the matters set forth herein.

2. I currently serve as Senior Advisor to the North Carolina Democratic Party. From 2015 until April of 2019, I served as the Executive Director of the North Carolina Democratic Party.

4. During the course of my employment as Executive Director I was responsible for entering contracts with various entities on behalf of the North Carolina Democratic Party, including the Democratic National Committee (DNC).

5. During the course of my employment as Executive Director, I executed a contract with the DNC, which included the following prohibitions,

Section I(G): “neither the DNC nor the State Party may license, transfer, or swap the Proprietary Data of the other party, except as permitted under this Agreement or separate explicit grant.”

Section I(L): “[w]ithout the express prior written approval of the DNC, the State Party shall not give, sell, trade, rent, loan or in any way transfer any DNC Proprietary Data to any other person, organization or entity other than a state or local Democratic party committee or a Democratic candidate for federal, state or local office in the state.”

Section I(N)(2): “State Party agrees that at all times during the term of this Agreement and following termination thereof, the State Party shall not make any use, or knowingly permit any other person or entity to make any use, of the DNC Proprietary Data and models, databases, lists or programs derived in whole or in part from such DNC Proprietary Data for any purpose not permitted by this Agreement”

6. Pursuant to my knowledge of this agreement and my experience as the Executive Director, support scores are included in this contract’s definition of DNC Proprietary Data.

7. The DNC, not the NCDP, produces, maintains, and controls the "VAN" database that contains support scores. The VAN database is not on a server owned or controlled by the NCDP.

8 The prohibitions found in the contract with DNC specifically prohibit me and any other employee of the North Carolina Democratic Party from providing support scores or any work product reflecting or compiling the support scores to third parties, which would include parties in this litigation.

9. Moreover, the North Carolina Democratic Party does not use support scores to determine district competitiveness. However, from time to time, the North Carolina Democratic Party and/or its candidates will use support scores, instead, for sizing audiences for campaign purposes, strategizing voter outreach, and making decisions for the campaigns internally.

Further affiant sayeth not.

This the 14 day of May, 2019.

Kimberly Reynolds
Kimberly Reynolds

WAKE COUNTY
NORTH CAROLINA

Sworn to and subscribed before me on this day by Kimberly Reynolds.

Date: 5/14/19

Lauren Trustman Noyes
Signature of Notary Public

Lauren Trustman Noyes Notary Public
Printed or typed name

My commission expires: 5/29/23



EXHIBIT B

State Senate District 50 Snapshot

Total Voter Registration

144,552

Percent of Population by County

Cherokee: 16% Clay: 6% Graham: 4% Haywood: 30%
 Jackson: 19% Macon: 18% Swain: 7%

2018 Expected DPI

38.0%

2016 Results and Past DPI- Old Lines

Democrat	35,476	37.5%
Republican	59,028	62.5%
Expected DPI	42.7%	

2014 Results and Past DPI- Old Lines

Democrat	28,974	46.1%
Republican	33,820	53.9%
Expected DPI	46.1%	

Campaign Fundraising Statistics

2014

Democrat	Republican
\$ -	\$ -

2016

Democrat	Republican
\$ -	\$ -

Demographic Makeup

Age		Race	
18 to 25	10.8%	Asian	0.4%
26 to 40	19.1%	Black	1.2%
41 to 65	40.5%	Caucasian	93.9%
66+	29.6%	Hispanic	1.0%
		Native American	2.7%
Party		Gender	
Democrat	32.1%	Male	46.8%
Republican	34.3%	Female	53.2%
Unaffiliated	33.6%		

College Attainment Model Information- Caucasian

Likely or Somewhat Likely College Graduate	8.7%
Likely or Somewhat Likely Non College Graduate	91.3%
% of Registered Voters who are Caucasian College Graduates	7.9%

Past Election Results by District Lines

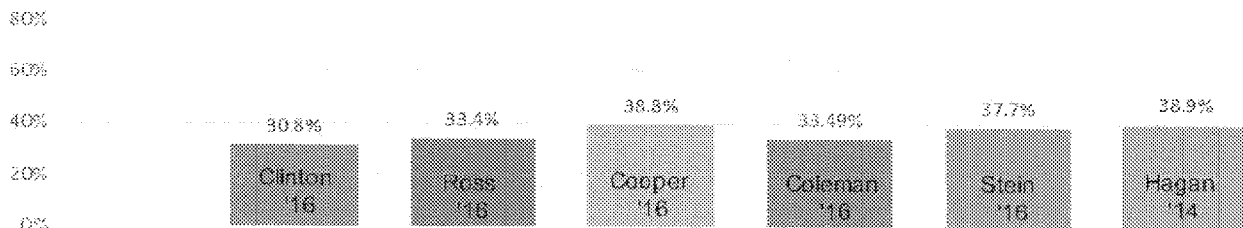


EXHIBIT C

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

COMMON CAUSE, <i>et al.</i>)	
)	
<i>Plaintiffs,</i>	)	CASE NO. 2019 CA 001475 2
	)	Judge _____
v.	)	Next Court Date: None
	)	Event: None
DAVID R. LEWIS, <i>et al.</i>)	
)	
<i>Defendants.</i>)	
)	
)	
)	

**PETITIONERS’ MOTION TO COMPEL PRODUCTION OF DOCUMENTS IN
RESPONSE TO SUBPOENAS SERVED ON THE DEMOCRATIC NATIONAL
COMMITTEE AND THE DEMOCRATIC CONGRESSIONAL CAMPAIGN
COMMITTEE**

Pursuant to D.C. Superior Court Rule of Civil Procedure 45(c)(2)(B)(i), Petitioners Representative David R. Lewis, Senator Ralph E. Hise, Jr., Speaker of the North Carolina House Timothy R. Moore, and President Pro Tempore of the North Carolina Senate Philip E. Berger (“Legislative Defendants”) respectfully move this Court for an order compelling the Democratic National Committee (“DNC”) and the Democratic Congressional Campaign Committee (“DCCC”) (collectively, the “national Democratic organizations”) to produce documents in response to subpoenas issued by the Clerk of this Court pursuant to D.C. Code § 13-443 in connection with *Common Cause, et al. v. Lewis, et al.*, No. 18 CVS 014001 (N.C. Superior Court filed Nov. 13, 2018). In support of this Motion, Petitioners submit a Memorandum of Points and Authorities. A proposed order is attached hereto.

This the 3rd day of May, 2019.

ORAL HEARING REQUESTED

Respectfully submitted,

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CERTIFICATE UNDER RULES 12-I AND 26

I hereby certify that despite diligent and good faith efforts, counsel for Legislative Defendants was unable to resolve this discovery dispute. As set forth in Section I.B. of the attached Memorandum of Points and Authorities, counsel for Legislative Defendants met and conferred for a reasonable period of time with counsel for the DNC and DCCC in an effort to resolve the disputed matter by telephonic conferences on March 20, 2019 at 2pm and April 2, 2019 at 12pm, and through additional email correspondence on March 26, 2019 and on April 3, 2019. Despite these efforts, the relief sought in the motion has not been provided. Pursuant to D.C. Superior Court Rule of Civil Procedure 12-I, counsel for Legislative Defendants certifies that they conferred on the relief requested in the underlying motion on May 3, 2019 with counsel for the DNC and DCCC, and that the DNC and DCCC do not consent to such relief.

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

COMMON CAUSE, <i>et al.</i>)	
)	
<i>Plaintiffs,</i>	)	CASE NO. 2019 CA 001475 2
	)	Judge_____
v.	)	Next Court Date: None
	)	Event: None
DAVID R. LEWIS, <i>et al.</i>)	
)	
<i>Defendants.</i>)	
)	
_____)	

**PETITIONERS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF THEIR MOTION TO COMPEL PRODUCTION OF DOCUMENTS IN RESPONSE
TO SUBPOENAS SERVED ON THE DEMOCRATIC NATIONAL COMMITTEE AND
THE DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE**

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INTRODUCTION

Petitioners Representative David R. Lewis, Senator Ralph E. Hise, Jr., Speaker of the North Carolina House Timothy R. Moore, and President Pro Tempore of the North Carolina Senate Philip E. Berger (“Legislative Defendants”) respectfully submit this memorandum in support of their motion for order compelling production of documents in response to with subpoenas issued to the Democratic National Committee (“DNC”) and the Democratic Congressional Campaign Committee (“DCCC”) (collectively, the “national Democratic organizations”) issued by the Clerk of this Court pursuant to D.C. Code § 13-443 in connection with *Common Cause, et al. v. Lewis, et al.*, No. 18 CVS 014001 (N.C. Superior Court filed Nov. 13, 2018).¹

I. BACKGROUND

A. The Plaintiffs’ Allegations in the North Carolina Litigation

Petitioners are Legislative Defendants in *Common Cause, et al. v. Lewis, et al.*, No. 18 CVS 014001 (N.C. Superior Court filed Nov. 13, 2018) (“the North Carolina Litigation”). They are members of the North Carolina General Assembly who have been sued in their official capacities by Democratic voters and organizations in North Carolina challenging the districting plans enacted by the General Assembly in 2017 for the North Carolina House of Representatives and North Carolina Senate as an unconstitutional partisan gerrymanders under the North Carolina Constitution. The plaintiffs argue that in 2011, North Carolina Republicans drew state legislative district boundaries in order to “maximize the political advantage of Republican voters and

¹ Legislative Defendants also issued a subpoena to the Democratic Legislative Campaign Committee (“DLCC”) at the same time as the subpoenas to the DNC and DCCC. As of May 3, 2019, the DLCC had produced 32 documents in response to three out of the four requests in the Modified Subpoenas. Counsel for the DLCC represented on May 3, 2019 that the DLCC’s review and production of documents is still on-going, and that it plans to produce additional documents and a privilege log. Legislative Defendants thus do not seek to compel production from the DLCC at this time and do not include them in this Motion, but reserve the right to compel production from the DLCC pursuant to Rule 45(c)(2)(B)(i) if necessary.

minimize the representational rights of Democratic voters” as part of a national movement by the Republican Party to entrench itself in power through redistricting. (Amend. Compl. ¶ 2, attached as Exhibit A). They claim that in 2017 after federal courts struck down some of the 2011 districts as unconstitutional racial gerrymanders, Republicans “redoubled their efforts to gerrymander the district lines on partisan grounds,” and that as a result, Republicans have won a substantial majority of seats in each chamber of the North Carolina General Assembly since 2011 and will control the redistricting process after 2020. (*Id.* at ¶¶ 3-4).

Through their expedited lawsuit, the plaintiffs seek a declaration that the 2017 districting plans are unconstitutional and invalid because they purportedly violate the rights of the plaintiffs and all Democratic voters in North Carolina under the North Carolina Constitution’s Equal Protection Clause, Art. I, § 19, the Free Elections Clause, Art. I, § 5, and the Freedom of Speech and Freedom of Assembly Clauses, Art. I, §§12 and 14. (*Id.* at Prayer for Relief). They also request an injunction prohibiting the use of the 2017 plans in the 2020 elections and seek the creation of new districting plans that they argue comply with the North Carolina Constitution if the North Carolina General Assembly fails to timely enact new plans. (*Id.*).

Specifically, the plaintiffs claim that the 2017 plans burden the speech and associational rights of North Carolina Democratic voters and organizations by making it more difficult to recruit candidates, raise money, recruit volunteers, persuade voters, get out the vote, etc. (*Id.* ¶¶ 7-8, 218-221). For example, Plaintiff North Carolina Democratic Party claims that its purposes are: “(i) to bring people together to develop public policies and positions favorable to NCDP members and the public generally, (ii) to identify candidates who will support and defend those policies and positions, and (iii) to persuade voters to cast their ballots for those candidates.” (*Id.* at ¶ 8). The NDCP alleges that the 2017 plans “frustrate and burden NCDP’s ability to achieve its essential purposes and to carry out its core functions, including registering voters, attracting

volunteers, raising money in gerrymandered districts, campaigning, turning out the vote, and ultimately electing candidates,” and that it must expend additional funds and resources than it would otherwise because of the 2017 plans. (*Id.*).

The plaintiffs allege that leading up to the 2010 census, national Republican leaders “undertook a sophisticated and concerted effort to gain control of state governments in critical swing states such as North Carolina” (*Id.* at ¶ 65). They allege that the Republican State Leadership Committee (“RSLC”), through a plan named the “REDistricting Majority Project (REDMAP),” and other donors spent millions of dollars on the North Carolina state legislative races in 2010 as one of their key “target states,” and that as a result, Republicans gained control of both chambers of the North Carolina General Assembly and controlled the redistricting process. (*Id.* at ¶¶ 67-69).

The plaintiffs allege past election results were used in drawing the 2011 plans in order to “predict ‘partisan voting behavior’ of the new districts,” (*id.* at ¶ 69), and criticize Legislative Defendants for including election data as one of the criterion for drawing the 2017 plans. (*Id.* at ¶¶ 94-98). The plaintiffs allege that the House and Senate Committees provided data on the partisan breakdown of each proposed district. (*Id.* at ¶ 112). The plaintiffs also claim “outside expert analyses” that use election data confirm that the 2017 plans were gerrymandered to favor Republicans, (*id.* at ¶¶ 110-111), and they overlaid election results onto each House and Senate district to show the number of districts Republicans would win under the 2017 plans. (*Id.* at ¶¶ 113-114).

The plaintiffs’ Amended Complaint is full of allegations that specific House and Senate districts were drafted to ensure that they would elect Republicans or to make them “as competitive as possible for Republicans,” and that others were “packed” full of Democratic voters so that neighboring districts would favor Republicans. (*See, e.g., id.* at ¶¶ 11-46). They

further allege that “because of the rigging of district lines,” a number of House and Senate races were uncontested in 2012, 2014, 2016, and 2018. (*See id.* at ¶¶ 78-83).

B. The Discovery Sought by Legislative Defendants

Legislative Defendants seek the production of documents from national Democratic organizations in an effort to refute the plaintiffs’ allegations, including, but not limited to, Democrats’ abilities to recruit and fundraise for candidates for state legislative districts, Democrats’ analyses of the partisan composition and competitiveness of those districts, and Democrats’ knowledge and awareness of the RSLC’s REDMAP efforts, including any similar efforts by the Democrats to target state legislative races in order to control the redistricting process. In accordance with D.C. Code § 13-443, Petitioners submitted North Carolina subpoenas for the production of documents to the Clerk of this Court on March 8, 2019. (*See* Notice of Intent to Serve Subpoenas, attached as Exhibit B). The same day, the Clerk issued subpoenas from this Court to the DNC, DCCC, and DLCC. (*Id.*).

Counsel for Legislative Defendants met and conferred with counsel for all three organizations by phone on March 20, 2019 at 2pm and April 2, 2019 at 12pm. Through those conversations and email correspondence on March 26, 2019 and April 3, 2019, Counsel for Legislative Defendants narrowed the scope of the subpoenas to just four requests specific to North Carolina and limited the applicable time frame, as set forth below:

- 1) Copies of all analytic reports for the North Carolina Legislative districts from 2010-2012 and from 2016-2018 and correspondence and information related thereto, including any information regarding support scores, political indices, or other assessments of legislative districts in North Carolina.
- 2) All information related to candidate recruitment efforts in North Carolina from 2016 through today.
- 3) All information related to fundraising or expenditures in North Carolina from 2016 through today.
- 4) All documents that reference the Republican State Leadership Committee, the

Redistricting Majority Project, or RedMAP from 2010-2012 or 2016-2018 in connection with North Carolina.

(“the Modified Subpoenas”). On April 5, 2019, the DNC, DCCC, and DLCC served their objections to the Modified Subpoenas. (*See* April 5, 2019 Letter from A. Callais re: DNC subpoena, attached as Exhibit C; April 5, 2019 Letter from A. Callais re: DCCC subpoena, attached as Exhibit D; April 5, 2019 Letter from A. Callais re: DLCC subpoena, attached as Exhibit E). In addition to numerous other boilerplate general objections, the national Democratic organizations assert that: 1) the requests seek information not relevant to the North Carolina litigation and are unduly burdensome and not proportional to that action; and 2) the requests seek information that is protected by privilege, including the First Amendment privilege, or is the organization’s confidential or proprietary information. (*See* Exs. C, D, and E). Counsel for the national Democratic organizations stated that the DLCC would be responding to the Modified Subpoena with a rolling production of documents, but that the DNC and DCCC would not be responding any further outside of their April 5 objections. (*See* April 5, 2019 Email from A. Callais, attached as Exhibit F). The DNC and the DCCC have thus refused to produce—or, it appears, conduct *any* search for—any documents in response to the Modified Subpoenas. Legislative Defendants move pursuant to D.C. Superior Court Rules of Civil Procedure 45 and 28-I² to enforce the Modified Subpoenas and compel production from the national Democratic organizations.

II. ARGUMENT

When deciding a motion to compel under Rule 45, a court “must first consider whether the discovery sought is relevant to a party’s claim or defense in the underlying litigation, as

² D.C. Superior Court Rule of Civil Procedure 28-I(b)(4) states that “[a] motion for a protective order or to enforce, quash, or modify a subpoena issued by a clerk under Rule 28-I(b)(1) must comply with these rules and the laws of the District of Columbia and must be submitted to the Superior Court.”

defined in Rule 26(b)(1).” *BuzzFeed, Inc. v. U.S. Dep’t of Justice*, 318 F. Supp. 3d 347, 356 (D.D.C. 2018).³ The court then “must assess any objections to the subpoena under the standards supplied by Rule 45, which ‘requires that district courts quash subpoenas that call for privileged matter or would cause an undue burden.’” *Id.* (citing *Watts v. S.E.C.*, 482 F.3d 501, 508 (D.C. Cir. 2007) and Fed. R. Civ. P. 45(d)(3)(A)).⁴ The party resisting discovery has the burden of showing that the requested documents are either unduly burdensome or privileged. *Id.* Here, the documents Legislative Defendants seek are highly relevant to the parties claims and defenses in the North Carolina litigation, and the national Democratic organizations have failed to meet their burden of showing that the requested documents are unduly burdensome or protected by any privilege.

A. The Discovery Sought by the Modified Subpoenas is Relevant, and the National Democratic Organizations Have Failed to Show Any Burden Would Result From Complying With the Subpoenas.

1. The Documents Sought by the Modified Subpoenas Are Relevant.

Legislative Defendants’ requests in the Modified Subpoenas are clearly relevant for discovery in the North Carolina litigation. D.C. Superior Court Rule of Civil Procedure 26(b)(1)

³ Because D.C. Superior Court Rule of Civil Procedure 26(b)(1), as amended effective June 1, 2017, contains the same language as Federal Rule of Civil Procedure 26(b)(1), courts may “look to federal court decisions interpreting the federal rule as persuasive authority in interpreting the local rule. *See So v. 514 10th St. Assocs., L.P.*, 834 A.2d 910, 914 (D.C. 2003); *see also In re Estate of Yates*, 988 A.2d 466, 468 (D.C. 2010) (“[C]ases interpreting the Federal Rules are persuasive authority and may be construed *in pari materia*...under our local rules where the language of the local rule at issue and the language of the corresponding federal rule are essentially the same.”).

⁴ D.C. Superior Court Rule of Civil Procedure 45(c)(3)(A) contains similar language to Federal Rule of Civil Procedure 45(d)(3)(A). *Compare* Fed. R. Civ. P. 45(d)(3)(A) (“On timely motion, the court for the district where compliance is required must quash or modify a subpoena that...(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden.”) *with* D.C. Rule 45(c)(3)(A) (“On timely motion, the court must quash or modify a subpoena that...(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden.”); *So*, 834 A.2d at 914 (“Our Rule 45 substantially mirrors the federal rule.”).

provides that “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case...Information within this scope of discovery need not be admissible in evidence to be discoverable.” Relevance is “construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter[s] that could bear on” a party’s claim or defense. *English v. Washington Metro. Area Transit Auth.*, 323 F.R.D. 1, 17 (D.D.C. 2017) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978)).

Here, Legislative Defendants seek documents in the national Democratic organizations’ possession that are clearly relevant to the parties’ claims and defenses in the North Carolina litigation. For example, evidence of the national Democrats’ involvement in recruiting and fundraising for candidates in North Carolina as sought by Requests Nos. 2 and 3 is relevant to Plaintiffs’ claims that they are unable to recruit and fundraise for Democratic candidates because of the 2017 plans, and that some legislative races have gone uncontested. (Amend. Compl., Ex. A at ¶¶ 7-8). Similarly, the Democratic Party’s analyses and assessments of specific legislative districts in North Carolina sought by Request No. 1, including support scores for those districts, are relevant to the plaintiffs’ claims regarding Democrats’ abilities to win those districts—specifically, that Democrats can never win certain districts and that Republicans will always win certain districts—and to their efforts to target, contact, and persuade voters to cast ballots for Democratic candidates. (*Id.* at ¶¶ 7-9, 11-46). And, information regarding the RSLC and REDMAP sought by Request No. 4 are clearly relevant to the plaintiffs’ claims that the 2011 plans were drawn as part of a national movement by the RSLC to entrench Republicans in office. (*Id.* at ¶¶ 67-69).

These national Democratic organizations are likely to have documents relevant to these allegations, and their claims that they are unlikely to have information related to North Carolina

legislative districts and redistricting because they are “national,” rather than state, organizations are not well-taken. According to its own website, one of the DNC’s functions is to conduct “the Coordinated Campaign efforts to elect Democrats at the federal, state, and local levels, and provid[e] both technical and financial support to State Party organizations and federal, state and local candidates[.]” *See Democratic National Committee FAQ*, Democratic National Committee, <https://democrats.org/democratic-national-committee-faq/> (last accessed April 30, 2019). Similarly, the DLCC’s mission is to “elect Democrats to statehouses across America.” *See About*, Democratic Legislative Campaign Committee, <https://www.dlcc.org/about> (last accessed April 30, 2019).⁵ The DLCC claims to have a “Local Focus,” and that “Rebuilding the Democratic Party starts at the local level. The DLCC recruits, trains, and supports local Democrats running for state legislative office. We give our candidates resources, field support, and the data they need to run smart, winning campaigns.” *Id.*

These groups have publicly stated that they are targeting state legislative races with the goal of controlling redistricting after 2020. For example, the DLCC’s website boasts:

The DLCC is committed to positioning Democrats for success in the post-2020 redistricting process. This project executes a multi-cycle strategy through state-specific plans to win state legislative majorities in targeted chambers. Through data-driven analysis and careful planning, the DLCC is strengthening Democrats’ capacity to prevent Republican gerrymanders across the country for the decade to come.

See Redistricting, Democratic Legislative Campaign Committee, <https://www.dlcc.org/redistricting-0> (last accessed April 30, 2019). An October 2018 memorandum from the DNC and the DLCC with the subject line “RE: Democrats positioned to flip state legislatures” stated:

The DNC is investing more than \$500,000 into state parties across the

⁵ While this Motion does not seek to compel production from the DLCC at this time, their involvement in state legislative district races and redistricting, including in North Carolina, is helpful in understanding the role of national Democratic organizations in state elections.

country, in an effort to specifically flip state houses and senates, break Republican supermajorities, and win for all Democrats across the country. The Democratic Legislative Campaign Committee (DLCC) working in partnership with the DNC has already flipped over 40 state legislative seats and is spending \$35 million this cycle to reclaim Democratic state legislative majorities. In addition, in a non-presidential cycle, the DNC has invested more than \$20 million in state parties and campaigns across the country to elect Democrats up and down the ticket.

See Memo: Democrats Positioned to Flip State Legislatures, October 8, 2018, Democratic National Committee, <https://democrats.org/press/memo-democrats-positioned-to-flip-state-legislatures/> (last accessed April 30, 2019). And these groups have also targeted North Carolina as part of their efforts to gain control of state legislatures in order to control redistricting after 2020. *See Redistricting*, Democratic Legislative Campaign Committee, <https://www.dlcc.org/redistricting-0> (last accessed April 30, 2019) (“As the next round of redistricting approaches, the DLCC is taking a multi-cycle strategic approach in a number of states like...North Carolina... where increasing Democratic representation ahead of post-2020 redistricting is crucial.”). The October 2018 DNC and DLCC memorandum identified North Carolina as one of their key target states, and stated “We’re seeing record numbers of Democratic supporters coming out to knock doors in North Carolina for state legislative candidates.” *See Memo: Democrats Positioned to Flip State Legislatures, October 8, 2018*, Democratic National Committee, <https://democrats.org/press/memo-democrats-positioned-to-flip-state-legislatures/> (last accessed April 30, 2019). The DNC also announced a partnership with the North Carolina Democratic Party in 2017 to elect a Charlotte mayoral candidate “and Democrats up and down the ballot.” *See DNC Announces Partnership with the North Carolina Democratic Party, October 31, 2017*, Democratic National Committee, <https://democrats.org/press/dnc-announces-partnership-with-the-north-carolina-democratic-party/> (last accessed April 30, 2019).

Yet the DNC claims throughout its objections that “it is unlikely the DNC has any

information relevant to the subject matter of this lawsuit, the questions before the court, or is capable of leading to the discovery of any such information.” (See Ex. C at 3). The DNC argues that it was served with a similar subpoena in a different partisan redistricting challenge in 2018, *Ohio A. Phillip Randolph Institute v. Kasich*, No.1:18-cv-00357-TSB-KNM-MHW-KLL (S.D. Ohio filed May 23, 2018), and that it had maintained there that there was no basis for the subpoena and it had no documents of relevance. (See Ex. C at 1). But despite its initial claims of having no documents responsive to that subpoena in the Ohio case, the DNC eventually produced over 500 pages of documents and a privilege log. The DNC’s similar claim here and its refusal to respond to the subpoenas outside of its objections, made apparently without undertaking any search for responsive documents or producing a privilege log, is not well-taken.

The DCCC’s claim that it does not have any information relevant to the North Carolina action because it is “dedicated to the election of Democratic congressional candidates” misapprehends the purpose evidence on congressional races serves in this case. (See Ex. D at 2). The plaintiffs claim that the 2017 plans burden the speech and associational rights of North Carolina Democratic voters and organizations by making it more difficult to recruit candidates, raise money, attract volunteers, persuade voters, get out the vote, etc. (Amend. Compl., Ex. A at ¶¶ 7-8, 218-221). The DCCC’s efforts to recruit and fundraise for candidates in North Carolina are relevant to these claims, and shows that Democratic Party was able to—and did in fact—spend money and resources in support of Democratic candidates in North Carolina. The DCCC targeted North Carolina in its efforts to flip Republican seats to Democratic control in the South, and even sent some staffers to the state. *ICYMI: Democrats ramp up efforts to turn more red seats blue in the South in the wake of recent successes, May 21, 2018*, Democratic Congressional Campaign Committee, <https://dccc.org/icymi-usa-today-democrats-ramp-efforts-turn-red-seats-blue-south-wake-recent-successes/> (last accessed April 30, 2019). The DCCC also included

North Carolina candidates in its “Red to Blue” program, which gives organizational and fundraising support to its “top-tier” candidates. *DCCC Announces Latest Round of Exciting Red to Blue Candidates, September 20, 2018*, Democratic Congressional Campaign Committee, <https://dccc.org/dccc-announces-latest-round-exciting-red-blue-candidates-2/> (last accessed April 30, 2019).

Such efforts may have been intended to or had the effect of motivating voters to turn out and vote for Democratic candidates in North Carolina at all levels, including for state legislative races, and they would provide powerful evidence that a supposedly gerrymandered state legislative plan would not harm turnout, which is not principally driven at the legislative level—but rather follows from get-out-the-vote efforts in all races on the ballot. The DCCC could also have information related to the partisan leaning and demographics of North Carolina voters that are relevant to the plaintiffs’ claims. For example, in a press release about a DCCC Analytics survey conducted in North Carolina’s 13th Congressional District, the DCCC provides an overview of the 2016 presidential and gubernatorial election data and Citizen Voting Age Population for North Carolina voters. *See Poll: Manning Leads Budd in NC-13*, Democratic Congressional Campaign Committee, <https://dccc.org/poll-manning-leads-budd-nc-13/> (last accessed Apr. 30, 2019). The DCCC’s claim that it has no relevant information, made without apparently undertaking any efforts to search for and identify responsive documents, is not well-taken.

2. The National Democratic Organizations Have Not Shown Any Burden Imposed by Complying with the Modified Subpoenas.

The national Democratic organizations repeatedly object that because the burdens of producing the requested information would significantly outweigh the benefits of production to Legislative Defendants, the Modified Subpoenas are not proportional to the needs of the North Carolina litigation and unduly burdens the organizations. (*See Exs. C and D*). But the national

Democratic organizations offer no support for these conclusory objections, and it is their burden under Rule 45 to do so. “The burden lies on the party resisting discovery to show that the documents requested are either unduly burdensome or privileged.” *BuzzFeed, Inc.*, 318 F. Supp. at 356; *see also United States ex rel. Shamesh v. CA, Inc.*, 314 F.R.D. 1, 8 (D.D.C. 2016) (“Once the relevancy of the material sought has been established, the objecting party then bears the burden of showing why discovery should not be permitted.”) (internal quotations omitted).

In evaluating whether complying with a subpoena imposes an undue burden on a third-party, courts consider the costs imposed on third-parties as well as the factors of Rule 26(b)(1) and (b)(2): whether the discovery sought is “unreasonably cumulative or duplicative”; whether the discovery sought can be obtained from other sources that are more convenient, less burdensome, or less expensive; and whether the discovery sought is “proportional to the needs of the case,” considering “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit[.]” *BuzzFeed, Inc.* 318 F. Supp. 3d at 358 (*citing* Fed. R. Civ. P. 26(b)(1), (2)(C)).

Throughout the meet and confer process, Legislative Defendants have made significant concessions, agreeing to narrow the scope of their original document requests to these organizations in number, subject matter, and time—even though they were well within their rights to stand by the original scope of the requests. Specifically, Legislative Defendants’ original subpoenas contained nineteen different requests for production. (*See* Ex. B). The Modified Subpoenas now contain four document requests. Legislative Defendants have further narrowed the initial time frame of January 1, 2009 to the present to just two time periods: 2010 to 2012 and 2016 to 2018, which are the key periods and election cycles surrounding the drawing of the

2011 and 2017 plans. Legislative Defendants have further clarified that the requests seek information related to North Carolina only.

Despite Legislative Defendants' efforts to narrow the scope of the discovery sought from them, the national Democratic organizations stand by their unsubstantiated burden and proportionality arguments. They make boilerplate objections that the requests are "unduly burdensome" and "not proportionable to the needs of the case." (*See* Exs. C and D). But they offer no evidence in support of these objections, such as the number of documents returned by any search terms, the number of accounts that would need to be searched, the costs of running those searches and reviewing documents for responsiveness, etc. The DNC and DCCC have refused to respond to the Modified Subpoenas outside of their objections, and seemingly have failed to conduct any searches for responsive documents based on their boilerplate objections. The burden is on the national Democratic organizations to show the requested discovery is not proportional and is unduly burdensome. *See Buzzfeed*, 318 F.Supp.3d at 358.⁶ They have failed to do so.

These organizations also object that the documents sought by the Modified Subpoenas can be obtained from other sources, including the NCDP, a plaintiff in this case. (*See* Exs. C and D). Legislative Defendants have sought discovery from the NCDP—and received almost forty thousand pages of documents—in addition to all of the other plaintiffs and numerous non-parties. But Legislative Defendants have no way of knowing whether the NCDP has produced all relevant documents sought by the Modified Subpoenas, or whether there are relevant documents

⁶ *See also In re Bard IVC Filters Prod. Liab. Litig.*, 317 F.R.D. 562, 564 (D. Ariz. 2016) ("The Advisory Committee Note makes clear, however, that the [2015] amendment does not place the burden of proving proportionality on the party seeking discovery."); *Allen-Pieroni v. Sw. Corr., LLC*, No. 3:13-CV-4089-M, 2016 WL 1750325, at *4 (N.D. Tex. May 2, 2016) ("But a party seeking to resist discovery on these grounds still bears the burden of making a specific objection and showing that the discovery fails the proportionality calculation mandated by Federal Rule of Civil Procedure 26(b) by coming forward with specific information to address—insofar as that information is available to it—[the proportionality factors].").

that can only be obtained from the national Democratic organizations. This case is being litigated on an expedited basis—per the plaintiffs’ request—and Legislative Defendants are unable to pursue this information from every possible alternative source.

B. The National Democratic Organizations Have Not Established the Documents Sought are Confidential or Protected by Any Privilege, Including the First Amendment Associational Privilege.

1. The National Democratic Organizations Have Not Adequately Asserted Any Privilege Over the Documents Sought.

D.C. Superior Court Rule of Civil Procedure 45(d)(2)(A) requires a person withholding subpoenaed information under a claim of privilege to 1) expressly make that claim; and 2) describe the nature of the withheld documents and communications in a manner that, without revealing the privileged information itself, will enable the parties to assess the claim. In their April 5, 2019 objections, the national Democratic organizations claim that the Modified Subpoenas seek “documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment Privilege.” (*See* Exs. C and D). But boilerplate assertions of privilege are insufficient, and a failure to properly assert the privilege may waive that privilege. *Burlington Northern & Santa Fe Ry. Co. v. United States Dist. Court*, 408 F.3d 1142, 1147 (9th Cir. 2005) (“Thus Rule 26 clarifies that a proper assertion of privilege must be more specific than a generalized, boilerplate objection.”); *Universal City Dev. Partners, Ltd. v. Ride & Show Eng’g, Inc.*, 230 F.R.D. 688, 697 (M.D. Fla. 2005) (noting that the purpose of Rule 45(d)(2) is the same as Rule 26(b)(5)).

Outside of these boilerplate objections, the national Democratic organizations have not expressly claimed that they are withholding any specific documents under any privilege or sufficiently described the nature of those documents. If the national Democratic organizations are truly withholding any documents responsive to the Modified Subpoenas, they must provide

a privilege log specifically identifying documents being withheld and the basis for that privilege so that Legislative Defendants may assess the validity of their claims. *In re Apollo Grp., Inc. Sec. Litig.*, No. CV-04-2147-PHX-JAT, 2007 WL 778653, at *8 (D.D.C. Mar. 12, 2007) (“the DOE must comply with its obligations under Federal Rule of Civil Procedure 45(d)(2) and produce a privilege log that allows Apollo and the Court to assess the validity of the claimed privileges.”); *Universal City*, 230 F.R.D. at 697 (“Not only must a party timely object under Rule 45(c)(2)(B), but the party must also prepare a privilege log in accordance with Fed.R.Civ.P. 45(d)(2).”). As discussed above, the DNC did in fact produce a privilege log identifying the documents withheld and the basis for withholding those documents in response to a subpoena in another partisan redistricting case. Their failure to do so here is inexplicable.

The national Democratic organizations also claim that the Modified Subpoenas seek “disclosure of the DNC’s confidential or proprietary business information, trade secrets, or commercially sensitive information.” (*See Exs. C and D*). But much like their privilege claims, the national Democratic organizations have made no showing that the discovery sought would require them to disclose any trade secrets, or any confidential or commercial information. *In re Rail Freight Fuel Surcharge Antitrust Litig.*, MDL No. 1869, 2010 WL 11613859, at *3 (D.D.C. Sept. 9, 2010) (holding that under Fed. R. Civ. P. 45(c)(3)(B)(i), the responding party “must first show that the disclosure plaintiffs want would disclose a trade secret, or other confidential research, development or commercial information.”). Nor have they shown that these concerns would not be addressed by the protective order entered in the North Carolina litigation. *See Klayman v. Judicial Watch, Inc.*, No. CV 06-670 (CKK)(AK), 2008 WL 11394177, at *3 (D.D.C. Jan. 8, 2008).

2. The First Amendment Associational Privilege Does Not Shield the Documents Sought From Disclosure.

In their April 5, 2019 General Objections, the national Democratic organizations asserted that the Modified Subpoenas seek documents protected by the “First Amendment associational privilege.” (See Exs. C and D). For example, in response to each of the Requests 1, 2, and 4 in the Modified Subpoenas, the organizations specifically objected that “First Amendment prohibits disclosure, among other things, of a political organizations’ internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners.” (*Id.*)⁷ The DNC specifically claimed that any partisan scores for legislative districts as sought by Request No. 1 is “highly privileged under the First Amendment.” (See Ex. C at 3).

Legislative Defendants do not dispute that the “First Amendment protects political association,” *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th Cir. 2010) (quoting *Buckley v. Valeo*, 424 U.S. 1, 15 (1976)), or that the “freedom to associate with others for the common advancement of political beliefs and ideas is...protected by the First and Fourteenth Amendments.” *Id.* (quoting *Kusper v. Pontikes*, 414 U.S. 51, 56-57 (1973)); see also *NAACP v. Alabama*, 357 U.S. 449, 460 (1958). But the First Amendment privilege is not absolute. *Perry*, 591 F.3d at 1159 (quoting *Roberts v. U.S. Jaycees*, 468 U.S. 609, 623 (1984)).

A claim of First Amendment privilege is subject to a two-part balancing test. *Black Panther Party v. Smith*, 661 F.2d 1243, 1267-68 (D.C. Cir. 1981), cert. granted, judgment vacated by 458 U.S. 1118 (1982).⁸ The party asserting the privilege must first demonstrate a

⁷ In response to Request 3, the organizations object that “[t]he First Amendment prohibits disclosure, among those things, of the sources and uses of a political organizations funds, as well as its internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners.” (Exs. C and D) (internal citations omitted)

⁸ While the D.C. Circuit’s decision in *Black Panther* was vacated as moot, “there is no suggestion in later case law in this Circuit that its reasoning or analysis has been rejected or abandoned by our Court of Appeals” and “it has been cited subsequently by the Circuit in a

“prima facie showing of an arguable first amendment infringement.” *Perry*, 591 F.3d at 1160 (quoting *Brock v. Local 375, Plumbers Int’l. Union of Am.*, 860 F.2d 346, 349-50 (9th Cir. 1988)). This prima facie burden is met by showing that enforcement of the subpoena will result in: ““(1) harassment, membership withdrawal, or discouragement of new members, or (2) other consequences which objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights.” *Id.* (quoting *Brock*, F.2d at 350)); see also *Black Panther Party*, 661 F.2d at 1268 (holding that the party seeking protection under the First Amendment must show “there is some probability that disclosure will lead to reprisal or harassment.”); *AFL-CIO v. FEC*, 333 F.3d 168, 176 (D.C. Cir. 2003) (noting that a political group’s demonstration of a “risk of retaliation and harassment” that is likely to adversely affect the group and its members establishes a substantial burden on First Amendment rights).

If the responding party makes this prima facie showing, the burden shifts to the party seeking the discovery to show that the interest in obtaining the information outweighs the burden on the rights of the responding party. *AFL-CIO*, 333 F.3d at 176; see also *Perry*, 591 F.3d at 1161 (holding that the burden shifts to the government to show the information sought is “rationally related to a compelling governmental interest...[and] the least restrictive means of obtaining the desired information.”) (internal quotations omitted). The responding party’s “First Amendment claim should be measured against the [issuing party’s] need for the information. If the former outweighs the latter, then the claim of privilege should be upheld.” *Int’l Action Ctr. v. United States*, 207 F.R.D. 1, 4 (D.D.C. 2002) (quoting *Black Panther Party*, 661 F.2d at 1266); see also *Perry*, 591 F.3d at 1161 (“The question is therefore whether the party seeking the discovery ‘has demonstrated an interest in obtaining the disclosures it seeks...which is sufficient

unanimous per curiam opinion... as well as in many other cases from outside this Circuit.” *Int’l Action Ctr. v. United States*, 207 F.R.D. 1, 3 n.6 (D.D.C. 2002) (internal citations omitted).

to justify the deterrent effect...on the free exercise...of [the] constitutionally protected right of association.”) (*quoting NAACP*, 357 U.S. at 463). In balancing the parties’ competing interests, courts may consider the importance of the litigation, the relevance of the evidence, whether the information is available from less intrusive sources, and the substantiality of the First Amendment rights at stake. *Perry*, 591 F. 3d at 1161; *see also Wyoming v. U.S. Dept. of Agriculture*, 208 F.R.D. 449, 455 (D.D.C. 2002) (“Before compelling discovery, this court must assess (1) whether the information goes to the ‘heart of the lawsuit,’ (2) whether the party seeking the discovery sought the information through alternative sources, and (3) whether the party seeking disclosure made reasonable attempts to obtain the information elsewhere.”).

Here, the national Democratic organizations have not made a prima facie showing that complying with the subpoena will result in any “retaliation and harassment” or any “chilling” of its members’ associational rights, or have any impact on the organizations’ “ability to pursue their political goals effectively.” *See AFL-CIO*, 333 F.3d at 176-77 (blocking disclosure of internal documents and communications based on affidavits affirming that disclosure would “seriously interfere[] with internal group operations and effectiveness.”); *see also Perry*, 591 F.3d at 1160. The organizations have asserted broad, boilerplate objections that the information sought by the Modified Subpoenas is “highly privileged under the First Amendment.” (*See Exs. C and D*). But this broad objection does not provide the Court with the information it needs to perform the balancing test required for the assertion of a First Amendment privilege. *See Educ. Fin. Council v. Oberg*, No. 10-MC-0079 JDB, 2010 WL 3719921, at *5 (D.D.C. Mar. 8, 2010).

As set forth above, these organizations have not provided privilege logs setting forth the specific documents being withheld on the basis of their First Amendment Privilege as required by Rule 45(d)(2). “[T]hese largely vague protests do not comply with Rule 45’s requirement that a party withholding subpoenaed information under a claim that it is privileged must describe the

nature of the withheld documents communications, or tangible things in a manner that, without revealing the information itself privileged or protected, will enable the parties to assess the claim.” *Educ. Fin. Council*, 2010 WL 3719921, at *5. All three organizations have asserted that “internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners” are protected by the First Amendment. (See Exs. C and D). The DNC has also claimed that any “partisan scores for legislative districts” in its possession are “highly privileged under the First Amendment.” (See Ex. C at 3). Legislative Defendants do not dispute that such information or documents could be protected by the First Amendment. See *AFL-CIO*, 333 F.3d at 176-77. But these organizations fail to allege, let alone establish, that disclosing this information will result in any retaliation, reprisal, or harassment, or “seriously interfere[] with internal group operations and effectiveness” as required to establish a prima facie showing of infringement of their First Amendment rights. See *id.*; *Perry*, 591 F.3d at 1160; *Black Panther*, 661 F.2d at 1268. Additionally, any “chilling” effect that these organizations may assert could be “minimized” by the protective order in effect in the North Carolina litigation. See *Klayman v. Judicial Watch, Inc.*, No. 06-cv-670, 2008 WL 11394177, at *4 (D.D.C. Jan. 8, 2008).

3. Legislative Defendants’ Need for These Documents Outweighs the National Democratic Organizations’ First Amendment Privilege.

Even if the national Democratic organizations establish their First Amendment rights will be burdened by producing documents in response to the Modified Subpoenas, Legislative Defendants’ need for these documents outweighs any privilege under the First Amendment. First, the North Carolina litigation is important. See *Perry*, 591 F.3d at 1161. The plaintiffs seek to invalidate the 2017 plans enacted by the North Carolina General Assembly. Such relief could subject the State of North Carolina to liability under a standing order entered by a federal court, the Voting Rights Act, and the Fourteenth and Fifteenth Amendments to the United States

Constitution, and violate the rights of Legislative Defendants and Republican voters and candidates under the First and Fourteenth Amendments. (*See Answer at 2, attached as Exhibit G*).

Second, the documents sought are highly relevant to the North Carolina litigation. Courts consider whether the information sought “goes to the heart of the matter” and is “crucial to the party’s case” in deciding whether the interest in disclosure outweighs the burden on a producing party. *Black Panther*, 661 F.3d at 1268. As set forth above, the documents sought are directly relevant to, and could refute, the plaintiffs’ claims regarding their inability to recruit, support, and elect Democratic candidates because of the 2017 plans. It appears that national Democratic organizations had no trouble recruiting candidates, raising money, or encouraging voters to go to the polls, in direct contradiction to the plaintiffs’ assertion that the state legislative redistricting plans hinder Democratic interests on all these fronts. Similarly, Democrats’ analyses and assessments of those districts, including their support scores, is directly relevant to the plaintiffs’ claims regarding the partisan makeup of those districts and the competitiveness of those districts. These documents are not just the analyses of an unrelated third-party, but of the national organizations assisting the plaintiffs’ in their efforts to target and persuade voters and elect Democratic candidates to the North Carolina General Assembly.

Third, the documents are not available from other sources. *Wyoming*, 208 F.R.D. at 455. Legislative Defendants have served discovery requests on all of the plaintiffs, including the North Carolina Democratic Party, as well as numerous non-parties, and have not received the information purportedly being withheld on the basis of privilege. Moreover, this case is being litigated on an expedited basis with fact discovery closing in less than a month on May 17, 2019, and Legislative Defendants cannot seek this information from any other sources at this time.

Fourth, the national Democratic organizations have not shown that disclosure will have any effect on their protected activities, let alone a significant “chilling effect.” *AFL-CIO*, 333 F.3d at 177. By not providing a privilege log or identifying any specific document that they are withholding based on the First Amendment privilege, these organizations have not shown that disclosing any one of them would change the way they communicate, interfere with internal group operations, or “frustrate the organizations’ ability to pursue their political goals effectively[.]” *Id.* at 177. And they certainly have not shown that disclosure would result in any “violence, economic reprisals, and police or private harassment[.]” *Id.* at 176.

III. CONCLUSION

For the foregoing reasons, Petitioners’ Motion to Compel the Production of Documents should be granted.

This the 3rd day of May, 2019.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of May, 2019 a true and correct copy of the foregoing Motion to Compel the Production of Documents was filed with the Clerk of Court and served via email and certified mail on the following:

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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

COMMON CAUSE, <i>et al.</i>)	
)	
<i>Plaintiffs,</i>	)	CASE NO. 2019 CA 001475 2
	)	Judge _____
v.	)	Next Court Date: None
	)	Event: None
DAVID R. LEWIS, <i>et al.</i>)	
)	
<i>Defendants.</i>)	
)	
_____)	

[PROPOSED] ORDER

Upon consideration of Petitioners’ Motion to Compel the Production of Documents, the supporting memorandum of points and authorities, any opposition thereto, any reply, the entire record, and for good cause shown, it is this _____ day of _____ 2019:

ORDERED, that the Motion is Granted. It is further

ORDERED that the Democratic National Committee and the Democratic Congressional Campaign Committee shall produce documents in response to the Modified Subpoenas (as detailed in Petitioners’ Motion) within 10 days of the date of this Order.

Judge, Superior Court of the District of Columbia

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EXHIBIT A

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE

COUNTY OF WAKE

SUPERIOR COURT DIVISION

2018 DEC -7 P 4:46

Docket No. 18 CVS 014001

WAKE CO., G.S.C.

COMMON CAUSE; NORTH CAROLINA
 DEMOCRATIC PARTY; PAULA ANN CHAPMAN;
 HOWARD DU BOSE JR.; GEORGE DAVID GAUCK;
 JAMES MACKIN NESBIT; DWIGHT JORDAN; JOSEPH
 THOMAS GATES; MARK S. PETERS; PAMELA
 MORTON; VIRGINIA WALTERS BRIEN; JOHN MARK
 TURNER; LEON CHARLES SCHALLER; REBECCA
 HARPER; LESLEY BROOK WISCHMANN; DAVID
 DWIGHT BROWN; AMY CLARE OSEROFF; KRISTIN
 PARKER JACKSON; JOHN BALLA; REBECCA
 JOHNSON; AARON WOLFF; MARY ANN PEDEN-
 COVIELLO; KAREN SUE HOLBROOK; KATHLEEN
 BARNES; ANN MCCRACKEN; JACKSON THOMAS
 DUNN, JR.; ALYCE MACHAK; WILLIAM SERVICE;
 DONALD RUMPH; STEPHEN DOUGLAS MCGRIGOR;
 NANCY BRADLEY; VINOD THOMAS; DERRICK
 MILLER; ELECTA E. PERSON; DEBORAH ANDERSON
 SMITH; ROSALYN SLOAN; JULIE ANN FREY; LILY
 NICOLE QUICK; JOSHUA BROWN; CARLTON E.
 CAMPBELL SR.,

Plaintiffs,

v.

REPRESENTATIVE DAVID R. LEWIS, IN HIS
 OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF
 THE HOUSE SELECT COMMITTEE ON
 REDISTRICTING; SENATOR RALPH E. HISE, JR., IN
 HIS OFFICIAL CAPACITY AS CHAIRMAN OF THE
 SENATE COMMITTEE ON REDISTRICTING;
 SPEAKER OF THE NORTH CAROLINA HOUSE OF
 REPRESENTATIVES TIMOTHY K. MOORE;
 PRESIDENT PRO TEMPORE OF THE NORTH
 CAROLINA SENATE PHILIP E. BERGER; THE STATE
 OF NORTH CAROLINA; THE NORTH CAROLINA
 STATE BOARD OF ELECTIONS AND ETHICS
 ENFORCEMENT; JOSHUA MALCOLM, CHAIRMAN
 OF THE NORTH CAROLINA STATE BOARD OF
 ELECTIONS & ETHICS ENFORCEMENT; KEN
 RAYMOND, SECRETARY OF THE NORTH CAROLINA

AMENDED COMPLAINT

(Three-Judge Court Pursuant to
N.C. Gen. Stat § 1-267.1)

STATE BOARD OF ELECTIONS & ETHICS
ENFORCEMENT; STELLA ANDERSON, MEMBER OF
THE NORTH CAROLINA STATE BOARD OF
ELECTIONS & ETHICS ENFORCEMENT; DAMON
CIRCOSTA, MEMBER OF THE NORTH CAROLINA
STATE BOARD OF ELECTIONS & ETHICS
ENFORCEMENT; STACY "FOUR" EGGERS IV,
MEMBER OF THE NORTH CAROLINA STATE BOARD
OF ELECTIONS & ETHICS ENFORCEMENT; JAY
HEMPHILL, MEMBER OF THE NORTH CAROLINA
STATE BOARD OF ELECTIONS & ETHICS
ENFORCEMENT; VALERIE JOHNSON, MEMBER OF
THE NORTH CAROLINA STATE BOARD OF
ELECTIONS & ETHICS ENFORCEMENT; JOHN
LEWIS, MEMBER OF THE NORTH CAROLINA STATE
BOARD OF ELECTIONS & ETHICS ENFORCEMENT;
ROBERT CORDLE, MEMBER OF THE NORTH
CAROLINA STATE BOARD OF ELECTIONS & ETHICS
ENFORCEMENT,

Defendants.

Plaintiffs, complaining of Defendants, say and allege:

INTRODUCTION

1. Partisan gerrymandering is an existential threat to our democracy, and nowhere more so than in North Carolina. Republicans in the North Carolina General Assembly have egregiously rigged the state legislative district lines to guarantee that their party will control both chambers of the General Assembly regardless of how the people of North Carolina vote. This attack on representative democracy and North Carolinians' voting rights is wrong. It violates the North Carolina Constitution. And it needs to stop.

2. In 2011, as part of a national movement by the Republican Party to entrench itself in power through redistricting, North Carolina Republicans' mapmaker manipulated district boundaries with surgical precision to maximize the political advantage of Republican voters and minimize the representational rights of Democratic voters. And it worked. In the 2012, 2014, and 2016 elections, Republicans won veto-proof super-majorities in both chambers of the General Assembly despite winning only narrow majorities of the overall statewide vote.

3. In 2017, after federal courts struck down some of the 2011 districts as illegal racial gerrymanders, Republicans redoubled their efforts to gerrymander the district lines on partisan grounds. They instructed the same Republican mapmaker to use partisan data and prior election results in drawing new districts. The results should outrage anyone who believes in democracy. In both the state House and state Senate elections in 2018, Democratic candidates won a majority of the statewide vote, but Republicans still won a substantial majority of seats in each chamber. The maps are impervious to the will of the voters.

4. It gets worse. Because North Carolina is one of the few states in the country where the Governor lacks power to veto redistricting legislation, the General Assembly alone

will control the next round of redistricting after the 2020 census. Accordingly, as things currently stand, the Republican majorities in the General Assembly elected under the current maps will have free reign to redraw both state legislative and congressional district lines for the next decade. This perpetuates a vicious cycle in which representatives elected under one gerrymander enact new gerrymanders both to maintain their control of the state legislature and to rig congressional elections for ten more years. Only the intervention of the judiciary can break this cycle and protect the constitutional rights of millions of North Carolinians.

5. The North Carolina Constitution prohibits partisan gerrymandering. This State's equal protection guarantees provide more robust protections for voting rights than the federal constitution. Specifically, "[i]t is well settled in this State that the right to vote *on equal terms* is a fundamental right." *Stephenson v. Bartlett*, 562 S.E.2d 377, 394 (N.C. 2002). There is nothing "equal" about the "terms" on which North Carolinians vote for candidates for the General Assembly. North Carolina's Constitution also commands that "all elections shall be free"—a provision that has no counterpart in the federal constitution. Elections to the North Carolina General Assembly are not "free" when the outcomes are predetermined by partisan actors sitting behind a computer. And the North Carolina Constitution's free speech and association guarantees prohibit the General Assembly from burdening the speech and associational rights of voters and organizations because the General Assembly disfavors their political views.

6. No matter how the U.S. Supreme Court resolves longstanding questions about partisan gerrymandering under the federal constitution, North Carolina's Constitution independently secures the rights of North Carolina citizens. This State's courts should not hesitate to enforce North Carolina's unique protections here. This Court should invalidate the 2017 Plans and order that new, fair maps be used for the 2020 elections.

PARTIES

A. Plaintiffs

7. Common Cause brings this action on its own behalf and on behalf of its members who are registered voters in North Carolina whose votes have been diluted or nullified under the districting plans enacted by the General Assembly in 2017 for the North Carolina House of Representatives and North Carolina Senate (the “2017 Plans”). Common Cause is a non-profit corporation organized and existing under the laws of the District of Columbia. It is a nonpartisan democracy organization with over 1.2 million members and local organizations in 35 states, including North Carolina. Common Cause has members in every North Carolina House and Senate district, and has members who have suffered injury in every district that is gerrymandered under 2017 Plans. Since its founding by John Gardner in 1970, Common Cause has been dedicated to fair elections and making government at all levels more representative, open, and responsive to the interests of ordinary people. “For the past twenty-five years, Common Cause has been one of the leading proponents of redistricting reform.” Jonathan Winburn, *The Realities of Redistricting* p. 205 (2008). The 2017 Plans frustrate Common Cause’s mission to promote participation in democracy and to ensure open, honest, and accountable government. The 2017 Plans burden Common Cause’s ability to convince voters in gerrymandered districts to vote in state legislative elections and communicate with legislators. The 2017 Plans also burden Common Cause’s ability to communicate effectively with legislators and to influence them to enact laws that promote voting, participatory democracy, public funding of elections, and other measures that encourage accountable government.

8. The North Carolina Democratic Party (“NCDP”) brings this action on its own behalf and on behalf of its members who are registered voters in North Carolina whose votes have been diluted or nullified as a result of the gerrymandering of the 2017 Plans. The NCDP is

a political party as defined in N.C. Gen. Stat. § 163-96. Its purposes are (i) to bring people together to develop public policies and positions favorable to NCDP members and the public generally, (ii) to identify candidates who will support and defend those policies and positions, and (iii) to persuade voters to cast their ballots for those candidates. The NCDP has members in every North Carolina House and Senate district, and has members who have suffered injury in every district that is gerrymandered under 2017 Plans. The partisan gerrymanders under the 2017 Plans discriminate against the NCDP's members because of their past votes, their political views, and their party affiliations. The gerrymanders also discriminate against the NCDP itself on the basis of its viewpoints and affiliations, and the plans frustrate and burden NCDP's ability to achieve its essential purposes and to carry out its core functions, including registering voters, attracting volunteers, raising money in gerrymandered districts, campaigning, turning out the vote, and ultimately electing candidates who will pursue policies favorable to NCDP members and the public generally in the North Carolina General Assembly. The NCDP must expend additional funds and other resources than it would otherwise to combat the effects of the partisan gerrymanders under the 2017 Plans, and even then, the 2017 Plans make it impossible for Democrats to win a majority in either chamber of the legislature.

9. Plaintiff Paula Ann Chapman is a retired small business owner residing in Charlotte, North Carolina, within House District 100 and Senate District 40. Ms. Chapman is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 100 and Senate District 40 are both packed Democratic districts. In 2018, the Democratic candidate won these districts with over 70% and 75% of the vote.

10. Plaintiff Howard Du Bose Jr. is a retired school teacher and Army veteran residing in Hurdle Mills, North Carolina, within House District 2. Mr. Du Bose is a registered

Democrat who has consistently voted for Democratic candidates for the General Assembly. The General Assembly packed House District 32, which adjoins House District 2, to ensure that House District 2 would elect a Republican. In 2018, the Republican candidate won House District 2 with roughly 55% of the vote.

11. Plaintiff George David Gauck is a retired software engineer residing in Southport, North Carolina, within House District 17 and Senate District 8. Mr. Gauck is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 17 is adjacent to the packed Democratic House District 18. In 2018, the Republican candidate won House District 17 with over 63% of the vote. With respect to Senate District 8, a heavily Democratic area in Wilmington is extracted from Senate District 9 and placed in Senate District 8 to make Senate District 9 as competitive as possible for Republicans. As a result, in 2018, Senate District 9 was a near tie, while Republicans won Senate District 8 by a comfortable margin.

12. Plaintiff James Mackin Nesbit is a retired kindergarten teacher residing in Wilmington, North Carolina, within House District 19 and Senate District 9. Mr. Nesbit is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 19 borders the packed Democratic House District 18. The Republican candidate has won every election in House District 19 since the 2011 redistricting, running unopposed in 2014 and 2016. With respect to Senate District 9, a heavily Democratic area in Wilmington is extracted from Senate District 9 and placed in Senate District 8 to make Senate District 9 as competitive as possible for Republicans. As a result, in 2018, the election in Senate District 9 was a near tie.

13. Plaintiff Dwight Jordan is a customer support professional residing in Nashville, North Carolina, within House District 25 and Senate District 11. Mr. Jordan is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 25 is a packed Democratic district that was constructed to ensure that neighboring House District 7 would elect a Republican, which occurred in 2018. The county cluster encompassing Senate District 11 cracks Democratic voters across its three districts (10, 11, and 12). In 2018, the Republican candidate won Senate District 11 with roughly 56% of the vote.

14. Plaintiff Joseph Thomas Gates is a former Colonel in the Air Force and a retired information technology project manager residing in Weaverville, North Carolina, within House District 115 and Senate District 49. Mr. Gates is a registered unaffiliated voter who has consistently voted for Democratic candidates for the General Assembly. The General Assembly made House District 115 as competitive as possible for Republicans by packing the adjoining House District 114 with Democratic voters. Senate District 49 is a packed Democratic district that the Democratic candidate won in 2018 with Senate District 49 with over 63% of the vote.

15. Plaintiff Mark S. Peters is a retired physician assistant residing in Fletcher, North Carolina, within House District 116 and Senate District 48. Mr. Peters is a registered unaffiliated voter who has consistently voted for Democratic candidates for the General Assembly. The General Assembly made House District 116 as competitive as possible for Republicans by packing the adjoining House District 114 with Democratic voters. Senate District 48 was drawn to avoid the Democratic areas in and around Asheville to ensure that the district would lean Republican. In 2018, the Republican candidate won Senate District 48 by roughly 13 points.

16. Plaintiff Pamela Morton is a retired professional in the financial industry residing in Charlotte, North Carolina, within House District 100 and Senate District 37. Ms. Morton is a

registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 100 and Senate District 37 are both packed Democratic districts. In 2018, the Democratic candidates won these districts with over 70% and 78% of the vote.

17. Plaintiff Virginia Walters Brien is a sales manager residing in Charlotte, North Carolina, within House District 102 and Senate District 37. Ms. Brien is a registered unaffiliated who has consistently voted for Democratic candidates for the General Assembly. House District 102 and Senate District 37 are both packed Democratic districts. In 2018, the Democratic candidates won these districts with over 83% and 78% of the vote.

18. Plaintiff John Mark Turner is a Navy veteran and a system administrator residing in Raleigh, North Carolina, within House District 38 and Senate District 15. Mr. Turner is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 38 and Senate District 15 are both packed Democratic districts. In 2018, the Democratic candidates won these districts with over 81% and 73% of the vote.

19. Plaintiff Leon Charles Schaller is a retired safety and fire protection engineer residing in Burlington, North Carolina, within House District 64. Mr. Schaller is a registered unaffiliated voter who has consistently voted for Democratic candidates for the General Assembly. The county cluster that contains House Districts 63 and 64 was not changed in the 2017 Plans and retains the same district lines enacted in 2011. In constructing the cluster, the General Assembly cracked Democratic voters in Burlington across the two districts. Republican candidates have won every election in House District 64 since the 2011 redistricting—with over 58% of the vote in 2012 and 2018, and running unopposed in 2014 and 2016.

20. Plaintiff Rebecca Harper is a real estate agent residing in Cary, North Carolina, within House District 36 and Senate District 17. Ms. Harper is a registered Democrat who has

consistently voted for Democratic candidates for the General Assembly. The General Assembly packed several districts surrounding House District 36 with Democratic voters to make House District 36 as Republican as possible. In 2018, the Democratic candidate won House District 36 with barely over 50% of the two-party vote. The General Assembly similarly packed several districts surrounding Senate District 17 to make Senate District 17 as competitive for Republicans as possible. In 2018, the Democratic candidate narrowly won Senate District 17.

21. Plaintiff Lesley Brook Wischmann is a semi-retired writer and historian residing in Holly Ridge, North Carolina, within House District 15. Ms. Wischmann is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. The General Assembly cracked Democratic voters across House Districts 14 and 15. In 2018, the Republican candidate won House District 15 with roughly 66% of the vote.

22. Plaintiff David Dwight Brown is a retired computer systems analyst residing in Greensboro, North Carolina, within House District 58. Mr. Brown is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 58 is a packed Democratic district. In 2018, the Democratic candidate won House District 58 with over 76% of the vote.

23. Plaintiff Amy Clare Oseroff is a teacher residing in Greenville, North Carolina, within House District 8. Ms. Oseroff is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. The General Assembly packed Greenville's most heavily Democratic areas into House District 8 to create a strongly Democratic district, ensuring that nearby House Districts 9 and 12 would favor Republicans. In 2018, the Democratic candidate won House District 8 with over 64% of the vote.

24. Plaintiff Kristin Parker Jackson is a paralegal residing in Matthews, North Carolina, within House District 103 and Senate District 39. Ms. Jackson is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. The General Assembly packed Democrats into the districts surrounding House District 103 to make House District 103 as Republican-leaning as possible. In 2018, House District 103 was a virtual tie. The General Assembly made Senate District 39 a Republican-leaning district by packing its neighboring districts with Democratic voters. In 2018, the Republican candidate won Senate District 39 with roughly 53% of the vote.

25. Plaintiff John Balla is a digital marketing strategist residing in Raleigh, North Carolina, within House District 34 and Senate District 16. Mr. Balla is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly in every election since he moved to North Carolina. House District 34 and Senate District 16 are both packed Democratic districts. In 2018, the Democratic candidates won both districts with over 65% of the vote.

26. Plaintiff Rebecca Johnson is a retired educator residing in Winston-Salem, North Carolina, within House District 74 and Senate District 31. Ms. Johnson is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 74 adjoins two packed Democratic districts, allowing House District 74 to favor Republicans. In 2018, the Republican candidate won House District 74 with more than 54% of the vote. Senate District 31—which cradles Senate District 32, a packed Democratic district—leans Republican. In 2018, the Republican candidate won Senate District 31 with over 61% of the vote.

27. Plaintiff Aaron Wolff is a veterinarian residing in Holly Springs, North Carolina, within House District 37 and Senate District 17. Mr. Wolff is a registered Democrat who has

consistently voted for Democratic candidates for the General Assembly. The General Assembly packed as many Democrats as possible into the districts surrounding House District 37 and Senate District 17 to make these districts as favorable to Republicans as possible. In 2018, Democratic candidates won both districts with bare majorities.

28. Plaintiff Mary Ann Peden-Coviello is a writer and editor residing in Winston-Salem, North Carolina, within House District 72 and Senate District 32. Ms. Peden-Coviello is a registered Democrat who has consistently voted for Democratic candidates for the General Assembly. House District 72 is a packed Democratic district. In 2018, the Democratic candidate won House District 72 with 79% of the vote. Senate District 32 is a packed Democratic district that was drawn to ensure that neighboring Senate District 31 would elect a Republican. In 2018, the Democratic candidate won Senate District 32 with 72% of the vote.

29. Plaintiff Kathleen Barnes is the owner of a small publishing company residing in Brevard, North Carolina, within House District 113 and Senate District 48. Ms. Barnes is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. The Democrats who reside in House District 113, like Ms. Barnes, were strategically placed in a different district from the Democratic voters around Hendersonville to ensure that Republicans were favored in both districts. In the 2018 elections, the Republican candidate won House District 113 with over 57% of the vote. Senate District 48 was similarly cracked, splitting the Democratic voters in Brevard from the strong base of Democratic voters in nearby Asheville so that Senate District 48 would be Republican-leaning. In 2018, the Republican candidate won Senate District 48 with over 56% of the vote.

30. Plaintiff Karen Sue Holbrook is a retired psychology professor residing in Southport, North Carolina, within House District 17 and Senate District 8. Dr. Holbrook is a

registered Democrat who has consistently voted for Democratic candidates for the General Assembly. In the county cluster containing House District 17, the General Assembly packed Democratic voters into House District 18 to make House District 17 and the other districts in the cluster lean Republican. In 2018, the Republican candidate won House District 17 with over 63% of the vote. With respect to Senate District 8, a heavily Democratic area in Wilmington is extracted from Senate District 9 and placed in Senate District 8 to make Senate District 9 as competitive as possible for Republicans. As a result, in 2018, Senate District 9 was a near tie, while Republicans won Senate District 8 with a comfortable margin.

31. Plaintiff Ann McCracken is a retired English instructor residing in Sanford, North Carolina, within House District 51 and Senate District 12. Ms. McCracken is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 51 and Senate District 12 are both cracked districts favoring Republicans, with the Republican candidates having won 53% and 60% of the vote in 2018.

32. Plaintiff Jackson Thomas Dunn, Jr. is a retired attorney and law professor residing in Charlotte, North Carolina, within House District 104 and Senate District 39. Mr. Dunn is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. The General Assembly manipulated House District 104 to be as competitive as possible for Republicans, with the Democratic candidate winning by just a few points in 2018. The General Assembly made Senate District 39 a Republican-leaning district by packing its neighboring districts with Democratic voters. In 2018, the Republican candidate won Senate District 39 with roughly 53% of the vote.

33. Plaintiff Alyce Machak is an app programmer residing in Gastonia, North Carolina, within House District 109. Ms. Machak is a registered Democrat who has consistently

voted for Democratic candidates for the North Carolina General Assembly. The county cluster containing House District 109 cracks the Democratic stronghold of Gastonia across House Districts 108, 109, and 110, ensuring that Democrats do not win any of those districts. In 2018, the Republican candidate won House District 109 with 59% of the vote.

34. Plaintiff William Service is a semi-retired environmental consultant residing in Raleigh, North Carolina, within House District 34 and Senate District 18. Mr. Service is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 34 is a packed Democratic district, with the Democratic candidate having won over 65% of the vote in 2018. Senate District 18 adjoins several packed Democratic districts, and the General Assembly manipulated the district lines of Senate District 18 to squeeze in as many Republican voters as possible. The Republican candidate won Senate District 18 by less than three percentage points in 2018.

35. Plaintiff Donald Rumph is an Army and Air Force combat veteran and retired registered nurse residing in Greenville, North Carolina, within House District 9. Mr. Rumph is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 9 is a Republican district because the General Assembly packed Democratic voters into the adjoining House District 8. In 2018, the Republican candidate won House District 9 with nearly 60% of the vote.

36. Plaintiff Stephen Douglas McGrigor is employed in the emergency power supply system industry and resides in Youngsville, North Carolina, within House District 7 and Senate District 18. Mr. McGrigor is a registered unaffiliated voter who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 7 was carefully constructed to be a Republican district. In 2018, the Republican candidate won House District 7

with 58% of the vote. Senate District 18 adjoins several packed Democratic districts, and the General Assembly manipulated the district lines of Senate District 18 to squeeze in as many Republican voters as possible. The Republican candidate won Senate District 18 by less than three percentage points in 2018.

37. Plaintiff Nancy Bradley is a state government benefits eligibility official residing in Raleigh, North Carolina, within House District 35 and Senate District 14. Ms. Bradley is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 35 was constructed to be as competitive for Republicans as possible, with the Democratic candidate having won a narrow victory in 2018. Senate District 14 is a packed Democratic district that the Democratic candidate won with over 71% of the vote in 2018.

38. Plaintiff Vinod Thomas is a teacher at the Davidson Center for Learning and Academic Planning residing in Cornelius, North Carolina, within House District 98 and Senate District 41. Mr. Thomas is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. The General Assembly made both House District 98 and Senate District 41 as competitive for Republicans as possible by packing their adjoining districts with Democratic voters.

39. Plaintiff Derrick Miller is a professor residing in Wilmington, North Carolina, within House District 18 and Senate District 8. Dr. Miller is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 18 is a packed Democratic district that the Democratic candidate won in 2018 with over 62% of the vote. With respect to Senate District 8, a heavily Democratic area in Wilmington—where Dr. Miller resides—is extracted from Senate District 9 and placed in Senate District 8 to

waste the votes of these Democratic votes in Senate District 8 and make Senate District 9 as competitive as possible for Republicans. In 2018, the Republican candidate won Senate District 8 with over 58% of the vote.

40. Plaintiff Electa E. Person is a retired NASA management analyst and Air Force veteran residing in Fayetteville, North Carolina, within House District 43. Ms. Person is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 43 is a packed Democratic district that the Democratic candidate won with over 74% of the vote in 2018.

41. Plaintiff Deborah Anderson Smith is an Army veteran and retired educator residing in Kannapolis, North Carolina, within House District 83. Ms. Smith is a registered unaffiliated voter who has consistently voted for Democratic candidates for the North Carolina General Assembly. Kannapolis and its Democratic voters are cracked across House Districts 77, 82, and 83, ensuring that Republicans win each seat. In 2018, the Republican candidate won House District 83 by just five percentage points.

42. Plaintiff Rosalyn Sloan is a registered nurse residing in New London, North Carolina, within House District 67. Ms. Sloan is a registered unaffiliated voter who has consistently voted for Democratic candidates for the North Carolina General Assembly. The General Assembly constructed House Districts 66 and 67 to make House District 66 as competitive for Republicans as possible while keeping House 67 a safe Republican seat. In 2018, the Republican candidate won House District 67 with over 72% of the vote.

43. Plaintiff Julie Ann Frey is a retired bank employee residing in Monroe, North Carolina, within House District 69. Ms. Frey is a registered unaffiliated voter who has consistently voted for Democratic candidates for the North Carolina General Assembly. Monroe

and its Democratic voters are cracked between House Districts 68 and 69, ensuring that Republicans win both districts. In 2018, the Republican candidate won House District 69 with roughly 60% of the vote.

44. Plaintiff Lily Nicole Quick is a homemaker residing in Greensboro, North Carolina, within House District 59. Ms. Quick is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. The General Assembly packed House Districts 58 and 60 to ensure that Republicans win House District 59. In 2018, the Republican candidate won House District 59 with over 56% of the vote.

45. Plaintiff Joshua Brown is a water quality technician residing in High Point, North Carolina, within House District 60 and Senate District 26. Mr. Brown is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. House District 60 is a packed Democratic district that the Democratic candidate won with over 69% of the vote in 2018. Senate District 26 grabs the heavily Democratic areas in and around High Point, wasting the votes of these Democratic voters (such as Mr. Brown) in an overwhelmingly Republican district. In 2018, the Republican candidate won Senate District 26 with nearly 65% of the vote.

46. Plaintiff Carlton E. Campbell Sr. is a retired teacher residing in Whiteville, North Carolina, within House District 46. Mr. Campbell is a registered Democrat who has consistently voted for Democratic candidates for the North Carolina General Assembly. The General Assembly cracked Democratic voters across House Districts 46 and 16, and packed Democratic voters in the neighboring House District 47, ensuring that House District 46 would elect a Republican. In 2018, the Republican candidate won House District 46 with over 63% of the vote.

B. Defendants

47. Defendant David R. Lewis is a member of the North Carolina House of Representatives, representing House District 53, and the Senior Chairman of the House Select Committee on Redistricting. Defendant Lewis is sued in his official capacity only.

48. Defendant Ralph E. Hise, Jr. is a member of the North Carolina Senate, representing Senate District 39, and the Chairman of the Senate Standing Committee on Redistricting. Defendant Hise is sued in his official capacity only.

49. Defendant Timothy K. Moore is the Speaker of the North Carolina House of Representatives. Defendant Moore is sued in his official capacity only.

50. Defendant Philip E. Berger is the President Pro Tempore of the North Carolina Senate. Defendant Berger is sued in his official capacity only.

51. Defendant the State of North Carolina has its capital in Raleigh, North Carolina.

52. Defendant North Carolina State Board of Elections and Ethics Enforcement is an agency responsible for the regulation and administration of elections in North Carolina.

53. Defendant Joshua Malcolm is the Chairman of the North Carolina State Board of Elections and Ethics Enforcement. Mr. Malcolm is sued in his official capacity only.

54. Defendant Ken Raymond is the Secretary of the North Carolina State Board of Elections and Ethics Enforcement. Mr. Raymond is sued in his official capacity only.

55. Defendant Stella Anderson is a member of the North Carolina State Board of Elections and Ethics Enforcement. Ms. Anderson is sued in her official capacity only.

56. Defendant Damon Circosta is a member of the North Carolina State Board of Elections and Ethics Enforcement. Mr. Circosta is sued in his official capacity only.

57. Defendant Stacy "Four" Eggers IV is a member of the North Carolina State Board of Elections and Ethics Enforcement. Mr. Eggers is sued in his official capacity only.

58. Defendant Jay Hemphill is a member of the North Carolina State Board of Elections and Ethics Enforcement. Mr. Hemphill is sued in his official capacity only.

59. Defendant Valerie Johnson is a member of the North Carolina State Board of Elections and Ethics Enforcement. Ms. Johnson is sued in her official capacity only.

60. Defendant John Lewis is a member of the North Carolina State Board of Elections and Ethics Enforcement. Mr. Lewis is sued in his official capacity only.

61. Defendant Robert Cordle is a member of the North Carolina State Board of Elections and Ethics Enforcement. Mr. Cordle is sued in his official capacity only.

JURISDICTION AND VENUE

62. This Court has jurisdiction of this action pursuant to Articles 26 and 26A of Chapter 1 of the General Statutes.

63. Under N.C. Gen. Stat. § 1-81.1, the exclusive venue for this action is the Wake County Superior Court.

64. Under N.C. Gen. Stat. § 1-267.1, a three-judge court must be convened because this action challenges the validity of redistricting plans enacted by the General Assembly.

FACTUAL ALLEGATIONS

A. National Republican Party Officials Target North Carolina For Partisan Gerrymandering Prior to the 2010 Elections

65. In the years leading up to the 2010 decennial census, national Republican leaders undertook a sophisticated and concerted effort to gain control of state governments in critical swing states such as North Carolina. The Republican State Leadership Committee (RSLC) codenamed the plan "the REDistricting Majority Project" or "REDMAP." REDMAP's goal was

to “control[] the redistricting process in . . . states [that] would have the greatest impact on determining how both state legislative and congressional district boundaries would be drawn” after the 2010 census. The RSLC’s REDMAP website explained that fixing these district lines in favor of Republicans would “solidify conservative policymaking at the state level and maintain a Republican stronghold in the U.S. House of Representatives for the next decade.”

66. North Carolina was a key REDMAP “target state.” REDMAP aimed to flip both chambers of the North Carolina General Assembly from Democratic to Republican control.

67. To spearhead its efforts in North Carolina, the RSLC enlisted the most influential conservative donor in North Carolina, Art Pope. The RSLC and Pope targeted 22 races in the North Carolina House and Senate. Pope helped create a new non-profit organization called “Real Jobs NC” to finance spending on the races, and the RSLC donated \$1.25 million to this new group. Pope himself made significant contributions; in total, Pope, his family, and groups backed by him spent \$2.2 million on the 22 targeted races. This represented three-quarters of the total spending by all independent groups in North Carolina on the 2010 state legislative races.

68. The money was well spent. Republicans won 18 of the 22 races the RSLC targeted, giving Republicans control of both the House and Senate for the first time since 1870.

B. Republican Mapmakers Create the 2011 Plans from Party Headquarters

69. After taking control of both chambers of the General Assembly, Republicans set out to redraw district lines to entrench Republicans in power. The RSLC’s President and CEO, Chris Jankowski, sent a letter to officials in Republican-controlled states (including North Carolina) offering the RSLC’s assistance with the upcoming redistricting. Jankowski explained that the RSLC had “taken the initiative to retain a team of seasoned redistricting experts,” and the RSLC would happily make this team “available to” the Republican state officials.

Jankowski noted that RSLC's expert "redistricting team" was "led by Tom Hofeller," who had been the principal redistricting strategist for the Republican Party for decades.

70. Republicans leaders in the North Carolina General Assembly took Jankowski up on his offer. The drawing of the new North Carolina House and Senate plans (the "2011 Plans") was not done by any committee or subcommittee of the General Assembly. Instead, it was primarily done by four Republican Party operatives: (1) Hofeller; (2) John Morgan, another national Republican mapmaker and longtime associate of Hofeller, (3) Dale Oldham, an attorney who served as counsel to the Republican National Committee; and (4) Joel Raupe, a former aide to several Republican representatives in the North Carolina Senate. A newly created shadow organization known as "Fair and Legal Redistricting North Carolina" paid for Morgan's and Raupe's work, while Hofeller was paid with a combination of state funds and money from the RSLC's non-profit arm the State Government Leadership Foundation.

71. Hofeller and his team worked out of the basement of the state Republican Party headquarters on Hillsborough Street in Raleigh. They did not use a government computer to create the new plans. Rather, they created the new plans using computers owned by the Republican National Committee and software licensed by the state Republican Party.

72. The map-making process was shielded from public view. Only a small group of individuals that included Hofeller's team and Republican leaders in the General Assembly saw the first drafts of the maps before they were publicly released in June 2011.

73. One person who was allowed to directly participate in the map-drawing process was mega-donor Art Pope. Despite not being a practicing lawyer, Pope served as "pro bono" counsel to the state legislature and met several times with Hofeller and his team at Republican

Party headquarters while they were working on the new plans. Pope even proposed specific changes to certain districts.

74. Although Republicans drew their maps in secret, their intentions were clear as day. Their goal was to maximize the number of seats Republicans would win in the General Assembly through whatever means necessary.

75. Hofeller later admitted that, in creating the 2011 Plans, his team used past election results in North Carolina to predict the “partisan voting behavior” of the new districts. Republican leaders in the General Assembly likewise later admitted in court filings that “[p]olitical considerations played a significant role in the enacted [2011] plans,” and that the plans were “designed to ensure Republican majorities in the House and Senate.” *Dickson v. Rucho*, No. 201PA12-3, 2015 WL 4456364, at *16, 55 (N.C. July 13, 2015). The Republican leaders asserted that they were “perfectly free” to engage in partisan gerrymandering, and that they had done just that in constructing the 2011 Plans. *Dickson v. Rucho*, No. 201PA12-2, 2013 WL 6710857, at *60 (N.C. Dec. 9, 2013).

C. Republicans Enact the 2011 Plans To Entrench Their Party’s Political Power

76. The General Assembly adopted the Hofeller-drawn plans in July 2011, designated HB 937 and SB 45 respectively. Not a single Democrat in the General Assembly voted for either plan, and only one Republican representative voted against them.

77. Shortly thereafter, legislators learned that certain census blocks were not assigned to any district in the enacted plans. In November 2011, the General Assembly passed curative House and Senate plans, designated HB 776 and SB 282 respectively, to add the previously omitted blocks. No Democrat voted for either curative plan.

D. The 2011 Plans Gave Republicans Super-Majorities That Were Grossly Disproportionate to Republicans' Share of the Statewide Vote

78. The 2011 Plans achieved exactly the effect that Republicans in the General Assembly intended. In the 2012 election, the parties' vote shares for the North Carolina House of Representatives were nearly evenly split across the state, with Democrats receiving 48.4% of the two-party statewide vote. But Democrats won only 43 of 120 seats (36%). In other words, Republicans won a veto-proof majority in the state House—64% of the seats (77 of 120)—despite winning just a bare majority of the statewide vote. Further, because of the rigging of district lines, 53 of the 120 House races were uncontested.

79. In the 2012 Senate elections, Democrats won nearly half of the statewide vote (48.8%), but won only 18 of 50 seats (36%). Republicans thus won a veto-proof majority in the Senate while winning only a tiny majority of the total statewide vote.

80. In 2014, Republican candidates for the House won 54.4% of the statewide vote, and again won a super-majority of seats (74 of 120, or 61.6%). Over half of the House seats, 62 of 120, went uncontested in 2014.

81. In the 2014 Senate elections, Republicans won 54.3% of statewide vote and 68% of the seats (34 of 50). There were 21 uncontested elections in the Senate in 2014, with Republicans winning 12 uncontested districts and Democrats winning 9.

82. In 2016, Republicans again won 74 of 120 House seats, or 62%, this time with 52.6% of the statewide vote. Nearly half of all of the House seats were uncontested (59 of 120).

83. In the 2016 Senate elections, Republicans won 55.9% of the statewide vote and 70% of the seats (35 of 50). Republicans held 12 uncontested seats compared to 6 for Democrats, for a total of 18 uncontested races.

84. The below charts summarizes the election results under the 2011 Plans:

Year	House		Senate	
	Republican Percentage of Statewide Vote	Republican Percentage of Seats Won	Republican Percentage of Statewide Vote	Republican Percentage of Seats Won
2012	51.6%	64.2% (77 of 120)	51.2%	64.0% (32 of 50)
2014	54.4%	61.6% (74 of 120)	54.3%	68.0% (34 of 50)
2016	52.6%	61.6% (74 of 120)	55.9%	70.0% (35 of 50)

E. A Federal Court Strikes Down Many Districts as Racially Gerrymandered

85. The 2011 Plans led to substantial litigation, including the federal lawsuit styled *Covington v. North Carolina*, No. 1:15-CV-00399 (M.D.N.C.). In *Covington*, the plaintiffs challenged 19 districts in the North Carolina House (5, 7, 12, 21, 24, 29, 31, 32, 33, 38, 42, 43, 48, 57, 58, 60, 99, 102, and 107) and 9 districts in the North Carolina Senate (4, 5, 14, 20, 21, 28, 32, 38, and 40). They alleged that race predominated in the drawing of these districts, in violation of the federal Equal Protection Clause. In August 2016, the federal district court found for the plaintiffs as to all of the challenged districts, but permitted the General Assembly to wait until after the November 2016 elections to enact remedial plans. *Covington v. North Carolina*, 316 F.R.D. 176, 176-78 (M.D.N.C. 2016). The U.S. Supreme Court summarily affirmed this decision. 137 S. Ct. 2211 (2017).

86. In a subsequent order, the district court gave the General Assembly a deadline of September 1, 2017 to enact new House and Senate plans remedying the racial gerrymanders the court had found. *Covington v. North Carolina*, 267 F. Supp. 3d 664 (M.D.N.C. 2017).

F. The General Assembly Enacts the 2017 Plans To Dilute the Voting Power of Democratic Voters and Maximize the Political Advantage of Republicans

87. The General Assembly began developing new House and Senate plans in June 2017. On June 30, 2017, Senator Berger appointed 15 senators—10 Republicans and 5 Democrats—to the Senate Committee on Redistricting. Senator Hise was appointed Chair.

88. Also on June 30, 2017, Representative Moore appointed 41 House members—28 Republicans and 13 Democrats—to the House Select Committee on Redistricting. Representative Lewis was appointed Senior Chair.

89. At a July 26, 2017 joint meeting of the House and Senate Redistricting Committees, Representative Lewis and Senator Hise disclosed that Republican leadership would again employ Dr. Hofeller to draw the new House and Senate plans. When Democratic Senator Terry Van Duyn asked whether Hofeller would “be available to Democrats and maybe even the Black Caucus to consult,” Representative Lewis answered “no.” Joint Comm. Hr’g, July 26, 2017, at 22-23. Representative Lewis explained that, “with the approval of the Speaker and the President Pro Tem of the Senate,” “Dr. Hofeller is working as a consultant to the Chairs,” *i.e.*, as a consultant only to Representative Lewis and Senator Hise. *Id.* at 23.

90. In overseeing the 2016 redrawing of North Carolina’s congressional districts, Representative Lewis had previously explained that Hofeller is “very fluent in being able to help legislators translate their desires” into the district lines, and that Representative Lewis’ “desires” are to elect as many Republicans as possible. Representative Lewis said about the newly created congressional districts: “I think electing Republicans is better than electing Democrats. So I drew this map in a way to help foster what I think is better for the country.”

91. On August 4, 2017, at another joint meeting of the House and Senate Redistricting Committees, Representative Lewis and Senator Hise advised Committee members that the *Covington* decision invalidating 28 districts on federal constitutional grounds had rendered a large number of additional districts invalid under the Whole County Provision of the North Carolina Constitution, and those districts would also have to be redrawn.

92. At this meeting, the Committees allowed 31 citizens to speak for two minutes each about the manner in which the House and Senate maps should be redrawn. All speakers urged the members to adopt fair maps free of partisan bias. The Committees ignored them.

93. At another joint meeting on August 10, 2017, the House and Senate Redistricting Committees voted on criteria to purportedly govern the new plans.

94. Representative Lewis proposed as one criterion: “election data[:] political consideration and election results data may be used in drawing up legislative districts in the 2017 House and Senate plans.” Joint Comm. Hr’g, Aug. 10, 2017, at 132. Representative Lewis provided no further explanation or justification for this criterion in introducing it, stating only: “I believe this is pretty self-explanatory, and I would urge members to adopt the criteria.” *Id.*

95. Democratic members repeatedly pressed Representative Lewis for details on how Hofeller would use the elections data and for what purpose. Senator Clark asked, for instance: “You’re going to collect the political data. What specifically would the Committee do with it?” *Id.* at 135. Representative Lewis answered that “the Committee could look at the political data as evidence to how, perhaps, votes have been cast in the past.” *Id.* When Senator Clark inquired why the Committees would consider election results if not to predict *future* voting behavior, Representative Lewis offered no substantive answer, stating only that “the consideration of political data in terms of election results is an established districting criteria, and it’s one that I propose that this committee use in drawing the map.” *Id.* at 141.

96. The House and Senate Committees adopted the “election data” criterion on a party-line vote. *Id.* at 141-48. No Democrat on the Committees voted for the criterion, but all 32 Republican members of the Committees did. *Id.*

97. Representative Lewis disclosed that the specific election results that Hofeller would use were the U.S. Senate election in 2010, the elections for President, Governor, and Lieutenant Governor in 2012, the U.S. Senate election in 2014, and the elections for President, U.S. Senate, Governor, Lieutenant Governor, and Attorney General in 2016. *Id.* at 137-38.

98. Senator Clark proposed an amendment that would prohibit the General Assembly from seeking to maintain or establish a partisan advantage for any party in redrawing the plans. *Id.* at 166-67. Representative Lewis opposed the amendment without explanation, stating only that he “would not advocate for [its] passage.” *Id.* at 167. The Committees rejected Senator Clark’s proposal on a straight party-line vote. *Id.* at 168-74.

99. As a further criterion, Representative Lewis proposed incumbency protection. Specifically, he proposed that “reasonable efforts and political considerations may be used to avoid pairing incumbent members of the House or Senate with another incumbent in legislative districts drawn in [the] 2017 House and Senate plans.” *Id.* at 119.

100. Representative Darren Jackson objected to protecting incumbents who were elected under the unconstitutional prior maps. *Id.* at 120. Senator Van Duyn likewise stated that new districts “should represent the voters and not elected officials,” and therefore she “fundamentally believe[d] that incumbency should not be a criteria.” *Id.* at 123.

101. The House and Senate Committees adopted the incumbency-protection criterion on a straight-party line vote. *Id.* at 125-32. All 32 Republican members of the Committees voted in favor, and all 18 Democratic members voted against. *Id.*

102. The Committees also adopted as criteria, along straight party-line votes, that the Committees would make “reasonable efforts” to split fewer precincts than under the 2011 Plans,

and that the Committees “may consider municipal boundaries” in drawing the new districts.

Covington, *id.* at 66, 79, 98-104, 112-19.

103. As a final criterion, Representative Lewis proposed that the Committees be prohibited from considering racial data in drawing the new House and Senate plans. *Covington*, ECF 184-9 at 148. Representative Lewis and other Republican leaders thus explicitly asserted that no districts would be drawn with the goal of complying with Section 2 of the Voting Rights Act. *See id.* at 157. Republican leaders added in a later court filing that, “[t]o the extent that any district in the 2017 House and Senate redistricting plans exceed 50% BVAP, such a result was naturally occurring and the General Assembly did not conclude that the Voting Rights Act obligated it to draw any such district.” *Covington*, ECF No. 184 at 10.

104. The full criteria adopted by the Committees for the 2017 Plans read as follows:

Equal Population. The Committees shall use the 2010 federal decennial census data as the sole basis of population for drawing legislative districts in the 2017 House and Senate plans. The number of persons in each legislative district shall comply with the +/- 5 percent population deviation standard established by *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E. 2d 377 (2002).

Contiguity. Legislative districts shall be comprised of contiguous territory. Contiguity by water is sufficient.

County Groupings and Traversals. The Committees shall draw legislative districts within county groupings as required by *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E. 2d 377 (2002) (*Stephenson I*), *Stephenson v. Bartlett*, 357 N.C. 301, 582 S.E.2d 247 (2003) (*Stephenson II*), *Dickson v. Rucho*, 367 N.C. 542, 766 S.E.2d 238 (2014) (*Dickson I*) and *Dickson v. Rucho*, 368 N.C. 481, 781 S.E.2d 460 (2015) (*Dickson II*). Within county groupings, county lines shall not be traversed except as authorized by *Stephenson I*, *Stephenson II*, *Dickson I*, and *Dickson II*.

Compactness. The Committees shall make reasonable efforts to draw legislative districts in the 2017 House and Senate plans that improve the compactness of the current districts. In doing so, the Committees may use as a guide the minimum Reock (“dispersion”) and Polsby-Popper (“perimeter”) scores identified by Richard H. Pildes and Richard G. Neimi in *Expressive Harms*, “*Bizarre Districts*,” and *Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno*, 92 Mich. L. Rev. 483 (1993).

Fewer Split Precincts. The Committees shall make reasonable efforts to draw legislative districts in the 2017 House and Senate plans that split fewer precincts than the current legislative redistricting plans.

Municipal Boundaries. The Committees may consider municipal boundaries when drawing legislative districts in the 2017 House and Senate plans.

Incumbency Protection. Reasonable efforts and political considerations may be used to avoid pairing incumbent members of the House or Senate with another incumbent in legislative districts drawn in the 2017 House and Senate plans. The Committees may make reasonable efforts to ensure voters have a reasonable opportunity to elect non-paired incumbents of either party to a district in the 2017 House and Senate plans.

Election Data. Political considerations and election results data may be used in the drawing of legislative districts in the 2017 House and Senate plans.

No Consideration of Racial Data. Data identifying the race of individuals or voters shall not be used in the drawing of legislative districts in the 2017 House and Senate plans.

Covington, ECF No. 184-37.

105. Republican leaders in the General Assembly “did not introduce any evidence regarding what additional instructions, if any, Representative Lewis or Senator Hise provided to Dr. Hofeller about the proper use and weighting of the various criteria.” *Covington v. North Carolina*, 283 F. Supp. 3d 410, 418 (M.D.N.C. 2018). “Nor did they offer any evidence as to how Dr. Hofeller weighted or ordered the criteria in drawing the proposed remedial maps, either in general or as to any particular district.” *Id.*

106. As in 2011, no committee or subcommittee of the General Assembly participated in drawing the new maps. Instead, Hofeller again drew the maps in secret, under the direction of Representative Lewis and Senator Hise. Representative Lewis would admit that he “primarily . . . directed how the [House] map was produced,” and that he, Hofeller, and Representative Nelson

Dollar were the only “three people” who had even “seen it prior to its public publication.” N.C. House Floor Session Hr’g, Aug. 28, 2017, at 40.

107. And as in 2011, Hofeller did not use a government computer in creating the new districts. On information and belief, he used a personal computer instead.

108. Representative Lewis and Senator Hise released the proposed House and Senate plans on August 21, 2017.

109. At a Senate Redistricting Committee hearing three days later, Senate Van Duyn asked Senator Hise how the prior elections data had been used in drawing the proposed maps. Senator Hise admitted that they “did make partisan considerations when drawing particular districts.” Senate Comm. Hr’g, Aug. 24, 2017, at 26.

110. Outside expert analyses confirmed that the proposed maps were gerrymandered to favor Republicans. The Campaign Legal Center calculated the “efficiency gap” of the proposed plans. The efficiency gap measures how efficiently a party’s voters are distributed across districts. For each party, the efficiency gap calculates that party’s number of “wasted” votes, defined as the number of votes cast for losing candidates of that party (as a measure of cracked votes) plus the number of votes cast for winning candidates in excess of 50% (as a measure of packed votes). The lower each of these numbers, the fewer wasted votes and the more likely a party is to win additional seats. The efficiency gap equals the difference in the total wasted votes between the two parties, divided by the total number of votes cast in the election. Using the same elections data that the Committees used to develop the proposed maps, the Campaign Legal Center calculated that the proposed House plan had an efficiency gap of 11.98% in Republicans’ favor, and the proposed Senate plan had an efficiency gap of 11.87% in Republicans’ favor.

Covington, ECF No. 187-3 at 2. The Campaign Legal Center explained that, “[b]y historical standards, these are extraordinarily large figures, revealing an enormous Republican edge.” *Id.*

111. Other statistical analyses found the same. Dr. Gregory Herschlag, a professor of mathematics at Duke University, created tens of thousands of alternative, non-partisan Senate districting configurations within Wake, Mecklenburg, Cumberland, and Guilford Counties. Dr. Herschlag created these simulated districting plans using the traditional districting criteria of equal population, compactness, avoiding splitting precincts, and contiguity. *Covington*, ECF No. 187-3 at 10 ¶ 6. Dr. Herschlag then compared the expected outcomes under these simulated districts with those under the Republican leaders’ proposed districts in the same counties. Dr. Herschlag found that, using the votes cast in the 2012 and 2016 Presidential elections, the 2014 and 2016 U.S. Senate elections, the 2012 and 2014 U.S. House of Representatives elections, and the 2016 Governor election to predict partisan outcomes, the Republicans leaders’ proposed districts were more favorable to Republicans than 99.9% of the non-partisan simulations. *Id.* ¶ 12. Plaintiffs in this case will show that similar results hold across the state.

112. The extreme partisan bias of the proposed plans was also apparent from the elections data that the House and Senate Redistricting Committees themselves released with the proposals. The Committees provided data on the partisan breakdown of each proposed district using the state and federal elections that the Committees considered in drawing the districts.

113. The chart below shows the number of House districts Republicans would be expected to win under the Committees’ House plan when overlaying the results of each election the General Assembly considered. These expected seats approximate the number of seats Republicans actually won under the 2011 House plan (77 in 2012, 74 in 2014, and 74 in 2016).

Election	Expected Republican Seats Under Committees' House Plan
2010 U.S. Senate	82
2012 Lieutenant Governor	74
2012 Governor	72
2012 President	78
2014 U.S. Senate	76
2016 Attorney General	77
2016 Lieutenant Governor	79
2016 Governor	72
2016 U.S. Senate	79
2016 President	76

114. The following chart shows the number of Senate districts Republicans would be expected to win under the Committees' Senate plan when overlaying the results of each of the elections that the General Assembly considered. These expected Republican seats approximate the number of seats Republicans actually won under the 2011 Senate plan (which were 32, 34, and 35 seats in 2012, 2014, and 2016 respectively).

Election	Expected Republican Seats Under Committees' Senate Plan
2010 U.S. Senate	35
2012 Lieutenant Governor	31
2012 Governor	33
2012 President	33
2014 U.S. Senate	33
2016 Attorney General	31
2016 Lieutenant Governor	34
2016 Governor	32
2016 U.S. Senate	34
2016 President	33

115. Thus, for example, overlaying the results of the 2014 U.S. Senate election over the Committees' proposed districts, Republicans would win 76 of the 120 proposed House districts and 33 of the 50 proposed Senate districts. Republicans would win these massive landslides in both chambers even though the 2014 U.S. Senate election was nearly a tie statewide—the Republican candidate won by only 1.5 percentage points.

116. Of the roughly 4,300 public comments received by the General Assembly about the 2017 redistricting process, more than 99% reflected opposition to gerrymandering. For example, the author of the first written comment submitted to the Committees said: “I strongly encourage the North Carolina General Assembly to adopt new maps that are fair and open, that avoid racial or partisan gerrymandering, and that allow voters to pick their political representatives, not the other way around.” Other comments made the same plea.

117. But the Committees ignored the will of the people and forged ahead. On August 24, 2017, on a straight party-line vote, the Senate Redistricting Committee adopted the Senate map crafted by Hofeller without modification. The next day, the House Redistricting Committee adopted Hofeller’s proposed House plan without modification, also on a straight party-line vote.

118. On August 28, 2017, during a House floor debate on the proposed House map, an amendment modifying some districts in Wake County was approved by a largely party-line vote.

119. On August 31, 2017, the General Assembly passed the House plan (designated HB 927) and the Senate plan (designated SB 691), with a few minor modifications from the versions passed by the Committees. No Democratic Senator voted in favor of either plan. The sole Democratic member of the House who voted for the plans was Representative William Brisson, who switched to become a Republican several months later.

120. The 2017 Plans passed by the General Assembly altered at least 106 of the 170 total House and Senate districts from the 2011 Plans. *Covington*, 283 F. Supp. 3d at 418.

G. The *Covington* Court Appoints a Special Master To Redraw Several Districts in the 2017 Plans That Remained Racially Gerrymandered

121. The *Covington* plaintiffs objected to the new plans, arguing that the plans did not cure the racial gerrymanders in two House districts (21 and 57) and two Senate districts (21 and 28). *Covington*, 283 F. Supp. 3d at 429. The court agreed. *Id.* at 429-42. The court further held

that the General Assembly's changes to five House districts (36, 37, 40, 41, and 105) violated the North Carolina Constitution's prohibition on mid-decade redistricting. *Id.* at 443-45.

122. The *Covington* plaintiffs also stated that the new plans were blatant partisan gerrymanders. But given the remedial stage of the case, the plaintiffs did not "raise any partisan gerrymandering objections," and the court "[did] not address whether the 2017 Plans are unconstitutional partisan gerrymanders." *Covington*, 283 F. Supp. 3d at 429 n.2.

123. The court appointed Dr. Nathaniel Persily as a Special Master to assist in redrawing the districts for which the court had sustained the plaintiffs' objections. To cure the racially gerrymandered districts, the Special Master needed to adjust not only those districts, but also certain districts adjoining them. In his recommended remedial plans submitted to the court on December 1, 2017, the Special Master made material adjustments to House Districts 22, 59, 61, and 62 in redrawing House Districts 21 and 57, and made material adjustments to Senate Districts 19, 24, and 27 in redrawing Senate Districts 21 and 28. *Covington*, ECF No. 220 at 30-55. The court adopted the Special Master's recommended changes to all of these districts.

124. The Special Master also restored the districts that the court had found were redrawn in violation of the ban on mid-decade redistricting to the 2011 versions of those districts. *Covington*, ECF No. 220 at 56-66. The court adopted these changes as well.

125. On June 28, 2018, the U.S. Supreme Court affirmed the lower court's adoption of the Special Master's remedial plans for House Districts 21 and 57 (and the relevant adjoining districts) and Senate Districts 21 and 28 (and the relevant adjoining districts). *North Carolina v. Covington*, 138 S. Ct. 2548, 2553-54 (2018). But the U.S. Supreme Court reversed the district court's adoption of the Special Master's plans for the districts allegedly enacted in violation of the mid-decade redistricting prohibition, finding that the district court had exceeded its remedial

authority in rejecting newly enacted districts on this basis. *Id.* at 2554-55. Plaintiffs do not challenge in this case any district materially redrawn by the Special Master that remains in effect.

H. The 2017 Plans Pack and Crack Plaintiffs and Other Democratic Voters To Dilute Their Votes and Maximize the Political Advantage of Republicans

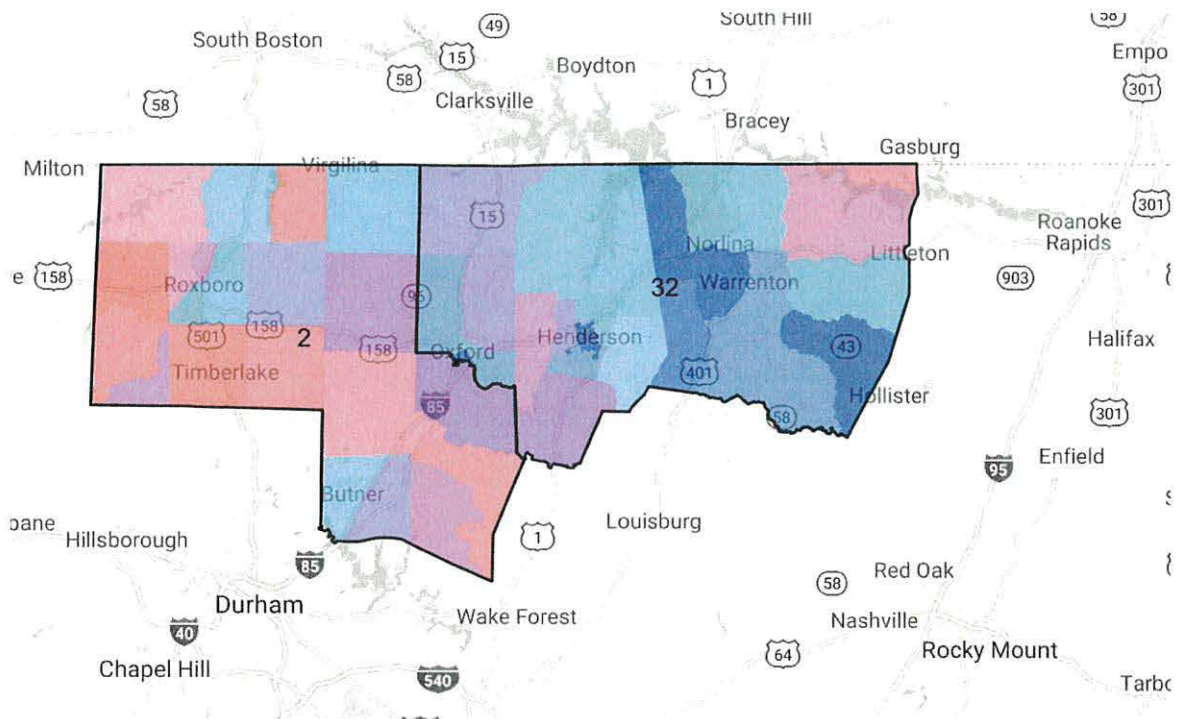
126. To maximize the number of Republican seats in the General Assembly, the 2017 Plans meticulously “pack” and “crack” Democratic voters. Packing and cracking are the two primary means by which mapmakers carry out a partisan gerrymander. “Packing” involves concentrating one party’s backers in a few districts that they will win by overwhelming margins to minimize the party’s votes elsewhere. “Cracking” involves dividing a party’s supporters among multiple districts so that they fall comfortably short of a majority in each district.

127. The sections below set forth some of the examples of packing and cracking of Democratic voters in each of the 2017 Plans.

1. The 2017 House Plan Packs and Cracks Democratic Voters

House Districts 2 and 32

128. House Districts 2 and 32 are within a county cluster of Person, Granville, Vance, and Warren Counties.

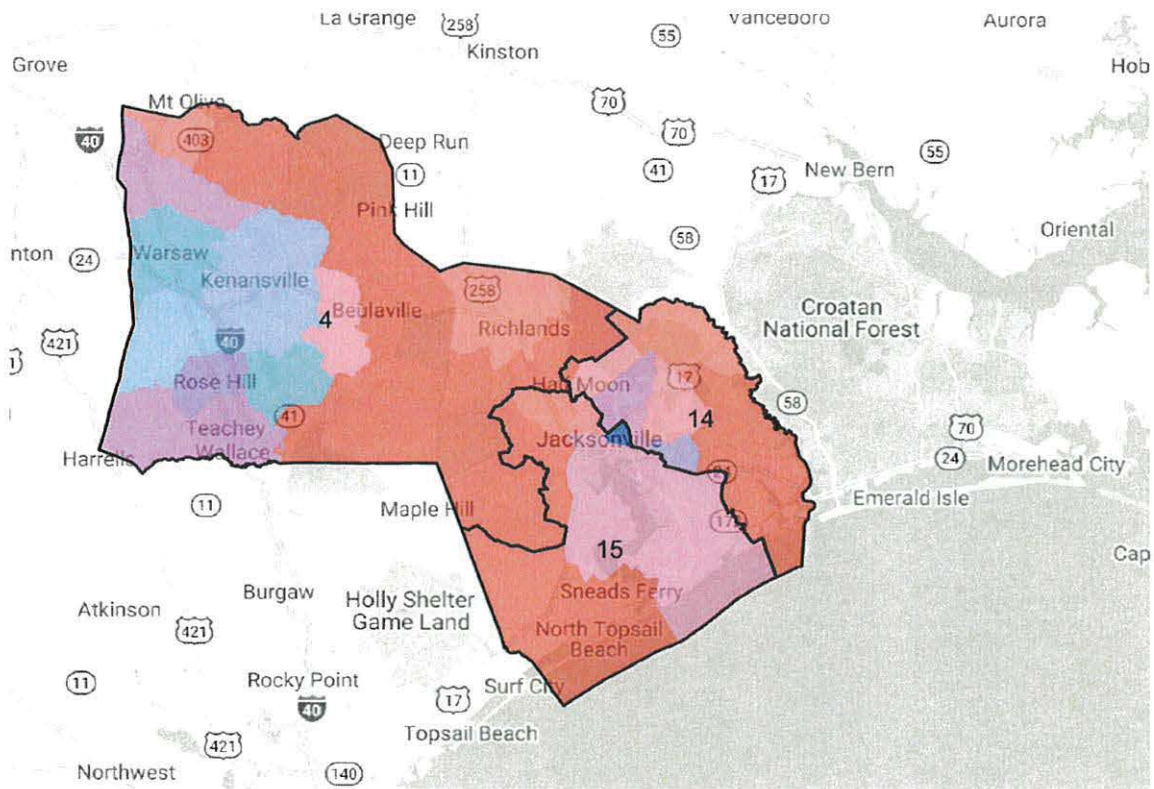


129. As shown in the image above,¹ in drawing the two districts within this cluster, the General Assembly packed the Democratic voters in and around Oxford with the Democratic voters in Henderson and in municipalities east of Henderson such as Warrenton and Norlina. This packing made House District 32 an overwhelmingly Democratic district in order to ensure that House District 2 would be a Republican-leaning district.

House Districts 4, 14, and 15

130. House Districts 4, 14, and 15 are within a county cluster containing Duplin and Onslow Counties.

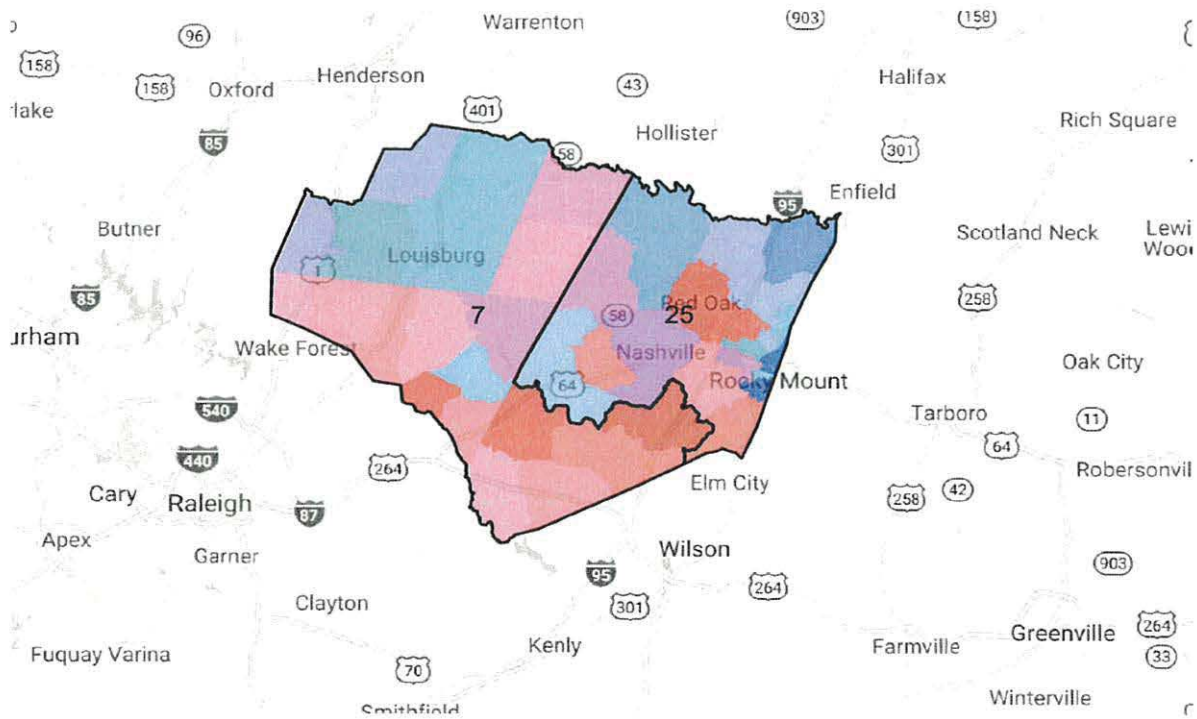
¹ All precinct-level partisanship data in the images that follow are based on the precinct-level election results from the 2014 U.S. Senate election in North Carolina.



131. The General Assembly split Jacksonville across House District 14 and 15, cracking its Democratic voters across the two districts and placing its most Democratic precincts in House District 15 with otherwise heavily Republican areas. The General Assembly also made sure to keep Jacksonville’s Democratic voters in separate districts from the Democratic-leaning cities of Warsaw and Kenansville. This cracking allowed all three districts to lean Republican.

House Districts 7 and 25

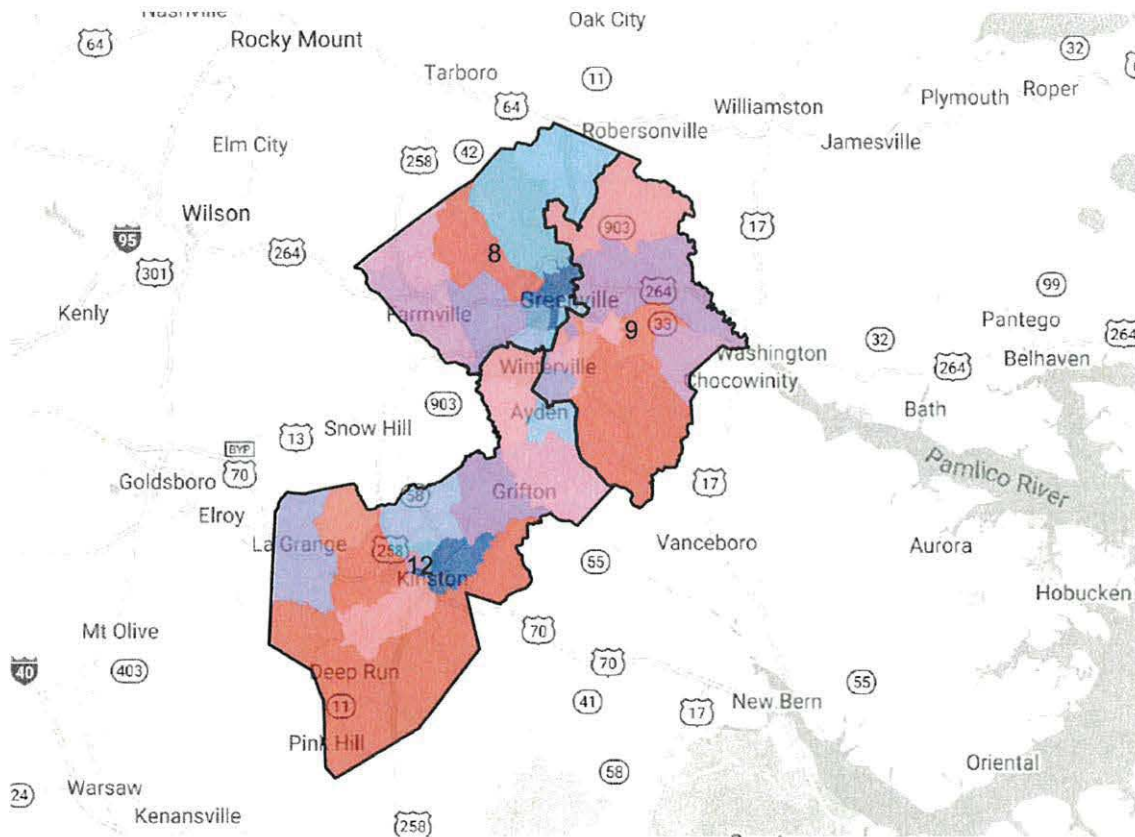
132. House Districts 7 and 25 are within a county cluster of Franklin and Nash Counties.



133. The General Assembly constructed this cluster to make sure that one of the two districts, House District 7, would favor Republicans, rather than risk that both districts could elect Democrats. To accomplish this, the General Assembly caused House District 7 to wrap around the southwestern edge of House District 25, allowing House District 7 to pick up deep red communities in southern Nash County.

House Districts 8, 9 and 12

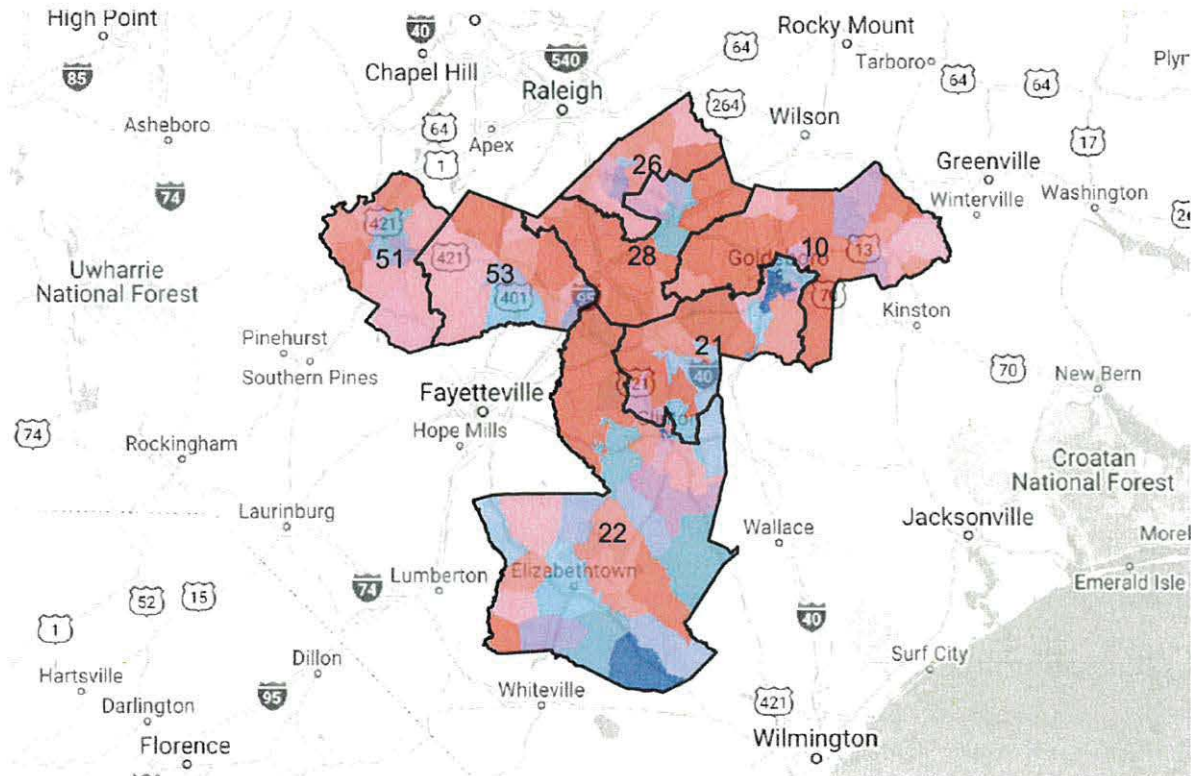
134. House Districts 8, 9, and 12 are within a county cluster consisting of Pitt and Lenoir Counties.



135. The General Assembly split Greenville nearly in half across separate districts in this cluster, even though Greenville is the county seat of Pitt County and has a population that is just slightly more than the target population for a single district. But the General Assembly carefully placed Greenville’s most Democratic areas in House District 8, packing these Democratic voters with others in the surrounding areas to create an overwhelmingly Democratic district. The General Assembly placed the more moderate and Republican-leaning areas of Greenville in House District 9 with other Republican areas, ensuring that this district would elect a Republican. The General Assembly similarly constructed House District 12 to favor Republicans by avoiding the Democratic precincts in and around Greenville.

House Districts 10, 26, 28, 51, and 53

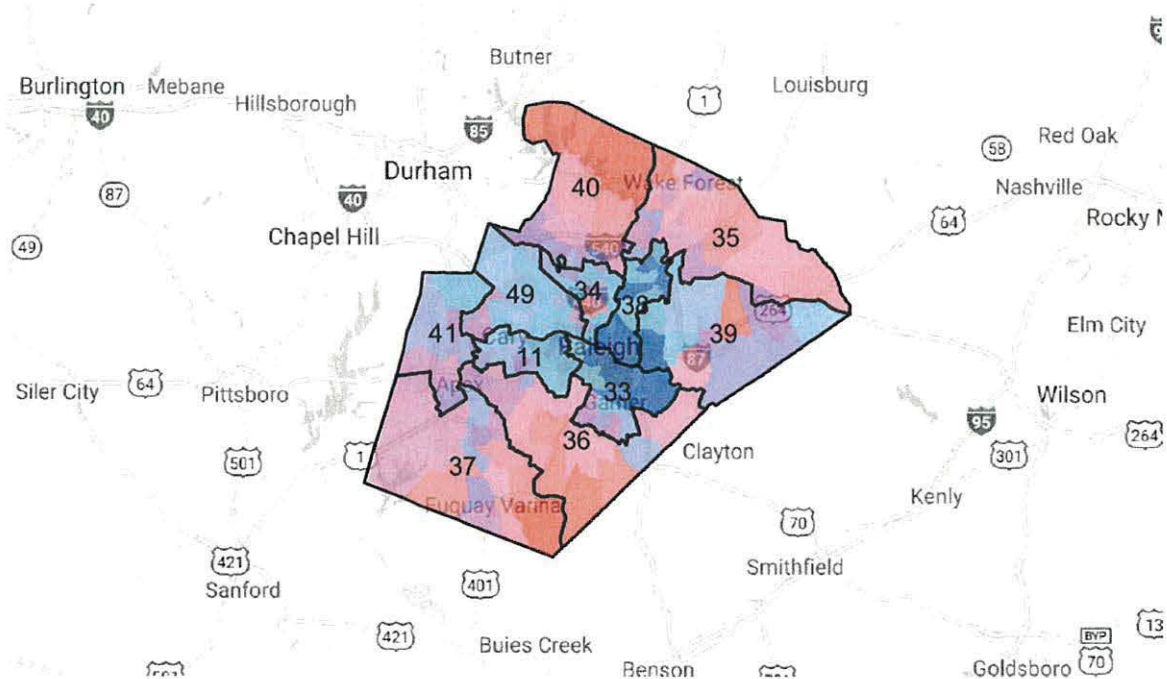
136. House Districts 10, 26, 28, 51, and 53 are part of a seven-county cluster spanning Greene, Wayne, Sampson, Bladen, Johnston, Harnett, and Lee Counties. This cluster also includes House Districts 21 and 22, which were redrawn by the special master in *Covington* and are not challenged in this case.



137. The General Assembly cracked the Democratic pockets of Johnston, Harnett, and Lee Counties into four separate districts (House Districts 26, 28, 53, and 51), so that none of these four districts would lean toward Democrats.

House Districts 11, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 49

138. House Districts 11, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 49 are all located within Wake County.



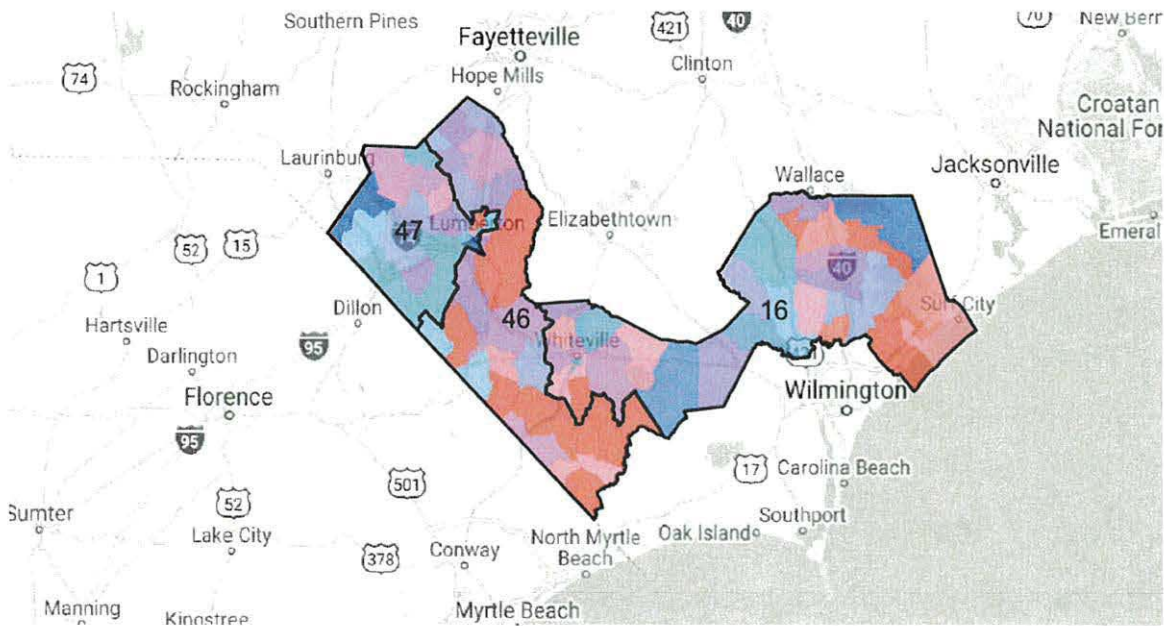
139. The General Assembly packed Democrats into House Districts 11, 33, 34, 38, 39, and 49 in order to maximize the number of districts within Wake County that would be competitive for Republicans. Based on the 2014 U.S. Senate results, for example, House Districts 35, 36, 37, and 40 all favor Republicans. Under a non-partisan map, these districts would be more Democratic-leaning. Indeed, although all four districts elected Democratic candidates by narrow margins in 2018, the NCDP had to spend far more money and other resources to win these districts than it would have under a non-partisan map.

140. On February 17, 2018, the North Carolina State Conference of NAACP Branches and other plaintiffs filed an action alleging that four of the House Districts in Wake County (36, 37, 40, and 41) were redrawn in 2017 violation of the North Carolina Constitution’s prohibition on mid-decade redistricting. *N.C. State. Conf. of NAACP Branches v. Lewis*, 18 CVS 2322 (N.C. Super.). On November 2, 2018, the Superior Court granted summary judgment to the plaintiffs and ordered the General Assembly to “remedy the identified defects and enact a new Wake County House District map for use in the 2020 general election.” House Districts 36, 37, 40,

and 41 therefore will revert to the 2011 versions of those districts or to districts closely resembling the 2011 versions. The 2011 versions of House Districts 36, 37, 40, and 41 were all gerrymandered to favor Republicans.

House Districts 16, 46, and 47

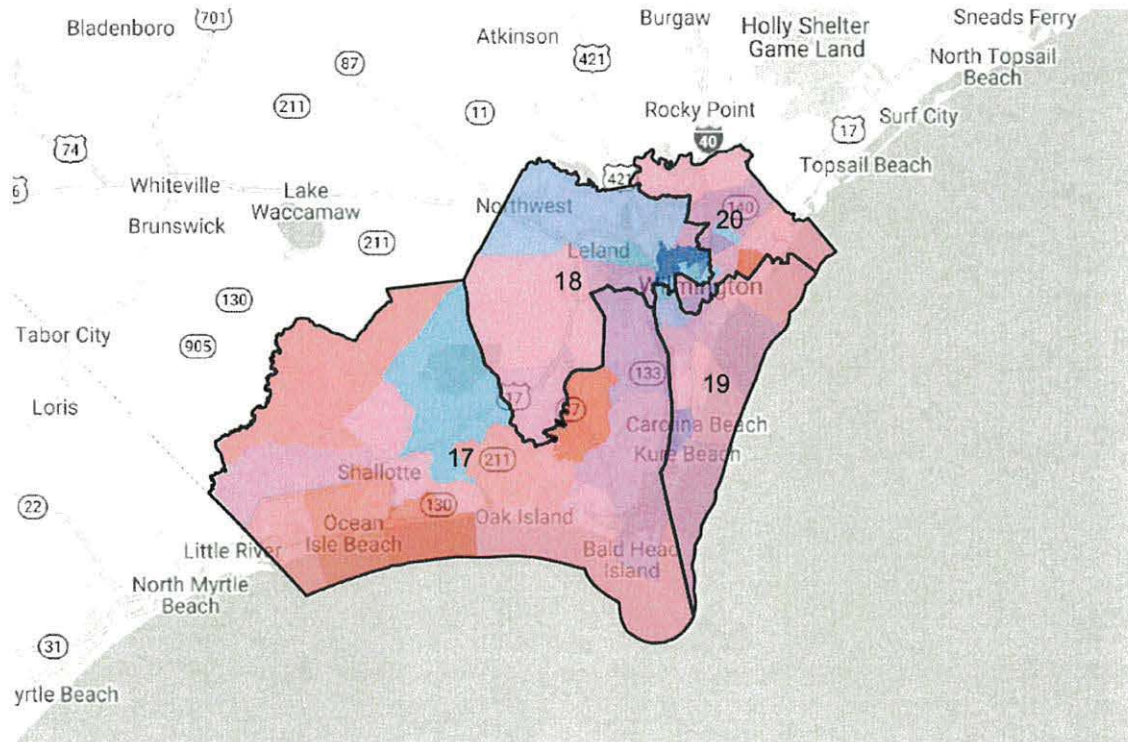
141. House Districts 16, 46, and 47 are within a county cluster of Pender, Columbus, and Robeson Counties.



142. The General Assembly split Lumberton across two separate districts in this cluster. It placed the Democratic areas of Lumberton in House District 47 with other heavily Democratic areas, while placing the more Republican parts of Lumberton into House District 46. The General Assembly then cracked the Democratic voters of Whiteville (in House District 16) from those in and around Chadbourn (just to the west of Whiteville in House District 46). Through these choices, the General Assembly created two districts that moderately favor Republicans using the statewide election results that the General Assembly considered (House District 16 and 46) and one overwhelmingly Democratic district (House District 47).

House Districts 17, 18, 19, and 20

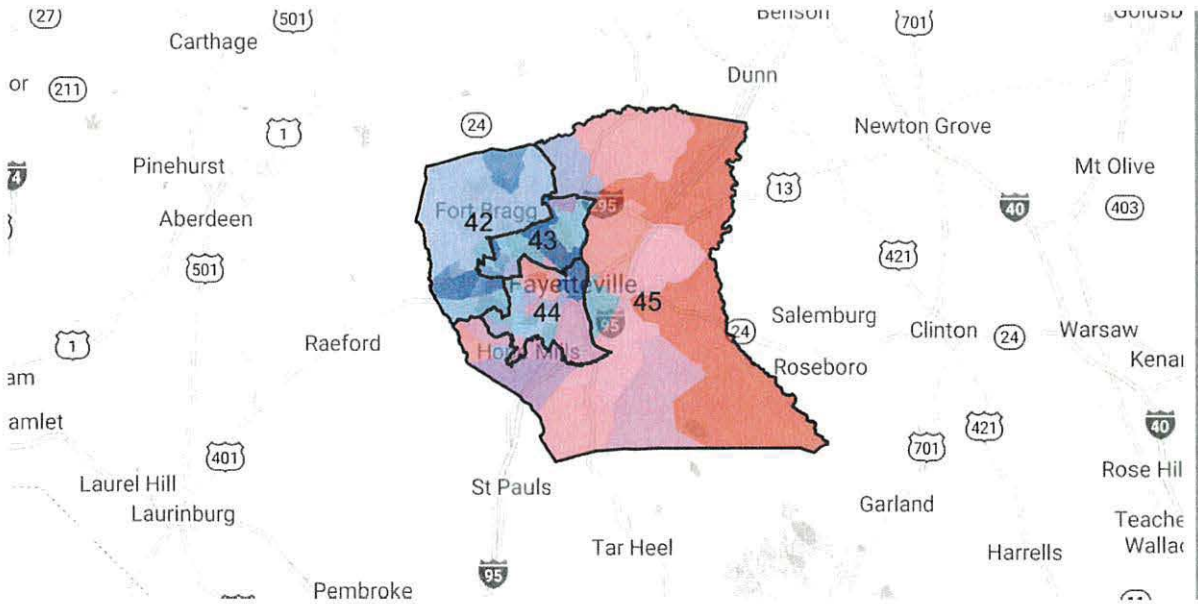
143. House Districts 17, 18, 19, and 20 are within a county cluster of New Hanover and Brunswick Counties.



144. The General Assembly manipulated this county cluster to create one packed Democratic district (House District 18) and three Republican-leaning districts (House Districts 17, 19, 20). The General Assembly split Wilmington across three different districts to accomplish this feat. It placed Wilmington’s most Democratic areas in House District 18, where these Democratic voters were joined with the Democratic voters in and around Leland, while Wilmington’s more Republican-leaning and swing precincts were placed in House Districts 19 and 20. In 2018, Republican candidates won House Districts 17, 19, and 20 with 63%, 51%, and 53% of the two-party vote respectively.

House Districts 42, 43, 44, and 45

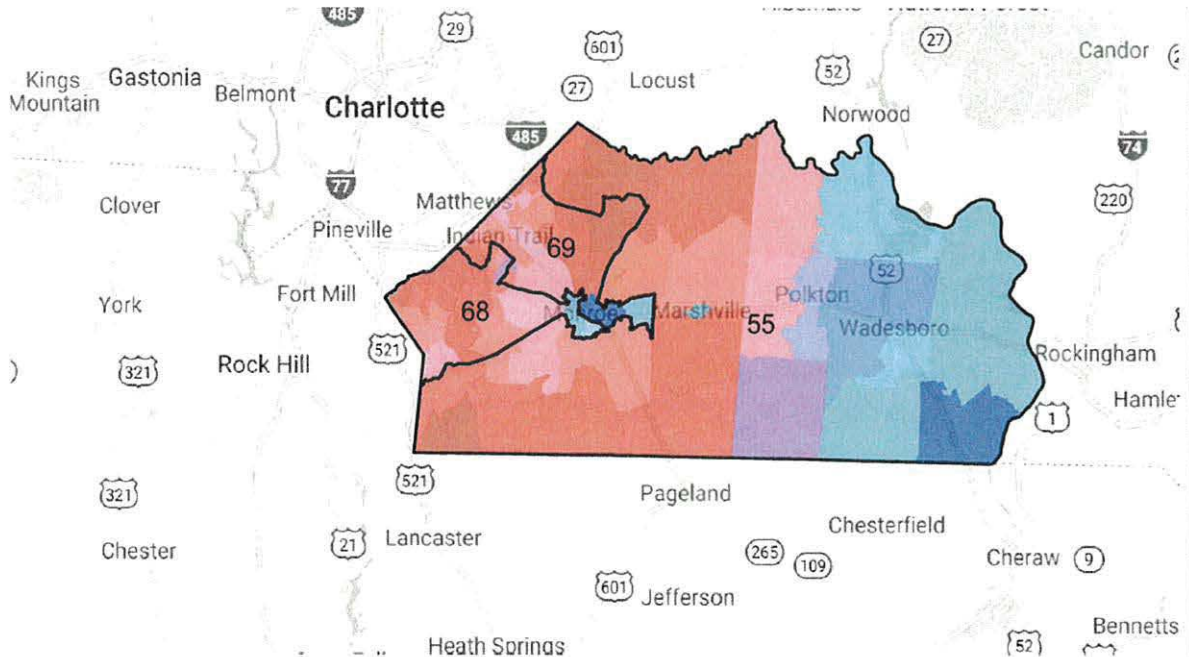
145. House Districts 42, 43, 44, and 45 are all within Cumberland County.



146. The General Assembly placed almost all of the most Democratic areas of Cumberland County into three of the four districts in this cluster, House District 42, 43, and 44. The General Assembly packed these Democratic voters to create a Republican-leaning district in Cumberland County, House District 45. Under a non-partisan map, this district would be more Democratic-leaning.

House Districts 55, 68, and 69

147. House Districts 55, 68, and 69 are within a county cluster of Anson and Union Counties.

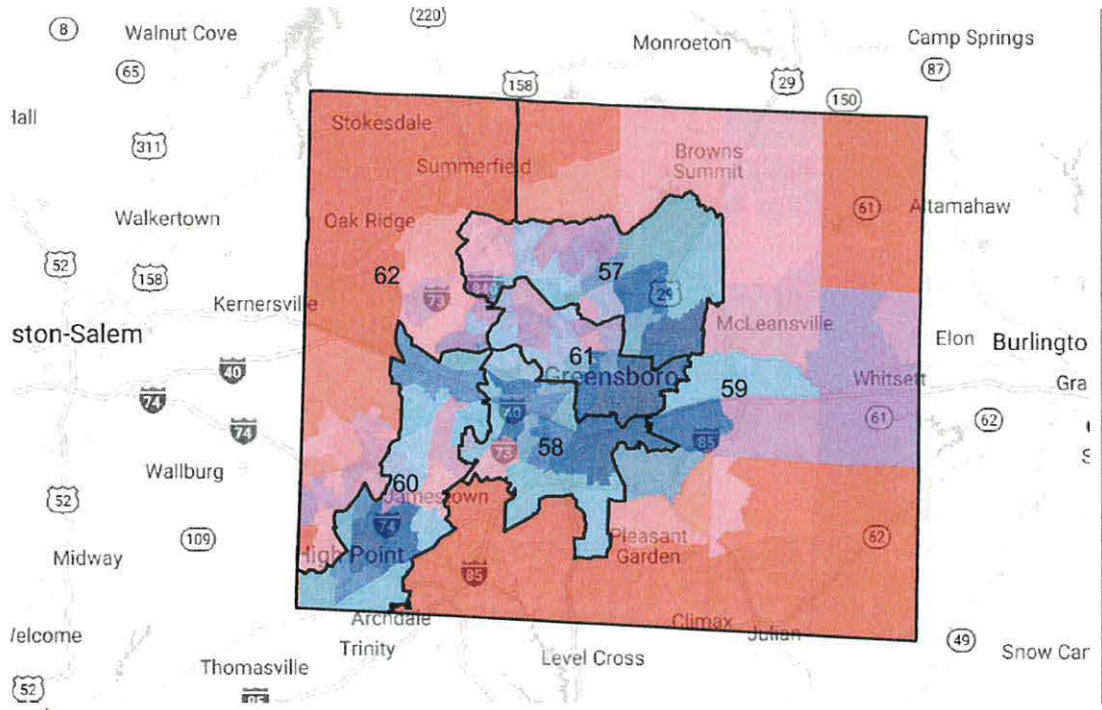


148. The General Assembly cracked the Democratic voters throughout this cluster to ensure that all three districts would favor Republicans. As part of this cracking, the General Assembly split Monroe across the three districts, and split Monroe’s most Democratic areas between House Districts 68 and 69.

House Districts 58, 59, and 60

149. House Districts 58, 59 and 60 are three of the six House districts within Guilford County. The other three districts—House Districts 57, 61, and 62—were redrawn by the special master in the federal Covington lawsuit and are not challenged in this case.²

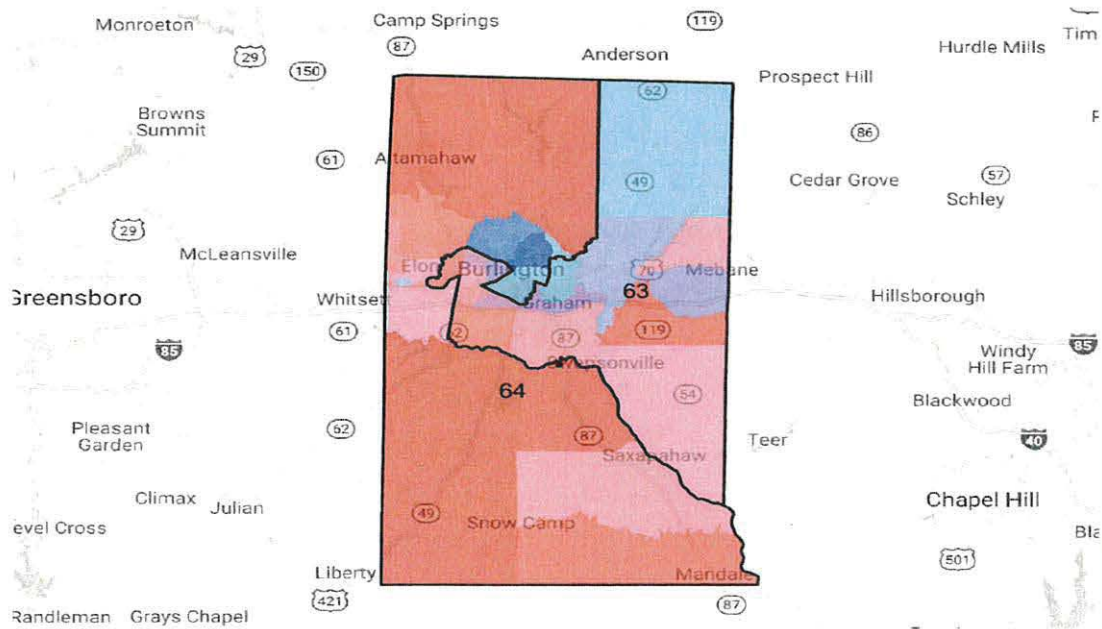
² The special master made minor changes to House District 59, but Plaintiffs challenge this district in this case.



150. The General Assembly packed House Districts 58 and 60 with heavily Democratic areas. This packing, *inter alia*, enabled House District 59 to favor Republicans.

House Districts 63 and 64

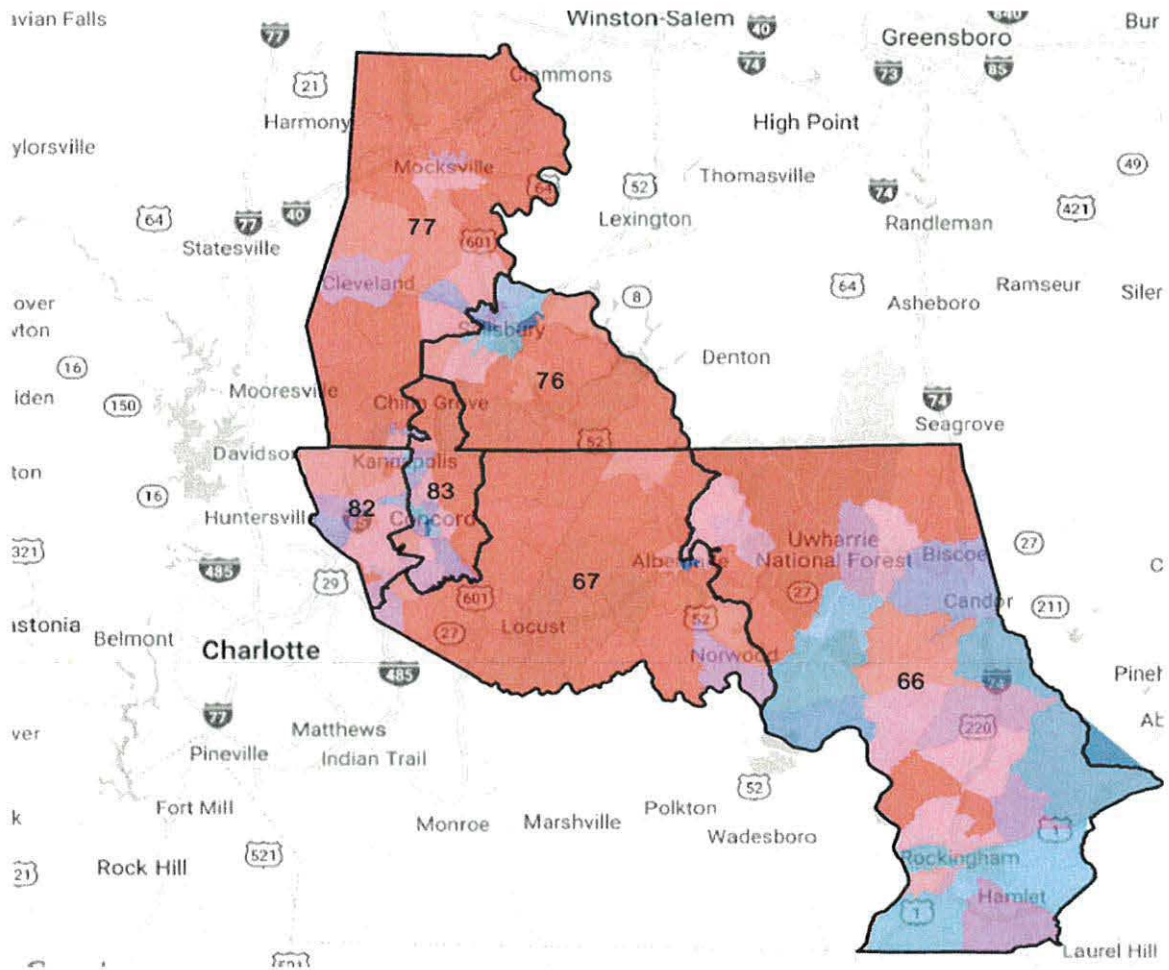
151. House Districts 63 and 64 are both located within Alamance County.



152. The General Assembly caused both House Districts 63 and 64 to favor Republicans by cracking Burlington and its Democratic voters in half across the two districts.

House Districts 66, 67, 76, 77, 82, and 83

153. House Districts 66, 67, 76, 77, 82, and 83 are part of a county cluster that covers Richmond, Montgomery, Stanly, Cabarrus, Rowan, and Davie Counties.

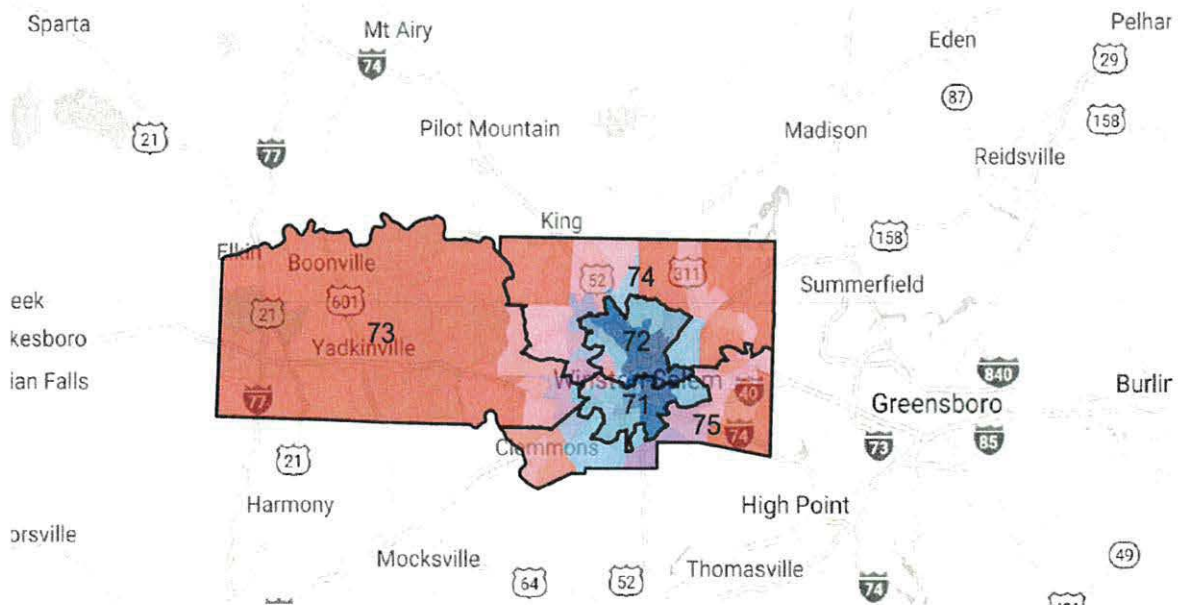


154. The General Assembly meticulously distributed the Democratic voters in these counties across all five districts in the cluster, such that Republicans have majorities in all five districts based on the statewide elections the General Assembly considered. For instance, the General Assembly put Albemarle into House District 67, wasting the votes of Albemarle's

Democratic voters in House District 67 to make House District 66 more competitive for Republicans. Although the Democratic candidate won House District 66 in 2018, the NCDP had to spend far more money and other resources to win this district than it would have under a non-partisan map. The General Assembly also wasted Salisbury's Democratic votes in House District 76 by grouping the city with deep red areas. And the General Assembly cracked Concord in half between House Districts 82 and 83, and it splintered Kannapolis and its Democratic voters into three different districts (House Districts 77, 82, and 83).

House Districts 71, 72, 73, 74, and 75

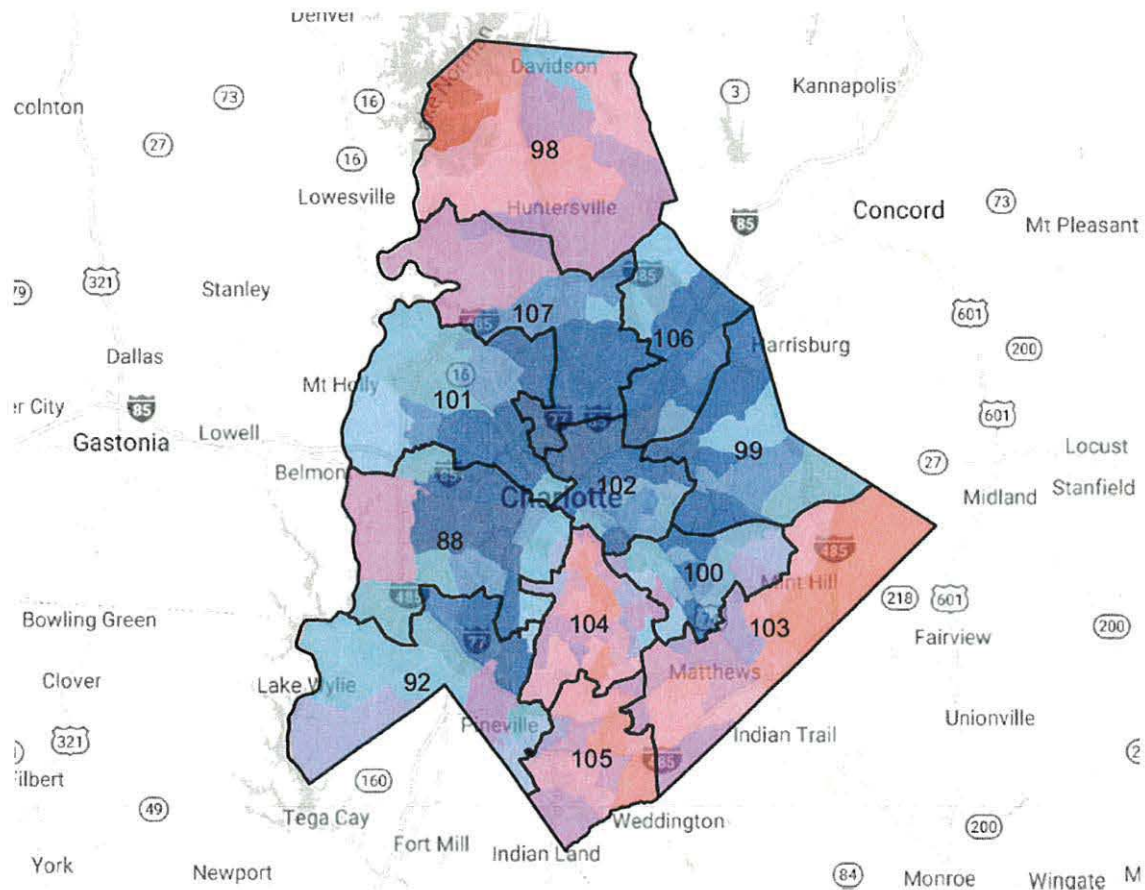
155. House Districts 71, 72, 73, 74, and 75 are within a county cluster of Forsyth and Yadkin Counties.



156. The General Assembly packed Democrats into House Districts 71 and 72 so that the other three districts—House Districts 73, 74, and 75—would all favor Republicans. The General Assembly split the City of Winston-Salem across all five districts in the cluster as part of this scheme, even though Winston-Salem's population could fit within just three districts.

House Districts 88, 92, 98, 99, 100, 101, 102, 103, 104, 105, 106, and 107

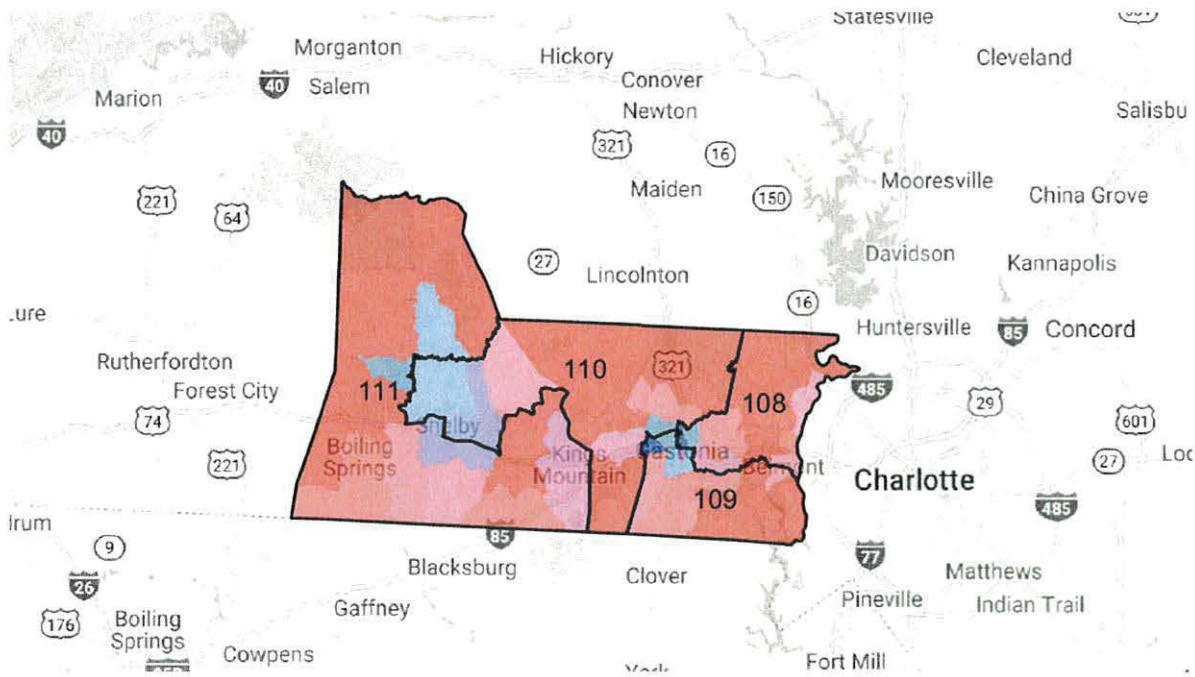
157. House Districts 88, 92, 98, 99, 100, 101, 102, 103, 104, 105, 106, and 107 are all within Mecklenburg County.



158. Mecklenburg County is the pinnacle of packing. The General Assembly packed as many Democratic voters as possible into seven Mecklenburg County districts (House Districts 88, 92, 99, 100, 101, 106, and 107), in order to create four districts in the county that are competitive for Republicans (House Districts 98, 103, 104, and 105). Under a non-partisan map, these latter four districts would all be more Democratic-leaning. Indeed, although all four districts elected Democratic candidates by narrow margins in 2018, the NCDP had to spend far more money and other resources to win these districts than it would have under a non-partisan map.

House Districts 108, 109, 110, and 111

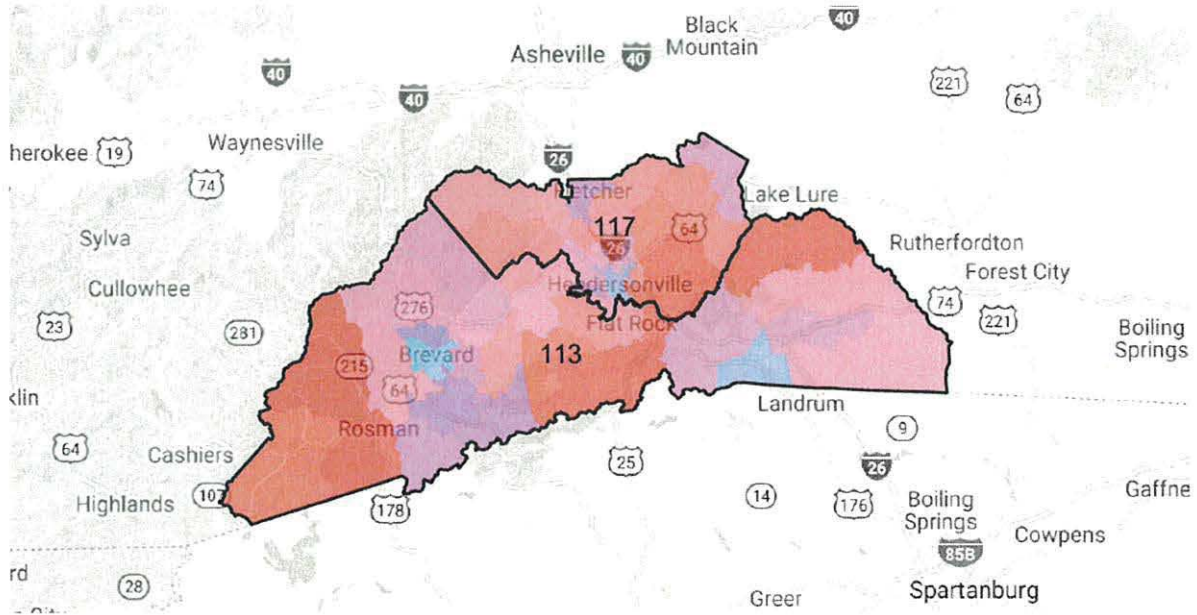
159. House Districts 108, 109, 110, and 111 make up a county cluster of Gaston and Cleveland Counties.



160. The General Assembly split the Democratic stronghold of Gastonia across three different districts (House Districts 108, 109, and 110), and cut the Democratic city of Shelby in half (in House Districts 110 and 111). The General Assembly similarly distributed the Democratic voters north of Shelby across House District 110 and 111. The result of all of this cracking is that all four districts in the cluster have comfortable Republican majorities: the Republican vote share in all four districts is around 60% using the 2014 U.S. Senate results.

House Districts 113 and 117

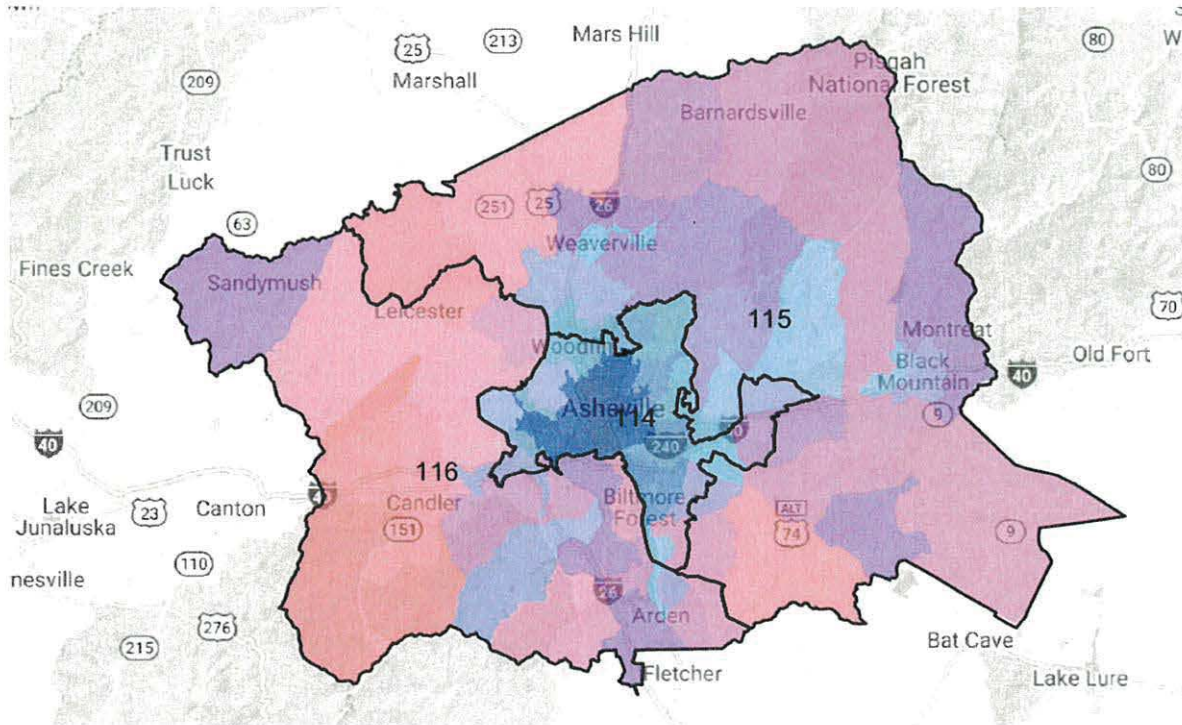
161. House Districts 113 and 117 are within a county cluster of Transylvania, Henderson, and Polk Counties.



162. The General Assembly cracked the Democratic voters in and around Hendersonville from the Democratic voters in and around Brevard, ensuring that both districts in this cluster would elect Republicans.

House District 114, 115, and 116

163. House Districts 114, 115, and 116 are all within Buncombe County.

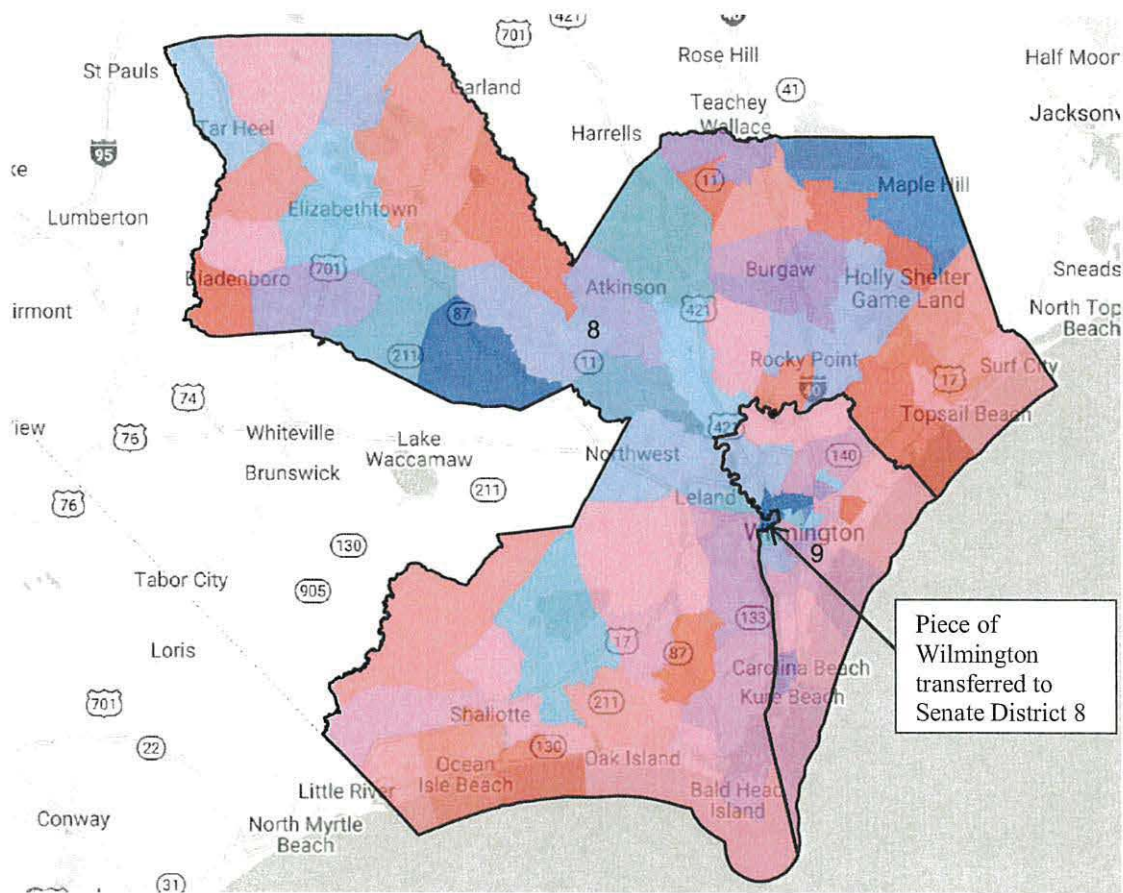


164. The General Assembly packed Democratic voters into House District 114 to make House Districts 115 and 116 as favorable to Republicans as possible. Republicans are favored to win House Districts 115 and 116 using the statewide election results from 2010-2016. And although Democrats have won both districts in some both not all election cycles since the districts were enacted in 2011, the NCDP has had to spend more money and other resources to win these districts than it would have under a non-partisan map.

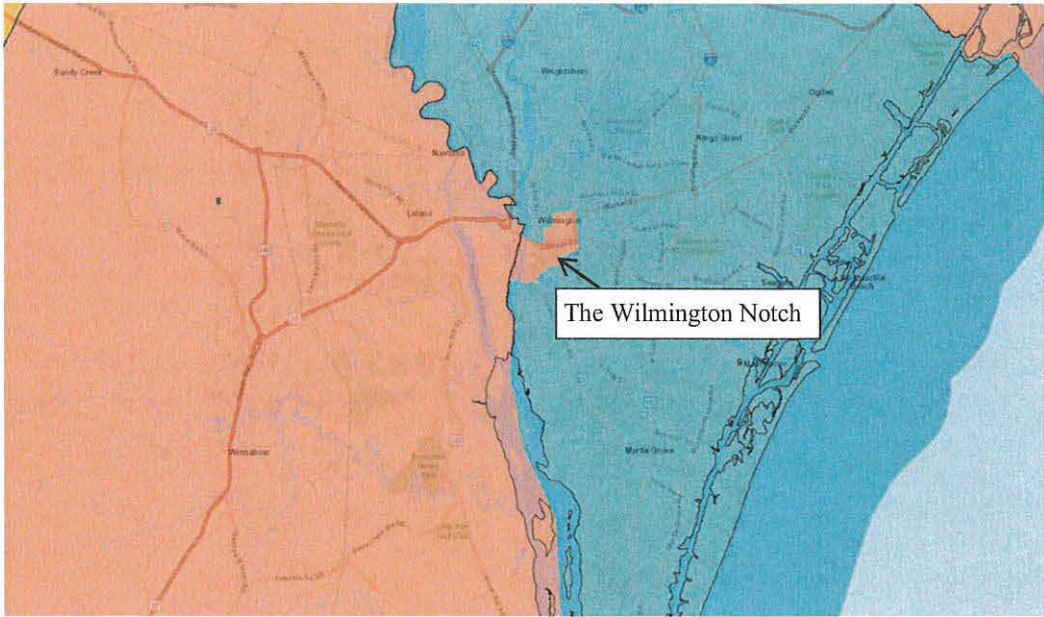
2. The 2017 Senate Plan Packs and Cracks Democratic Voters

Senate Districts 8 and 9

165. Senate Districts 8 and 9 are within a county cluster of Bladen, Pender, Brunswick, and New Hanover Counties.

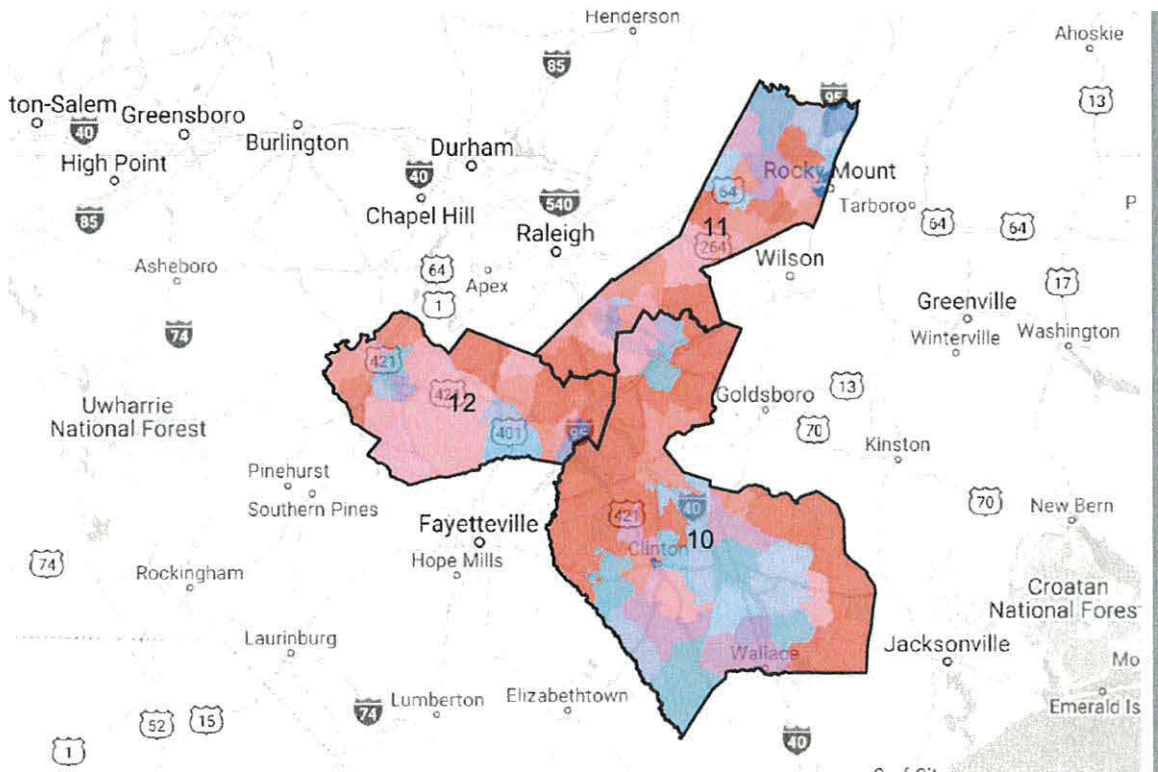


166. Because the population of New Hanover County is slightly too large to fit into one Senate district, the General Assembly had to include a small portion of New Hanover County in Senate District 8 rather than Senate District 9. The General Assembly chose the most heavily Democratic piece of New Hanover County to move to Senate District 8 in order to make Senate District 9 as favorable to Republicans as possible. Specifically, the General Assembly split off a small portion of Wilmington—the “Wilmington Notch”—transferring thousands of Democratic voters from Senate District 9 to 8. The loss of these Democratic voters causes Senate District 9 to lean Republican rather than Democratic using the 2014 U.S. Senate election results. And although Senate District 9 elected a Democrat by less than a percentage point in 2018, the NCDP had to spend far more money and other resources to win this district than it would have under a non-partisan map.



Senate Districts 10, 11, and 12

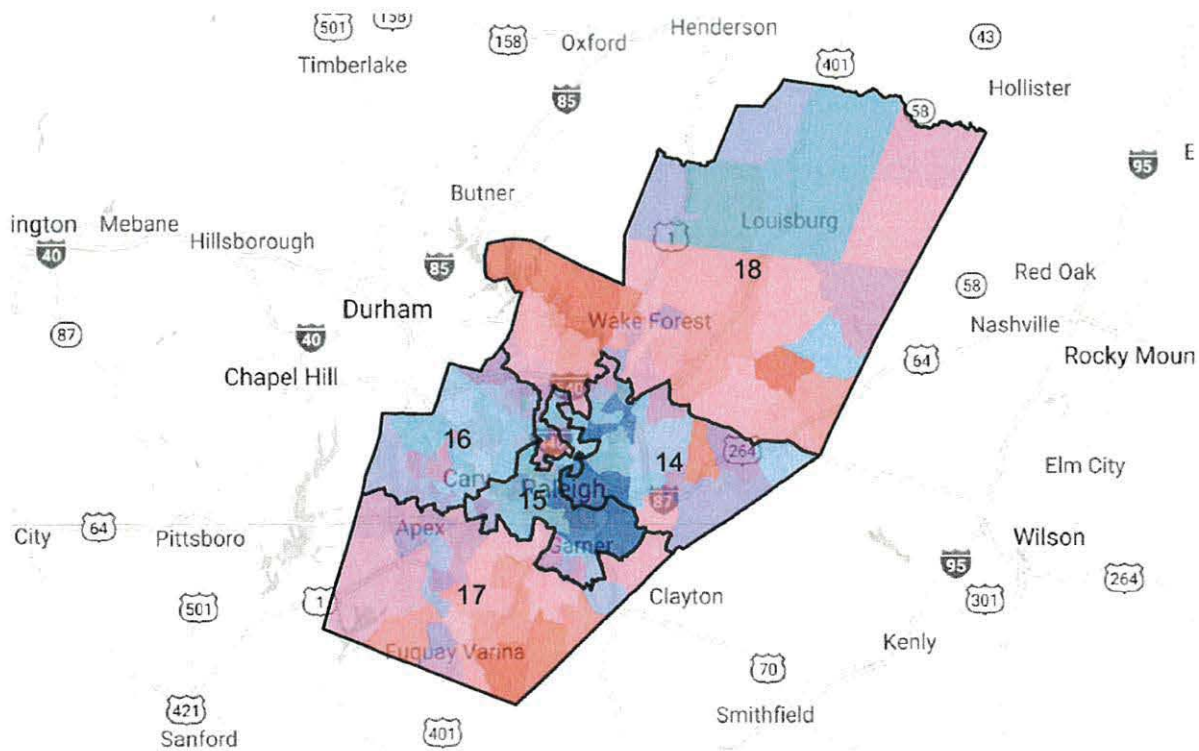
167. Senate Districts 10, 11, and 12 span a six-county cluster of Sampson, Duplin, Johnston, Nash, Lee, and Harnett Counties.



168. The General Assembly cracked the Democratic areas of the six counties in this cluster across the three districts that the cluster contains. For instance, the General Assembly dispersed the Democratic voters in and around Rocky Mount, Clinton, and Sanford across Senate Districts 10, 11, and 12, respectively. As a result, all three districts favor Republicans.

Senate Districts 14, 15, 16, 17, and 18

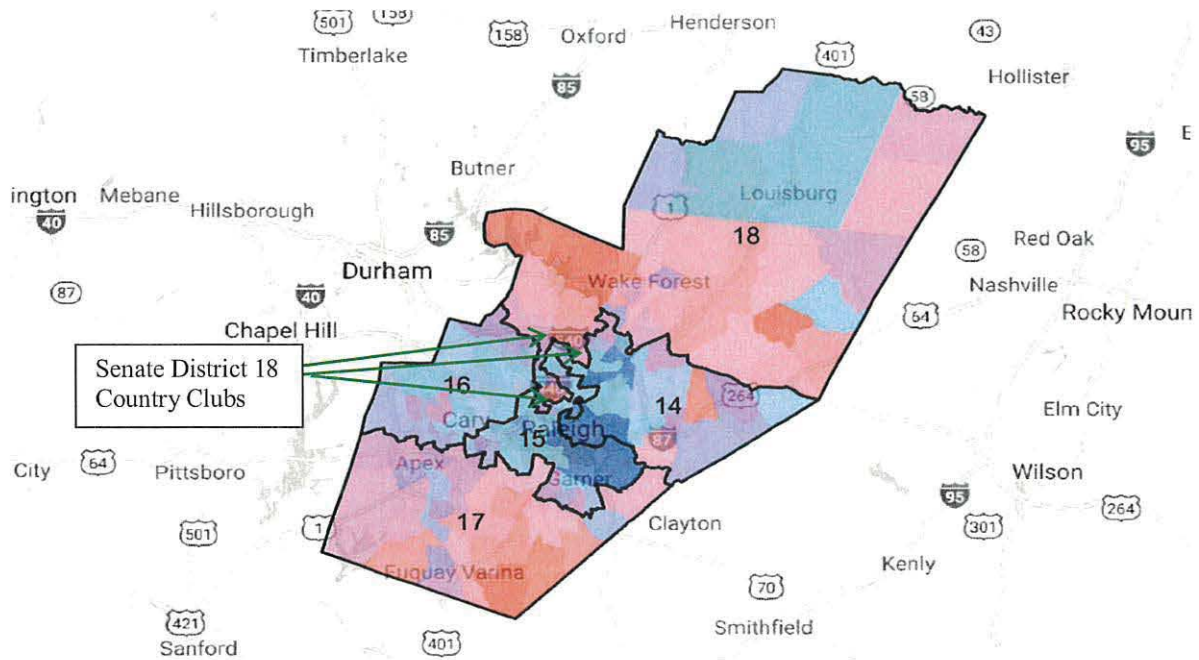
169. Senate Districts 14, 15, 16, 17, and 18 are within a county cluster of Wake and Franklin Counties.

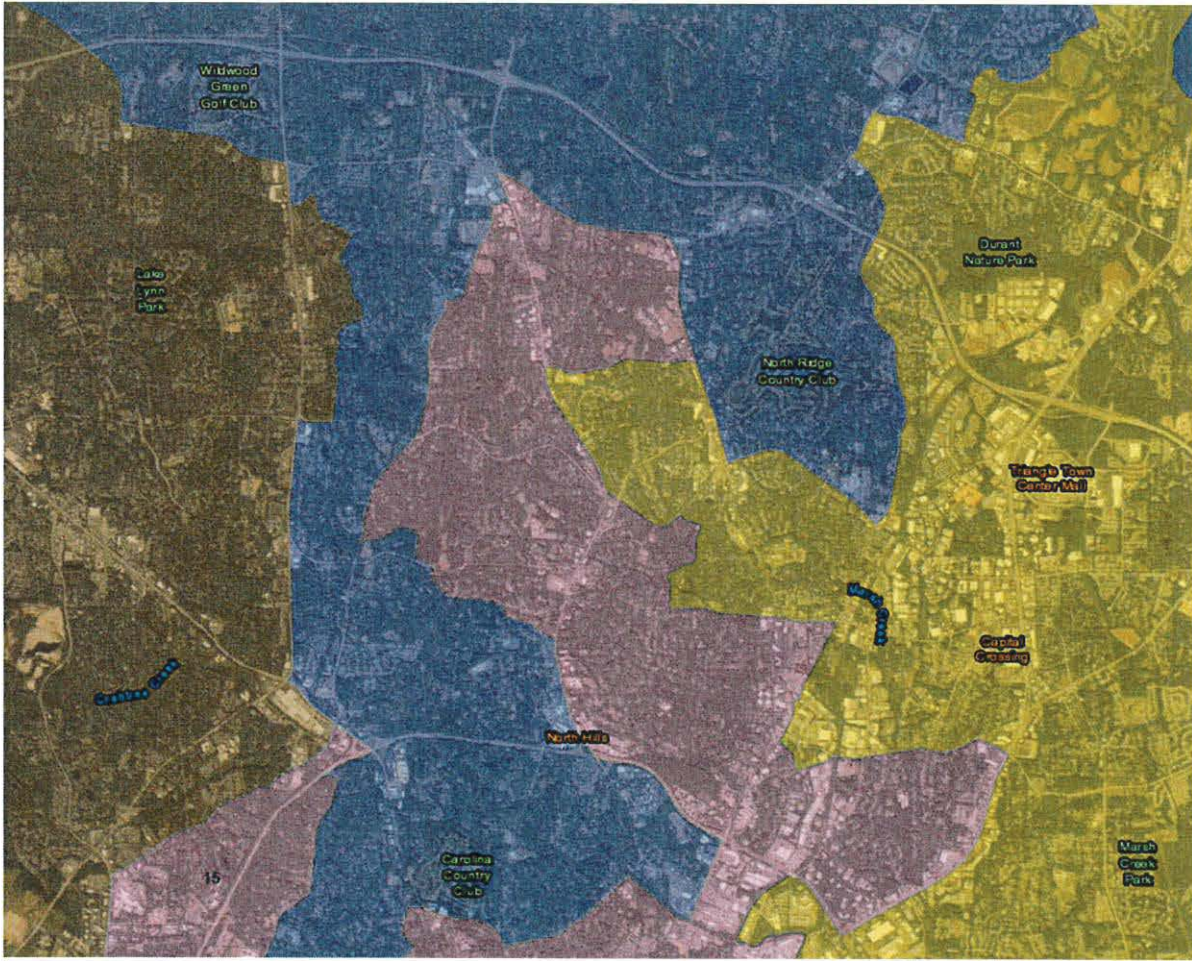


170. The General Assembly packed as many Wake County Democrats as possible into three districts within this cluster (Senate District 14, 15, and 16). This packing was done to make Senate Districts 17 and 18 as Republican-leaning as possible.

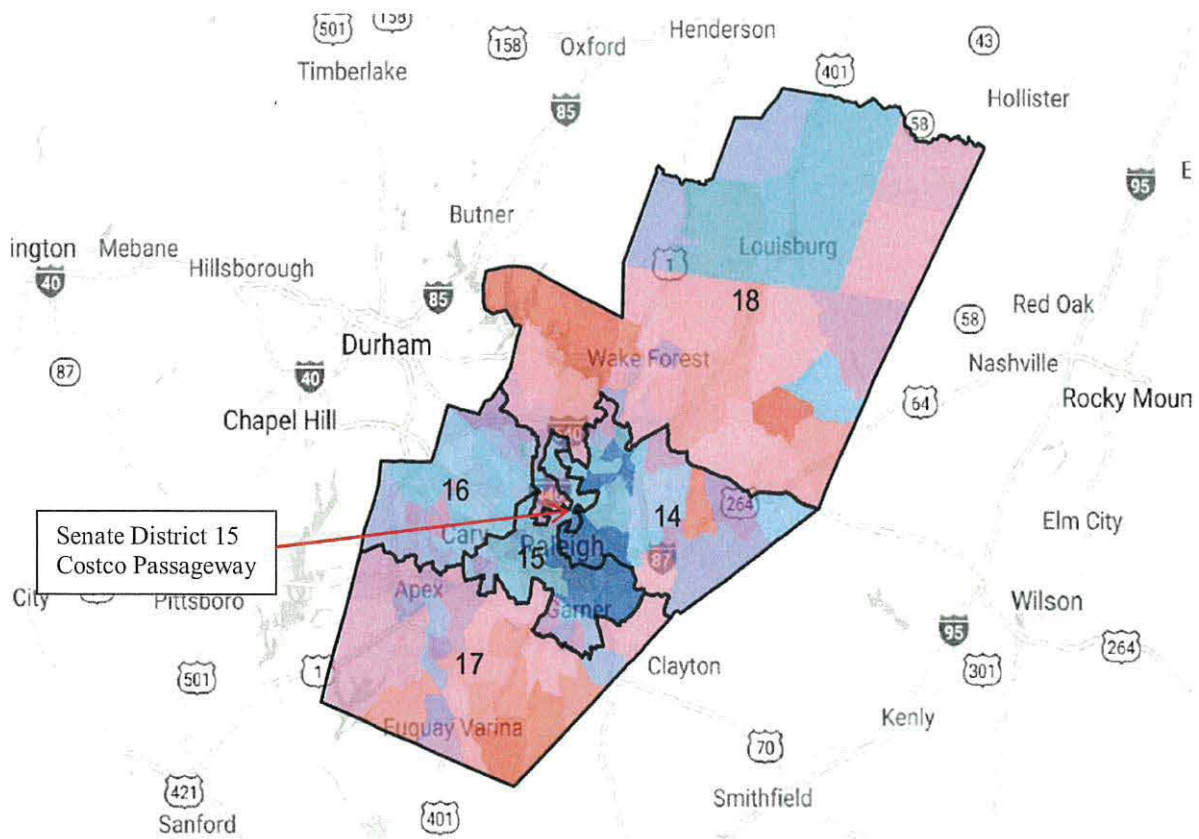
171. To carry out this scheme, the General Assembly split Raleigh across four districts (Senate District 14, 15, 16, and 18), even though Raleigh's population could fit almost entirely within two Senate districts. The General Assembly dissected Raleigh to put its only Republican-

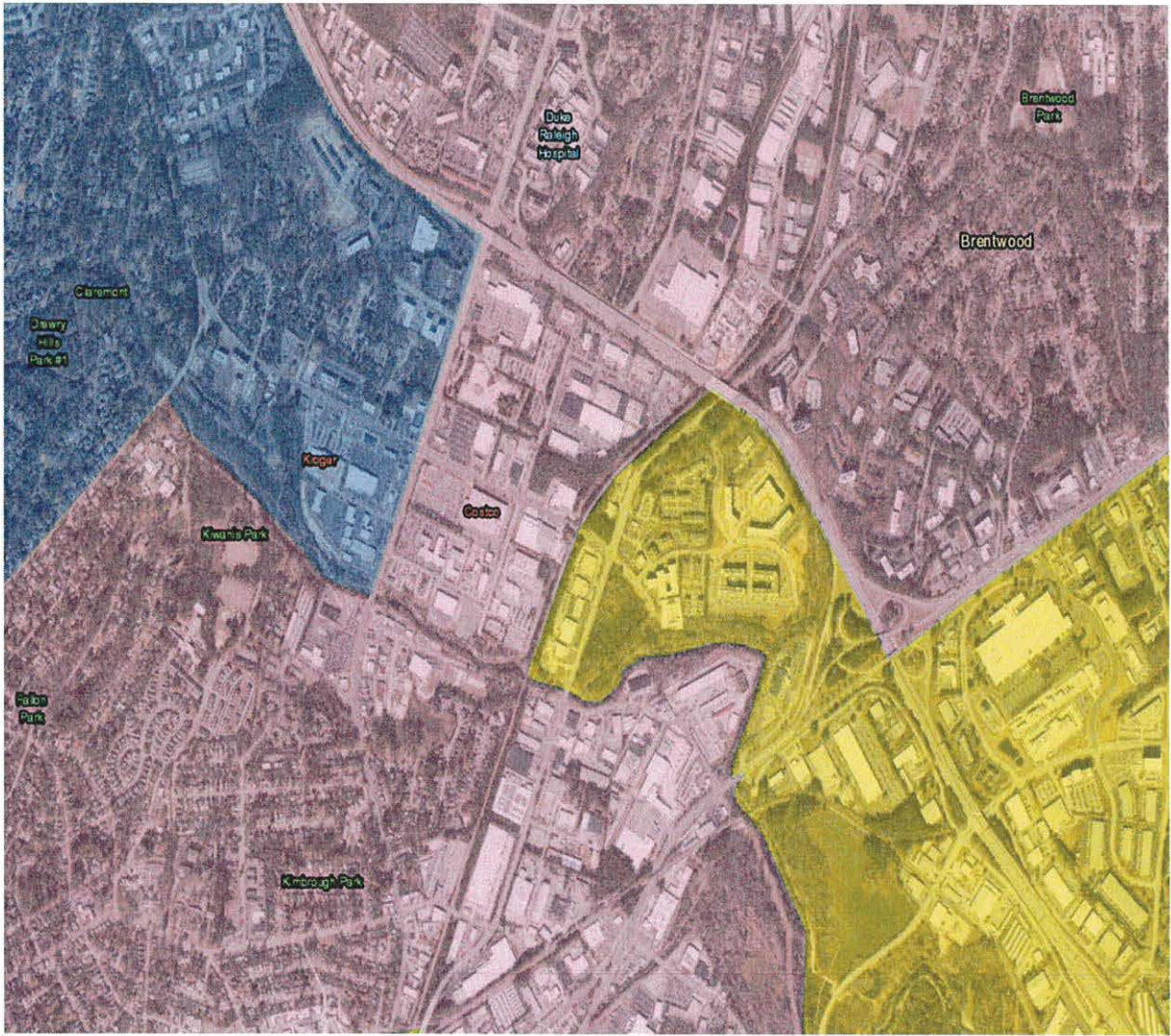
leaning areas, in north and northwest Raleigh, in Senate District 18. Specifically, Senate District 18 grabs the Republican-leaning communities that surround three different Raleigh country clubs—the North Ridge Country Club, the Wildwood Golf Club, and the Carolina Country Club.





172. To place these Republican areas in Senate District 18 while avoiding north Raleigh's Democratic areas, the General Assembly created a tentacle for Senate District 15 that grabs north Raleigh's Democratic voters. The General Assembly created this tentacle in Senate District 15 via a narrow passageway containing no more than a Costco.

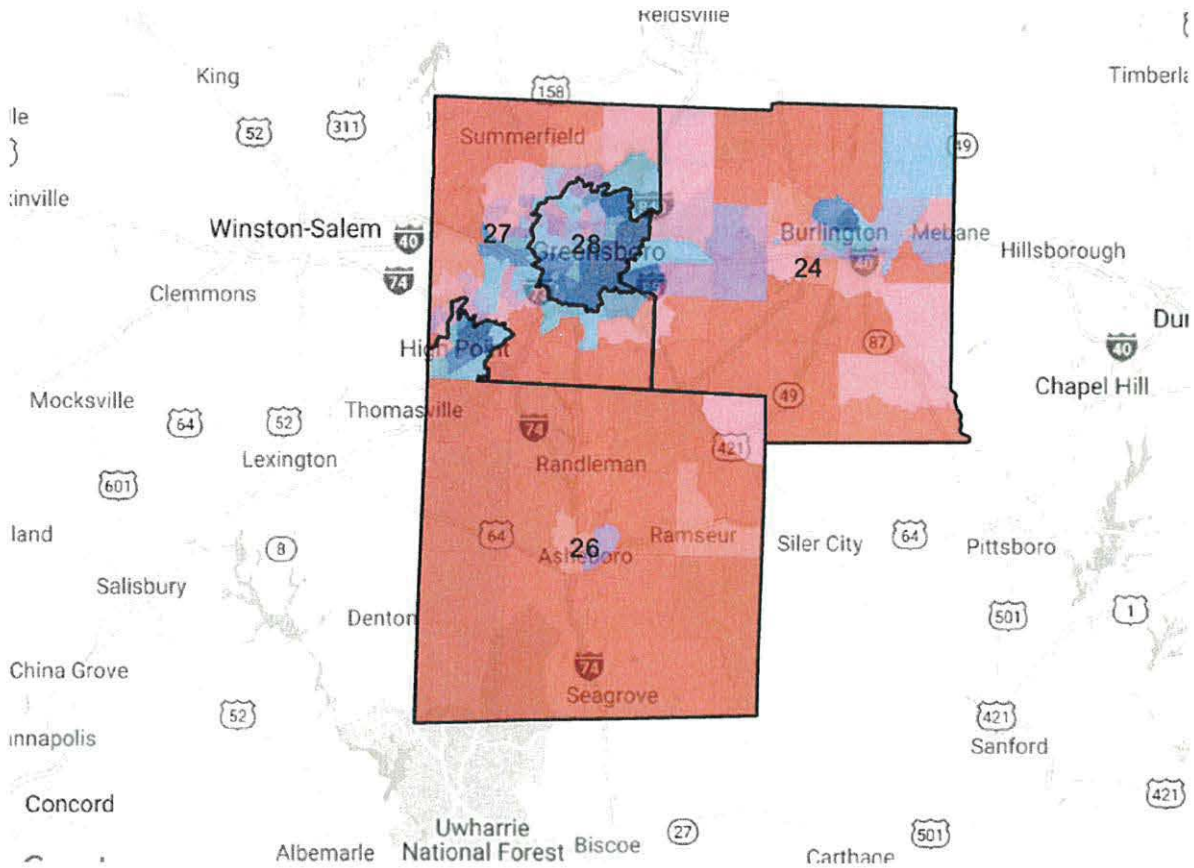




173. Senate District 18, the “Country Club District,” performed as the General Assembly hoped in the 2018 election: Republicans held onto it by a few percentage points. Republicans managed to win a Wake County seat in the Senate despite the fact that Democrats won every county-wide election in Wake County in 2018 by overwhelming majorities. And although the Democratic won Senate District 17 by a narrow margin, the NCDP had to spend far more money and other resources to win this district than it would have under a non-partisan map.

Senate Districts 24, 26, 27, and 28

174. Senate Districts 24, 26, 27, and 28 are in a county cluster containing Randolph, Guilford, and Alamance Counties.



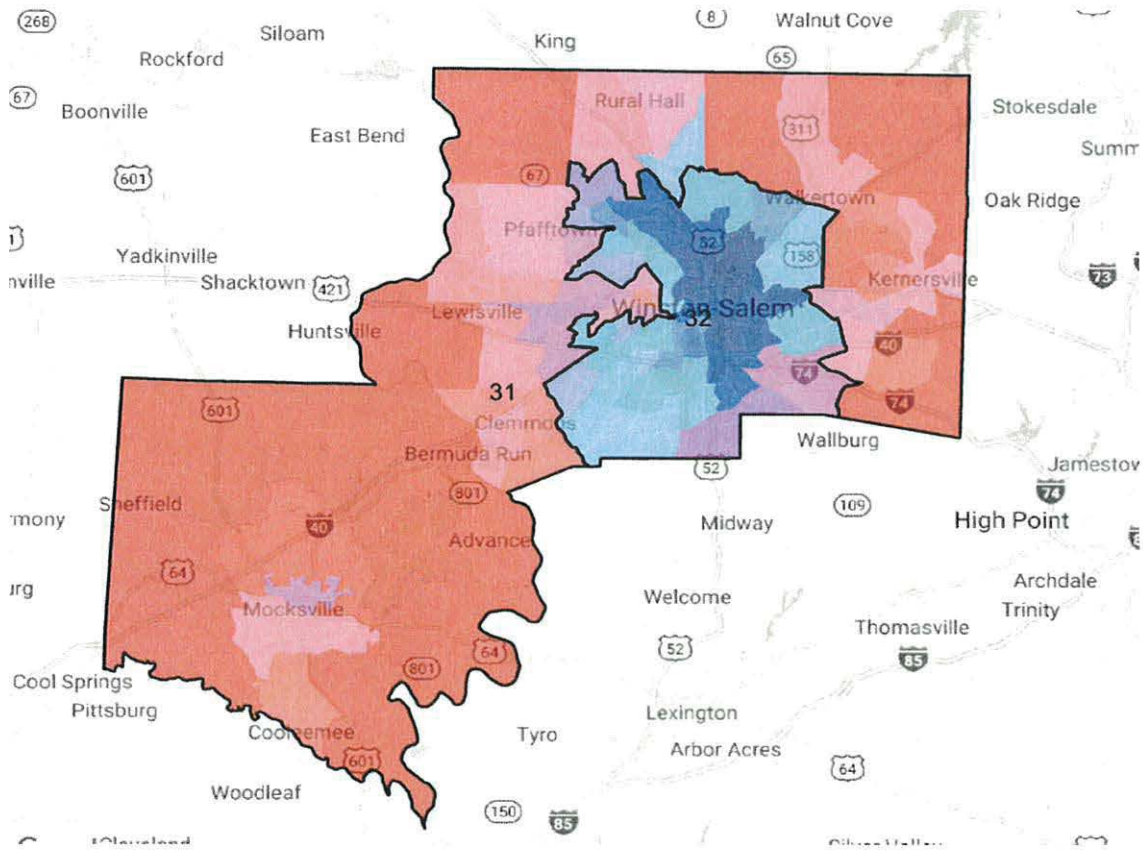
175. Senate District 28 is one of the districts that the *Covington* court found to be racially gerrymandered and that the special master redrew. The special master also made certain changes to Senate Districts 24 and 27 in redrawing Senate District 28. But the special master did not alter Senate District 26 from the version enacted by the General Assembly in 2017.

176. In creating Senate District 26, the General Assembly appended to Randolph County the most heavily Democratic area of Guilford County that could be appended, in and around High Point. The General Assembly moved these Democratic voters into Senate District 26 in order to waste their votes in an otherwise extremely Republican district.

Senate Districts 31 and 32

177. Senate Districts 31 and 32 are within a county cluster of Davie and Forsythe Counties.

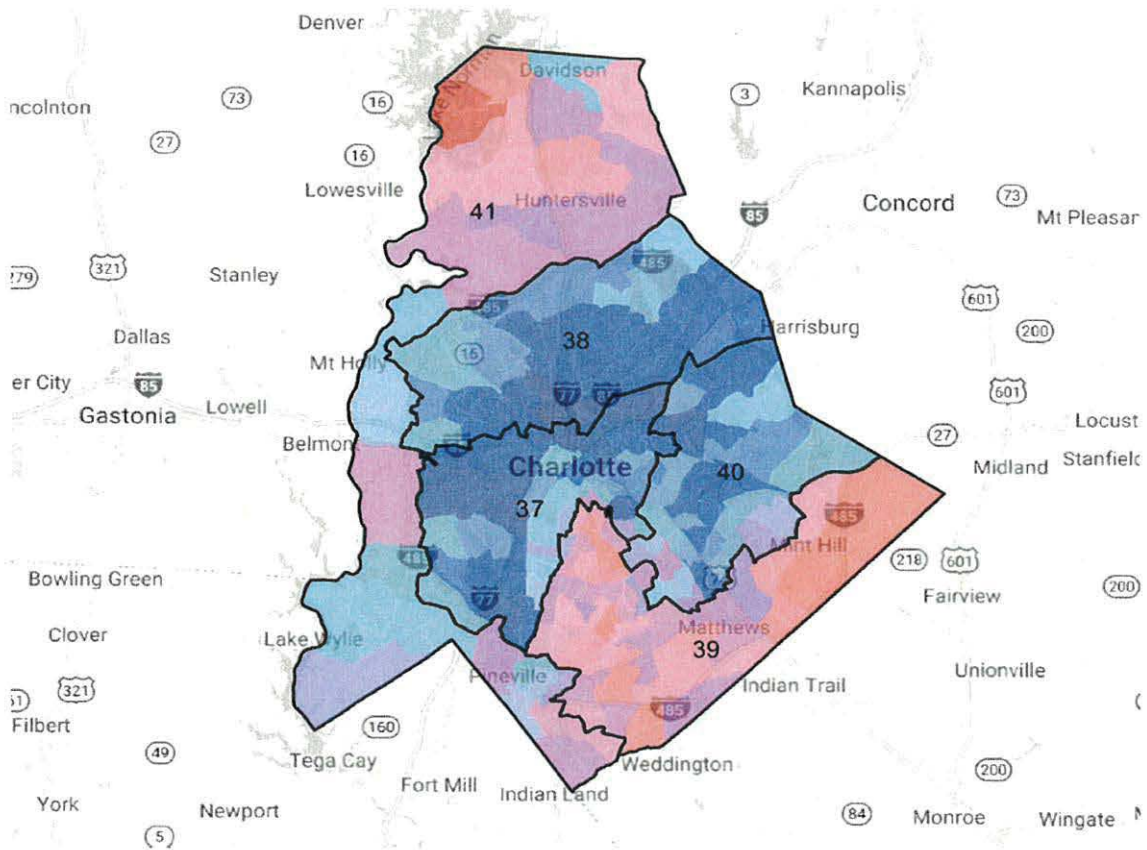
Counties.



178. The General Assembly packed all of the most Democratic areas in and around Winston-Salem into Senate District 32, so that Senate District 31 would favor Republicans.

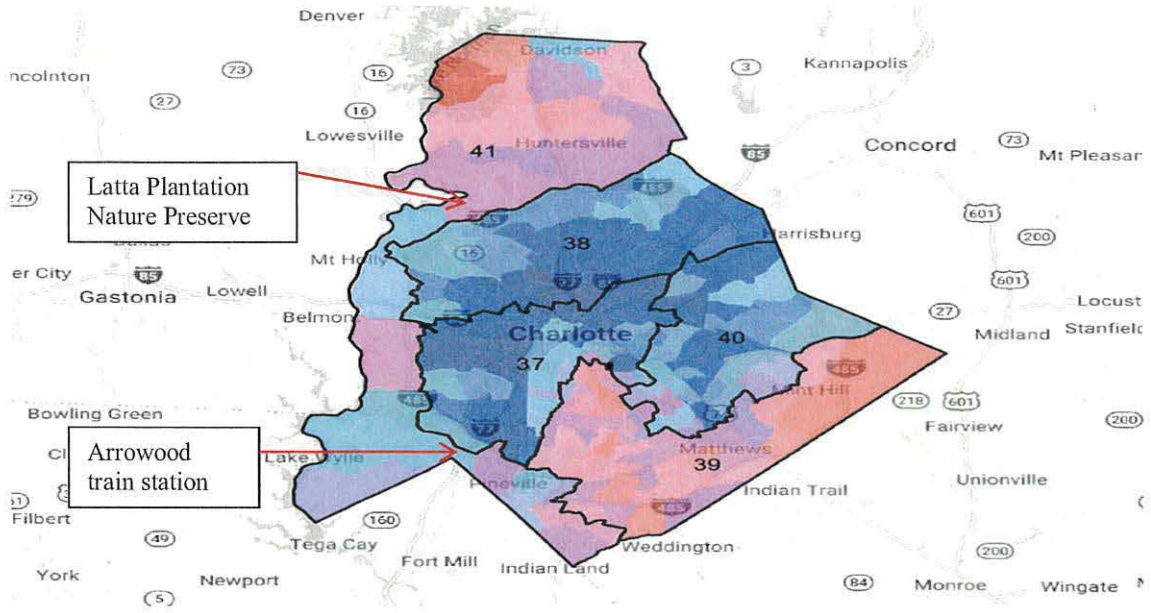
Senate Districts 37, 38, 39, 40, and 41

179. Senate Districts 37, 38, 39, 40, and 41 are all located within Mecklenburg County.



180. The General Assembly packed as many Democrats as possible into Senate Districts 37, 38, and 40, so as to create two Mecklenburg County districts—Senate Districts 39 and 41—that lean Republican based on the statewide elections the General Assembly considered.

181. The General Assembly had to go to particularly great lengths to make Senate District 41 competitive for Republicans. The district begins north of Charlotte, then slices through a thin stretch of land west of Charlotte, before curling back around to pick up Republican-leaning areas south of Charlotte. To stitch together these disparate areas, Senate District 41 at one point connects through a nature preserve and at another point the district is held together only by the Arrowood train station.

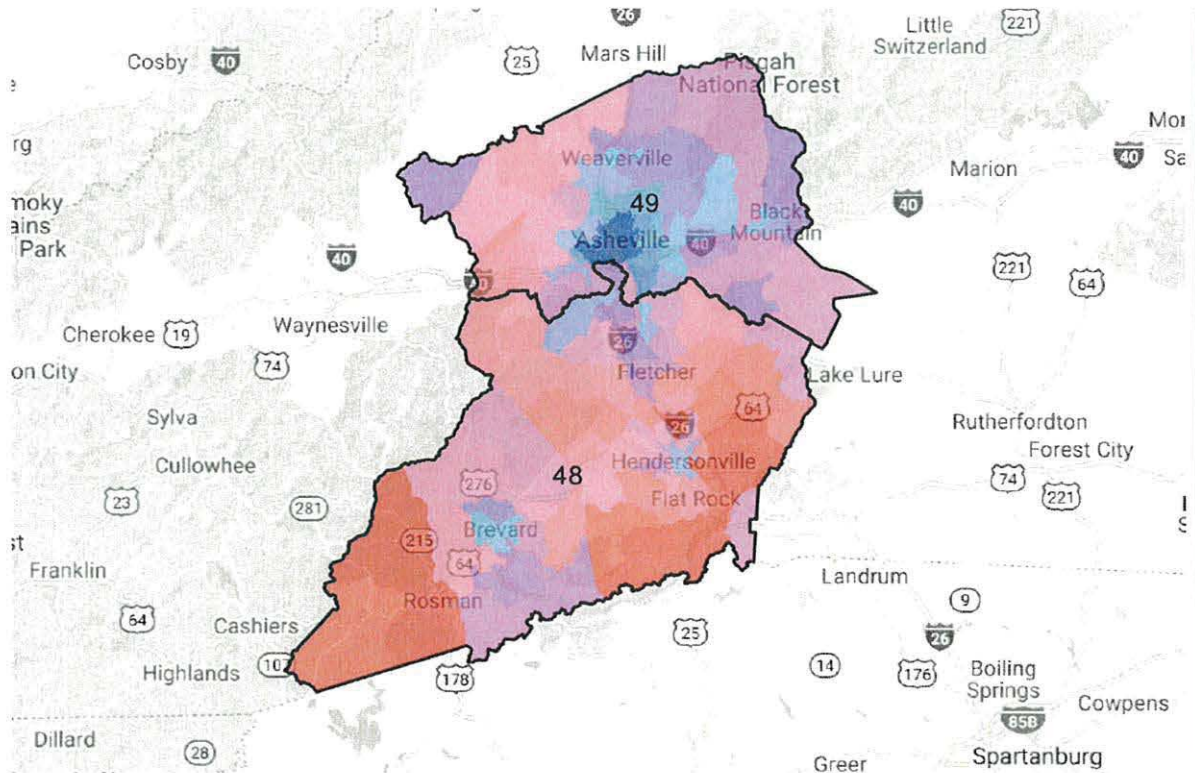




182. The General Assembly manipulated Senate District 39 to be favorable to Republicans. Despite the enormous Democratic wave in Mecklenburg County in 2018—with Democrats winning every county-wide election by huge margins and sweeping the Mecklenburg County Board of Commissioners races—Republicans managed to hold onto Senate District 39. And although the Democratic candidate won Senate District 41 in 2018, the NCDP had to spend far more money and other resources to win this district than it would have under a non-partisan map.

Senate Districts 48 and 49

183. Senate Districts 48 and 49 are within a county cluster of Transylvania, Henderson, and Buncombe Counties.



184. The General Assembly packed Democratic voters in and around Asheville into Senate District 49. This packing ensured that Senate District 48 would elect a Republican.

3. The 2017 Plans Achieved Their Goal in the 2018 Election

185. The 2017 Plans’ cracking and packing of Democratic voters worked with remarkable success in the 2018 elections. While the Democratic wave did flip some seats, it could not overcome plans that were designed to guarantee Republicans majorities.

186. In the 2018 House elections, Democratic candidates won 51.2% of the two-party statewide vote, but won only 55 of 120 seats (46%).

187. In the 2018 Senate elections, Democratic candidates won 50.5% of the two-party statewide vote, but won only 21 of 50 seats (42%).

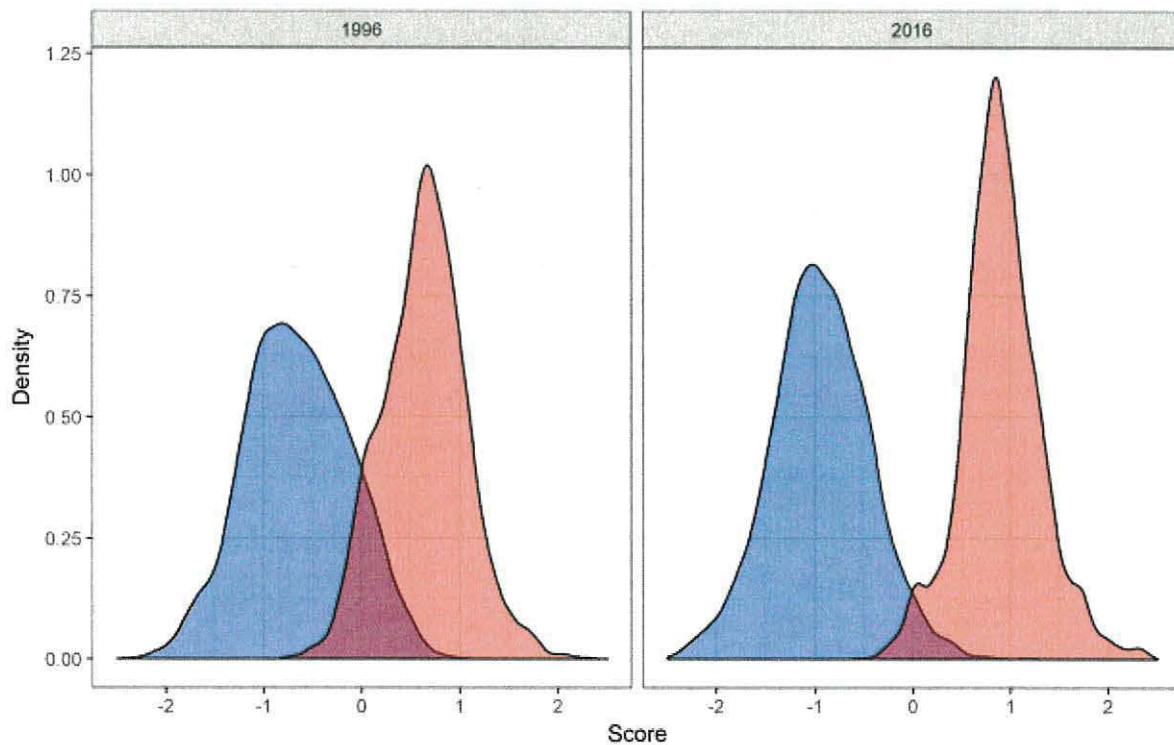
188. Democrats would have won more seats in the House and Senate in 2018—and potentially a majority in either or both chambers—under non-partisan maps.

I. The Partisan Gerrymandering of the 2017 Plans Causes Plaintiffs and Other Democratic Voters To Be Entirely Shut Out of the Political Process

189. The effects of the gerrymander go beyond election results. In today's state legislatures—and particularly in North Carolina—Republican representatives are simply not responsive to the views and interests of Democratic voters. Regardless of whether gerrymandering has *caused* this increased partisanship, such extreme partisanship magnifies the *effects* of partisan gerrymandering. When Democratic voters lose the ability to elect representatives of their party as a result of partisan gerrymandering, those voters lose not only electoral power, but also the ability to influence legislative outcomes—because Republican representatives pay no heed to these voters' views and interests once in office.

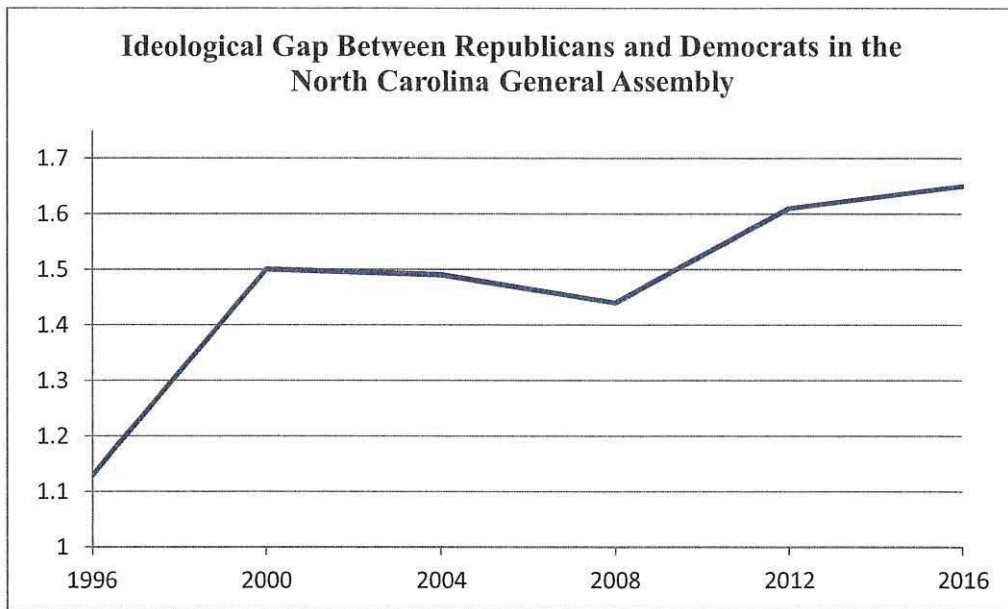
190. There is substantial evidence documenting the increasing polarization of state legislatures, including ideological scores assigned to every state legislator in the country by political scientists Drs. Nolan McCarty and Boris Shor. The chart below depicts the ideological distribution of state legislators nationwide in 1996 and in 2016. Red reflects Republican legislators and blue reflects Democratic legislators, with negative scores on the left of the x-axis indicating a more liberal ideology and positive scores on the right on the x-axis indicating a more conservative ideology.³ The chart shows that today there are barely any state legislators across the country who overlap ideologically—*i.e.*, barely any Democratic and Republican legislators who overlap in ideological score—and far less than in 1996. Instead, legislators from the parties have grown farther apart, and Republicans legislators in particular have become much more homogenous in ideology, coalescing around an ideological score of +1.

³ See State Polarization, 1996-2016, <https://americanlegislatures.com/2017/07/20/state-polarization-1996-2016/>.

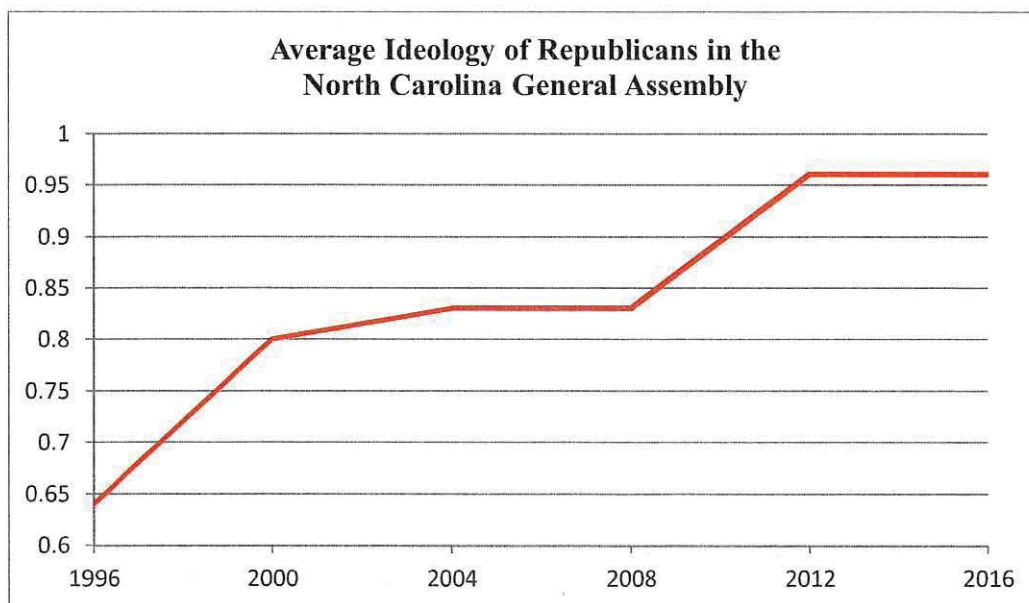


191. The North Carolina General Assembly is no exception to this trend. Political scientists McCarty and Shor have developed ideological scores for every state legislator in the country based on each legislator’s roll call voting behavior. These ideological scores range from negative -3 to +3, with negative scores indicating more liberal ideological and positive scores a more conservative one. The below chart shows the gap between the average ideological scores of Republicans and Democrats in the North Carolina General Assembly. It shows that gap has grown dramatically—increasing by more than 50%—over the last 20 years.⁴

⁴ See Boris Shor & Nolan McCarty, *Measuring American Legislatures*, <https://americanlegislatures.com/category/polarization/>.



192. This increasing ideological gap reflects the fact that Republican legislators in the North Carolina General Assembly have grown more and more conservative. The below chart shows the average ideological scores of Republicans in the General Assembly over the last 20 years. It demonstrates how Republicans in the General Assembly vote in an increasingly more conservative fashion, and thus are less likely to reflect the views of Democratic voters.



193. The extreme polarization of Republicans in the General Assembly is further evidenced by their near-uniform bloc voting behavior.

194. In the 2017-2018 Session, Republicans in the state Senate almost always voted with a majority of other Republicans and virtually never crossed over to vote with the minority. Every Republican Senator voted with a majority of Republicans over 95% of the time, and the median Republican Senator voted with the Republican majority a stunning 99.2% of the time.⁵

195. Likewise in the House, in the 2017-2018 Session, nearly every Republican in the state House of Representatives voted with the Republican majority over 90% of the time, and the median Republican in the House voted with the Republican majority 96.70% of the time.⁶

196. These statistics all illustrate that Republicans in the General Assembly do not represent the views and interests of their Democratic constituents and almost never engage in cross-over voting. Thus, when gerrymandering denies Democratic voters the ability to elect representatives of their party, they also lose any chance of influencing legislative outcomes.

COUNT I
Violation of the North Carolina Constitution's
Equal Protection Clause, Art. I, § 19

197. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

198. Article I, Section 19 of the North Carolina Constitution provides in relevant part that “[n]o person shall be denied the equal protection of the laws.”

⁵ See *Senate Member Vote Statistics, 2017-2018 Session*, <https://www.ncleg.net/gascripts/voteHistory/MemberVoteStatistics.pl?sSession=2017&sChamber=S>.

⁶ See *House Member Vote Statistics, 2017-2018 Session*, <https://www.ncleg.net/gascripts/voteHistory/MemberVoteStatistics.pl?sSession=2017&sChamber=H>.

199. North Carolina's Equal Protection Clause affords broader protections to its citizens in the voting rights context than the U.S. Constitution's equal protection provisions. *See Stephenson v. Bartlett*, 562 S.E.2d 377, 393-95 & n.6 (N.C. 2002); *Blankenship v. Bartlett*, 681 S.E.2d 759, 763 (N.C. 2009).

200. Irrespective of its federal counterpart, North Carolina's Equal Protection Clause protects the right to "substantially equal voting power." *Stephenson*, 562 S.E.2d at 394. "It is well settled in this State that the right to vote on equal terms is a fundamental right." *Id.* at 393 (internal quotation marks omitted).

201. The 2017 Plans intentionally and impermissibly classify voters into districts on the basis of their political affiliations and viewpoints. The intent and effect of these classifications is to dilute the voting power of Democratic voters, to make it more difficult for Democratic candidates to be elected across the state, and to render it virtually impossible for the Democratic Party to achieve a majority of either chamber of the General Assembly. Defendants can advance no compelling or even legitimate state interest to justify this discrimination.

202. The 2017 Plans' intentional classification of, and discrimination against, Democratic voters is plain. The Republican leaders of the House and Senate Redistricting Committees explicitly used "political considerations and election results data" as a criterion in creating the 2017 Plans, drew the maps in secret with a Republican mapmaker, and admitted that they "did make partisan considerations when drawing particular districts." *Covington*, ECF No. 184-17 at 26. The partisan composition of the districts based on recent results demonstrates that the map was designed to ensure overwhelming Republican majorities in both chambers. The General Assembly's intent is also laid bare by the packing and cracking of individual Democratic

communities, as well as a host of statistical analyses and measures that will confirm the 2017 Plans necessarily reflect an intentional effort to disadvantage Democratic voters.

203. These efforts have produced discriminatory effects for Plaintiffs other Democratic voters, including members of Common Cause and the NCDP. On a statewide basis, Democrats receive far fewer state House and Senate seats than they would absent the gerrymanders. The grossly disproportionate number of seats that Republicans have won and will continue to win in the General Assembly relative to their share of the statewide vote cannot be explained or justified by North Carolina's geography or any legitimate redistricting criteria. Moreover, because the gerrymanders guarantee that Republicans will hold a majority in the House and Senate, Plaintiffs and other Democratic voters are unable to elect a legislature that will pass legislation that reflects Democratic voters' positions or policies. The 2017 Plans burden the representational rights of Democratic voters individually and as a group and discriminate against Democratic candidates and organizations individually and as a group.

204. Individual voters also experience discriminatory effects at the district level. For those Plaintiffs and other Democratic voters who live in cracked communities and districts, their voting power is diluted, and it is more difficult than it would be but-for the gerrymander for these voters to elect candidates of their choice. And given the extreme partisanship of Republican representatives in the General Assembly, these voters have no meaningful opportunity to influence legislative outcomes when Republican candidates win their districts, because the Republican representatives simply do not weigh their Democratic constituents' interests and policy preferences in deciding how to act. For those Plaintiffs and other Democratic voters, including members of Common Cause and the NCDP, who live in packed Democratic districts, the weight of their votes has been substantially diluted. Their votes have no marginal impact on

election outcomes, and representatives will be less responsive to their individual interests or policy preferences. Accordingly, for all Plaintiffs and others Democratic voters whose votes are diluted under the 2017 Plans, the 2017 Plans impermissibly deny these voters their fundamental right to “vote on equal terms” with “equal voting power.” *Stephenson*, 562 S.E.2d at 393-94.

COUNT II
Violation of the North Constitution’s
Free Elections Clause, Art. I, § 5

205. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

206. Article I, Section 10 of the North Carolina Constitution, which has no counterpart in the U.S. Constitution, provides that “All elections shall be free” (the “Free Elections Clause”).

207. North Carolina’s Free Elections Clause traces its roots to the 1689 English Bill of Rights, which declared that “Elections of members of Parliament ought to be free.”

208. Numerous other states have constitutional provisions that trace to the same provision of the 1689 English Bill of Rights, including Pennsylvania, which has a constitutional provision requiring that all “elections shall be free and equal.” *See League of Women Voters v. Commonwealth*, 178 A.3d 737, 793 (Pa. 2018). On February 7, 2018, the Pennsylvania Supreme Court held that the partisan gerrymander of Pennsylvania’s congressional districts violated this clause. The state high court held that Pennsylvania’s Free and Equal Elections Clause requires that all voters “have an equal opportunity to translate their votes into representation,” and that this requirement is violated where traditional districting criteria such as preserving political subdivisions and compactness are “subordinated, in whole or in part, to extraneous considerations such as gerrymandering for unfair partisan political advantage.” *Id.* at 814, 817.

209. North Carolina’s Free Elections Clause protects the rights of voters to at least the same extent as Pennsylvania’s analogous provision.

210. The 2017 Plans violate the Free Elections Clause by denying Plaintiffs and other Democratic voters, including members of Common Cause and the NCDP, an equal opportunity to translate their votes into representation, and by providing an unfair partisan advantage to the Republican Party and its candidates as a whole over the Democratic Party and its candidates as a whole. The General Assembly's violation of the Free Election Clause is evidenced by, *inter alia*, its subordination of traditional districting criteria to illicit partisan motivations.

211. Elections under the 2017 Plans are anything but "free." They are rigged to predetermine electoral outcomes and guarantee one party control of the legislature, in violation of Article I, § 5 of the North Carolina Constitution.

COUNT III
Violation of the North Constitution's
Freedom of Speech and Freedom of Assembly Clauses, Art. I, §§ 12 & 14

212. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

213. Article I, § 12 of the North Carolina Constitution provides in relevant part: "The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances."

214. Article I, § 14 of the North Carolina Constitution provides in relevant part: "Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained."

215. North Carolina courts have recognized that Article I, Sections 12 and 14 may afford broader protections than the federal First Amendment. *Evans v. Cowan*, 468 S.E.2d 575, 578, *aff'd*, 477 S.E.2d 926 (1996).

216. Article I, Sections 12 and 14 protect the right of voters to participate in the political process, to express political views, to affiliate with or support a political party, and to

cast a vote. Voting for a candidate of one's choice is core political speech and/or expressive conduct protected by the North Carolina Constitution. Contributing money to, or spending money in support of, a preferred candidate is core political speech and/or expressive conduct as well. And leading, promoting, or affiliating with a political party to pursue certain policy objectives is core political association protected by the North Carolina Constitution.

217. Irrespective of the U.S. Constitution, the 2017 Plans violate Article 1, Sections 12 and 14 of the North Carolina Constitution by intentionally burdening the protected speech and/or expressive conduct of Plaintiffs and other Democratic voters, including members of Common Cause and the NCDP, based on their identity, their viewpoints, and the content of their speech. The 2017 Plans burden the speech and/or expressive conduct of Plaintiffs and other Democratic voters by making their speech and/or expressive conduct—*i.e.*, their votes—less effective. For those Plaintiffs and other Democratic voters who live in cracked districts, the 2017 Plans artificially make it more difficult (if not impossible) for their speech and/or expressive conduct to succeed. And because of the polarization of Republicans in the General Assembly, these voters will be unable to influence the legislative process, resulting in the complete suppression of their political views. For those Plaintiffs and other Democratic voters who live in packed districts, the 2017 Plans artificially dilute the weight and impact of their speech and/or expressive conduct. The General Assembly intentionally created these burdens because of disfavor for Plaintiffs and other Democratic voters, their political views, and their party affiliations.

218. Irrespective of the U.S. Constitution, the 2017 Plans also violate Article 1, Sections 12 and 14 of the North Carolina Constitution by burdening the protected speech and/or expressive conduct of the NCDP. Because of the gerrymanders, the money the NCDP contributes to or spends on Democratic candidates—and the messages conveyed through the

contributions and expenditures—are less effective and less able to succeed. The General Assembly intentionally rendered the NCDP’s contributions and expenditures less effective because of disagreement with the political viewpoints expressed through those contributions and expenditures and disfavor for the candidates that the NCDP supports.

219. Irrespective of the U.S. Constitution, the 2017 Plans also violate Article 1, Sections 12 and 14 of the North Carolina Constitution by burdening the associational rights of Plaintiffs. The 2017 Plans burden the ability of Plaintiffs and other Democratic voters, including members of Common Cause and the NCDP, as well as the NCDP as an organization, to affiliate and join together in a political party, to carry out the party’s activities, and to implement the party’s policy preferences through legislative action. The 2017 Plans burden these associational rights by, *inter alia*, making it more difficult for Plaintiffs and other Democratic voters, as well as the NCDP, to register voters, attract volunteers, raise money in gerrymandered districts, campaign, and turn out the vote, by reducing the total representation of the Democratic Party in the General Assembly, and by making it virtually impossible for Democrats to constitute a majority of either chamber of the General Assembly.

220. Irrespective of the U.S. Constitution, the 2017 Plans also violate Article 1, Sections 12 and 14 of the North Carolina Constitution by burdening the protected speech, expressive conduct, and associational rights of Common Cause. The 2017 Plans burden Common Cause’s ability to convince voters in gerrymandered districts to vote in state legislative elections and to communicate with legislators. And because the 2017 Plans allow the General Assembly to disregard the will of the public, the 2017 Plans’ burden Common Cause’s ability to communicate effectively with legislators, to influence them to enact legislation that promote voting, participatory democracy, public funding of elections, and other measures that encourage

accountable government. The 2017 Plans similarly burden the associational rights of Common Cause by frustrating its mission to promote participation in democracy and to ensure open, honest, and accountable government.

221. Irrespective of the U.S. Constitution, the 2017 Plans also violate the North Carolina Constitution's prohibition against retaliation against individuals who exercise their rights under Article I, Sections 12 and 14. *See Feltman v. City of Wilson*, 767 S.E.2d 615, 620 (N.C. App. 2014). The General Assembly expressly considered the prior protected conduct of Plaintiffs and other Democratic voters, including members of Common Cause and NCDP, by considering their voting histories and political party affiliations when placing these voters into districts. The General Assembly did this to disadvantage individual Plaintiffs and other Democratic voters because of their prior protected conduct, and this retaliation has diluted these individuals' votes in a way that would not have occurred but-for the retaliation. *Id.* Indeed, many Plaintiffs and other Democratic voters who currently live in Republican state House or Senate districts would live in districts that would be more likely to have, or would almost definitely have, a Democratic representative but for the gerrymander. Moreover, but-for the gerrymander, Plaintiffs and other Democratic voters would have an opportunity to elect a majority of the state House and Senate, which would afford an opportunity to influence legislation. The retaliation has also impermissibly burdened the associational rights of Plaintiffs and the NCDP by making it more difficult for Democrats to register voters, recruit candidates, attract volunteers, raise money, campaign, and turn out the vote, by reducing the total representation of the Democratic Party in the General Assembly, and by making it virtually impossible for Democrats to constitute a majority of either chamber of the General Assembly.

222. There is no legitimate state interest in discriminating and retaliating against Plaintiffs because of their political viewpoints, voting histories, and affiliations. Nor can the 2017 Plans be explained or justified by North Carolina's geography or any legitimate redistricting criteria.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendant, and:

- a. Declare that each of the 2017 Plans is unconstitutional and invalid because each violates the rights of Plaintiffs and all Democratic voters in North Carolina under the North Carolina Constitution's Equal Protection Clause, Art. I, § 19; Free Elections Clause, Art. I, § 5; and Freedom of Speech and Freedom of Assembly Clauses, Art. I, §§ 12 & 14;
- b. Enjoin Defendants, their agents, officers, and employees from administering, preparing for, or moving forward with the 2020 primary and general elections for the North Carolina General Assembly using the 2017 Plans;
- c. Establish new state House and state Senate districting plans that comply with the North Carolina Constitution, if the North Carolina General Assembly fails to enact new state House and state Senate districting plans comports with the North Carolina Constitution in a timely manner;
- d. Grant Plaintiffs such other and further relief as the Court deems just and appropriate.

Dated: December 7, 2018

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(202) 654-6200
melias@perkinscoie.com

Abha Khanna*
1201 Third Avenue
Suite 4900
Seattle, WA 98101-3099
(206) 359-8000
akhanna@perkinscoie.com

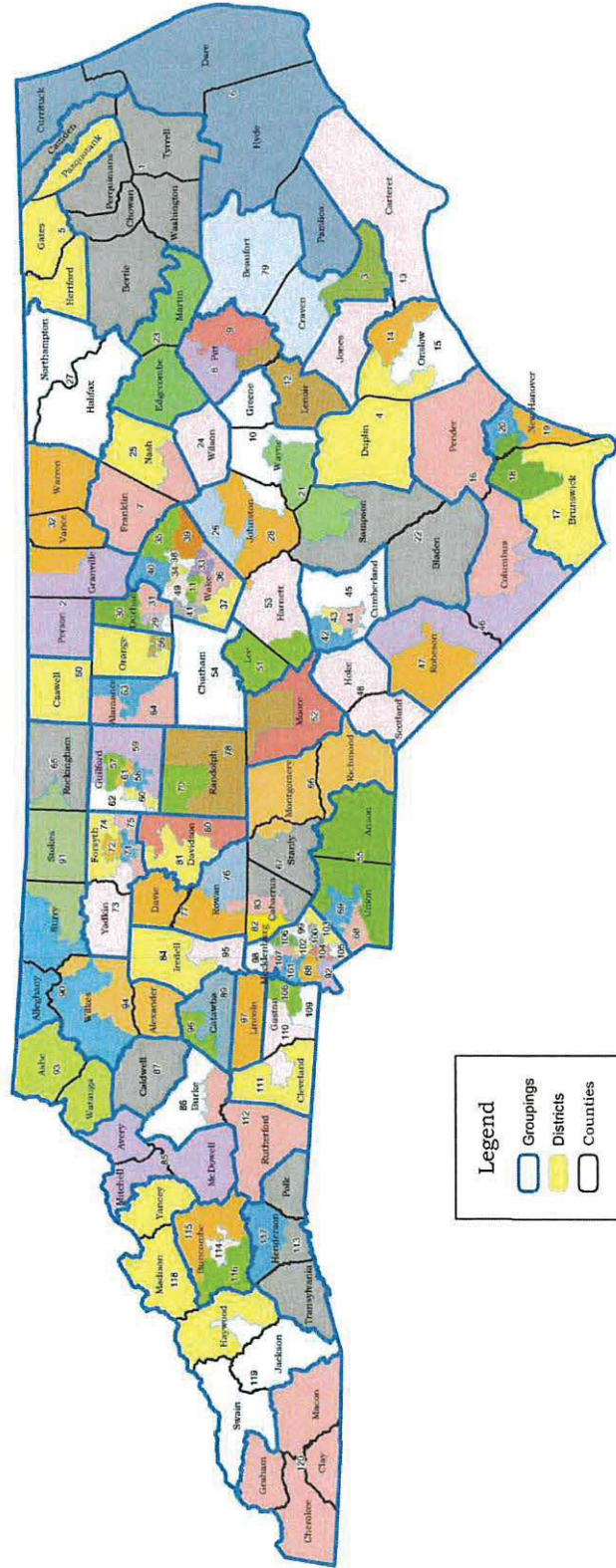
*Counsel for Common Cause and the
Individual Plaintiffs*

* *Pro hac vice motions forthcoming*

Appendix

Appendix A: North Carolina House of Representatives Districts

2018 House Election Districts



*As ordered by the U.S. Supreme Court on February 6, 2018 in *North Carolina v. Covington*.

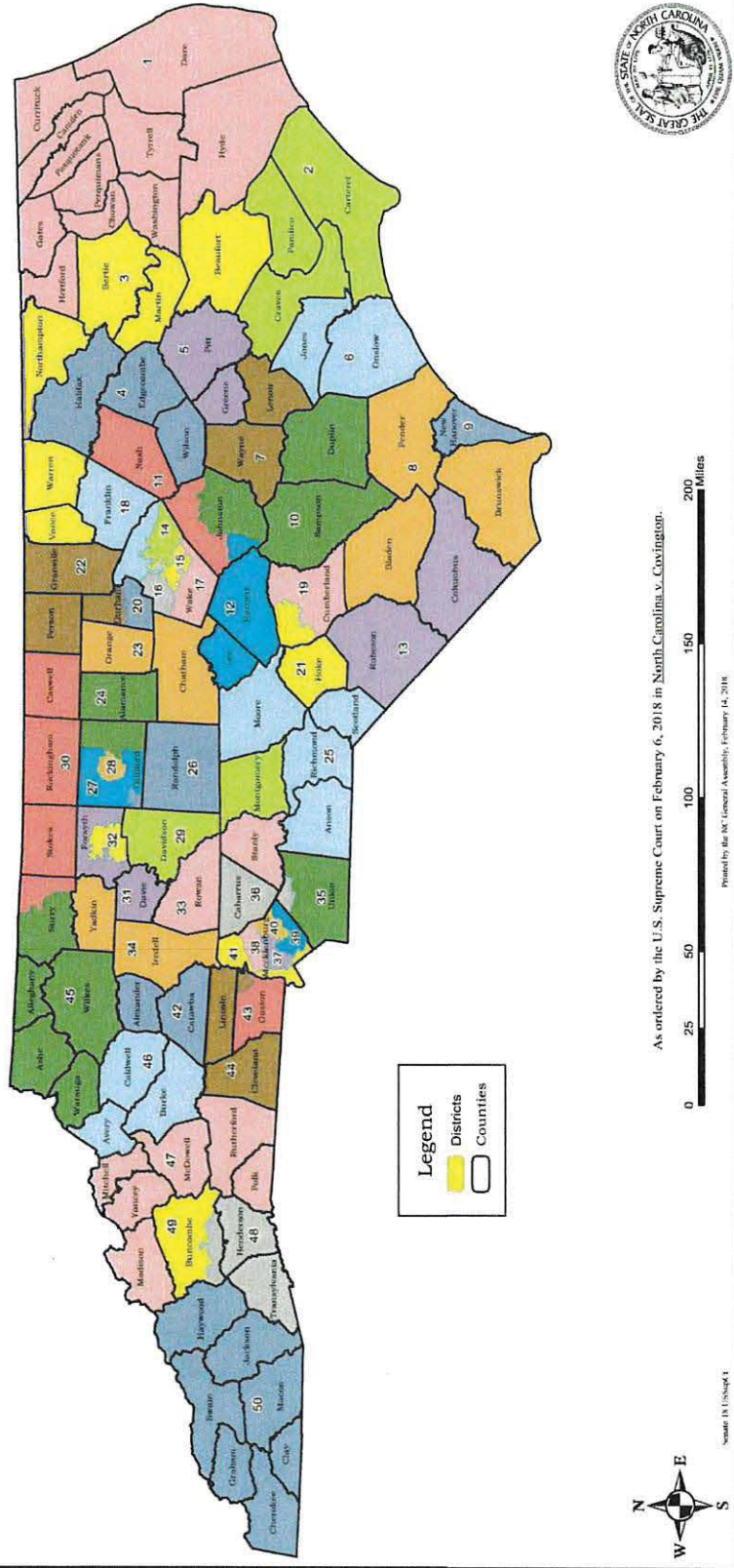


Printed by the NC General Assembly, February 14, 2018.

House 18 US18a2

Appendix B: North Carolina Senate Districts

2018 Senate Election Districts



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *by email and by U.S. mail*, addressed to the following persons at the following addresses which are the last addresses known to me:

James Bernier
Amar Majmundar
Stephanie A. Brennan
NC Department of Justice
P.O. Box 629
114 W. Edenton St.
Raleigh, NC 27602
jbernier@ncdoj.gov
*Counsel for the State of North Carolina and State Board of
Elections and Ethics Enforcement and its members*

Phillip J. Strach
Michael McKnight
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, NC 27609
Phillip.strach@ogletree.com
Michael.mcknight@ogletree.com
Counsel for the Legislative Defendants

This the 7th day of December, 2018.

POYNER SPRUILL LLP



Caroline P. Mackie

EXHIBIT B

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case No. 18 CVS 014001

COMMON CAUSE; *et al.*)
)
 Plaintiffs,)
)
 v.)
)
 DAVID R. LEWIS, *et al.*)
)
 Defendants.)
)
)
)
)
)

PLEASE TAKE NOTICE pursuant to N.C. R. Civ. P. 45 that the Legislative Defendants, David R. Lewis, in his official capacity as Senior Chairman of the House Select Committee on Redistricting, Ralph E. Hise, Jr., in his official capacity as Chairman of the Senate Committee on Redistricting, Speaker of the North Carolina House of Representatives, Timothy K. Moore, and President Pro Tempore of the North Carolina Senate, Philip E. Berger, in the above-captioned action intend to serve the attached subpoenas on the Democratic National Committee, the Democratic Legislative Campaign Committee, and the Democratic Congressional Campaign Committee on March 8, 2019, or as soon thereafter as service may be effectuated.

Submitted this 8th Day of March, 2019.

BAKER & HOSTETLER, LLP

By: 

E. Mark Braden*
(DC Bar #419915)

Richard B. Raile*
(VA Bar # 84340)

Trevor M. Stanley*
(VA Bar # 77351)

Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.

Washington, DC 20036-5403

mbraden@bakerlaw.com

rraile@bakerlaw.com

tstanley@bakerlaw.com

Telephone: (202) 861-1500

Facsimile: (202) 861-1783

Counsel for Legislative Defendants

**admitted Pro Hac Vice*

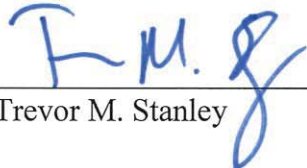
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

Phillip J. Strach
N.C. State Bar No. 29456
Michael McKnight
N.C. State Bar No. 36932
phil.strach@ogletreedeakins.com
michael.mcknight@ogletreedeakins.com
4208 Six Forks Road, Suite 1100
Raleigh, North Carolina 27609
Telephone: (919) 787-9700
Facsimile: (919) 783-9412
Counsel for the Legislative Defendants

CERTIFICATE OF SERVICE

This is to certify that on March 8, 2019, I caused the foregoing document to be served on all counsel of record by electronic mail in accordance with the agreement of the parties to serve documents in this matter electronically.

By:



Trevor M. Stanley

Superior Court of the District of Columbia
CIVIL DIVISION

Check One:

- Civil Actions Branch
500 Indiana Ave., N.W.
Room 5000
Washington, D.C. 20001
Telephone: (202) 879-1133
- Landlord & Tenant Branch
510 4th Street, N.W.
Room 110
Washington, D.C. 20001
Telephone: (202) 879-4879
- Small Claims & Conciliation Branch
510 4th Street, N.W.
Room 120
Washington, D.C. 20001
Telephone: (202) 879-1120

Common Cause, et al.,
Plaintiff

SUBPOENA FOR A CIVIL CASE

v.
David R. Lewis, et al.,
Defendant

CASE NUMBER: 19-0001475

To: Democratic Congressional Campaign Committee

Check box if medical records are being requested

YOU ARE COMMANDED to appear in this Court at the place, date, and time specified below to testify in the above case.

COURTROOM AND ADDRESS	DATE	TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE	TIME


Any organization not a party to this suit that is subpoenaed for the taking of a deposition must designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify. Super. Ct. Civ. R. 30(b)(6).

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

DOCUMENTS OR OBJECTS	DATE	TIME
See list attached to the attached subpoena from the Superior Court Division, Wake County, North Carolina, File No. 18-CVS-014001, for the above addressee dated March 5, 2019.		
PLACE OF PRODUCTION	DATE	TIME
BakerHostetler, 1050 Connecticut Ave., N.W., Suite 1100, Washington, D.C. 20036-5403	5 April 2019	9:00am

YOU ARE COMMANDED to permit inspection of the following premises at the date, and time specified below.

PREMISES	DATE	TIME

ISSUING PERSON'S SIGNATURE AND TITLE (Indicate if attorney for plaintiff or defendant)	DATE
 Patricia Allen Deputy Clerk	3/8/19
ISSUING PERSON'S NAME, ADDRESS AND PHONE NUMBER	
500 Indiana Ave NW RM 5000 Washington DC 20001	

Authorization as required by D.C. Code §14-307 and Brown v. U.S., 567 A.2d 426 (D.C. 1989), is hereby given for issuance of a subpoena for medical records concerning a person who has not consented to disclosure of the records and has not waived the privilege related to such records.

JUDGE

(See Super. Ct. Civ. R. 45 (c) and (d) on the reverse side)
WHITE - FOR RETURN OF SERVICE YELLOW - FOR SERVICE

Case Number: 19-0001475

Court Date: _____

PROOF OF SERVICE

Served	Date	Time	Place
--------	------	------	-------

Served on (Print Name)	Title
------------------------	-------

MANNER OF SERVICE (attach the return receipt if service was made by registered or certified mail) I served the subpoena by delivering a copy to the named person as follows:

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the District of Columbia that I am at least 18 years of age and not a party to the above entitled case and that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

Date

Signature of Server

Address of Server

Super. Ct. Civ. R. 45(c) and (d):**(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents, electronically stored information, or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court must quash or modify a subpoena that:

(i) fails to allow reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 25 miles from where that person resides, is employed, or regularly transacts business in person—except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place to the place of trial;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 25 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation materials must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

19-0001475

STATE OF NORTH CAROLINA

File No.

18-CVS-014001

Wake County

In The General Court Of Justice
District Superior Court Division

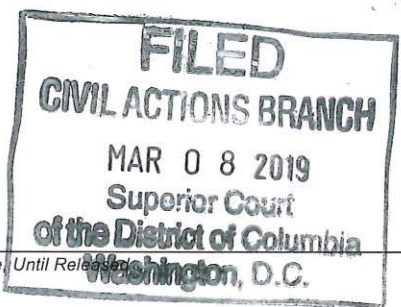
Common Cause, et al. Additional File Numbers
VERSUS
David R. Lewis, et al.
SUBPOENA
G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena
State/Plaintiff Defendant
NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

TO Name And Address Of Person Subpoenaed
Democratic Congressional Campaign Committee
430 South Capitol Street Southeast
Washington, D.C. 20003
Telephone No. (202) 863-1500
Alternate Address
Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
produce and permit inspection and copying of the following items, at the place, date and time indicated below.
See attached list. (List here if space sufficient)



Name And Location Of Court/Place Of Deposition/Place To Produce
Baker Hostetler
1050 Connecticut Avenue, NW, Suite 1100
Washington, D.C. 20036-5403
Date To Appear/Produce, Until Released
04/05/2019
Time To Appear/Produce, Until Released
9:00 AM PM

Name And Address Of Applicant Or Applicant's Attorney
Andrew C. Avram
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100
Telephone No. Of Applicant Or Applicant's Attorney
(919) 789-3217
Date
March 5, 2019
Signature
Deputy CSC Assistant CSC Clerk Of Superior Court
Magistrate Attorney/DA District Court Judge
Superior Court Judge

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:
By personal delivery registered or certified mail, receipt requested and attached.
telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).
NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.
I was unable to serve this subpoena. Reason unable to serve:

Service Fee Paid Due
Date Served
Name Of Authorized Server (type or print)
Signature Of Authorized Server
Title/Agency

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
- The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - The subpoena subjects a person to an undue burden or expense.
 - The subpoena is otherwise unreasonable or oppressive.
 - The subpoena is procedurally defective.
- (4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel: expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) Order to quash: expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

- (1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

Purpose: Provide the parties in Common Cause, et al. v. David R. Lewis, et al., 18-CVS-0114001 (N.C. Sup. Ct.), to support subpoena issuance by the Superior Court of the District of Columbia, Civil Division.

Plaintiffs:

COMMON CAUSE; NORTH CAROLINA DEMOCRATIC PARTY; PAULA ANN; CHAPMAN; HOWARD DUBOSE JR; GEORGE DAVID GAUCK; JAMES MACKIN NESBIT; DWIGHT JORDAN; JOSEPH THOMAS GATES; MARK S. PETERS; PAMELA MORTON; VIRGINIA WALTERS BRIEN; JOHN MARK TURNER; LEON CHARLESSCHALLER; REBECCA HARPER; LESLEY BROOK WISCHMANN; DAVID DWIGHT BROWN; AMY CLARE OSEROFF; KRISTIN PARKER JACKSON; JOHN BALLA; REBECCA JOHNSON; AARON WOLFF; MARY ANN PEDEN-COVIELLO; KAREN SUE HOLBROOK; KATHLEEN BARNES; ANN MCCRACKEN; JACKSON THOMAS DUNN, JR.; ALYCE MACHAK; WILLIAM SERVICE; DONALD RUMPH; STEPHEN DOUGLAS MCGRIGOR; NANCY BRADLEY; VINOD THOMAS; DERICK MILLER; ELECTA E. PERSON; DEBORAH ANDERSON SMITH; ROSALYN SLOAN; JULIE ANN FREY; LILY NICOLE QUICK; JOSHUA BROWN; CARLTON E. CAMPBELL SR.,

Defendants:

REPRESENTATIVE DAVID R. LEWIS, in his official capacity as Senior Chairman of the House Select Committee on Redistricting; SENATOR RALPH E. HISE, JR., in his official capacity as Chairman of the Senate Committee on Redistricting; SPEAKER OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES TIMOTHY K. MOORE; PRESIDENT PRO TEMPORE OF THE NORTH CAROLINA SENATE PHILIP E. BERGER; THE STATE OF NORTH CAROLINA; THE NORTH CAROLINA STATE BOARD OF ELECTION AND ETHICS ENFORCEMENT; JOSHUA MALCOLM, Chairman of the North Carolina State Board of Elections & Ethics Enforcement; KEN RAYMOND, Secretary of the North Carolina State Board Of Elections & Ethics Enforcement; STELLA ANDERSON, Member of the North Carolina State Board of Elections & Ethics Enforcement; DAMON CIRCOSTA, Member of the North Carolina State Board of Elections & Ethics Enforcement; STACY "FOUR" EGGERS IV, Member Of The North Carolina State Board of Elections & Ethics Enforcement; JAY HEMPHILL, Member of the North Carolina State Board of Elections & Ethics Enforcement; VALERIE JOHNSON, Member of the North Carolina State Board of Elections & Ethics Enforcement; JOHN LEWIS, Member of the North Carolina State Board of Elections & Ethics Enforcement; ROBERT CORDLE, Member of the North Carolina State Board of Elections & Ethics Enforcement,

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case No. 18 CVS 014001

COMMON CAUSE; *et al.*)
)
 Plaintiffs,)
)
 v.)
)
 DAVID R. LEWIS, *et al.*)
)
 Defendants.)
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**SCHEDULE A TO SUBPOENA TO DEMOCRATIC CONGRESSIONAL CAMPAIGN
COMMITTEE FOR THE PRODUCTION OF DOCUMENTS**

DEFINITIONS

1. “You” or “Your,” means Democratic Congressional Campaign Committee, any predecessors, wholly-owned or controlled subsidiaries or affiliates, successors, parents, other subsidiaries, departments, divisions, joint ventures, other affiliates, and any organization or entity that the responding company manages or controls, including those merged with or acquired, together with all present and former directors, officers, employees, agents, attorneys, representatives or any persons acting or purporting to act on their behalf.
2. “Associated with” shall mean employed by, under contract with, acting as the agent of, representing, or otherwise affiliated with an organization or person.
3. “Communication” is used in the broadest possible sense and means every conceivable manner or means of disclosure, transfer or exchange of oral or written information between one or more persons, entities, devices, platforms or systems.
4. “Concerning” or “Relating to” mean containing, consisting of, referring to, reflecting, supporting, prepared in connection with, used in preparation for, pertaining to, having any relationship to, evidencing, or constituting evidence of, or being in any way legally, logically, or factually connected with the matter discussed in whole or in part.
5. “Congressional District” shall refer to North Carolina congressional districts, and shall not refer to state legislative districts.
6. “Legislative District” shall refer to North Carolina legislative districts, and shall not refer to congressional districts.

7. “Document” or “Documents” are used in their broadest sense permitted under N.C. R. Civ. P. 45, and mean and include each and every medium upon which information is or can be printed, typed, written, recorded, or reproduced by mechanical or electronic means, by hand or by any other method, whether by You or someone else, that is or has been within Your possession, custody, control or of which You have knowledge or access, including, without limitation, the following: advertisements; agreements; aperture cards; appointment books; books; brochures; calculations, calendars; charts; circulars; codes; computer records or printouts; communications; contracts; copies; correspondence; data processing cards, discs or tapes; diaries; directives; drafts; drawings; enclosures; file folders, boxes or other containers; files; films; forms; graphs; guides; indexes; inspection reports; instructions; journals; laboratory reports; ledgers; letters; local, state and federal government hearing records and reports; magnetic tapes, cards, or discs or other products of any device for recording sound or electronic impulses; maps; memoranda; messages, microfiche; microfilm; minutes or other records of meetings or conferences; motion picture films; negatives; newspaper stories or clippings; notes; notebooks; notices; opinions or reports of consultants; pads; pamphlets; photographs, pictures, plans, position papers; press releases; price books or lists; progress reports; publications; reports; reports of studies; specifications; statistical data; schedules; schedule revisions; sketches; status reports; stenographic or handwritten notes; stenographic, wire, or magnetic recordings; studies; summaries; summaries, notes or records of conversations, interviews, or telephone conversations; summaries or reports of investigations or negotiations; surveys; specifications; telecopies; telegrams; telexes; time records; trip reports; videotapes; voice recordings in any form; worksheets; and working papers. The terms “document” or “documents” also include the original and every copy which is not identical to the original, specifically including every copy that contains any commentary, marginalia or notation whatsoever that does not appear on the original. Unless provided otherwise, the terms “document” or “documents” also include all drafts, attachments, and appendices of each of the foregoing. Unless provided otherwise, the terms “document” or “documents” shall also include Electronically Stored Information.
8. “Electronically Stored Information” or “ESI” shall include, but not be limited to, any and all electronic data or information stored on a computing device. Information and data is considered “electronic” if it exists in a medium that can only be read through the use of computing device. This term includes but is not limited to databases; all text file and word processing Documents (including metadata); presentation Documents; spreadsheets; graphics, animations, and images (including but not limited to JPG, GIF, BMP, PDF, PPT, and TIFF files); email, email strings, and instant messages (including attachments, logs of email history and usage, header information and “deleted” files); email attachments; calendar and scheduling information; cache memory; Internet history files and preferences; audio; video, audiovisual recordings; voicemail stored on databases; networks; computers and computer systems; computer system activity logs; servers; archives; back-up or disaster recovery systems; hard drives; discs; CDs; diskettes; removable drives; tapes; cartridges and other storage media; printers; scanners; personal digital assistants; computer calendars; handheld wireless devices; cellular telephones; pagers; fax machines; and voicemail systems. This term includes but is not limited to onscreen information, system data, archival data, legacy data,

residual data, and metadata that may not be readily viewable or accessible, and all file fragments and backup files.

9. “HB 927” shall refer to North Carolina House Bill 927; Session Law 2017-208 enacted on August 30, 2017.
10. “SB 691” shall refer to North Carolina Senate Bill 691; Session Law 2017-207 enacted on August 31, 2017.
11. “HB 937” shall refer to North Carolina House Bill 937; Session Law 2011-404 enacted on July 28, 2011, text corrected by Session Law 2011-416 on November 7, 2011.
12. “SB 455” shall refer to North Carolina Senate Bill 455; Session law 2011-402 enacted on July 27, 2011, text corrected by Session Law 2011-413 on November 7, 2011.
13. “SB 453” shall refer to North Carolina Senate Bill 453; Session Law 2011-403, text corrected by Session Law 2011-414 on November 7, 2011.
14. “SB 2” shall refer to North Carolina Senate Bill 2; Session Law 2016-1 enacted on February 19, 2016.
15. “Meeting” shall refer not only to in-person meetings, but also to telephonic and video conference meetings.
16. “North Carolina Congressional Maps” shall refer to the North Carolina Congressional Maps drawn as a result of the 2010 Census and reapportionment of seats, including the maps adopted in SB 453 and/or SB 2, as well as any alternative, proposed, or draft maps. This definition includes maps of one or more individual districts as well as maps that encompass the entire state.
17. “North Carolina Legislative Maps” Shall refer to the North Carolina Legislative maps drawn after the 2010 Census, including the maps adopted in HB 927, SB 691, HB, 937, and SB 455 as well as any alternative, proposed, or draft maps. This definition includes maps of one or more individual districts as well as maps that encompass the entire state.
18. “Person(s)” shall refer not only to natural persons, but also without limitation to firms, partnerships, corporations, associations, unincorporated associations, organizations, businesses, trusts, government entities, and/or any other type of legal entities. All references to a person also include that person’s agents, employees (whether part-time or full-time), and representatives,
19. “Plaintiffs” refers to the Plaintiffs in the above captioned lawsuit: Common Cause, North Carolina Democratic Party, Paula Ann Chapman, Howard DuBose, Jr., George David Guack, James Mackin Nesbit, Dwight Jordan, Joseph Thomas Gates, Mark S. Peters, Pamela Morton, Virginia Walters Brien, John Mark Turner, Leon Charles Schaller, Rebecca Harper, Lesley Brook Wischmann, David Dwight Brown, Amy Clare Oseroff, Kristin Parker Jackson, John Balla, Rebecca Johnson, Aaron Wolff, Mary Ann Peden-Coviello, Karen Sue Holbrook, Kathleen Barnes, Ann McCracken,

Jackson Thomas Dunn, Jr., Alyce Machak, William Service, Donald Rumph, Stephen Douglas McGrigor, Nancy Bradley, Vinod Thomas, Derrick Miller, Electa E. Person, Deborah Anderson Smith, Rosalyn Sloan, Julie Ann Frey, Lily Nicole Quick, Joshua Brown, Carlton E. Campbell, Sr.

20. “Possession” means Your immediate possession, including items held by agents and employees, and any and all other principals or assigns, as well as constructive possession by virtue of Your ability to retrieve the aforesaid Document or information.

INSTRUCTIONS

1. You are to produce entire Documents, including all attachments, cover letters, memoranda, and appendices, as well as the file, folder tabs, and labels appended to or containing any Documents. Copies which differ in any respect from an original (because, by way of example only, handwritten or printed notations have been added) should be produced separately. Please produce all electronically-stored Documents in electronic, machine-readable form, together with sufficient Documentation of variable names and descriptions and any other information necessary to interpret and perform calculations on such data.
2. If You object to any part of a Request, set forth the basis for Your objection and respond to all parts of the Request to which You do not object.
3. If any privilege or immunity is claimed as a ground for not producing a Document or tangible thing, provide a written log describing the basis for the claim of privilege or immunity that identifies each such Document and state the ground on which each such Document is asserted to be privileged or immune from disclosure. Any attachment to an allegedly privileged or immune Document shall be produced unless you contend that the attachment is also privileged or immune from disclosure.
4. Whenever necessary to bring within the scope of a Request a response that might otherwise be construed to be outside its scope, the following constructions should be applied:
 - a. Construing the terms “and” and “or” in the disjunctive or conjunctive, as necessary, to make the Request more inclusive;
 - b. Construing the singular form of any word to include the plural and the plural form to include the singular;
 - c. Construing the past tense of the verb to include the present tense and the present tense to include the past tense;
 - d. Construing the masculine form to include the feminine form;
 - e. Construing negative terms to include the positive and vice versa;
 - f. Construing “include” to mean include or including “without limitation.

5. If there are no Documents responsive to a particular category, please so state in writing. If any Documents or parts of Documents called for by this Document request have been lost, discarded, or destroyed, identify such Documents as completely as possible on a list, including, without limitation, the following information: a description of the document (author, date, to whom it was communicated, subject(s) and format), date of disposal, manner of disposal, reason for disposal, person authorizing the disposal, and person disposing of the Document.
6. These Document Requests seek Documents in Your possession, including Documents of Your employees, agents and representatives, and unless privileged, Your attorneys.
7. These Document Requests are continuing in character so as to require You to produce additional Documents if You obtain further or different information at any time before trial.
8. If there is any question as to the meaning of any part of these Requests, or an issue as to whether production of responsive Documents would impose an undue burden on You, then You should contact Legislative Defendants' attorneys promptly to discuss resolution.

DOCUMENTS TO BE PRODUCED

1. All documents that refer, reflect or relate to the REDistricting Majority Project (REDMAP) from 2009 through the date of service of this subpoena.
2. All documents that refer, reflect or relate to communications or reports to, from or between any of the following organization or individuals that pertain to the REDMAP project or the reapportionment of Congressional Districts or Legislative Districts in North Carolina following the 2010 Census:
 - a. The Republican State Leadership Committee;
 - b. The State Government Leadership Foundation;
 - c. Edward Gillespie;
 - d. Christopher Jankowski;
 - e. Thomas Hofeller;
 - f. Dalton Oldham;
 - g. Geographic Strategies, LLC;
 - h. North Carolina Senator David Hise;
 - i. North Carolina Senator Robert Rucho;
 - j. North Carolina Representative David Lewis;

- k. Art Pope;
 - l. Real Jobs NC;
 - m. Fair and Legal Districting;
 - n. Any member or representative of the North Carolina State Board of Elections;
 - o. Patrick J. McCrory;
 - p. Any elected official in North Carolina;
 - q. Any member or representative of a member or candidate of Congress from North Carolina;
 - r. Any member of the North Carolina General Assembly; and
 - s. The North Carolina State Republican Party.
3. All communication and reports to donors or contributors to You that refer, reflect or discuss the purpose of or the strategy begin the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of Congressional Districts or Legislative Districts following the 2010 Census.
 4. All documents in your possession, custody, or control regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present. This request includes but is not limited to copies of any maps, statistical reports, analyses, or other documents prepared by you or on your behalf, or received by you, regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate.
 5. All documents and communications in your possession relating to assistance or resources expended to support drawing redistricting maps in North Carolina from January 1, 2009 to the present. This request includes, but is not limited to, documents and communications pertaining to hardware, software, data, personnel, and counsel provided to legislators or other groups in support of fair and legal redistricting maps in North Carolina.
 6. All Documents regarding or relating to meetings, deliberations, or lobbying efforts addressing the preparation or approval of any final, proposed, or draft North Carolina Legislative District maps generated from 2009 through 2017 or legal challenges to any such maps, including, but not limited to Documents regarding the timing, frequency, and content of such meetings, as well as (a) agendas; (b) minutes, notes, or transcripts; and (c) Documents provided to participants prior to, at, or after a meeting.

7. All documents in your possession, custody, or control regarding or relating to any consultant or other person or organization who provided assistance, whether paid or unpaid, relating to the redistricting or proposed redistricting of the North Carolina House of Representatives or North Carolina Senate from January 1, 2009 to the present, including but not limited to: (a) contracts and agreements, whether oral or written, and documents reflecting such contracts and agreements; (b) communications with such persons relating to any maps drawn or prepared or redistricting in general; (c) reports (draft or final) or analyses prepared regarding or relating to such reports or analyses; (d) information shared with such persons to assist the person in their work related to preparing or analyzing any maps; and (e) invoices or payments submitted to/from such persons.
8. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," in the redrawing or proposed redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present.
9. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," in the redrawing of any district lines not involving districts for the North Carolina House of Representatives or North Carolina Senate in North Carolina from January 1, 2009 to the present.
10. All documents regarding or relating to the consideration of any factors in creating any draft or final version of any map for the North Carolina House of Representatives or North Carolina Senate from January 1, 2009 to the present, including but not limited to: (a) compactness; (b) contiguity; (c) population equality; (d) incumbency protection; (e) competitiveness; (f) preservation of communities of interest; (g) likelihood of election outcomes; (h) past election outcomes, either collectively or singularly; (i) Voting Rights Act compliance; (j) location of political campaign contributors; (k) location of the home of any candidate or potential candidate for the North Carolina

General Assembly; and (l) location of any county, municipal, or other political boundary.

11. All documents in your possession, custody, or control reflecting communications with any member, group of members, or prospective members of the North Carolina General Assembly regarding or relating to HB 927, SB 691, HB, 937, and/or SB 455.
12. All documents in your possession, custody, or control regarding or relating to any conference, meeting, or training concerning the topic of redistricting that occurred from January 1, 2009 to present, including but not limited to (a) agendas; (b) minutes or notes; (c) any documents provided to participants prior to, at or after the event; (d) invitations; (e) invoices or requests for reimbursement; (f) participation lists; and (g) communications relating to the meeting, conference, or training.
13. All communications, and Documents regarding or relating to such communications with any person regarding the redistricting of the North Carolina Legislative maps from 2009 through 2017 including but not limited to David Parker, Randy Voller, Patsy Kever, Wayne Goodwin, Doug Wilson, Morgan Jackson, Joe Hackney, Martin Nesbitt, Jr., Larry Hall, Deborah K. Ross, Rick Glazier, Ray Rapp, Michael Wray, Dan Blue, Darren Jackson, Robert Reives, II, Scott Falmlen, Bob Philips, Erin Byrd, Crandall Bowles, Shaunee Morgan, Bob Hall, Ken Eudy, Fred Allen, Nexus Strategies, the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, or Project "Advantage 2020," or any of the Plaintiffs in this action.
14. All documents in your possession, custody, or control regarding or relating to payments or reimbursements to/from the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," or any of the Plaintiffs in this action, related to redistricting in North Carolina from January 1, 2009 to the present, or regarding or relating to the support of Democratic legislative candidates in North Carolina including financial, in-kind, or volunteer support.
15. All documents in your possession, custody, or control containing District-by-District Analytics Reports, Analysis of Competitiveness, Analysis comparing districts drawn

in 2011 and 2017, DNC Support Scores, and/or similar or related analyses for any North Carolina Legislative District, including any such documents received from or exchanged with any of the entities listed in Request No. 12 from January 1, 2009 to the present.

16. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," and any other organization concerning the support of Democratic legislative candidates, the targeting of legislative races involving Democratic candidates for financial, in-kind, or volunteer support.
17. All documents in your possession, custody, or control received from or accessed in conjunction with the email fairredistricting@yahoogroup.com regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present.
18. All documents in your possession, custody, or control regarding independent expenditures in support of or opposing candidates in North Carolina from January 1, 2009 to the present.
19. All documents in your possession, custody, or control regarding expenditures in North Carolina related to any election in North Carolina from January 1, 2009 to the present.

Superior Court of the District of Columbia
CIVIL DIVISION

Check One:

- Civil Actions Branch
500 Indiana Ave., N.W.
Room 5000
Washington, D.C. 20001
Telephone: (202) 879-1133
- Landlord & Tenant Branch
510 4th Street, N.W.
Room 110
Washington, D.C. 20001
Telephone: (202) 879-4879
- Small Claims & Conciliation Branch
510 4th Street, N.W.
Room 120
Washington, D.C. 20001
Telephone: (202) 879-1120

Common Cause, et al.,
Plaintiff

SUBPOENA FOR A CIVIL CASE

v.
David R. Lewis, et al.,
Defendant

CASE NUMBER: 19-0001475

To: Democratic National Committee

Check box if medical records are being requested

YOU ARE COMMANDED to appear in this Court at the place, date, and time specified below to testify in the above case.

COURTROOM AND ADDRESS	DATE	TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE	TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition must designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify. Super. Ct. Civ. R. 30(b)(6).

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

DOCUMENTS OR OBJECTS	DATE	TIME
See list attached to the attached subpoena from the Superior Court Division, Wake County, North Carolina, File No. 18-CVS-014001, for the above addressee dated March 5, 2019.		
PLACE OF PRODUCTION	DATE	TIME
BakerHostetler, 1050 Connecticut Ave., N.W., Suite 1100, Washington, D.C. 20036-5403	5 April 2019	9:00am

YOU ARE COMMANDED to permit inspection of the following premises at the date, and time specified below.

PREMISES	DATE	TIME

ISSUING PERSON'S SIGNATURE AND TITLE (indicate if attorney for plaintiff or defendant) <i>Patricia Allen</i> Deputy Clerk	DATE 03/08/19
ISSUING PERSON'S NAME, ADDRESS AND PHONE NUMBER Patricia Allen Deputy Clerk 500 Indiana Ave NW RM 5000 Washington DC 20001	

Authorization as required by D.C. Code §14-307 and *Brown v. U.S.*, 567 A.2d 426 (D.C. 1989), is hereby given for issuance of a subpoena for medical records concerning a person who has not consented to disclosure of the records and has not waived the privilege related to such records.

JUDGE

(See Super. Ct. Civ. R. 45 (c) and (d) on the reverse side)
WHITE - FOR RETURN OF SERVICE YELLOW - FOR SERVICE

PROOF OF SERVICE

Served	Date	Time	Place
--------	------	------	-------

Served on (Print Name)	Title
------------------------	-------

MANNER OF SERVICE (attach the return receipt if service was made by registered or certified mail) I served the subpoena by delivering a copy to the named person as follows:

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the District of Columbia that I am at least 18 years of age and not a party to the above entitled case and that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ Date _____ Signature of Server _____

Address of Server

Super. Ct. Civ. R. 45(c) and (d):

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents, electronically stored information, or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court must quash or modify a subpoena that:

- (i) fails to allow reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 25 miles from where that person resides, is employed, or regularly transacts business in person—except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place to the place of trial;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 25 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation materials must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

STATE OF NORTH CAROLINA

File No. **19-0001475**
18-CVS-014001

Wake County

In The General Court Of Justice
 District Superior Court Division

Common Cause, et al

Additional File Numbers

VERSUS

David R. Lewis, et al

SUBPOENA

G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena

State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

TO Name And Address Of Person Subpoenaed
Democratic National Committee
430 South Capitol Street Southeast
Washington, D.C. 20003

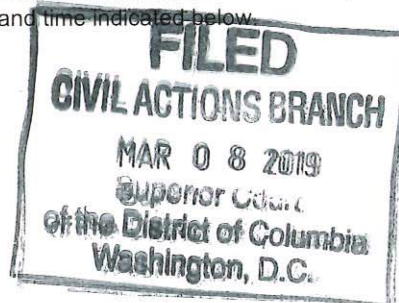
Alternate Address

Telephone No. 877-336-7200

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
- appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
- produce and permit inspection and copying of the following items, at the place, date and time indicated below.
- See attached list. (List here if space sufficient)



Name And Location Of Court/Place Of Deposition/Place To Produce
Baker Hostetler
1050 Connecticut Avenue, NW, Suite 1100
Washington, D.C. 20036-5403

Date To Appear/Produce, Until Released
04/05/2019

Time To Appear/Produce, Until Released
9:00 AM PM

Name And Address Of Applicant Or Applicant's Attorney
Andrew C. Avram
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100

Date
March 5, 2019

Signature
Andrew C. Avram

- Deputy CSC
- Assistant CSC
- Clerk Of Superior Court
- Magistrate
- Attorney/DA
- District Court Judge
- Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney
(919) 789-3217

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- By personal delivery. registered or certified mail, receipt requested and attached.
- telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
- telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).

NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may **not** issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.

I was unable to serve this subpoena. Reason unable to serve: _____

Service Fee \$	<input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served	Name Of Authorized Server (type or print)	Signature Of Authorized Server	Title/Agency
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NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
- The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - The subpoena subjects a person to an undue burden or expense.
 - The subpoena is otherwise unreasonable or oppressive.
 - The subpoena is procedurally defective.
- (4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.
- (6) Order to compel; expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) Order to quash; expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

- (1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

Purpose: Provide the parties in Common Cause, et al. v. David R. Lewis, et al., 18-CVS-0114001 (N.C. Sup. Ct.), to support subpoena issuance by the Superior Court of the District of Columbia, Civil Division.

Plaintiffs:

COMMON CAUSE; NORTH CAROLINA DEMOCRATIC PARTY; PAULA ANN; CHAPMAN; HOWARD DUBOSE JR; GEORGE DAVID GAUCK; JAMES MACKIN NESBIT; DWIGHT JORDAN; JOSEPH THOMAS GATES; MARK S. PETERS; PAMELA MORTON; VIRGINIA WALTERS BRIEN; JOHN MARK TURNER; LEON CHARLESSCHALLER; REBECCA HARPER; LESLEY BROOK WISCHMANN; DAVID DWIGHT BROWN; AMY CLARE OSEROFF; KRISTIN PARKER JACKSON; JOHN BALLA; REBECCA JOHNSON; AARON WOLFF; MARY ANN PEDEN-COVIELLO; KAREN SUE HOLBROOK; KATHLEEN BARNES; ANN MCCRACKEN; JACKSON THOMAS DUNN, JR.; ALYCE MACHAK; WILLIAM SERVICE; DONALD RUMPH; STEPHEN DOUGLAS MCGRIGOR; NANCY BRADLEY; VINOD THOMAS; DERICK MILLER; ELECTA E. PERSON; DEBORAH ANDERSON SMITH; ROSALYN SLOAN; JULIE ANN FREY; LILY NICOLE QUICK; JOSHUA BROWN; CARLTON E. CAMPBELL SR.,

Defendants:

REPRESENTATIVE DAVID R. LEWIS, in his official capacity as Senior Chairman of the House Select Committee on Redistricting; SENATOR RALPH E. HISE, JR., in his official capacity as Chairman of the Senate Committee on Redistricting; SPEAKER OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES TIMOTHY K. MOORE; PRESIDENT PRO TEMPORE OF THE NORTH CAROLINA SENATE PHILIP E. BERGER; THE STATE OF NORTH CAROLINA; THE NORTH CAROLINA STATE BOARD OF ELECTION AND ETHICS ENFORCEMENT; JOSHUA MALCOLM, Chairman of the North Carolina State Board of Elections & Ethics Enforcement; KEN RAYMOND, Secretary of the North Carolina State Board Of Elections & Ethics Enforcement; STELLA ANDERSON, Member of the North Carolina State Board of Elections & Ethics Enforcement; DAMON CIRCOSTA, Member of the North Carolina State Board of Elections & Ethics Enforcement; STACY "FOUR" EGGERS IV, Member Of The North Carolina State Board of Elections & Ethics Enforcement; JAY HEMPHILL, Member of the North Carolina State Board of Elections & Ethics Enforcement; VALERIE JOHNSON, Member of the North Carolina State Board of Elections & Ethics Enforcement; JOHN LEWIS, Member of the North Carolina State Board of Elections & Ethics Enforcement; ROBERT CORDLE, Member of the North Carolina State Board of Elections & Ethics Enforcement,

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case No. 18 CVS 014001

COMMON CAUSE; *et al.*)
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 Plaintiffs,)
)
)
 v.)
)
 DAVID R. LEWIS, *et al.*)
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)
 Defendants.)
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**SCHEDULE A TO SUBPOENA TO DEMOCRATIC NATIONAL COMMITTEE FOR
THE PRODUCTION OF DOCUMENTS**

DEFINITIONS

- 1. “You” or “Your,” means Democratic National Committee, any predecessors, wholly-owned or controlled subsidiaries or affiliates, successors, parents, other subsidiaries, departments, divisions, joint ventures, other affiliates, and any organization or entity that the responding company manages or controls, including those merged with or acquired, together with all present and former directors, officers, employees, agents, attorneys, representatives or any persons acting or purporting to act on their behalf.
- 2. “Associated with” shall mean employed by, under contract with, acting as the agent of, representing, or otherwise affiliated with an organization or person.
- 3. “Communication” is used in the broadest possible sense and means every conceivable manner or means of disclosure, transfer or exchange of oral or written information between one or more persons, entities, devices, platforms or systems.
- 4. “Concerning” or “Relating to” mean containing, consisting of, referring to, reflecting, supporting, prepared in connection with, used in preparation for, pertaining to, having any relationship to, evidencing, or constituting evidence of, or being in any way legally, logically, or factually connected with the matter discussed in whole or in part.
- 5. “Congressional District” shall refer to North Carolina congressional districts, and shall not refer to state legislative districts.
- 6. “Legislative District” shall refer to North Carolina legislative districts, and shall not refer to congressional districts.

7. “Document” or “Documents” are used in their broadest sense permitted under N.C. R. Civ. P. 45, and mean and include each and every medium upon which information is or can be printed, typed, written, recorded, or reproduced by mechanical or electronic means, by hand or by any other method, whether by You or someone else, that is or has been within Your possession, custody, control or of which You have knowledge or access, including, without limitation, the following: advertisements; agreements; aperture cards; appointment books; books; brochures; calculations, calendars; charts; circulars; codes; computer records or printouts; communications; contracts; copies; correspondence; data processing cards, discs or tapes; diaries; directives; drafts; drawings; enclosures; file folders, boxes or other containers; files; films; forms; graphs; guides; indexes; inspection reports; instructions; journals; laboratory reports; ledgers; letters; local, state and federal government hearing records and reports; magnetic tapes, cards, or discs or other products of any device for recording sound or electronic impulses; maps; memoranda; messages, microfiche; microfilm; minutes or other records of meetings or conferences; motion picture films; negatives; newspaper stories or clippings; notes; notebooks; notices; opinions or reports of consultants; pads; pamphlets; photographs, pictures, plans, position papers; press releases; price books or lists; progress reports; publications; reports; reports of studies; specifications; statistical data; schedules; schedule revisions; sketches; status reports; stenographic or handwritten notes; stenographic, wire, or magnetic recordings; studies; summaries; summaries, notes or records of conversations, interviews, or telephone conversations; summaries or reports of investigations or negotiations; surveys; specifications; telecopies; telegrams; telexes; time records; trip reports; videotapes; voice recordings in any form; worksheets; and working papers. The terms “document” or “documents” also include the original and every copy which is not identical to the original, specifically including every copy that contains any commentary, marginalia or notation whatsoever that does not appear on the original. Unless provided otherwise, the terms “document” or “documents” also include all drafts, attachments, and appendices of each of the foregoing. Unless provided otherwise, the terms “document” or “documents” shall also include Electronically Stored Information.
8. “Electronically Stored Information” or “ESI” shall include, but not be limited to, any and all electronic data or information stored on a computing device. Information and data is considered “electronic” if it exists in a medium that can only be read through the use of computing device. This term includes but is not limited to databases; all text file and word processing Documents (including metadata); presentation Documents; spreadsheets; graphics, animations, and images (including but not limited to JPG, GIF, BMP, PDF, PPT, and TIFF files); email, email strings, and instant messages (including attachments, logs of email history and usage, header information and “deleted” files); email attachments; calendar and scheduling information; cache memory; Internet history files and preferences; audio; video, audiovisual recordings; voicemail stored on databases; networks; computers and computer systems; computer system activity logs; servers; archives; back-up or disaster recovery systems; hard drives; discs; CDs; diskettes; removable drives; tapes; cartridges and other storage media; printers; scanners; personal digital assistants; computer calendars; handheld wireless devices; cellular telephones; pagers; fax machines; and voicemail systems. This term includes but is not limited to onscreen information, system data, archival data, legacy data,

- residual data, and metadata that may not be readily viewable or accessible, and all file fragments and backup files.
9. “HB 927” shall refer to North Carolina House Bill 927; Session Law 2017-208 enacted on August 30, 2017.
 10. “SB 691” shall refer to North Carolina Senate Bill 691; Session Law 2017-207 enacted on August 31, 2017.
 11. “HB 937” shall refer to North Carolina House Bill 937; Session Law 2011-404 enacted on July 28, 2011, text corrected by Session Law 2011-416 on November 7, 2011.
 12. “SB 455” shall refer to North Carolina Senate Bill 455; Session law 2011-402 enacted on July 27, 2011, text corrected by Session Law 2011-413 on November 7, 2011.
 13. “SB 453” shall refer to North Carolina Senate Bill 453; Session Law 2011-403, text corrected by Session Law 2011-414 on November 7, 2011.
 14. “SB 2” shall refer to North Carolina Senate Bill 2; Session Law 2016-1 enacted on February 19, 2016.
 15. “Meeting” shall refer not only to in-person meetings, but also to telephonic and video conference meetings.
 16. “North Carolina Congressional Maps” shall refer to the North Carolina Congressional Maps drawn as a result of the 2010 Census and reapportionment of seats, including the maps adopted in SB 453 and/or SB 2, as well as any alternative, proposed, or draft maps. This definition includes maps of one or more individual districts as well as maps that encompass the entire state.
 17. “North Carolina Legislative Maps” Shall refer to the North Carolina Legislative maps drawn after the 2010 Census, including the maps adopted in HB 927, SB 691, HB, 937, and SB 455 as well as any alternative, proposed, or draft maps. This definition includes maps of one or more individual districts as well as maps that encompass the entire state.
 18. “Person(s)” shall refer not only to natural persons, but also without limitation to firms, partnerships, corporations, associations, unincorporated associations, organizations, businesses, trusts, government entities, and/or any other type of legal entities. All references to a person also include that person’s agents, employees (whether part-time or full-time), and representatives,
 19. “Plaintiffs” refers to the Plaintiffs in the above captioned lawsuit: Common Cause, North Carolina Democratic Party, Paula Ann Chapman, Howard DuBose, Jr., George David Guack, James Mackin Nesbit, Dwight Jordan, Joseph Thomas Gates, Mark S. Peters, Pamela Morton, Virginia Walters Brien, John Mark Turner, Leon Charles Schaller, Rebecca Harper, Lesley Brook Wischmann, David Dwight Brown, Amy Clare Oseroff, Kristin Parker Jackson, John Balla, Rebecca Johnson, Aaron Wolff, Mary Ann Peden-Coviello, Karen Sue Holbrook, Kathleen Barnes, Ann McCracken,

Jackson Thomas Dunn, Jr., Alyce Machak, William Service, Donald Rumph, Stephen Douglas McGrigor, Nancy Bradley, Vinod Thomas, Derrick Miller, Electa E. Person, Deborah Anderson Smith, Rosalyn Sloan, Julie Ann Frey, Lily Nicole Quick, Joshua Brown, Carlton E. Campbell, Sr.

20. “Possession” means Your immediate possession, including items held by agents and employees, and any and all other principals or assigns, as well as constructive possession by virtue of Your ability to retrieve the aforesaid Document or information.

INSTRUCTIONS

1. You are to produce entire Documents, including all attachments, cover letters, memoranda, and appendices, as well as the file, folder tabs, and labels appended to or containing any Documents. Copies which differ in any respect from an original (because, by way of example only, handwritten or printed notations have been added) should be produced separately. Please produce all electronically-stored Documents in electronic, machine-readable form, together with sufficient Documentation of variable names and descriptions and any other information necessary to interpret and perform calculations on such data.
2. If You object to any part of a Request, set forth the basis for Your objection and respond to all parts of the Request to which You do not object.
3. If any privilege or immunity is claimed as a ground for not producing a Document or tangible thing, provide a written log describing the basis for the claim of privilege or immunity that identifies each such Document and state the ground on which each such Document is asserted to be privileged or immune from disclosure. Any attachment to an allegedly privileged or immune Document shall be produced unless you contend that the attachment is also privileged or immune from disclosure.
4. Whenever necessary to bring within the scope of a Request a response that might otherwise be construed to be outside its scope, the following constructions should be applied:
 - a. Construing the terms “and” and “or” in the disjunctive or conjunctive, as necessary, to make the Request more inclusive;
 - b. Construing the singular form of any word to include the plural and the plural form to include the singular;
 - c. Construing the past tense of the verb to include the present tense and the present tense to include the past tense;
 - d. Construing the masculine form to include the feminine form;
 - e. Construing negative terms to include the positive and vice versa;
 - f. Construing “include” to mean include or including “without limitation.

5. If there are no Documents responsive to a particular category, please so state in writing. If any Documents or parts of Documents called for by this Document request have been lost, discarded, or destroyed, identify such Documents as completely as possible on a list, including, without limitation, the following information: a description of the document (author, date, to whom it was communicated, subject(s) and format), date of disposal, manner of disposal, reason for disposal, person authorizing the disposal, and person disposing of the Document.
6. These Document Requests seek Documents in Your possession, including Documents of Your employees, agents and representatives, and unless privileged, Your attorneys.
7. These Document Requests are continuing in character so as to require You to produce additional Documents if You obtain further or different information at any time before trial.
8. If there is any question as to the meaning of any part of these Requests, or an issue as to whether production of responsive Documents would impose an undue burden on You, then You should contact Legislative Defendants' attorneys promptly to discuss resolution.

DOCUMENTS TO BE PRODUCED

1. All documents that refer, reflect or relate to the REDistricting Majority Project (REDMAP) from 2009 through the date of service of this subpoena.
2. All documents that refer, reflect or relate to communications or reports to, from or between any of the following organization or individuals that pertain to the REDMAP project or the reapportionment of Congressional Districts or Legislative Districts in North Carolina following the 2010 Census:
 - a. The Republican State Leadership Committee;
 - b. The State Government Leadership Foundation;
 - c. Edward Gillespie;
 - d. Christopher Jankowski;
 - e. Thomas Hofeller;
 - f. Dalton Oldham;
 - g. Geographic Strategies, LLC;
 - h. North Carolina Senator David Hise;
 - i. North Carolina Senator Robert Rucho;
 - j. North Carolina Representative David Lewis;

- k. Art Pope;
 - l. Real Jobs NC;
 - m. Fair and Legal Districting;
 - n. Any member or representative of the North Carolina State Board of Elections;
 - o. Patrick J. McCrory;
 - p. Any elected official in North Carolina;
 - q. Any member or representative of a member or candidate of Congress from North Carolina;
 - r. Any member of the North Carolina General Assembly; and
 - s. The North Carolina State Republican Party.
3. All communication and reports to donors or contributors to the Democratic National Committee that refer, reflect or discuss the purpose of or the strategy begin the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of Congressional Districts or Legislative Districts following the 2010 Census.
 4. All documents in your possession, custody, or control regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present. This request includes but is not limited to copies of any maps, statistical reports, analyses, or other documents prepared by you or on your behalf, or received by you, regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate.
 5. All documents and communications in your possession relating to assistance or resources expended to support drawing redistricting maps in North Carolina from January 1, 2009 to the present. This request includes, but is not limited to, documents and communications pertaining to hardware, software, data, personnel, and counsel provided to legislators or other groups in support of fair and legal redistricting maps in North Carolina.
 6. All Documents regarding or relating to meetings, deliberations, or lobbying efforts addressing the preparation or approval of any final, proposed, or draft North Carolina Legislative District maps generated from 2009 through 2017 or legal challenges to any such maps, including, but not limited to Documents regarding the timing, frequency, and content of such meetings, as well as (a) agendas; (b) minutes, notes, or transcripts; and (c) Documents provided to participants prior to, at, or after a meeting.

7. All documents in your possession, custody, or control regarding or relating to any consultant or other person or organization who provided assistance, whether paid or unpaid, relating to the redistricting or proposed redistricting of the North Carolina House of Representatives or North Carolina Senate from January 1, 2009 to the present, including but not limited to: (a) contracts and agreements, whether oral or written, and documents reflecting such contracts and agreements; (b) communications with such persons relating to any maps drawn or prepared or redistricting in general; (c) reports (draft or final) or analyses prepared regarding or relating to such reports or analyses; (d) information shared with such persons to assist the person in their work related to preparing or analyzing any maps; and (e) invoices or payments submitted to/from such persons.
8. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," in the redrawing or proposed redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present.
9. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," in the redrawing of any district lines not involving districts for the North Carolina House of Representatives or North Carolina Senate in North Carolina from January 1, 2009 to the present.
10. All documents regarding or relating to the consideration of any factors in creating any draft or final version of any map for the North Carolina House of Representatives or North Carolina Senate from January 1, 2009 to the present, including but not limited to: (a) compactness; (b) contiguity; (c) population equality; (d) incumbency protection; (e) competitiveness; (f) preservation of communities of interest; (g) likelihood of election outcomes; (h) past election outcomes, either collectively or singularly; (i) Voting Rights Act compliance; (j) location of political campaign contributors; (k) location of the home of any candidate or potential candidate for the North Carolina

General Assembly; and (l) location of any county, municipal, or other political boundary.

11. All documents in your possession, custody, or control reflecting communications with any member, group of members, or prospective members of the North Carolina General Assembly regarding or relating to HB 927, SB 691, HB, 937, and/or SB 455.
12. All documents in your possession, custody, or control regarding or relating to any conference, meeting, or training concerning the topic of redistricting that occurred from January 1, 2009 to present, including but not limited to (a) agendas; (b) minutes or notes; (c) any documents provided to participants prior to, at or after the event; (d) invitations; (e) invoices or requests for reimbursement; (f) participation lists; and (g) communications relating to the meeting, conference, or training.
13. All communications, and Documents regarding or relating to such communications with any person regarding the redistricting of the North Carolina Legislative maps from 2009 through 2017 including but not limited to David Parker, Randy Voller, Patsy Kever, Wayne Goodwin, Doug Wilson, Morgan Jackson, Joe Hackney, Martin Nesbitt, Jr., Larry Hall, Deborah K. Ross, Rick Glazier, Ray Rapp, Michael Wray, Dan Blue, Darren Jackson, Robert Reives, II, Scott Falmlen, Bob Philips, Erin Byrd, Crandall Bowles, Shaunee Morgan, Bob Hall, Ken Eudy, Fred Allen, Nexus Strategies, the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, or Project "Advantage 2020," or any of the Plaintiffs in this action.
14. All documents in your possession, custody, or control regarding or relating to payments or reimbursements to/from the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," or any of the Plaintiffs in this action, related to redistricting in North Carolina from January 1, 2009 to the present, or regarding or relating to the support of Democratic legislative candidates in North Carolina including financial, in-kind, or volunteer support.
15. All documents in your possession, custody, or control containing District-by-District Analytics Reports, Analysis of Competitiveness, Analysis comparing districts drawn

in 2011 and 2017, DNC Support Scores, and/or similar or related analyses for any North Carolina Legislative District, including any such documents received from or exchanged with any of the entities listed in Request No. 12 from January 1, 2009 to the present.

16. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," and any other organization concerning the support of Democratic legislative candidates, the targeting of legislative races involving Democratic candidates for financial, in-kind, or volunteer support.
17. All documents in your possession, custody, or control received from or accessed in conjunction with the email fairredistricting@yahoogroup.com regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present.
18. All documents in your possession, custody, or control regarding independent expenditures in support of or opposing candidates in North Carolina from January 1, 2009 to the present.
19. All documents in your possession, custody, or control regarding expenditures in North Carolina related to any election in North Carolina from January 1, 2009 to the present.

Superior Court of the District of Columbia
CIVIL DIVISION

Check One:

- Civil Actions Branch
500 Indiana Ave., N.W.
Room 5000
Washington, D.C. 20001
Telephone: (202) 879-1133
- Landlord & Tenant Branch
510 4th Street, N.W.
Room 110
Washington, D.C. 20001
Telephone: (202) 879-4879
- Small Claims & Conciliation Branch
510 4th Street, N.W.
Room 120
Washington, D.C. 20001
Telephone: (202) 879-1120

Common Cause, et al.,

Plaintiff

SUBPOENA FOR A CIVIL CASE

v.
David R. Lewis, et al.,

Defendant

CASE NUMBER: ~~19-0001475~~

To: Democratic Legislative Campaign Committee

Check box if medical records are being requested

YOU ARE COMMANDED to appear in this Court at the place, date, and time specified below to testify in the above case.

COURTROOM AND ADDRESS	DATE	TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE	TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition must designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify. Super. Ct. Civ. R. 30(b)(6).

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

DOCUMENTS OR OBJECTS		
See list attached to the attached subpoena from the Superior Court Division, Wake County, North Carolina, File No. 18-CVS-014001, for the above addressee dated March 5, 2019.		
PLACE OF PRODUCTION	DATE	TIME
BakerHostetler, 1050 Connecticut Ave., N.W., Suite 1100, Washington, D.C. 20036-5403	5 April 2019	9:00am

YOU ARE COMMANDED to permit inspection of the following premises at the date, and time specified below.

PREMISES	DATE	TIME

ISSUING PERSON'S SIGNATURE AND TITLE (indicate if attorney for plaintiff or defendant)	DATE
Deputy Clerk	3/8/2019
ISSUING PERSON'S NAME, ADDRESS AND PHONE NUMBER	
Patricia Allen Deputy Clerk, 500 Indiana Ave NW RM 5000 Washington DC 20001	

Authorization as required by D.C. Code §14-307 and Brown v. U.S., 567 A.2d 426 (D.C. 1989), is hereby given for issuance of a subpoena for medical records concerning a person who has not consented to disclosure of the records and has not waived the privilege related to such records.

JUDGE

(See Super. Ct. Civ. R. 45 (c) and (d) on the reverse side)
WHITE - FOR RETURN OF SERVICE YELLOW - FOR SERVICE

Case Number: 19-0001475

Court Date: _____

PROOF OF SERVICE

Served	Date	Time	Place
--------	------	------	-------

Served on (Print Name)	Title
------------------------	-------

MANNER OF SERVICE (attach the return receipt if service was made by registered or certified mail) I served the subpoena by delivering a copy to the named person as follows:

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the District of Columbia that I am at least 18 years of age and not a party to the above entitled case and that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

Super. Ct. Civ. R. 45(c) and (d):

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents, electronically stored information, or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court must quash or modify a subpoena that:

(i) fails to allow reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 25 miles from where that person resides, is employed, or regularly transacts business in person—except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place to the place of trial;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 25 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation materials must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

STATE OF NORTH CAROLINA

19-0001475
File No. 18-CVS-014001

Wake County

In The General Court Of Justice
 District Superior Court Division

Common Cause, et al.

Additional File Numbers

VERSUS

David R. Lewis, et al.

SUBPOENA

G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena

State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

TO Name And Address Of Person Subpoenaed
Democratic Legislative Campaign Committee
1225 Eye Street NW, Suite 1250
Washington, D.C. 20005

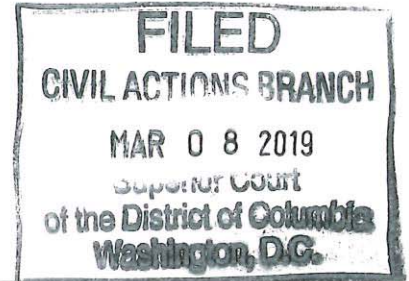
Alternate Address

Telephone No. (202) 449-6740

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
- appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
- produce and permit inspection and copying of the following items, at the place, date and time indicated below.
- See attached list. (List here if space sufficient)



Name And Location Of Court/Place Of Deposition/Place To Produce
Baker Hostetler
1050 Connecticut Avenue, NW, Suite 1100
Washington, D.C. 20036-5403

Date To Appear/Produce, Until Released
04/05/2019

Time To Appear/Produce, Until Released
9:00

AM PM

Date

March 5, 2019

Signature

Andrew C. Avram

Name And Address Of Applicant Or Applicant's Attorney
Andrew C. Avram
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100

- Deputy CSC Assistant CSC Clerk Of Superior Court
- Magistrate Attorney/DA District Court Judge
- Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney
(919) 789-3217

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- By personal delivery. registered or certified mail, receipt requested and attached.
- telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
- telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).

NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.

I was unable to serve this subpoena. Reason unable to serve:

Service Fee \$ Paid Due Date Served Name Of Authorized Server (type or print) Signature Of Authorized Server Title/Agency

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
- The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - The subpoena subjects a person to an undue burden or expense.
 - The subpoena is otherwise unreasonable or oppressive.
 - The subpoena is procedurally defective.
- (4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) Order to quash; expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

- (1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

Purpose: Provide the parties in Common Cause, et al. v. David R. Lewis, et al., 18-CVS-0114001 (N.C. Sup. Ct.), to support subpoena issuance by the Superior Court of the District of Columbia, Civil Division.

Plaintiffs:

COMMON CAUSE; NORTH CAROLINA DEMOCRATIC PARTY; PAULA ANN; CHAPMAN; HOWARD DUBOSE JR; GEORGE DAVID GAUCK; JAMES MACKIN NESBIT; DWIGHT JORDAN; JOSEPH THOMAS GATES; MARK S. PETERS; PAMELA MORTON; VIRGINIA WALTERS BRIEN; JOHN MARK TURNER; LEON CHARLESSCHALLER; REBECCA HARPER; LESLEY BROOK WISCHMANN; DAVID DWIGHT BROWN; AMY CLARE OSEROFF; KRISTIN PARKER JACKSON; JOHN BALLA; REBECCA JOHNSON; AARON WOLFF; MARY ANN PEDEN-COVIELLO; KAREN SUE HOLBROOK; KATHLEEN BARNES; ANN MCCRACKEN; JACKSON THOMAS DUNN, JR.; ALYCE MACHAK; WILLIAM SERVICE; DONALD RUMPH; STEPHEN DOUGLAS MCGRIGOR; NANCY BRADLEY; VINOD THOMAS; DERICK MILLER; ELECTA E. PERSON; DEBORAH ANDERSON SMITH; ROSALYN SLOAN; JULIE ANN FREY; LILY NICOLE QUICK; JOSHUA BROWN; CARLTON E. CAMPBELL SR.,

Defendants:

REPRESENTATIVE DAVID R. LEWIS, in his official capacity as Senior Chairman of the House Select Committee on Redistricting; SENATOR RALPH E. HISE, JR., in his official capacity as Chairman of the Senate Committee on Redistricting; SPEAKER OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES TIMOTHY K. MOORE; PRESIDENT PRO TEMPORE OF THE NORTH CAROLINA SENATE PHILIP E. BERGER; THE STATE OF NORTH CAROLINA; THE NORTH CAROLINA STATE BOARD OF ELECTION AND ETHICS ENFORCEMENT; JOSHUA MALCOLM, Chairman of the North Carolina State Board of Elections & Ethics Enforcement; KEN RAYMOND, Secretary of the North Carolina State Board Of Elections & Ethics Enforcement; STELLA ANDERSON, Member of the North Carolina State Board of Elections & Ethics Enforcement; DAMON CIRCOSTA, Member of the North Carolina State Board of Elections & Ethics Enforcement; STACY "FOUR" EGGERS IV, Member Of The North Carolina State Board of Elections & Ethics Enforcement; JAY HEMPHILL, Member of the North Carolina State Board of Elections & Ethics Enforcement; VALERIE JOHNSON, Member of the North Carolina State Board of Elections & Ethics Enforcement; JOHN LEWIS, Member of the North Carolina State Board of Elections & Ethics Enforcement; ROBERT CORDLE, Member of the North Carolina State Board of Elections & Ethics Enforcement,

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case No. 18 CVS 014001

COMMON CAUSE; *et al.*)
)
Plaintiffs,)
)
 v.)
)
 DAVID R. LEWIS, *et al.*)
)
Defendants.)
)
)
)
 _____)

SCHEDULE A TO SUBPOENA TO DEMOCRATIC LEGISLATIVE CAMPAIGN COMMITTEE FOR THE PRODUCTION OF DOCUMENTS

DEFINITIONS

- 1. "You" or "Your," means Democratic Legislative Campaign Committee, any predecessors, wholly-owned or controlled subsidiaries or affiliates, successors, parents, other subsidiaries, departments, divisions, joint ventures, other affiliates, and any organization or entity that the responding company manages or controls, including those merged with or acquired, together with all present and former directors, officers, employees, agents, attorneys, representatives or any persons acting or purporting to act on their behalf.
- 2. "Associated with" shall mean employed by, under contract with, acting as the agent of, representing, or otherwise affiliated with an organization or person.
- 3. "Communication" is used in the broadest possible sense and means every conceivable manner or means of disclosure, transfer or exchange of oral or written information between one or more persons, entities, devices, platforms or systems.
- 4. "Concerning" or "Relating to" mean containing, consisting of, referring to, reflecting, supporting, prepared in connection with, used in preparation for, pertaining to, having any relationship to, evidencing, or constituting evidence of, or being in any way legally, logically, or factually connected with the matter discussed in whole or in part.
- 5. "Congressional District" shall refer to North Carolina congressional districts, and shall not refer to state legislative districts.
- 6. "Legislative District" shall refer to North Carolina legislative districts, and shall not refer to congressional districts.

7. “Document” or “Documents” are used in their broadest sense permitted under N.C. R. Civ. P. 45, and mean and include each and every medium upon which information is or can be printed, typed, written, recorded, or reproduced by mechanical or electronic means, by hand or by any other method, whether by You or someone else, that is or has been within Your possession, custody, control or of which You have knowledge or access, including, without limitation, the following: advertisements; agreements; aperture cards; appointment books; books; brochures; calculations, calendars; charts; circulars; codes; computer records or printouts; communications; contracts; copies; correspondence; data processing cards, discs or tapes; diaries; directives; drafts; drawings; enclosures; file folders, boxes or other containers; files; films; forms; graphs; guides; indexes; inspection reports; instructions; journals; laboratory reports; ledgers; letters; local, state and federal government hearing records and reports; magnetic tapes, cards, or discs or other products of any device for recording sound or electronic impulses; maps; memoranda; messages, microfiche; microfilm; minutes or other records of meetings or conferences; motion picture films; negatives; newspaper stories or clippings; notes; notebooks; notices; opinions or reports of consultants; pads; pamphlets; photographs, pictures, plans, position papers; press releases; price books or lists; progress reports; publications; reports; reports of studies; specifications; statistical data; schedules; schedule revisions; sketches; status reports; stenographic or handwritten notes; stenographic, wire, or magnetic recordings; studies; summaries; summaries, notes or records of conversations, interviews, or telephone conversations; summaries or reports of investigations or negotiations; surveys; specifications; telecopies; telegrams; telexes; time records; trip reports; videotapes; voice recordings in any form; worksheets; and working papers. The terms “document” or “documents” also include the original and every copy which is not identical to the original, specifically including every copy that contains any commentary, marginalia or notation whatsoever that does not appear on the original. Unless provided otherwise, the terms “document” or “documents” also include all drafts, attachments, and appendices of each of the foregoing. Unless provided otherwise, the terms “document” or “documents” shall also include Electronically Stored Information.
8. “Electronically Stored Information” or “ESI” shall include, but not be limited to, any and all electronic data or information stored on a computing device. Information and data is considered “electronic” if it exists in a medium that can only be read through the use of computing device. This term includes but is not limited to databases; all text file and word processing Documents (including metadata); presentation Documents; spreadsheets; graphics, animations, and images (including but not limited to JPG, GIF, BMP, PDF, PPT, and TIFF files); email, email strings, and instant messages (including attachments, logs of email history and usage, header information and “deleted” files); email attachments; calendar and scheduling information; cache memory; Internet history files and preferences; audio; video, audiovisual recordings; voicemail stored on databases; networks; computers and computer systems; computer system activity logs; servers; archives; back-up or disaster recovery systems; hard drives; discs; CDs; diskettes; removable drives; tapes; cartridges and other storage media; printers; scanners; personal digital assistants; computer calendars; handheld wireless devices; cellular telephones; pagers; fax machines; and voicemail systems. This term includes but is not limited to onscreen information, system data, archival data, legacy data,

residual data, and metadata that may not be readily viewable or accessible, and all file fragments and backup files.

9. “HB 927” shall refer to North Carolina House Bill 927; Session Law 2017-208 enacted on August 30, 2017.
10. “SB 691” shall refer to North Carolina Senate Bill 691; Session Law 2017-207 enacted on August 31, 2017.
11. “HB 937” shall refer to North Carolina House Bill 937; Session Law 2011-404 enacted on July 28, 2011, text corrected by Session Law 2011-416 on November 7, 2011.
12. “SB 455” shall refer to North Carolina Senate Bill 455; Session law 2011-402 enacted on July 27, 2011, text corrected by Session Law 2011-413 on November 7, 2011.
13. “SB 453” shall refer to North Carolina Senate Bill 453; Session Law 2011-403, text corrected by Session Law 2011-414 on November 7, 2011.
14. “SB 2” shall refer to North Carolina Senate Bill 2; Session Law 2016-1 enacted on February 19, 2016.
15. “Meeting” shall refer not only to in-person meetings, but also to telephonic and video conference meetings.
16. “North Carolina Congressional Maps” shall refer to the North Carolina Congressional Maps drawn as a result of the 2010 Census and reapportionment of seats, including the maps adopted in SB 453 and/or SB 2, as well as any alternative, proposed, or draft maps. This definition includes maps of one or more individual districts as well as maps that encompass the entire state.
17. “North Carolina Legislative Maps” Shall refer to the North Carolina Legislative maps drawn after the 2010 Census, including the maps adopted in HB 927, SB 691, HB, 937, and SB 455 as well as any alternative, proposed, or draft maps. This definition includes maps of one or more individual districts as well as maps that encompass the entire state.
18. “Person(s)” shall refer not only to natural persons, but also without limitation to firms, partnerships, corporations, associations, unincorporated associations, organizations, businesses, trusts, government entities, and/or any other type of legal entities. All references to a person also include that person’s agents, employees (whether part-time or full-time), and representatives,
19. “Plaintiffs” refers to the Plaintiffs in the above captioned lawsuit: Common Cause, North Carolina Democratic Party, Paula Ann Chapman, Howard DuBose, Jr., George David Guack, James Mackin Nesbit, Dwight Jordan, Joseph Thomas Gates, Mark S. Peters, Pamela Morton, Virginia Walters Brien, John Mark Turner, Leon Charles Schaller, Rebecca Harper, Lesley Brook Wischmann, David Dwight Brown, Amy Clare Oseroff, Kristin Parker Jackson, John Balla, Rebecca Johnson, Aaron Wolff, Mary Ann Peden-Coviello, Karen Sue Holbrook, Kathleen Barnes, Ann McCracken,

Jackson Thomas Dunn, Jr., Alyce Machak, William Service, Donald Rumph, Stephen Douglas McGrigor, Nancy Bradley, Vinod Thomas, Derrick Miller, Electa E. Person, Deborah Anderson Smith, Rosalyn Sloan, Julie Ann Frey, Lily Nicole Quick, Joshua Brown, Carlton E. Campbell, Sr.

20. “Possession” means Your immediate possession, including items held by agents and employees, and any and all other principals or assigns, as well as constructive possession by virtue of Your ability to retrieve the aforesaid Document or information.

INSTRUCTIONS

1. You are to produce entire Documents, including all attachments, cover letters, memoranda, and appendices, as well as the file, folder tabs, and labels appended to or containing any Documents. Copies which differ in any respect from an original (because, by way of example only, handwritten or printed notations have been added) should be produced separately. Please produce all electronically-stored Documents in electronic, machine-readable form, together with sufficient Documentation of variable names and descriptions and any other information necessary to interpret and perform calculations on such data.
2. If You object to any part of a Request, set forth the basis for Your objection and respond to all parts of the Request to which You do not object.
3. If any privilege or immunity is claimed as a ground for not producing a Document or tangible thing, provide a written log describing the basis for the claim of privilege or immunity that identifies each such Document and state the ground on which each such Document is asserted to be privileged or immune from disclosure. Any attachment to an allegedly privileged or immune Document shall be produced unless you contend that the attachment is also privileged or immune from disclosure.
4. Whenever necessary to bring within the scope of a Request a response that might otherwise be construed to be outside its scope, the following constructions should be applied:
 - a. Construing the terms “and” and “or” in the disjunctive or conjunctive, as necessary, to make the Request more inclusive;
 - b. Construing the singular form of any word to include the plural and the plural form to include the singular;
 - c. Construing the past tense of the verb to include the present tense and the present tense to include the past tense;
 - d. Construing the masculine form to include the feminine form;
 - e. Construing negative terms to include the positive and vice versa;
 - f. Construing “include” to mean include or including “without limitation.

5. If there are no Documents responsive to a particular category, please so state in writing. If any Documents or parts of Documents called for by this Document request have been lost, discarded, or destroyed, identify such Documents as completely as possible on a list, including, without limitation, the following information: a description of the document (author, date, to whom it was communicated, subject(s) and format), date of disposal, manner of disposal, reason for disposal, person authorizing the disposal, and person disposing of the Document.
6. These Document Requests seek Documents in Your possession, including Documents of Your employees, agents and representatives, and unless privileged, Your attorneys.
7. These Document Requests are continuing in character so as to require You to produce additional Documents if You obtain further or different information at any time before trial.
8. If there is any question as to the meaning of any part of these Requests, or an issue as to whether production of responsive Documents would impose an undue burden on You, then You should contact Legislative Defendants' attorneys promptly to discuss resolution.

DOCUMENTS TO BE PRODUCED

1. All documents that refer, reflect or relate to the REDistricting Majority Project (REDMAP) from 2009 through the date of service of this subpoena.
2. All documents that refer, reflect or relate to communications or reports to, from or between any of the following organization or individuals that pertain to the REDMAP project or the reapportionment of Congressional Districts or Legislative Districts in North Carolina following the 2010 Census:
 - a. The Republican State Leadership Committee;
 - b. The State Government Leadership Foundation;
 - c. Edward Gillespie;
 - d. Christopher Jankowski;
 - e. Thomas Hofeller;
 - f. Dalton Oldham;
 - g. Geographic Strategies, LLC;
 - h. North Carolina Senator David Hise;
 - i. North Carolina Senator Robert Rucho;
 - j. North Carolina Representative David Lewis;

- k. Art Pope;
 - l. Real Jobs NC;
 - m. Fair and Legal Districting;
 - n. Any member or representative of the North Carolina State Board of Elections;
 - o. Patrick J. McCrory;
 - p. Any elected official in North Carolina;
 - q. Any member or representative of a member or candidate of Congress from North Carolina;
 - r. Any member of the North Carolina General Assembly; and
 - s. The North Carolina State Republican Party.
3. All communication and reports to donors or contributors to You that refer, reflect or discuss the purpose of or the strategy begin the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of Congressional Districts or Legislative Districts following the 2010 Census.
 4. All documents in your possession, custody, or control regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present. This request includes but is not limited to copies of any maps, statistical reports, analyses, or other documents prepared by you or on your behalf, or received by you, regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate.
 5. All documents and communications in your possession relating to assistance or resources expended to support drawing redistricting maps in North Carolina from January 1, 2009 to the present. This request includes, but is not limited to, documents and communications pertaining to hardware, software, data, personnel, and counsel provided to legislators or other groups in support of fair and legal redistricting maps in North Carolina.
 6. All Documents regarding or relating to meetings, deliberations, or lobbying efforts addressing the preparation or approval of any final, proposed, or draft North Carolina Legislative District maps generated from 2009 through 2017 or legal challenges to any such maps, including, but not limited to Documents regarding the timing, frequency, and content of such meetings, as well as (a) agendas; (b) minutes, notes, or transcripts; and (c) Documents provided to participants prior to, at, or after a meeting.

7. All documents in your possession, custody, or control regarding or relating to any consultant or other person or organization who provided assistance, whether paid or unpaid, relating to the redistricting or proposed redistricting of the North Carolina House of Representatives or North Carolina Senate from January 1, 2009 to the present, including but not limited to: (a) contracts and agreements, whether oral or written, and documents reflecting such contracts and agreements; (b) communications with such persons relating to any maps drawn or prepared or redistricting in general; (c) reports (draft or final) or analyses prepared regarding or relating to such reports or analyses; (d) information shared with such persons to assist the person in their work related to preparing or analyzing any maps; and (e) invoices or payments submitted to/from such persons.
8. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," in the redrawing or proposed redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present.
9. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," in the redrawing of any district lines not involving districts for the North Carolina House of Representatives or North Carolina Senate in North Carolina from January 1, 2009 to the present.
10. All documents regarding or relating to the consideration of any factors in creating any draft or final version of any map for the North Carolina House of Representatives or North Carolina Senate from January 1, 2009 to the present, including but not limited to: (a) compactness; (b) contiguity; (c) population equality; (d) incumbency protection; (e) competitiveness; (f) preservation of communities of interest; (g) likelihood of election outcomes; (h) past election outcomes, either collectively or singularly; (i) Voting Rights Act compliance; (j) location of political campaign contributors; (k) location of the home of any candidate or potential candidate for the North Carolina

General Assembly; and (l) location of any county, municipal, or other political boundary.

11. All documents in your possession, custody, or control reflecting communications with any member, group of members, or prospective members of the North Carolina General Assembly regarding or relating to HB 927, SB 691, HB, 937, and/or SB 455.
12. All documents in your possession, custody, or control regarding or relating to any conference, meeting, or training concerning the topic of redistricting that occurred from January 1, 2009 to present, including but not limited to (a) agendas; (b) minutes or notes; (c) any documents provided to participants prior to, at or after the event; (d) invitations; (e) invoices or requests for reimbursement; (f) participation lists; and (g) communications relating to the meeting, conference, or training.
13. All communications, and Documents regarding or relating to such communications with any person regarding the redistricting of the North Carolina Legislative maps from 2009 through 2017 including but not limited to David Parker, Randy Voller, Patsy Keever, Wayne Goodwin, Doug Wilson, Morgan Jackson, Joe Hackney, Martin Nesbitt, Jr., Larry Hall, Deborah K. Ross, Rick Glazier, Ray Rapp, Michael Wray, Dan Blue, Darren Jackson, Robert Reives, II, Scott Falmlen, Bob Philips, Erin Byrd, Crandall Bowles, Shaunee Morgan, Bob Hall, Ken Eudy, Fred Allen, Nexus Strategies, the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, or Project "Advantage 2020," or any of the Plaintiffs in this action.
14. All documents in your possession, custody, or control regarding or relating to payments or reimbursements to/from the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," or any of the Plaintiffs in this action, related to redistricting in North Carolina from January 1, 2009 to the present, or regarding or relating to the support of Democratic legislative candidates in North Carolina including financial, in-kind, or volunteer support.
15. All documents in your possession, custody, or control containing District-by-District Analytics Reports, Analysis of Competitiveness, Analysis comparing districts drawn

in 2011 and 2017, DNC Support Scores, and/or similar or related analyses for any North Carolina Legislative District, including any such documents received from or exchanged with any of the entities listed in Request No. 12 from January 1, 2009 to the present.

16. All documents in your possession, custody, or control relating to the involvement of the Democratic Legislative Campaign Committee, the Democratic National Committee, the Democratic Congressional Campaign Committee, Organizing For Action, Emily's List, the Democracy Project II, the National Democratic Redistricting Committee, the National Democratic Redistricting Trust, the National Redistricting Action Fund, the Democratic Legislative Campaign Committee, Democracy North Carolina, North Carolina Policy Watch, the League of Women Voters, Blueprint NC, NC State Conference of the NAACP, the NC A. Phillip Randolph Institute, the Southern Coalition for Social Justice, Emily's List, Demos, AFRAM, El Centro, or Project "Advantage 2020," and any other organization concerning the support of Democratic legislative candidates, the targeting of legislative races involving Democratic candidates for financial, in-kind, or volunteer support.
17. All documents in your possession, custody, or control received from or accessed in conjunction with the email fairredistricting@yahoogroup.com regarding or relating to the redrawing of district lines for the North Carolina House of Representatives or the North Carolina Senate from January 1, 2009 to the present.
18. All documents in your possession, custody, or control regarding independent expenditures in support of or opposing candidates in North Carolina from January 1, 2009 to the present.
19. All documents in your possession, custody, or control regarding expenditures in North Carolina related to any election in North Carolina from January 1, 2009 to the present.

EXHIBIT C

April 5, 2019

Amanda R. Callais
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VIA EMAIL

Mr. Trevor Stanley
1050 Connecticut Ave, NW
Suite 1100
Washington, D.C. 20036-5403

Dear Mr. Stanley:

I am counsel to the Democratic National Committee (“DNC”), a recipient of a third-party subpoena (the “Subpoena”) promulgated by you on behalf of your clients, the Defendants in the matter of *Common Cause, et al. v. Lewis, et al.*, currently pending in Wake County Superior Court in North Carolina. You have served identical subpoenas to two other clients that I represent, the DCCC a.k.a. Democratic Congressional Campaign Committee and the DLCC a.k.a. Democratic Legislative Campaign Committee. This letter memorializes certain conversations that we had to discuss the Subpoena on March 20, 2019 and April 2 as well as the email that you sent on March 26, 2019, in which you modified the original Subpoena (“Modified Subpoena”). It also sets forth the DNC’s objections to the Modified Subpoena, as narrowed by our April 2 conversation, which supersedes the requests in the original Subpoena.

As originally issued, the Subpoena sets forth at least 19 requests for documents related to North Carolina’s legislative redistricting processes from 2009 to the present, the RedMAP project, communications between the DNC and numerous entities regarding legislative candidate recruitment, fundraising, expenditures, and lobbying, Democratic performance in North Carolina, and, in at least one instance, communications specifically related to the congressional redistricting process. On March 19, 2019, I contacted your colleague, Andrew Avram, who is the signatory on the Subpoena to discuss it. Mr. Avram put me in contact with you and we spoke on March 20, 2019. In that conversation I indicated to you that your subpoena was overly broad and asked for your basis for serving all three entities. I explained that the three entities in question had different missions, noting, for example, that the DCCC did not participate in the legislative redistricting process, which is the subject matter of the underlying suit. Likewise, I informed you that your firm had served a similar subpoena on the DNC in a separate partisan redistricting challenge in Ohio, *A. Phillip Randolph v. Smith*, and that the DNC had maintained that there was no basis for such a subpoena in that suit and had no documents of relevance. You stated that one argument proffered by Plaintiffs related to the impact of the legislative map on recruitment and/or funding of Democratic legislative candidates in North Carolina, indicating that this was why all three

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organizations were subpoenaed. You further indicated that you needed to discuss the matter with your colleagues and would follow-up with me regarding changes to the scope of the Subpoena.

I contacted you again on March 25, 2019 to inquire about your decision on the scope of the Subpoena. On March 26, 2019, you responded with an offer to modify the Subpoena to four requests. These requests were further modified during our April 2, 2019 conversation. The four requests in the Modified Subpoena are set out below:

- 1) Copies of all analytics reports for the North Carolina Legislative districts from 2010-2012 and from 2016-2018 and correspondence and information related thereto, including any information regarding support scores, political indices, or other assessments of legislative districts in North Carolina.
- 2) All information related to candidate recruitment efforts in North Carolina from 2016 through today.
- 3) All information related to fundraising or expenditures in North Carolina from 2016 through today.
- 4) All documents that reference the Republican State Leadership Committee, the Redistricting Majority Project, or RedMAP from 2010-2012 or 2016-2018 in connection with North Carolina.

In addition to the further modification of the aforementioned requests, on April 2, 2019, we specifically discussed the scope of these requests as they related to the DNC. I explained to you that even the Modified Subpoena, as applied to the DNC, was overly broad, unduly burdensome, and not proportional to the needs of the case. In particular, the DNC is the national organization of the Democratic Party and is responsible for the operation of the Democratic Party at the national level. *See* 52 U.S.C. § 30101(14). The North Carolina Democratic Party is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As a result, the North Carolina Democratic Party, a Plaintiff in this suit, is better positioned to provide information related to the North Carolina legislative redistricting processes as well as the recruitment and funding of Democratic state level candidates. The DNC does not generally engage in the direct recruitment or funding of legislative candidates nor does it make expenditures directly on their behalves.

I again asked if you had any specific basis for seeking information from the DNC that could further narrow the Modified Subpoena requests. You stated that your basis for serving the Modified Subpoena was to address the aforementioned argument proffered by the Plaintiffs regarding the ability to recruit and fund Democratic candidates in North Carolina. I explained that if such information is in fact relevant to your case, it could be produced by the North Carolina

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Democratic Party, and that burdening a third-party with such a request was not proportional to the needs of the case. You then stated that it was your understanding that the DNC had partisan scores for legislative districts in North Carolina, and that you had recently attended a fundraiser in which you heard Chairman Tom Perez talk about the importance of redistricting. In response, I explained that to the extent the DNC has any partisan scores for legislative districts not only is that information highly privileged under the First Amendment, but it also only serves as a basis for your first request, not the other requests that you included. You would not withdraw the subpoena or the other three requests for the DNC.

Accordingly, the DNC now proffers these objections to the Modified Subpoena.

GENERAL OBJECTIONS

The following objections are based on the information and documents currently available to the DNC. The DNC reserves the right to alter, supplement, amend, or otherwise modify its objections based on later recollections, the recollections of persons presently unidentified or unavailable, or the discovery of additional documents or information. Nothing in these objections or responses can be taken as an admission that the DNC agrees with Defendants' use or interpretation of terms. These responses are based on the DNC's understanding of each individual request. To the extent Defendants assert an interpretation of any request that is inconsistent with the DNC's understanding, the DNC reserves the right to supplement its objections.

1. The DNC objects to each and every request in the Modified Subpoena to the extent that it seeks documents that are not relevant to the claims and defenses asserted in the underlying action, are not likely to lead to the discovery of admissible evidence in the underlying action and are not proportionable to the needs of the case. In particular, the DNC is the national organization of the Democratic Party and is responsible for the operation of the Democratic Party at the national level. *See* 52 U.S.C. § 30101(14). The North Carolina Democratic Party is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As a result, the North Carolina Democratic Party, a Plaintiff in this suit, is better positioned to provide information related to the North Carolina legislative redistricting processes, 2017 state legislative map, and the recruitment and funding of Democratic state level candidates. It is unlikely that the DNC has any information relevant to the subject matter of this lawsuit, the questions before the court, or is capable of leading to the discovery of any such information.

2. The DNC objects to the Modified Subpoena to the extent that it purports to impose obligations greater than those imposed by Rules 26 and 45 of the North Carolina Rules of Civil Procedure and D.C. Superior Court Rules 26 and 45.

3. The DNC objects to the Modified Subpoena to the extent that it seeks materials that are not within its possession, custody, or control.

4. The DNC objects to the Modified Subpoena pursuant to Rule 26 of the North Carolina Rules of Civil Procedure and D.C. Superior Court Rule 26 to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, a joint or common interest privilege, the First Amendment associational privilege, or any other privilege recognized by law, to which no exception or waiver applies.

5. The DNC objects to the Modified Subpoena to the extent it calls for disclosure of the DNC's confidential or proprietary business information, trade secrets, or commercially sensitive information.

6. The DNC objects to the Modified Subpoena to the extent it seeks materials that are publicly available, more easily obtained from sources other than the DNC, or equally or more easily available to the parties in this action. To the extent the Modified Subpoena requests information regarding the alleged activities of the Plaintiffs Common Cause, the North Carolina Democratic Party, or any of the twenty-two individual Plaintiffs, the Plaintiffs can provide such information. To the extent that the Modified Subpoena requests information regarding candidate recruitment, funding, expenditures, or Democratic performance in North Carolina, the Plaintiffs can also provide such information, or it can be garnered from public sources.

7. The DNC objects to the Modified Subpoena to the extent: (1) it is overbroad; (2) the discovery sought is unreasonably cumulative or duplicative or is obtainable from another source that is more convenient—such as the Plaintiffs—less burdensome, or less expensive; (3) the burden or expense of any demand outweighs its likely benefit and, as such, is not proportionable to the needs of the case; or (4) it is unduly burdensome.

8. The DNC objects to the Modified Subpoena to the extent it seeks discovery of information from sources that are not reasonably accessible in light of the burdens or costs required to identify, locate, restore, review, and produce whatever responsive information may be found.

9. The DNC objects to the definition of “document” in the Modified Subpoena to the extent it exceeds the scope of what is allowed by the North Carolina Rules of Civil Procedure or the D.C. Superior Court Rules of Civil Procedure.

10. Each of these General Objections is hereby specifically incorporated into each set of the Specific Objections and Responses, set forth below.

SPECIFIC OBJECTIONS

REQUEST NO. 1: Copies of all analytics reports for the North Carolina Legislative districts from 2010-2012 and from 2016-2018 and correspondence and information related thereto, including any information regarding support scores, political indices, or other assessments of legislative districts in North Carolina.

OBJECTION TO REQUEST NO. 1: The DNC incorporates the General Objections set forth above. The DNC objects to Request Number 1 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. This action concerns the constitutionality of the 2017 North Carolina legislative map. Support scores, political indices, or other assessments of legislative districts by a third-party will not inform the court as to the map's constitutionality, nor are they likely to lead to the discovery of information that would do so.

The DNC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations' internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175-76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672-73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69. The DNC further objects to Request Number 1 to the extent it calls for disclosure of the DNC's confidential or proprietary business information, trade secrets, or commercially sensitive information.

The DNC further objects to Request Number 1 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdens the DNC.

The DNC further objects to the extent that Request Number 1 seeks information that is otherwise available to the parties through discovery.

REQUEST NO 2: All information related to candidate recruitment efforts in North Carolina from 2016 through today.

OBJECTION TO REQUEST NO. 2: The DNC incorporates the General Objections set forth above. The DNC objects to Request Number 2 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the 2017 North Carolina state legislative map, yet

Request Number 2 seeks information related to “all” candidate recruitment efforts in North Carolina and is not limited to legislative candidates. The DNC is the national organization of the Democratic Party and is responsible for the operation of the Democratic Party at the national level. *See* 52 U.S.C. § 30101(14). The DNC does not generally engage in the direct recruitment of state legislative candidates and is unlikely to have information responsive to this request. The North Carolina Democratic Party, a Plaintiff in this suit, is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As such, the DNC is not the proper party to seek such information from.

The DNC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations’ internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed’n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm’n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69. The DNC further objects to Request Number 2 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionate to the needs of the case and unduly burdens the DNC.

The DNC further objects to the extent that Request Number 2 seeks information that is otherwise available to the parties through discovery.

REQUEST NO. 3: All information related to fundraising or expenditures in North Carolina from 2016 through today.

OBJECTION TO REQUEST NO. 3: The DNC incorporates the General Objections set forth above. The DNC objects to Request Number 3 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the 2017 North Carolina legislative map, yet Request Number 3 seeks information related to “all” fundraising or expenditures in North Carolina and is not limited to legislative candidates. The DNC is the national organization of the Democratic Party and is responsible for the operation of the Democratic Party at the national level. *See* 52 U.S.C. § 30101(14). The North Carolina Democratic Party, a Plaintiff in this suit, is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As such the DNC is not the proper party to seek such information from.

The DNC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits

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disclosure, among other things, of the sources and uses of a political organizations funds, *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976), as well as its internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69.

The DNC further objects to Request Number 3 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionate to the needs of the case and unduly burdens the DNC.

The DNC further objects to the extent that Request Number 3 seeks information that is otherwise available to the parties through discovery and/or is publicly available to the parties at www.NCSBE.gov and/or www.FEC.gov.

REQUEST NO. 4: All documents that reference the Republican State Leadership Committee, the Redistricting Majority Project, or RedMAP from 2010-2012 or 2016-2018 in connection with North Carolina.

OBJECTION TO REQUEST NO. 4: The DNC incorporates the General Objections set forth above. The DNC objects to Request Number 4 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the constitutionality of the 2017 North Carolina legislative map. Documents referencing the aforementioned entities in the DNC's possession will not inform the court as to the map's constitutionality, nor are they likely to lead to the discovery of information that would do so. Moreover, the DNC is the national organization of the Democratic Party and is responsible for the operation of the Democratic Party at the national level. *See* 52 U.S.C. § 30101(14). The North Carolina Democratic Party, a Plaintiff in this suit, is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As such, the DNC is not the proper party to seek such information from.

The DNC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations' internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69.

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The DNC further objects to Request Number 4 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionate to the needs of the case and unduly burdensome to the DNC.

The DNC further objects to the extent that Request Number 4 seeks information that is otherwise available to the parties through discovery.

Sincerely,



Amanda R. Callais

EXHIBIT D

April 5, 2019

Amanda R. Callais
ACallais@perkinscoie.com
D. +1.202.654.6396
F. +1.202.654.9995

VIA EMAIL

Mr. Trevor Stanley
1050 Connecticut Ave, NW
Suite 1100
Washington, D.C. 20036-5403

Dear Mr. Stanley:

I am counsel to the DCCC a.k.a. Democratic Congressional Campaign Committee, a recipient of a third-party subpoena (the "Subpoena") promulgated by you on behalf of your clients, the Defendants in the matter of *Common Cause, et al. v. Lewis, et al.*, currently pending in Wake County Superior Court in North Carolina. You have served identical subpoenas to two other clients that I represent, the Democratic National Committee ("DNC") and the DLCC a.k.a. Democratic Legislative Campaign Committee. This letter memorializes certain conversations that we had to discuss the Subpoena on March 20, 2019 and April 2 as well as the email that you sent on March 26, 2019, in which you modified the original Subpoena ("Modified Subpoena"). It also sets forth the DCCC's objections to the Modified Subpoena, as narrowed by our April 2 conversation, which supersedes the requests in the original Subpoena.

As originally issued, the Subpoena sets forth at least 19 requests for documents related to North Carolina's legislative redistricting processes from 2009 to the present, the RedMAP project, communications between the DCCC and numerous entities regarding legislative candidate recruitment, fundraising, expenditures, and lobbying, Democratic performance in North Carolina, and, in at least one instance, communications specifically related to the congressional redistricting process. On Tuesday, March 19, 2019, I contacted your colleague, Andrew Avram, who is the signatory on the Subpoena to discuss it. Mr. Avram put me in contact with you and we spoke on March 20, 2019. In that conversation I indicated to you that your subpoena was overly broad and asked for your basis for serving all three entities. I explained that the three entities in question had different missions, noting, for example, that the DCCC did not participate in the legislative redistricting process, which is the subject matter of the underlying suit. Likewise, I informed you that your firm had served a similar subpoena on the DNC in a separate partisan redistricting challenge in Ohio, *A. Phillip Randolph v. Smith*, and that the DNC had maintained that there was no basis for such a subpoena in that suit and explained that it had no documents of relevance. You stated that one argument proffered by Plaintiffs related to the impact of the legislative map on recruitment and/or funding of Democratic legislative candidates in North Carolina, indicating that this was why all three organizations were subpoenaed. You further indicated that you needed to

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discuss the matter with your colleagues and would follow-up with me regarding potential changes to the scope of the Subpoena.

I contacted you again on March 25, 2019 to inquire about the scope of the Subpoena. On March 26, 2019, you responded with an offer to modify the scope of the Subpoena to four requests. These requests were further modified during our April 2, 2019 conversation. These four requests are set out below:

- 1) Copies of all analytics reports for the North Carolina Legislative districts from 2010-2012 and from 2016-2018 and correspondence and information related thereto, including any information regarding support scores, political indices, or other assessments of legislative districts in North Carolina.
- 2) All information related to candidate recruitment efforts in North Carolina from 2016 through today.
- 3) All information related to fundraising or expenditures in North Carolina from 2016 through today.
- 4) All documents that reference the Republican State Leadership Committee, the Redistricting Majority Project, or RedMAP from 2010-2012 or 2016-2018 in connection with North Carolina.

In addition to the further modification of the aforementioned requests, on April 2, 2019, we specifically discussed the scope of these requests as they related to the DCCC. I explained to you that even the Modified Subpoena, as applied to the DCCC, was overly broad, unduly burdensome, and not proportional to the needs of the case. In particular, the DCCC is a political committee dedicated to the election of Democratic congressional candidates and, as a result, it would have no information related to the North Carolina legislative redistricting processes, and it does not engage in the recruitment or funding of legislative candidates nor does it make expenditures on their behalves. I again asked if you had any specific basis for seeking information from the DCCC since it would have no information related to legislative redistricting. You stated that your basis for serving them was to address the aforementioned argument proffered by the Plaintiffs regarding the ability to recruit and fund Democratic candidates in North Carolina. I explained that if such information is in fact relevant to your case, it could be produced by the North Carolina Democratic Party, a party to the litigation, and that burdening a third-party with such a request was not proportional to the needs of the case. Moreover, the DCCC has no such information related to legislative races and federal congressional races are not the subject of this suit. To that end, I requested that you withdraw the Modified Subpoena as to the DCCC. You refused to do so.

Accordingly, the DCCC now proffers these objections to the Modified Subpoena.

GENERAL OBJECTIONS

The following objections are based on the information and documents currently available to the DCCC. The DCCC reserves the right to alter, supplement, amend, or otherwise modify its objections based on later recollections, the recollections of persons presently unidentified or unavailable, or the discovery of additional documents or information. Nothing in these objections or responses can be taken as an admission that the DCCC agrees with Defendants' use or interpretation of terms. These responses are based on the DCCC's understanding of each individual request. To the extent Defendants assert an interpretation of any request that is inconsistent with the DCCC's understanding, the DCCC reserves the right to supplement its responses and objections.

1. The DCCC objects to each and every request in the Modified Subpoena to the extent that it seeks documents that are not relevant to the claims and defenses asserted in the underlying action, are not likely to lead to the discovery of admissible evidence in the underlying action, and are not proportionable to the needs of the case. In particular, the DCCC is a political committee dedicated to encouraging the election of federal congressional candidates. This lawsuit concerns North Carolina's 2017 state legislative redistricting. As such, the DCCC has no information relevant to the subject matter of this lawsuit or capable of leading to the discovery of any such information.

2. The DCCC objects to the Modified Subpoena to the extent that it purports to impose obligations greater than those imposed by Rules 26 and 45 of the North Carolina Rules of Civil Procedure and D.C. Superior Court Rules 26 and 45.

3. The DCCC objects to the Modified Subpoena to the extent that it seeks materials that are not within its possession, custody, or control.

4. The DCCC objects to the Modified Subpoena pursuant to Rule 26 of the North Carolina Rules of Civil Procedure and D.C. Superior Court Rule 26 to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, a joint or common interest privilege, the First Amendment associational privilege, or any other privilege recognized by law, to which no exception or waiver applies.

5. The DCCC objects to the Modified Subpoena to the extent it calls for disclosure of the DCCC's confidential or proprietary business information, trade secrets, or commercially sensitive information.

6. The DCCC objects to the Modified Subpoena to the extent it seeks materials that are publicly available, more easily obtained from sources other than the DCCC, or equally or more easily available to the parties in this action. To the extent the Modified Subpoena requests information regarding the alleged activities of the Plaintiffs Common Cause, the North Carolina Democratic Party, or any of the twenty-two individual Plaintiffs, the Plaintiffs can provide such information. To the extent that the Modified Subpoena requests information regarding candidate recruitment, funding, expenditures, or Democratic performance in North Carolina, the Plaintiffs can also provide such information or it can be garnered from public sources.

7. The DCCC objects to the Modified Subpoena to the extent: (1) it is overbroad; (2) the discovery sought is unreasonably cumulative or duplicative or is obtainable from another source that is more convenient—such as the Plaintiffs—less burdensome, or less expensive; (3) the burden or expense of any demand outweighs its likely benefit and, as such, is not proportionable to the needs of the case; or (4) it is unduly burdensome.

8. The DCCC objects to the Modified Subpoena to the extent it seeks discovery of information from sources that are not reasonably accessible in light of the burdens or costs required to identify, locate, restore, review, and produce whatever responsive information may be found.

9. The DCCC objects to the definition of “document” in the Modified Subpoena to the extent it exceeds the scope of what is allowed by the North Carolina Rules of Civil Procedure or the D.C. Superior Court Rules of Civil Procedure.

10. Each of these General Objections is hereby specifically incorporated into each set of the Specific Objections and Responses, set forth below.

SPECIFIC OBJECTIONS

REQUEST NO. 1: Copies of all analytics reports for the North Carolina Legislative districts from 2010-2012 and from 2016-2018 and correspondence and information related thereto, including any information regarding support scores, political indices, or other assessments of legislative districts in North Carolina.

OBJECTION TO REQUEST NO. 1: The DCCC incorporates the General Objections set forth above. The DCCC objects to Request Number 1 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. This action concerns the constitutionality under state law of the 2017 North Carolina legislative map. Support scores, political indices, or other assessments of legislative districts by a third-party will not inform the court as to the map’s constitutionality, nor are they likely to lead to the discovery of information that would do so. Moreover, the DCCC is a political committee dedicated to encouraging the election of federal congressional candidates. This lawsuit concerns

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April 5, 2019
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North Carolina's 2017 state legislative redistricting. As such, the DCCC has no information relevant to the subject matter of this lawsuit or capable of leading to the discovery of any such information.

The DCCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations' internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175-76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672-73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69. The DCCC further objects to this request to the extent it calls for disclosure of the DCCC's confidential or proprietary business information, trade secrets, or commercially sensitive information.

The DCCC further objects to Request Number 1 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdens the DCCC.

The DCCC further objects to the extent that Request Number 1 seeks information that is otherwise available to the parties through discovery.

REQUEST NO 2: All information related to candidate recruitment efforts in North Carolina from 2016 through today.

OBJECTION TO REQUEST NO. 2: The DCCC incorporates the General Objections set forth above. The DCCC objects to Request Number 2 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the 2017 North Carolina state legislative map, yet Request Number 2 seeks information related to "all" candidate recruitment efforts in North Carolina and is not limited to legislative candidates. Specifically, the DCCC is a political committee dedicated to encouraging the election of federal congressional candidates. This lawsuit concerns North Carolina's 2017 state legislative redistricting. As such, the DCCC has no information relevant to the subject matter of this lawsuit or capable of leading to the discovery of any such information.

The DCCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations' internal plans, financial plans,

strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69. The DCCC further objects to Request Number 2 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdens the DCCC.

The DCCC further objects to the extent that Request Number 2 seeks information that is otherwise available to the parties through discovery.

REQUEST NO. 3: All information related to fundraising or expenditures in North Carolina from 2016 through today.

OBJECTION TO REQUEST NO. 3: The DCCC incorporates the General Objections set forth above. The DCCC objects to Request Number 3 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the 2017 North Carolina legislative redistricting process, yet Request Number 3 seeks information related to “all” fundraising or expenditures in North Carolina and is not limited fundraising or expenditures related to legislative candidates. Specifically, the DCCC is a political committee dedicated to encouraging the election of federal congressional candidates. This lawsuit concerns North Carolina’s 2017 state legislative redistricting. As such the DCCC has no information relevant to the subject matter of this lawsuit or capable of leading to the discovery of any such information.

The DCCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of the sources and uses of a political organizations funds, *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976), as well as its internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69. The DCCC further objects to Request Number 3 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdens the DCCC.

The DCCC further objects to the extent that Request Number 3 seeks information that is otherwise available to the parties through discovery and/or is publicly available to the parties at www.NCSBE.gov and/or www.FEC.gov.

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REQUEST NO. 4: All documents that reference the Republican State Leadership Committee, the Redistricting Majority Project, or RedMAP from 2010-2012 or 2016-2018 in connection with North Carolina.

OBJECTION TO REQUEST NO. 4: The DCCC incorporates the General Objections set forth above. The DCCC objects to Request Number 4 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the constitutionality under state law of the 2017 North Carolina legislative redistricting process. Documents referencing the aforementioned entities in the DCCC's possession will not inform the court as to the map's constitutionality, nor are they likely to lead to the discovery of information that would do so. Further, given that the DCCC is a political committee dedicated to encouraging the election of federal congressional candidates, the DCCC has no information relevant to the subject matter of this lawsuit or capable of leading to the discovery of any such information.

The DCCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations' internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175-76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672-73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69. The DCCC further objects to Request Number 4 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdensome to the DCCC.

The DCCC further objects to the extent that Request Number 4 seeks information that is otherwise available to the parties through discovery.

Sincerely,



Amanda R. Callais

EXHIBIT E

April 5, 2019

Amanda R. Callais
ACallais@perkinscoie.com
D. +1.202.654.6396
F. +1.202.654.9995

VIA EMAIL

Mr. Trevor Stanley
1050 Connecticut Ave, NW
Suite 1100
Washington, D.C. 20036-5403

Dear Mr. Stanley:

I am counsel to the DLCC a.k.a. Democratic Legislative Campaign Committee, a recipient of a third-party subpoena (the "Subpoena") promulgated by you on behalf of your clients, the Defendants in the matter of *Common Cause, et al. v. Lewis, et al.*, currently pending in Wake County Superior Court in North Carolina. You have served identical subpoenas to two other clients that I represent, the DCCC a.k.a. Democratic Congressional Campaign Committee and the Democratic National Committee ("DNC"). This letter memorializes certain conversations that we had to discuss the Subpoena on March 20, 2019 and April 2 as well as the email that you sent on March 26, 2019, in which you modified the original Subpoena ("Modified Subpoena"). It also sets forth the DLCC's objections to the Modified Subpoena, as narrowed by our April 2 conversation, which supersedes the requests in the original Subpoena.

As originally issued, the Subpoena set forth at least 19 requests for documents related to North Carolina's legislative redistricting processes from 2009 to the present, the RedMAP project, communications between the DLCC and numerous entities regarding legislative candidate recruitment, fundraising, expenditures, and lobbying, Democratic performance in North Carolina, and, in at least one instance, communications specifically related to the congressional redistricting process. On March 19, 2019, I contacted your colleague, Andrew Avram, who is the signatory on the Subpoena to discuss it. Mr. Avram put me in contact with you and we spoke on March 20, 2019. In that conversation I indicated to you that your subpoena was overly broad and asked for your basis for serving all three entities. I explained that the three entities in question had different missions, noting, for example, that the DCCC did not participate in the legislative redistricting process, which is the subject matter of the underlying suit. Likewise, I informed you that your firm had served a similar subpoena on the DNC in a separate partisan redistricting challenge in Ohio, *A. Phillip Randolph v. Smith*, and that the DNC had maintained that there was no basis for such a subpoena in that suit and had no documents of relevance. You stated that one argument proffered by Plaintiffs related to the impact of the legislative map on recruitment and/or funding of Democratic legislative candidates in North Carolina, indicating that this was why all three

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organizations were subpoenaed. You further indicated that you needed to discuss the matter with your colleagues and would follow-up with me regarding changes to the scope of the Subpoena.

I contacted you again on March 25, 2019 to inquire about your decision on the scope of the Subpoena. On March 26, 2019, you responded with an offer to modify the Subpoena to four requests. These requests were further modified during our April 2, 2019 conversation. The four requests in the Modified Subpoena are set out below:

- 1) Copies of all analytics reports for the North Carolina Legislative districts from 2010-2012 and from 2016-2018 and correspondence and information related thereto, including any information regarding support scores, political indices, or other assessments of legislative districts in North Carolina.
- 2) All information related to candidate recruitment efforts in North Carolina from 2016 through today.
- 3) All information related to fundraising or expenditures in North Carolina from 2016 through today.
- 4) All documents that reference the Republican State Leadership Committee, the Redistricting Majority Project, or RedMAP from 2010-2012 or 2016-2018 in connection with North Carolina.

In addition to the further modification of the aforementioned requests, on April 2, 2019, we discussed the scope of these requests as they related to the DLCC. I explained that even the Modified Subpoena was overly broad and not proportional to the needs of the case. You stated that your basis for serving the Modified Subpoena was to address the aforementioned argument regarding the ability to recruit and fund Democratic candidates in North Carolina. I explained that if such information is in fact relevant to your case, the North Carolina Democratic Party, a Plaintiff in this suit, is better positioned to provide information related to the North Carolina legislative redistricting processes as well as its impact on the recruitment and funding of Democratic state level candidates. The DLCC generally does not engage in the direct recruitment of legislative candidates. Moreover, as explained below, the information you seek in your requests is highly privileged under the First Amendment.

Accordingly, the DLCC now proffers these objections to the Modified Subpoena.

GENERAL OBJECTIONS

The following objections are based on the information and documents currently available to the DLCC. The DLCC reserves the right to alter, supplement, amend, or otherwise modify its objections based on later recollections, the recollections of persons presently unidentified or unavailable, or the discovery of additional documents or information. Nothing in these objections or responses can be taken as an admission that the DLCC agrees with Defendants' use or interpretation of terms. These responses are based on the DLCC's understanding of each individual request. To the extent Defendants assert an interpretation of any request that is inconsistent with the DLCC's understanding, the DLCC reserves the right to supplement its objections.

1. The DLCC objects to each and every request in the Modified Subpoena to the extent that it seeks documents that are not relevant to the claims and defenses asserted in the underlying action, are not likely to lead to the discovery of admissible evidence in the underlying action, and are not proportionable to the needs of the case. In particular, the North Carolina Democratic Party is a Plaintiff in this case and is the entity dedicated to the day to day operations of the Democratic Party at the state level and to the election of Democratic candidates within the state. As a result, the North Carolina Democratic Party is better positioned to provide information related to the North Carolina legislative redistricting processes, 2017 state legislative map, and the recruitment and funding of Democratic state level candidates.

2. The DLCC objects to the Modified Subpoena to the extent that it purports to impose obligations greater than those imposed by Rules 26 and 45 of the North Carolina Rules of Civil Procedure and D.C. Superior Court Rules 26 and 45.

3. The DLCC objects to the Modified Subpoena to the extent that it seeks materials that are not within its possession, custody, or control.

4. The DLCC objects to the Modified Subpoena pursuant to Rule 26 of the North Carolina Rules of Civil Procedure and D.C. Superior Court Rule 26 to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, a joint or common interest privilege, the First Amendment associational privilege, or any other privilege recognized by law, to which no exception or waiver applies.

5. The DLCC objects to the Modified Subpoena to the extent it calls for disclosure of the DLCC's confidential or proprietary business information, trade secrets, or commercially sensitive information.

6. The DLCC objects to the Modified Subpoena to the extent it seeks materials that are publicly available, more easily obtained from sources other than the DLCC, or equally or more easily available to the parties in this action. To the extent the Modified Subpoena requests

information regarding the alleged activities of the Plaintiffs Common Cause, the North Carolina Democratic Party, or any of the twenty-two individual Plaintiffs, the Plaintiffs can provide such information. To the extent that the Modified Subpoena requests information regarding candidate recruitment, funding, expenditures, or Democratic performance in North Carolina, the Plaintiffs can also provide such information, or it can be garnered from public sources.

7. The DLCC objects to the Modified Subpoena to the extent: (1) it is overbroad; (2) the discovery sought is unreasonably cumulative or duplicative or is obtainable from another source that is more convenient—such as the Plaintiffs—less burdensome, or less expensive; (3) the burden or expense of any demand outweighs its likely benefit and, as such, is not proportionable to the needs of the case; or (4) it is unduly burdensome.

8. The DLCC objects to the Modified Subpoena to the extent it seeks discovery of information from sources that are not reasonably accessible in light of the burdens or costs required to identify, locate, restore, review, and produce whatever responsive information may be found.

9. The DLCC objects to the definition of “document” in the Modified Subpoena to the extent it exceeds the scope of what is allowed by the North Carolina Rules of Civil Procedure or the D.C. Superior Court Rules of Civil Procedure.

10. Each of these General Objections is hereby specifically incorporated into each set of the Specific Objections and Responses, set forth below.

SPECIFIC OBJECTIONS

REQUEST NO. 1: Copies of all analytics reports for the North Carolina Legislative districts from 2010-2012 and from 2016-2018 and correspondence and information related thereto, including any information regarding support scores, political indices, or other assessments of legislative districts in North Carolina.

OBJECTION TO REQUEST NO. 1: The DLCC incorporates the General Objections set forth above. The DLCC objects to Request Number 1 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. This action concerns the constitutionality under state law of the 2017 North Carolina legislative map. Support scores, political indices, or other assessments of legislative districts by a third-party will not inform the court as to the map’s constitutionality, nor are they likely to lead to the discovery of information that would do so.

The DLCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits

disclosure, among other things, of a political organizations' internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69. The DLCC further objects to Request Number 1 to the extent it calls for disclosure of the DLCC's confidential or proprietary business information, trade secrets, or commercially sensitive information.

The DLCC further objects to Request Number 1 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdens the DLCC.

The DLCC further objects to the extent that Request Number 1 seeks information that is otherwise available to the parties through discovery.

REQUEST NO 2: All information related to candidate recruitment efforts in North Carolina from 2016 through today.

OBJECTION TO REQUEST NO. 2: The DLCC incorporates the General Objections set forth above. The DLCC objects to Request Number 2 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the 2017 North Carolina state legislative map, yet Request Number 2 seeks information related to “all” candidate recruitment efforts in North Carolina and is not limited to legislative candidates. In particular, the DLCC is a national organization. The DLCC generally does not engage in the direct recruitment of state legislative candidates and is unlikely to have information responsive to this request. The North Carolina Democratic Party, a Plaintiff in this suit, is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As such, the DLCC is not the proper party to seek such information from.

The DLCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations' internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69.

The DLCC further objects to Request Number 2 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdens the DLCC.

The DLCC further objects to the extent that Request Number 2 seeks information that is otherwise available to the parties through discovery.

REQUEST NO. 3: All information related to fundraising or expenditures in North Carolina from 2016 through today.

OBJECTION TO REQUEST NO. 3: The DLCC incorporates the General Objections set forth above. The DLCC objects to Request Number 3 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. In particular, this action concerns the 2017 North Carolina legislative map, yet Request Number 3 seeks information related to “all” fundraising or expenditures in North Carolina and is not limited to legislative candidates. In particular, the DLCC is the national organization. The North Carolina Democratic Party, a Plaintiff in this suit, is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As such, the DLCC is not the proper party to seek such information from.

The DLCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of the sources and uses of a political organizations funds, *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976), as well as its internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed’n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm’n*, 333 F.3d 168, 175–76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672–73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69.

The DLCC further objects to Request Number 3 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdens the DLCC.

The DLCC further objects to the extent that Request Number 3 seeks information that is otherwise available to the parties through discovery and/or is publicly available to the parties at www.NCSBE.gov, www.IRS.gov, and/or www.FEC.gov.

REQUEST NO. 4: All documents that reference the Republican State Leadership Committee, the Redistricting Majority Project, or RedMAP from 2010-2012 or 2016-2018 in connection with North Carolina.

Mr. Stanley
April 5, 2019
Page 7


OBJECTION TO REQUEST NO. 4: The DLCC incorporates the General Objections set forth above. The DLCC objects to Request Number 4 because it is overly broad and seeks information that is not relevant to this case and is unlikely to lead to the discovery of admissible evidence. This action concerns the constitutionality of the 2017 North Carolina legislative map. Documents referencing the aforementioned entities in the DLCC's possession will not inform the court as to the map's constitutionality, nor are they likely to lead to the discovery of information that would do so. In particular, the DLCC is the national organization. The North Carolina Democratic Party, a Plaintiff in this suit, is the entity dedicated to the day to day operations of the Democratic Party at the state level and to election of Democratic candidates within the state. As such, the DLCC is not the proper party to seek such information from.

The DLCC further objects to this request to the extent it seeks documents and materials protected by the attorney work product doctrine, the attorney-client privilege, and the common or joint interest doctrine, as well as the First Amendment privilege. The First Amendment prohibits disclosure, among other things, of a political organizations' internal plans, financial plans, strategies, polling data, and political tactics as well as communications with strategic partners. *See, e.g., Am. Fed'n of Labor & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 175-76 (D.C. Cir. 2003); *Arizona v. Arpaio*, 314 F.R.D. 664, 672-73 (D. Ariz. 2016); *Ohio Organizing Collaborative, et al. v. Husted, et al.*, No. 15-1802 (S.D. OH Nov. 12, 2015), ECF No. 69.

The DLCC further objects to Request Number 4 because the burdens of producing the requested information would significantly outweigh the benefits of any such production and, as such, the request is not proportionable to the needs of the case and unduly burdensome to the DLCC.

The DLCC further objects to the extent that Request Number 4 seeks information that is otherwise available to the parties through discovery.

Sincerely,



Amanda R. Callais

EXHIBIT F

From: Callais, Amanda R. (Perkins Coie)
To: [Stanley, Trevor M.](#)
Cc: [Avram, Andrew C.](#)
Subject: Common Cause, et al. v. Lewis, et al. -- DNC, DCCC, & DLCC Subpoena Objections
Date: Friday, April 5, 2019 6:18:11 PM
Attachments: [Common Cause v. Lewis Subpoena -- DNC Objections.pdf](#)
[Common Cause v. Lewis Subpoena -- DCCC Objections.pdf](#)
[Common Cause v. Lewis Subpoena -- DLCC Objections.pdf](#)

Trevor,

Attached are the DNC, DCCC, and DLCC's objections to the subpoenas that Defendant served on them in the *Common Cause, et al. v. Lewis, et al.* case. These objections respond to the modified subpoena requests that you sent on March 26, 2019, with the changes discussed in our April 2, 2019 call.

The DCCC and the DNC will not be responding to the modified subpoena requests outside of the attached objections. Notwithstanding the attached objections and without waiving them, the DLCC will be responding to the modified subpoena requests with a rolling production as review is still ongoing. The DLCC will endeavor to begin producing documents on or before April 11, 2019.

Best,

Amanda Callais | Perkins Coie LLP

Counsel

700 Thirteenth Street, N.W. Suite 600
Washington, DC 20005-3960
D. +1.202.654.6396
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NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

EXHIBIT G

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case No. 18 CVS 014001

FILED
2019 FEB 15 P 2:45

COMMON CAUSE; *et al.*)
Plaintiffs,)
v.)
DAVID R. LEWIS, *et al.*)
Defendants.)

WAKE CO., C.S.C.
BY [Signature]

LEGISLATIVE DEFENDANTS' ANSWER

Defendants Representative David R. Lewis, Senator Ralph E. Hise, Jr., Speaker of the North Carolina House Timothy R. Moore, and President Pro Tem of the North Carolina Senate, Philip E. Berger ("Defendants") answer plaintiffs' amended complaint as follows:

INTRODUCTION

The location of every district line has political consequences. Where a line is drawn inevitably advantages some voters and disadvantages others. Redistricting is an inherently political process.

For over 200 years, the People of the State of North Carolina have reserved to the General Assembly the constitutional authority to make the inherently political choices regarding the drawing of district lines. For most of our State's history, and until 2011, this constitutional authority was exercised by the Democratic members of the General Assembly.

In 2010, for the first time in North Carolina modern history, voters for Republican candidates—which includes voters registered as Republicans, Democrats, unaffiliated, and with other minor parties—exercised their First Amendment rights to elect a Republican-controlled

General Assembly. But only after the Democratic Party obtained a majority on the North Carolina Supreme Court, did Democratic plaintiffs bring a case challenging the General Assembly's constitutional authority to determine the location of district lines. Plaintiffs offer no criteria for how districts must be drawn. Instead, they contend that political decisions regarding the location of district lines must be made by the courts unless the General Assembly draws plans that maximize the political influence of Democratic candidates at the expense of African-American voters and Republicans.

Plaintiffs' standardless, politically-biased theories will result in districting plans that will subject the state to liability under a standing order by a federal court, the Voting Rights Act, and the Fourteenth and Fifteenth Amendments to the United States Constitution. Plaintiffs' theories, if adopted, will also violate the rights of the Legislative Defendants, Republican voters, and Republican candidates under the First and Fourteenth Amendments. Plaintiffs' claims must be rejected.

FIRST DEFENSE

Defendants will necessarily violate the federal court order entered by the United States District Court for the Middle District of North Carolina in *Covington v. North Carolina* if this Court grants the relief requested by plaintiffs.

SECOND DEFENSE

Defendants will necessarily violate the Voting Rights Act and the Fourteenth and Fifteenth Amendments of the United States Constitution if the Court grants the relief requested by plaintiffs.

THIRD DEFENSE

Plaintiffs are asking this Court to punish the Legislative Defendants, voters for Republican candidates, and Republican candidates in the same way plaintiffs contend that the

General Assembly has treated Democrats in the challenged plans. They do so by asking this Court to “crack” Republican voters out of districts that currently elect Republican candidates in order to submerge them in a district in which plaintiffs believe it will be more difficult to elect a Republican candidate. Should this Court adopt plaintiffs’ standardless and politically-biased theory of liability, it will violate the rights of the Legislative Defendants, Republican voters, and Republican candidates under the First and Fourteenth Amendments to the United States Constitution and Article I, Secs. 10, 12, 14, and 19 of the North Carolina Constitution.

FOURTH DEFENSE

Plaintiffs are asking this Court to punish the Legislative Defendants, voters for Republican candidates, and Republican candidates in the same way plaintiffs contend that the General Assembly has punished Democrats. They do so by asking this Court to create districts that elect Democratic candidates by removing Republican voters from districts where those voters currently elect a Republican candidate and “packing” them in other districts that already elect Republican candidates. Under plaintiffs’ standardless and politically-biased theory of liability, doing so will violate the First and Fourteenth Amendments to the United States Constitution and Article I, Secs. 10, 12, 14, and 19 of the North Carolina Constitution.

FIFTH DEFENSE

Plaintiffs request that the Court grant them a right to reside or vote in districts that are drawn to favor their preferred political party at the expense of their non-preferred political party. Such a request if granted violates the First and Fourteenth Amendments to the United States Constitution and Article I, Sections 10, 12, 14, and 19 of the North Carolina Constitution.

SIXTH DEFENSE

Plaintiffs request that the Court grant them a right to reside or vote in districts that are drawn to maximize the political influence of the organizational and individual Democratic

plaintiffs at the expense of the Legislative Defendants, voters for Republican candidates, and Republican candidates. Such a request if granted violates the First and Fourteenth Amendments to the United States Constitution and Article I, Secs. 10, 12, 14, and 19 of the North Carolina Constitution.

SEVENTH DEFENSE

The North Carolina Constitution allows the General Assembly to consider partisan advantage and incumbency protection in the application of its discretionary redistricting decisions. *Stephenson v. Bartlett*, 355 N.C. 35, 562 SE.2d 377, 390 (N.C. 2002) (“*Stephenson I*”). There is no such thing as a “nonpartisan” districting plan and there is no basis whatsoever for plaintiffs’ contention that the General Assembly must draw “non-partisan plans.” Any court order prohibiting the Legislative Defendants from considering partisan advantage and incumbency protection would violate the First and Fourteenth Amendments to the United States Constitution and Article I, Secs. 10, 12, 14, and 19 of the North Carolina Constitution.

EIGHTH DEFENSE

Under the theory of liability described by plaintiffs, a district is always “cracked” whenever the Democratic candidate loses the district (but not when a Republican candidate loses the district). Further, districts in which Democratic voters elect a Democratic candidate are “packed” regardless of the percentage of the Democratic voters in the district (but not so with districts in which voters for Republican candidates elect a Republican candidate). Accordingly, to remedy these supposed violations, the defendants must necessarily adopt districting plans that elect only Democratic candidates where such candidates are not currently being elected, at the expense of the Legislative Defendants, voters for Republican candidates, and Republican candidates, in violation of the First and Fourteenth Amendments to the United States Constitution, and Article I, Secs. 10, 12, 14, and 19 of the North Carolina Constitution.

NINTH DEFENSE

Defendants and the People of North Carolina have been severely prejudiced by Plaintiffs' unreasonable delay in bringing these claims challenging the constitutional authority of the General Assembly to consider partisan affiliation and incumbency in making the inherently political decisions regarding the location of district lines. Plaintiffs' claims are thereby barred by the doctrine of laches.

TENTH DEFENSE

Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted and should be dismissed pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure.

ELEVENTH DEFENSE

Plaintiffs have failed to identify any constitutional criteria that the legislature could follow or alternative districting maps that they contend satisfy any such constitutional criteria. Plaintiffs' failure to either identify any such criteria or produce districting maps that comply with their alleged criteria, entitle Defendants to judgment on the pleadings pursuant to Rule 12(c), of the North Carolina Rules of Civil Procedure.

TWELFTH DEFENSE

Plaintiffs' standardless, politically-biased theory of liability, if adopted by this Court, will operate as an illegal judicial amendment of the North Carolina Constitution in violation of Article XIII of the North Carolina Constitution.

THIRTEENTH DEFENSE

The constitutional authority to draw state senate and state house districts has been reserved by the People to the General Assembly, subject to the express limitations found only in Article II, Secs. 2, 3, 4, and 5 of the North Carolina Constitution. The 2017 legislative redistricting plans fully comply with these provisions of the State Constitution.

FOURTEENTH DEFENSE

In order to achieve political gain, plaintiffs are asking this Court to usurp the constitutional authority of the General Assembly to draw legislative districts in violation of the separation of powers doctrine, adopted by the People in Article I, Sec. 6 of the North Carolina Constitution.

FIFTEENTH DEFENSE

Plaintiffs' politically-biased, standardless theory of liability, is non-justiciable under any provision of the North Carolina Constitution, including Article I, Sec. 19, Article I, Sec. 10, and Article I, Secs. 12 and 14.

SIXTEENTH DEFENSE

Unlike the provision of the Pennsylvania Constitution cited by the plaintiffs, nothing in the North Carolina Constitution states that elections must be "equal." Reading any such term into the North Carolina Constitution would amount to an illegal judicial amendment of the Constitution in violation of Article XIII of the North Carolina Constitution. For this and other reasons, Plaintiffs' claim that the 2017 legislative redistricting plans violate Article I, Sec. 10 of the North Carolina Constitution is not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law.

SEVENTEENTH DEFENSE

Neither the Organizational nor the Individual Plaintiffs have standing to bring this action.

EIGHTEENTH DEFENSE

Plaintiffs' are requesting that the Court "punish" and "burden" the Legislative Defendants, Republican candidates, and Republican voters in the same way plaintiffs contend that the General Assembly has "punished" or "burdened" Democratic voters. Plaintiffs' request for equitable relief should therefore be denied because plaintiffs have unclean hands.

NINETEENTH DEFENSE

Plaintiffs' complaint should be dismissed because of their failure to provide a judicially manageable standard or definition for the terms "packed," "cracked," or "non-partisan."

TWENTIETH DEFENSE

Defendants answer the individual allegations of Plaintiffs' Complaint as follows:

"INTRODUCTION"

1. Defendants deny the allegations of paragraph 1.
2. Defendants deny the allegations of paragraph 2.
3. Defendants deny the allegations of paragraph 3.
4. Defendants admit that the Governor lacks the constitutional authority to veto districting bills. In all other respects, Defendants deny the allegations of paragraph 4.
5. Defendants admit that the decision in *Stephenson I* speaks for itself and that the 2017 legislative plans fully and completely comply with the constitutional standards stated therein. In all other respects, Defendants deny the allegations of paragraph 5.
6. Defendants deny the allegations of paragraph 6.

"PARTIES

A. Plaintiffs"

7. Defendants deny that the 2017 Legislative Plans "burden" the ability of Common Cause in any respect and that Common Cause or its members have standing to bring this action. In all other respects, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7.
8. Defendants admit that the North Carolina Democratic Party ("NCDP") is a political party as defined under N.C. Gen. Stat. § 163-96, and that registered Democratic voters

reside in every legislative district. In all other respects, Defendants deny the allegations of paragraph 8.

9. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Chapman. Defendants admit that election results in House District 100 and Senate District 40 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 9.

10. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff DuBose. Defendants admit that election results in House District 2 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 10.

11. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Gauck. Defendants admit that the district lines for House Districts 17 and 18 and Senate Districts 8 and 9 and the election results in those districts speak for themselves. In all other respects, Defendants deny the allegations of paragraph 11.

12. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Nesbit. Defendants admit that the election results for House District 19 and Senate District 9 speak for themselves. In all other respects Defendants deny the allegations of paragraph 12.

13. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Jordan. Defendants admit that the election results for Senate District 11 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 13.

14. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Gates. Defendants admit that the election results for Senate District 49 speak for themselves. In all other respects Defendants deny the allegations of paragraph 14.

15. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Peters. Defendants admit that the district lines for Senate District 48 and the election results for that district speak for themselves. In all other respects, Defendants deny the allegations of paragraph 15.

16. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Morton. Defendants admit that the election results for House District 100 and Senate District 37 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 16.

17. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Brien. Defendants admit that the election results for House District 102 and Senate District 37 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 17.

18. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Turner. Defendants admit that the election results for House District 38 and Senate District 15 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 18.

19. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Schaller. Defendants admit that the 2011 versions of House Districts 63 and 64 were not changed in the 2017 House Plan and that election results in

House District 64 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 19.

20. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Harper. Defendants admit that the election results for House District 36 and Senate District 17 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 20.

21. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Wischmann. Defendants admit that the election results in House District 15 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 21.

22. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Brown. Defendants admit that the election results in House District 58 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 22.

23. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Oseroff. Defendants admit that the election results for House District 8 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 23.

24. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Jackson. Defendants admit that the election results in House District 103 and Senate District 29 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 24.

25. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Balla. Defendants admit that the election results in House District 34 and Senate District 16 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 25.

26. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Johnson. Defendants admit that the election results for House District 74 and Senate District 31 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 26.

27. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Wolff. Defendants admit that the election results in House District 37 and Senate District 17 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 27.

28. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Peden-Coviello. Defendants admit that the election results in House District 72 and Senate District 32 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 28.

29. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Barnes. Defendants admit that the election results for House District 113 and Senate District 48 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 29.

30. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Holbrook. Defendants admit that the district lines for House Districts 17 and 18 and Senate Districts 8 and 9 and that the election results in these

districts speak for themselves. In all other respects, Defendants deny the allegations of paragraph 30.

31. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff McCracken. Defendants admit that the election results for House District 51 and Senate District 12 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 31.

32. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Dunn. Defendants admit that the election results for House District 104 and Senate District 39 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 32.

33. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Machak. Defendants admit that the election results for House District 109 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 33.

34. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Service. Defendants admit that the election results in House District 34 and Senate District 18 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 34.

35. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Rumph. Defendants admit that the election results for House District 9 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 35.

36. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff McGrigor. Defendants admit that the election results for House District 7 and Senate District 18 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 36.

37. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Bradley. Defendants admit that the election results in House District 35 and Senate District 14 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 37.

38. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Thomas. In all other respects, Defendants deny the allegations of paragraph 38.

39. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Miller. Defendants admit that the election results for House District 18 and Senate District 8 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 39.

40. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Person. Defendants admit that the election results for House District 43 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 40.

41. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Smith. Defendants admit that the election results for House District 83 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 41.

42. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Sloan. Defendants admit that the election results for House District 67 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 42.

43. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Frey. Defendants admit that the election results in House District 69 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 43.

44. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Quick. Defendants admit that the election results in House District 59 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 44.

45. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Brown. Defendants admit that the election results for Senate District 26 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 45.

46. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Campbell. Defendants admit that the election results in House District 46 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 46.

“B. Defendants”

47. Defendants admit the allegations of paragraph 47.

48. Defendants admit the allegations of paragraph 48.

49. Defendants admit the allegations of paragraph 49.

50. Defendants admit the allegations of paragraph 50.

51. Defendants admit the allegations of paragraph 51.

52. Defendants admit that the power and authority of the North Carolina State Board of Elections and Ethics Enforcement are established by statutes that speak for themselves. In all other respects, Defendants deny the allegations of paragraph 52.

53. Defendants admit the allegations of paragraph 53.

54. Defendants admit the allegations of paragraph 54.

55. Defendants admit the allegations of paragraph 55.

56. Defendants admit the allegations of paragraph 56.

57. Defendants admit the allegations of paragraph 57.

58. Defendants admit the allegations of paragraph 58.

59. Defendants admit the allegations of paragraph 59.

60. Defendants admit the allegations of paragraph 60.

61. Defendants admit the allegations of paragraph 61.

“JURISDICTION AND VENUE”

62. Defendants deny the allegations of paragraph 62.

63. Defendants admit the allegations of paragraph 63.

64. Defendants admit the allegations of paragraph 64.

“FACTUAL ALLEGATIONS

A. National Republican Party Officials Target North Carolina for Partisan Gerrymandering Prior to 2010 Election”

65. Defendants lack knowledge or information sufficient to form a belief about the allegations of paragraph 65.

66. Defendants lack knowledge or information sufficient to form a belief about the allegations of paragraph 66.

67. Defendants lack knowledge or information sufficient to form a belief about the allegations of paragraph 67.

68. Defendants lack knowledge or information sufficient to form a belief about the allegations of paragraph 68.

“B. Republican Mapmakers Create 2011 Plan from Party Headquarters”

69. Defendants deny that Republicans set out to “entrench” Republicans in power. In all other respects, Defendants lack knowledge or information sufficient to form a belief about the allegations of paragraph 69.

70. Defendants admit that Tom Hofeller, John Morgan, Dale Oldham and Joel Raupe advised Republican Chairs during the 2011 redistricting process and that Fair and Legal Redistricting may have paid Morgan, Raupe and Hofeller. In all other respects, Defendants deny the allegations of paragraph 70.

71. Defendants admit that like all legislation and prior districting plans drawn by both political parties the 2011 plans were initially drawn in private and that work was done at political party facilities. In all other respects, Defendants deny the allegations of paragraph 71.

72. Defendants admit that like all legislation and prior districting plans drawn by both political parties the 2011 plans were initially drawn in private and that work was done at political party facilities; and that draft plans were reviewed by the Redistricting Chairs and some of the Republican members before proposed maps were released to the public. In all other respects, Defendants deny the allegations of paragraph 72.

73. Defendants admit that Art Pope provided legal advice to the Redistricting Chairs. In all other respects, Defendants deny the allegations of paragraph 73.

74. Defendants deny the allegations of paragraph 74.

75. Defendants admit that the citations from the *Dickson* case speak for themselves. In all other respects, Defendants deny the allegations of paragraph 75.

“C. Republicans Enact 2011 Plans to Increase Their Party’s Power”

76. Defendants admit that the identity of members of the legislature who voted for the 2011 legislative districting plans are a matter of public record. In all other respects, Defendants denies the allegations of paragraph 76.

77. Defendants admit the allegations of paragraph 77.

“D. The 2011 Plan Gave Republican Super Majorities that were Grossly Disproportionate to Republicans’ Share of the Statewide Vote.”

78. Defendants admit that the election results in 2012 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 78

79. Defendants admit that the election results in 2012 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 79.

80. Defendants admit that the election results in 2014 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 80.

81. Defendants admit that the election results in 2014 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 81.

82. Defendants admit that the election results in 2016 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 82.

83. Defendants admit that the election results in 2016 speak for themselves. In all other respects, Defendants denies the allegations of paragraph 83.

84. The Defendants admit that the election results for the 2012, 2014 and 2016 general election speak for themselves. In all other respects, Defendants deny the allegations of paragraph 84.

“E. A Federal Court Strikes Down Many Districts as Racially Gerrymandered”

85. Defendants admit that the decisions in *Covington v. North Carolina* speak for themselves. In all other respects, Defendants deny the allegations of paragraph 85.

86. Defendants admit that the decision in *Covington v. North Carolina* speaks for itself. In all other respects, Defendants deny the allegations of paragraph 86.

“F. The General Assembly Enacted the 2017 Plans to Dilute the Voting Power of Democratic Voters and Maximize the Political Advantage of Republicans”

87. Defendants deny the allegations of paragraph 87.

88. Defendants deny the allegations of paragraph 88.

89. Defendants admit that General Assembly staff regularly prepare proposed legislation in “secret” for Democratic or Republican members, that the practice followed by the Redistricting Chairs was consistent with this practice to the extent Dr. Hofeller was hired as a consultant to the chairs, and that Democratic controlled General Assemblies had in the past used their consultants to prepare districting plans in “secret.” Defendants admit that the cited transcript speaks for itself. In all other respects, Defendants deny the allegations of paragraph 89.

90. Defendants admit that the statements attributed to Representative Lewis are taken completely out of context, apply to congressional redistricting and not legislative redistricting, and speak for themselves. In all other respects, Defendants deny the allegations of paragraph 90.

91. Defendants admit that the statements transcribed at committee meetings speak for themselves. In all other respects, Defendants deny the allegations of paragraph 91.

92. Defendants admit that the statements transcribed at committee meetings speak for themselves. In all other respects, Defendants deny the allegations of paragraph 92.

93. Defendants admit that the statements and votes transcribed at committee meetings speak for themselves. In all other respects, Defendants deny the allegations of paragraph 93.

94. Defendants admit that the statements of Representatives Lewis and Hise transcribed at committee meetings speak for themselves. In all other respects, Defendants deny the allegations of paragraph 94.

95. Defendants admit that the statements of Representative Lewis transcribed at committee meetings speak for themselves. In all other respects, Defendants deny the allegations of paragraph 95.

96. Defendants admit that various criteria were adopted by the House and Senate Committees and that the record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 96.

97. Defendants admit that the transcribed record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 97.

98. Defendants admit that the transcribed record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 98.

99. Defendants admit that the transcribed record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 99.

100. Defendants admit that the transcribed record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 100.

101. Defendants admit that the transcribed record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 101.

102. Defendants admit that the transcribed record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 102.

103. Defendants admit that the transcribed record speaks for itself. In all other respects, Defendants deny the allegations of paragraph 103.

104. Defendants admit that paragraph 104 lists the criteria adopted by the Committees and that “election data” is the 8th criterion listed. In all other respects, Defendants deny the allegations of paragraph 104.

105. Defendants admit that the decision in *Covington* speaks for itself. In all other respects, Defendants deny the allegations of paragraph 105.

106. Defendants admit that like all legislation, including redistricting legislation passed by Democratic-controlled General Assemblies, the initial draft of the 2017 House Districting Plan was done in a confidential manner and protected by legislative privilege until it was released for public review and comments by the committee chairs. Defendants admit that the hearing transcript speaks for itself. In all other respects, Defendants denies the allegations of paragraph 106.

107. Defendants deny the allegations of paragraph 107.

108. Defendants admit that the proposed House redistricting plan was released on August 21, 2017. Defendants deny that the proposed Senate redistricting plan was released on August 21, 2017, because it was released on August 20, 2017. In all other respects, Defendants deny the allegations of paragraph of paragraph 108.

109. Defendants admit that the statement by Senator Hise cited in paragraph 109 is taken completely out of context and speaks for itself. In all other respects, Defendants deny the allegations of paragraph 109.

110. Defendants deny the allegations of paragraph 110.

111. Defendants deny the allegations of paragraph 111.

112. Defendants deny the allegations of paragraph 112.

113. Defendants deny the allegations of paragraph 113.

114. Defendants deny the allegations of paragraph 114.

115. Defendants deny the allegations of paragraph 115.

116. Defendant admit that any public comments speak for themselves. In all other respects, Defendants deny the allegations of paragraph 116.

117. Defendants admit that the committee votes are a matter of public record and speak for themselves. In all other respects, Defendants deny the allegations of paragraph 117.

118. Defendants admit that the proceedings before the House are a matter of public record that speak for themselves. In all other respects, Defendants deny the allegations of paragraph 118.

119. Defendants admit that the proceedings before the General Assembly are a matter of public record that speak for themselves. In all other respects, Defendants deny the allegations of paragraph 119.

120. Defendants admit that the *Covington* decision speaks for itself. In all other respects, Defendants deny the allegations of paragraph 120.

“G. The *Covington* Court Appoints a Special Master to Redraw Several Districts in the 2017 Plans that Remained Racially Gerrymandered”

121. Defendants admit that the *Covington* decision speaks for itself. In all other respects, Defendants deny the allegations of paragraph 121.

122. Defendants admit that the *Covington* decision speaks for itself. In all other respects, Defendants deny the allegations of paragraph 122.

123. Defendants admit that the *Covington* decision speaks for itself. In all other respects, Defendants deny the allegations of paragraph 123.

124. Defendants admit that the *Covington* decision speaks for itself. In all other respects, Defendants deny the allegations of paragraph 124.

125. Defendants admit that the *Covington* decision speaks for itself. In all other respects, Defendants deny the allegations of paragraph 125.

“H. The 2017 Plans Pack or Crack Plaintiffs and Other Democratic Voters to Dilute Their Votes and Maximize the Political Advantage of Republicans”

126. Defendants deny the allegations of paragraph 126.

127. Defendants deny the allegations of paragraph 127.

“1. The 2017 House Plan Packs and Cracks Democratic Voters”

128. Defendants admit that House Districts 2 and 32 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in the *Covington* case and that Person, Granville, Vance, and Warren Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 128.

129. Defendants deny the allegations of paragraph 129.

“House Districts 4, 14, and 15”

130. Defendants admit that House Districts 4, 14, and 15 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Duplin and Onslow Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 130.

131. Defendants admit that the district lines for House Districts 14 and 15 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 131.

“House Districts 7 and 25”

132. Defendants admit that House Districts 7 and 25 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Franklin and Nash Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 132.

133. Defendants admit that the lines for House Districts 7 and 25 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 133.

“House Districts 8, 9, and 12”

134. Defendants admit that House Districts 8, 9 and 12 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Pitt and Lenoir Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 134.

135. Defendants admit that the district lines for House Districts 8, 9, and 12 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 135.

“House Districts 10, 26, 51, and 53”

136. Defendants admit that House Districts 10, 26, 51, and 53 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Greene, Wayne, Sampson, Bladen, Johnston, Harnett and Lee Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 136.

137. Defendants deny the allegations of paragraph 137.

“House Districts 11, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 49”

138. Defendants admit that House Districts 11, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 49 are located in a lawful county group mandated by the North Carolina Constitution as

conceded by the plaintiffs and plaintiffs' counsel in *Covington* and that Wake County is located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 138.

139. Defendants admit that Plaintiffs want the Court to judicially gerrymander all House Districts in Wake County to try and prevent a Republican candidate from winning any of them. In all other respects, Defendants deny the allegations of paragraph 139.

140. Defendants admit that the decision in *N.C. State Conf. of NAACP Branches v. Lewis* speaks for itself. In all other respects, Defendants deny the allegations of paragraph 140.

“House Districts 16, 46, and 47”

141. Defendants admit that House Districts 16, 46, and 47 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs' counsel in *Covington* and that Pender, Columbus and Robeson Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 141.

142. Defendants deny the allegations of paragraph 142.

“House Districts 17, 18, 19, and 20”

143. Defendants admit that House Districts 17, 18, 19, and 20 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs' counsel in *Covington* and that New Hanover and Brunswick Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 143.

144. Defendants admit that the election results in House Districts 17, 19, and 20 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 144.

“House Districts 42, 43, 44, and 45”

145. Defendants admit that House Districts 42, 43, 44, and 45 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Cumberland County is located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 145.

146. Defendants deny the allegations of paragraph 146.

“House Districts 55, 68, and 69”

147. Defendants admit that House Districts 55, 68, and 69 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Anson and Union Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 147.

148. Defendants deny the allegations of paragraph 148.

“House Districts 58, 59, and 60”

149. Defendants admit that House Districts 58, 59, and 60 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Anson and Union Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 149.

150. Defendants deny the allegations of paragraph 150.

“House Districts 63 and 64”

151. Defendants admit that House Districts 63 and 64 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’

counsel in *Covington* and that Alamance County is located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 151.

152. Defendants deny the allegations of paragraph 152.

“House Districts 66, 67, 76, 77, 82, and 83”

153. Defendants admit that House Districts 66, 67, 76, 77, 82, and 83 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Richmond, Montgomery, Stanly, Cabarrus, Rowan, and Davie Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 153.

154. Defendants deny the allegations of paragraph 154.

“House Districts 71, 72, 73, 74, and 75”

155. Defendants admit that House Districts 71, 72, 73, 74, and 75 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Forsyth and Yadkin Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 155.

156. Defendants admit that the district lines in House District 71, 72, 73, 74, and 75 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 156.

“House Districts 88, 92, 98, 99, 100, 101, 102, 103, 104, 105, 106, and 107”

157. Defendants admit that House Districts 88, 92, 98, 99, 100, 101, 102, 103, 104, 105, 106, and 107 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Mecklenburg County is located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 157.

158. Defendants deny the allegations of paragraph 158.

“House Districts 108, 109, 110, and 111”

159. Defendants admit that House Districts 108, 109, 110, and 111 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Mecklenburg County is located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 159.

160. Defendants admit that the district lines for House Districts 108, 109, 110, and 111 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 160.

“House Districts 113 and 117”

161. Defendants admit that House Districts 113 and 117 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Transylvania, Henderson and Polk Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 161.

162. Defendants deny the allegations of paragraph 162.

“House Districts 114, 115, and 116”

163. Defendants admit that House Districts 114, 115, and 116 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Buncombe County is located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 163.

164. Defendants deny the allegations of paragraph 164.

“2. The 2017 Senate Plan Packs and Cracks Democratic Voters”

“Senate Districts 8 and 9”

165. Defendants admit that Senate Districts 8 and 9 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Bladen, Pender, Brunswick and New Hanover Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 165.

166. Defendants deny the allegations of paragraph 166.

“Senate Districts 10, 11, and 12”

167. Defendants admit that Senate Districts 10, 11, and 12 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Sampson, Duplin, Johnston, Nash, Lee and Harnett Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 167.

168. Defendants deny the allegations of paragraph 168.

“Senate Districts 14, 15, 16, 17, and 18”

169. Defendants admit that Senate Districts 14, 15, 16, 17, and 18 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Wake and Franklin Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 169.

170. Defendants deny the allegations of paragraph 170.

171. Defendants deny the allegations of paragraph 171.

172. Defendants deny the allegations of paragraph 172.

173. Defendants deny the allegations of paragraph 173.

“Senate Districts 24, 26, 27, and 28”

174. Defendants admit that Senate Districts 24, 26, 27, and 28 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Randolph, Guilford, and Alamance Counties are located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 174.

175. Defendants deny the allegations of paragraph 175.

176. Defendants deny the allegations of paragraph 176.

177. Defendants deny the allegations of paragraph 177.

178. Defendants deny the allegations of paragraph 178.

“Senate Districts 37, 38, 39, 40, and 41”

179. Defendants admit that Senate Districts 37, 38, 39, 40, and 41 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Mecklenburg County is located in the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 179.

180. Defendants deny the allegations of paragraph 180.

181. Defendants deny the allegations of paragraph 181.

182. Defendants deny the allegations of paragraph 182.

“Senate Districts 48 and 49”

183. Defendants admit that Senate Districts 48 and 49 are located in a lawful county group mandated by the North Carolina Constitution as conceded by the plaintiffs and plaintiffs’ counsel in *Covington* and that Transylvania, Henderson and Buncombe Counties are located in

the constitutionally required county group. In all other respects, Defendants deny the allegations of paragraph 183.

184. Defendants deny the allegations of paragraph 184.

“3. The 2017 Plan Achieved Their Goal in the 2018 Election”

185. Defendants deny the allegations of paragraph 185.

186. Defendants admit that the election results for 2018 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 186.

187. Defendants admit that the election results for 2018 speak for themselves. In all other respects, Defendants deny the allegations of paragraph 187.

188. Defendants deny the allegations of paragraph 188.

“I. The Partisan Gerrymandering of the 2017 Plans Causes Plaintiffs and Other Democratic Voters to be Entirely Shut Out of the Political Process”

189. Defendants deny the allegations of paragraph 189.

190. Defendants deny the allegations of paragraph 190.

191. Defendants deny the allegations of paragraph 191.

192. Defendants deny the allegations of paragraph 192.

193. Defendants deny the allegations of paragraph 193.

194. Defendants deny the allegations of paragraph 194.

195. Defendants deny the allegations of paragraph 195.

196. Defendants deny the allegations of paragraph 196.

“COUNT I

Violation of North Carolina Constitution’s Equal Protection Clause, Art. I §19”

197. Defendants incorporate by reference their responses to paragraphs 1 through 196.

198. Defendants admit that Article I, Section 19 of the North Carolina Constitution speaks for itself. In all other respects, Defendants deny the allegations of paragraph 198.

199. Defendants admit that the cited cases speak for themselves. In all other respects, Defendants deny the allegations of paragraph 199.

200. Defendants admit that the cited case speaks for itself. In all other respects, Defendants deny the allegations of paragraph 200.

201. Defendants deny the allegations of paragraph 201.

202. Defendants deny the allegations of paragraph 202.

203. Defendants deny the allegations of paragraph 203.

204. Defendants deny the allegations of paragraph 204.

“COUNT II

Violation of North [sic] Constitution’s Free Election Clause, Art. I §5”

205. Defendants incorporate by reference their responses to paragraphs 1 through 204.

206. Defendants admit that Article I, Section 5 speaks for itself. In all other respects, Defendants deny the allegations of paragraph 206.

207. Defendants deny the allegations of paragraph 207.

208. Defendants admit that the decision cited speaks for itself. In all other respects, Defendants deny the allegations of paragraph 208.

209. Defendants deny the allegations of paragraph 209.

210. Defendants deny the allegations of paragraph 210.

211. Defendants deny the allegations of paragraph 211.

“COUNT III

Violation of North [sic] Constitution’s Freedom of Assembly, Art. I §§ 12 & 14”

212. Defendants incorporate by reference their responses to paragraphs 1-211.

213. Defendants deny the allegations of paragraph 213.

214. Defendants deny the allegations of paragraph 214.

215. Defendants admit that the cited case speaks for itself. In all other respects, Defendants deny the allegations of paragraph 215.

216. Defendants deny the allegations of paragraph 216.

217. Defendants deny the allegations of paragraph 217.

218. Defendants deny the allegations of paragraph 218.

219. Defendants deny the allegations of paragraph 219.

220. Defendants deny the allegations of paragraph 220.

221. Defendants deny the allegations of paragraph 221.

222. Defendants deny the allegations of paragraph 222.

PRAYER FOR RELIEF

Wherefore, Defendants respectfully request that the Court enter an order and final judgment.

1. dismissing all of Plaintiffs' claims with prejudice;
2. awarding Defendants their costs and attorneys' fees; and
3. providing Defendants with such other and further relief as may be equitable and proper.

Respectfully submitted this 15th day of February, 2019.

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

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Attorneys for Legislative Defendants
**Pro Hac Vice Motion Pending*

CERTIFICATE OF SERVICE

This is to certify that on this date I caused the Foregoing document to be served on all counsel of record by electronic mail in accordance with the agreement of the parties to serve documents in this matter electronically.

This the 15th day of February, 2019.

By: 

Phillip J. Strach

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