EXHIBIT A

May 17, 2019

STATE OF NORTH CAROLINA GENERAL COURT OF JUSTICE 1 APPEARANCES (continued) SUPERIOR COURT DIVISION 2 Counsel for the Defendant-Intervenors: 18 CVS 014001 3 COUNTY OF WAKE Shanahan Law Group BY: John E. Branch, III COMMON CAUSE, ET AL., 4 128 E. Hargett Street, Suite 300 Raleigh, North Carolina 27601 5 Plaintiffs, (919) 856-9494 jbranch@shanahanlawgroup.com 6 vs. Counsel for the Deponent: 7 DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN Fiduciary Litigation Group BY: Tom Sparks 8 OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, ET AL., 223 South West Street, Suite 900 9 Raleigh, North Carolina 27603 Defendants. (919) 229-0845 10 tom@fidlitlawgroup.com 11 12 VIDEOTAPED DEPOSITION OF Also Present: Trae Howerton, Videographer 13 STEPHANIE HOFELLER 14 15 9:38 A.M. 16 Reported By: Discovery Court Reporters and Legal FRIDAY, MAY 17, 2019 Videographers 17 BY: Lisa A. Wheeler, RPR, CRR 4208 Six Forks Road, Suite 1000 POYNER SPRUILL 18 Raleigh, North Carolina 27609 (919) 649-9998 301 FAYETTEVILLE STREET, SUITE 1900 19 --000--RALEIGH, NORTH CAROLINA 20 21 22 23 BY: LISA A. WHEELER, RPR, CRR 24 25 3 1 1 APPEARANCES INDEX Counsel for the Plaintiffs: PAGE 3 Arnold & Porter Kaye Scholer 2 BY: R. Stanton Jones 601 Massachusetts Avenue, NW EXAMINATION BY MR. JONES 6 3 Washington, D.C. 20001-3743 (202) 942-5000 EXAMINATION BY MS. SCULLY 44 4 stanton.jones@arnoldporter.com EXAMINATION BY MR. BRANCH 195 -and-5 6 Poyner Spruill 7 EXHIBITS BY: Edwin M. Speas, Jr. 8 HOFELLER 301 Fayetteville Street, Suite 1900 Raleigh, NC 27601 DESCRIPTION PAGE NUMBER (919) 783-6400 9 10 espeas@poynerspruill.com Counsel for the Defendants State Board of Elections EXHIBIT 1 Subpoena, Stephanie Hofeller 9 11 10 Lizon and Ethics Enforcement and its members: EXHIBIT 2 Color Photocopied Photographs 12 14 12 EXHIBIT 3 Subpoena, Kathleen H. Hofeller 167 North Carolina Department of Justice 13 13 Special Litigation BY: Paul M. Cox EXHIBIT 4 Subpoena, The Estate of Thomas 167 Hofeller 14 114 West Edenton Street 14 Raleigh, North Carolina 27603 (919) 716-6900 EXHIBIT 5 Certificate of Service 174 15 15 (Incompetent Proceeding), with pcox@ncdoj.gov Attachments 16 16 Counsel for the Legislative Defendants: EXHIBIT 6 Petition for Adjudication of 174 17 BakerHostetler Incompetence and Application 18 BY: Elizabeth A. Scully for Appointment of Guardian or Washington Square, Suite 1100 18 Limited Guardian 19 1050 Connecticut Avenue, N.W. Washington, D.C. 20036-5403 19 EXHIBIT 7 Interim Report of the Guardian 180 Ad Litem 20 (202) 861-1500 20 escully@bakerlaw.com EXHIBIT 8 Order on Motion for 184 -and-21 Appointment of Interim 22 Guardian Ogletree, Deakins, Nash, Smoak & Stewart 22 23 BY: Thomas A. Farr 4208 Six Forks Road, Suite 1100 EXHIBIT 9 Report of the Guardian Ad 188 23 24 Raleigh, North Carolina 27609 Litem 24 (919) 787-9700 EXHIBIT 10 Motion to Dismiss 192 25 25 thomas.farr@ogletree.com 2 4

1 (Pages 1 to 4)

1	P R O C E E D I N G S	1	married name of Stephanie Hofeller Lizon?
2	THE VIDEOGRAPHER: Going on the record	2	A. It was actually Stephanie Louise Lizon.
3	at 9:38 a.m. Today's date is May the 17th,	3	Q. Okay. And now you you've dropped the
4	2019. This begins the video deposition of	4	Lizon; you just go by Stephanie Hofeller?
5	Stephanie Hofeller taken in the matter of	5	A. That's right.
6	Common Cause, et al., versus David Lewis, in	6	Q. And that's your maiden name?
7	his Official Capacity As Senior Chairman of	7	A. Correct.
8	the House Select Committee on Redistrict	8	Q. Excellent. Okay. I'll go over some brief
9	Redistricting, et al. This is filed in the	9	ground rules for the deposition today if
10	General Court of Justice, Superior Court	10	that's okay.
11	Division, in Wake County, North Carolina,	11	A. Yes.
12	Case Number 18 CVS 014001.	12	Q. So you understand that you've taken an oath
13	If counsel will please identify	13	to tell the truth today?
14	yourselves for the record and whom you	14	A. I do.
15	represent and then our court reporter will	15	Q. Great. And the court reporter is taking down
16	swear in our witness.	16	everything that we say so let's try not to
17	MR. JONES: Stanton Jones from Arnold &	17	talk over one another. If you let me finish
18	Porter for the plaintiffs.	18	my question, I will let you finish your
19	MR. SPEAS: Eddie Speas with Poyner	19	answer. Does that make sense?
20	Spruill for the plaintiffs.	20	A. Acknowledged, yes.
21	MR. COX: Paul Cox with the North	21	Q. Your your counsel may object to some of my
22	Carolina Attorney General's Office for the	22	questions today and and that's fine.
23	State Board of Elections.	23	Un you understand that unless he
24	MR. BRANCH: John Branch with Shanahan	24	instructs you not to answer a question, you
25	Law Group for the intervenor defendants.	25	should let him state his objection for the
	_		7
	5		7
1	MR. FARR: Tom Farr with Ogletree	1	record and then you'll go ahead and answer?
2	Deakins for the def legislative	2	A. Yes, I understand that.
3	defendants.	3	Q. Great. Is there any reason that you couldn't
4	MS. SCULLY: Elizabeth Scully with	4	give complete, accurate, and truthful
5	BakerHostetler for the legislative	5	testimony today?
6	defendants.	6	A. No.
7	MR. SPARKS: Tom Sparks representing	7	Q. And if you want a break, just let me know.
8	the deponent, Stephanie Hofeller.	8	We'll finish the question and answer that
9	* * * *	9	we're doing and and happy to take a break
10	STEPHANIE HOFELLER,	10	whenever you'd like, okay?
11	having been first sworn or affirmed by the court	11	A. All right. Thanks.
12	reporter and Notary Public to tell the truth, the	12	Q. What state do you live in?
13	whole truth, and nothing but the truth, testified	13	A. Kentucky.
14	as follows:	14	Q. Great. So you don't live in North Carolina?
15	EXAMINATION	15	A. That's correct.
16	BY MR. JONES:	16	Q. Okay. And where you live in Kentucky, how
17	Q. Good morning, Ms. Hofeller.	17	far is it from where we are in Raleigh?
18	A. Hello.	18	A. It's about a ten- or 11-hour drive.
19	Q. I'm Stanton Jones from Arnold & Porter and I	19	Q. Okay. Do you know, roughly how many miles is
20	represent the plaintiffs in this lawsuit.	20	it?
21	Would you please state your full name for the	21	A. Roughly 650, something like that, I think.
22	record.	22	Q. Okay. And can you tell me, who who are
23	A. Stephanie Louise Hofeller.	23	your parents?
24	Q. Excellent. And am I right that you	24	A. My father is Thomas Brooks Hofeller and my
25	previously went by what I believe is a	25	mother is Kathleen Hartsough Hofeller.
			-
	6		8
_			2 (Decreases to 2)

DISCOVERY COURT REPORTERS

2 (Pages 5 to 8)

(
1	Q. Great. So I have some questions about the	¹ February, did you review this this list of
2	subpoena that you received in this case. Is	² documents and things that were were asked
3	that okay?	³ to be produced?
4	A. Yes.	⁴ A. Yes, I did.
5	Q. Great. So earlier this year you received a	⁵ Q. Okay. And did did you understand that the
6	subpoena from the plaintiffs in this case; is	⁶ subpoena was requesting any electronic
7	that right?	 ⁷ storage devices that had any of your father's
8	A. That's correct.	⁸ work drawing maps for the North Carolina
9	Q. Okay.	⁹ legislature?
10	MR. JONES: Mark this.	¹⁰ A. Yes.
11	(HOFELLER EXHIBIT 1 was marked for	¹¹ Q. Okay. Did you have any materials that were
12	identification.)	¹² responsive to these requests in the subpoena?
13	BY MR. JONES:	¹³ A. I did.
14	Q. I'm showing you what's been marked as Exhibit	¹⁴ Q. Okay. And and were am I right that
15	1. Do you recognize this document as the	¹⁵ those were electronic storage devices?
16	subpoena that you received from the	¹⁶ A. Yes.
17	plaintiffs in this case?	17 Q. Okay.
18	A. Yes. Yes, I do.	¹⁸ A. External hard drives and ad I don't know
19	Q. Okay. And do you see on the first page under	¹⁹ what the proper or what people prefer to
20	name and address of person subpoenaed on the	²⁰ call them, ad-stick, thumb drive, external
21	left side toward the top it says, Stephanie	 storage devices to be used as backup
22	Hofeller Lizon? That that's you, correct?	 22 principally.
23	A. That is me.	 Q. Okay. So so the materials that you had
24	Q. Okay. Great. And it says, care of Tom	²⁴ that were responsive to the requests in the
25	Sparks, Esquire. That's that's your	 ²⁵ subpoena were were external hard drives
	Sparks, Esquire. That's date your	
	9	11
1	attorney, correct?	¹ and external what we'll call thumb drives?
2	A. That's my attorney.	² A. That's correct.
3	Q. Great. Okay. And if you look down in the	³ Q. Okay. Great.
4	handwritten portion where there's a date and	⁴ A. Nothing that that appeared to have been
5	a signature, do you see it's dated February	⁵ pulled out from an already assembled
6	13th, 2019?	⁶ computer. These were all, you know, backup
7	A. I do.	⁷ devices.
8	Q. Okay. And is does is that around the	⁸ Q. Okay. These were all external devices that
9	time that you recall receiving this subpoena?	⁹ you would need to plug into a computer some
10	A. Yes.	¹⁰ way
11	Q. When you received the subpoena, did you take	¹¹ A. Correct. ¹² O to look at them? Okay Am Lright that
12		
	a look at it?	Q. to look at them. Okay. All High that
13	A. Yeah.	¹³ these storage devices had previously belonged
14	A. Yeah.Q. Great.	 these storage devices had previously belonged to your father?
14 15	A. Yeah.Q. Great.A. I got it in a electronic format initially	 these storage devices had previously belonged to your father? A. Yes.
14 15 16	A. Yeah.Q. Great.A. I got it in a electronic format initially from my attorney because I wasn't actually in	 these storage devices had previously belonged to your father? A. Yes. Q. Okay.
14 15 16 17	A. Yeah.Q. Great.A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother.
14 15 16 17 18	A. Yeah.Q. Great.A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that.	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage
14 15 16 17 18 19	A. Yeah.Q. Great.A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that.Q. Great. And if you flip a couple of pages	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North
14 15 16 17 18 19 20	 A. Yeah. Q. Great. A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that. Q. Great. And if you flip a couple of pages ahead to what's what's marked as Page 2 at 	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North Carolina legislative maps?
14 15 16 17 18 19 20 21	 A. Yeah. Q. Great. A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that. Q. Great. And if you flip a couple of pages ahead to what's what's marked as Page 2 at the bottom of the page, do you see where it 	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North Carolina legislative maps? MS. SCULLY: Objection to form,
14 15 16 17 18 19 20 21 22	 A. Yeah. Q. Great. A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that. Q. Great. And if you flip a couple of pages ahead to what's what's marked as Page 2 at the bottom of the page, do you see where it says, list of documents and things to be 	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North Carolina legislative maps? MS. SCULLY: Objection to form, leading. You can answer.
14 15 16 17 18 19 20 21 22 23	 A. Yeah. Q. Great. A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that. Q. Great. And if you flip a couple of pages ahead to what's what's marked as Page 2 at the bottom of the page, do you see where it says, list of documents and things to be produced pursuant to this subpoena? 	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North Carolina legislative maps? MS. SCULLY: Objection to form, leading. You can answer. A. It was at what point you I would have
14 15 16 17 18 19 20 21 22 23 24	 A. Yeah. Q. Great. A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that. Q. Great. And if you flip a couple of pages ahead to what's what's marked as Page 2 at the bottom of the page, do you see where it says, list of documents and things to be produced pursuant to this subpoena? A. Yes, I do. 	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North Carolina legislative maps? MS. SCULLY: Objection to form, leading. You can answer. A. It was at what point you I would have to to ask you to clarify at what point
14 15 16 17 18 19 20 21 22 23	 A. Yeah. Q. Great. A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that. Q. Great. And if you flip a couple of pages ahead to what's what's marked as Page 2 at the bottom of the page, do you see where it says, list of documents and things to be produced pursuant to this subpoena? 	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North Carolina legislative maps? MS. SCULLY: Objection to form, leading. You can answer. A. It was at what point you I would have
14 15 16 17 18 19 20 21 22 23 24	 A. Yeah. Q. Great. A. I got it in a electronic format initially from my attorney because I wasn't actually in the state at that moment, but I was shortly after that. Q. Great. And if you flip a couple of pages ahead to what's what's marked as Page 2 at the bottom of the page, do you see where it says, list of documents and things to be produced pursuant to this subpoena? A. Yes, I do. 	 these storage devices had previously belonged to your father? A. Yes. Q. Okay. A. And mother. Q. And and you understood that the storage devices contained your father's work on North Carolina legislative maps? MS. SCULLY: Objection to form, leading. You can answer. A. It was at what point you I would have to to ask you to clarify at what point

3 (Pages 9 to 12)

1	I first saw them I knew that they were all	¹ containing the storage devices in
2	belonging to my father and mother. I wasn't	2 A. Yes.
3	really sure which of them, if any, would have	³ Q response to the subpoena?
4	anything involving his work in North Carolina	⁴ A. Yes, that does appear to be the box that I
5	or elsewhere.	 ⁵ sent them in, exactly.
6	Q. Got it. Let let's focus on the time when	⁶ Q. Great. And and on the first page, if you
7		Q. Oreat. And and on the first page, if you
	you received the subpoena and you	fook at that top picture, it's addressed to
8	A. Oh, at that point, yes, I did know that it	K. Stanton Jones at Amola & Forter, ELF, at
9	contained that all of those devices had at	⁹ an address in Washington, D.C. Is that the
10	least at least one or two at least one	¹⁰ address where you sent the package?
11	or two files that would that were labeled	¹¹ A. Yes.
12	in a in a way that it was obvious that	¹² Q. Great. And if you flap flip to the second
13	they pertained to my father's work	¹³ page, do you recognize those as additional
14	redistricting in North Carolina.	¹⁴ photographs of the outside of the package
15	Q. And did you send the storage devices those	¹⁵ that you sent with the storage devices in
16	storage devices that we've been discussing to	¹⁶ response to the subpoena?
17	the plaintiffs' lawyers in response to the	¹⁷ A. Yes.
18	subpoena?	¹⁸ Q. If you flip to the third page, if you'll
19	A. Yes, I did.	¹⁹ focus on the bottom image, do you recognize
20	Q. Okay. Do you recall roughly when you sent	²⁰ that as a photograph of the the interior
21	them?	²¹ of the box that you sent to the plaintiffs'
22	A. I remember it was about a month after I	 ²² lawyers with the storage devices in response
23	received the subpoena. Originally, I my	²³ to the subpoena?
24	intention was to to bring them physically	24 A. Yes.
25		
20	to Raleigh, but I got delayed and it was then	²⁵ Q. Okay. If you flip to Page 4, do you
	13	15
1	decided that it would be best for preserving	¹ recognize the image there as being one of the
2		
	the integrity of of the evidence that it	² thumb drives that you put in the in the
3	the integrity of of the evidence that it would be going straight to a third party.	tildino drives tildi you put in the in the
3 4	would be going straight to a third party.	³ package and sent to the plaintiffs' lawyers
	would be going straight to a third party. Q. Great. And I'll represent to you that I	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena?
4 5	would be going straight to a third party.Q. Great. And I'll represent to you that I received the materials you sent on March	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes.
4 5 6	would be going straight to a third party.Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many
4 5 6 7	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many
4 5 7 8	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were?
4 5 7 8 9	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were? ⁹ A. I know there were four external hard drives.
4 5 7 8 9 10	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? A. That does, actually. Where where I was in 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were? ⁹ A. I know there were four external hard drives. ¹⁰ I honestly don't remember exactly how many
4 5 7 8 9 10	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? A. That does, actually. Where where I was in Kentucky, I couldn't even find a FedEx 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were? ⁹ A. I know there were four external hard drives. ¹⁰ I honestly don't remember exactly how many ¹¹ you know, there were I I there were
4 5 7 8 9 10 11 12	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? A. That does, actually. Where where I was in Kentucky, I couldn't even find a FedEx office. I had to go I had to go down the 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were? ⁹ A. I know there were four external hard drives. ¹⁰ I honestly don't remember exactly how many ¹¹ you know, there were I I there were ¹² a couple of empty thumb drives in my in
4 5 7 8 9 10 11 12 13	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? A. That does, actually. Where where I was in Kentucky, I couldn't even find a FedEx office. I had to go I had to go down the highway. I was surprised. 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were? ⁹ A. I know there were four external hard drives. ¹⁰ I honestly don't remember exactly how many ¹¹ you know, there were I I there were ¹² a couple of empty thumb drives in my in ¹³ my, you know, possession so I I was making
4 5 7 8 9 10 11 12	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? A. That does, actually. Where where I was in Kentucky, I couldn't even find a FedEx office. I had to go I had to go down the highway. I was surprised. MR. JONES: Can we mark this? 	 package and sent to the plaintiffs' lawyers in response to the subpoena? A. Yes. Q. Okay. Do you remember offhand how many external hard drives there were and how many thumb drives there were? A. I know there were four external hard drives. I honestly don't remember exactly how many you know, there were I I there were a couple of empty thumb drives in my in my, you know, possession so I I was making sure that I wasn't, you know, sending
4 5 7 8 9 10 11 12 13	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? A. That does, actually. Where where I was in Kentucky, I couldn't even find a FedEx office. I had to go I had to go down the highway. I was surprised. 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were? ⁹ A. I know there were four external hard drives. ¹⁰ I honestly don't remember exactly how many ¹¹ you know, there were I I there were ¹² a couple of empty thumb drives in my in ¹³ my, you know, possession so I I was making
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4 5 7 8 9 10 11 12 13 14 15 16	 would be going straight to a third party. Q. Great. And I'll represent to you that I received the materials you sent on March 13th. Does that sound about right in terms of A. That does. Q the time? A. That does, actually. Where where I was in Kentucky, I couldn't even find a FedEx office. I had to go I had to go down the highway. I was surprised. MR. JONES: Can we mark this? (HOFELLER EXHIBIT 2 was marked for identification.) 	 ³ package and sent to the plaintiffs' lawyers ⁴ in response to the subpoena? ⁵ A. Yes. ⁶ Q. Okay. Do you remember offhand how many ⁷ external hard drives there were and how many ⁸ thumb drives there were? ⁹ A. I know there were four external hard drives. ¹⁰ I honestly don't remember exactly how many ¹¹ you know, there were I I there were ¹² a couple of empty thumb drives in my in ¹³ my, you know, possession so I I was making ¹⁴ sure that I wasn't, you know, sending ¹⁵ anything wrong. These were all the ones ¹⁶ that that I got from my father, but I
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4 (Pages 13 to 16)

 Q. Does that seem right? A. Yeah. Q. Great. M.R. FARR: Excuse me. I don't mean to interrupt and 'The new to the game, hut what were the stipulations about objections reserved except for privilege and form of the question? M.R. SPEAS: Yeah. That's the way we've' been operating so far. M.R. FARR: Okay. Thank you. BY MR. JONES: Q. I'm not going to go through every single photographs. But would you just take a monormal of the storage devices, but the ctam that way? A. So far, yes. If s a minbow of colors. I remember that, too. Yes, those hook - all of the rate any filting of a got frough bere. A. No. Q. Okay. Creat. So, fart, can you please tell motion for gust rell me, do you recognize these doel - all remember that, too. Yes, those hook - all of them 1 - I remember. Q. Grax. So hary, se. If s a minbow of colors. I remember that, too. Yes, those hook - all of them 1 - I remember. Q. Okay. Excellent. Would you just for bayes d. A Yes. Q. Okay. Excellent. Would you just for bayes d. Yes, Tas. Q. Okay. Excellent. Would you just for bayes d. A Yes. Q. Okay. Excellent. Would you just pro Bayes d. Yes, Tas. Q. Okay. Excellent. Would you just pro Bayes d. A Yes. Q. Okay. Excellent. Would you just pro Bayes d. Yes, Tas. Q. Okay. Excellent. Would you just pro Bayes d. Yes, Tas. Q. Okay. Scene and fight frough all of the aphrogen and the time storage devices. d. No. d. A Yes, Tas. Q. Okay. Excellent. Would you just pro Bayes d. Yes, Tas. Q. Okay. Excellent. Would you just pro Bayes d. Yes, Tas. Q. Okay. Scene storing all of these storage d. Yes, Tas. Q. Okay. Excellent. Wou			1
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11 Amy of the files 12 MR, SPEAS: Yeah. That's the way we've been operating so far. 13 Amy of the files 14 A. None. 15 Q. Fran the storage devices? You have to 16 Photographs. But would you just take a moment and flip through them and if you could just tell me, do you recognize these as 16 photographs of the storage devices, both the external hard drives and the thumb drives, that you sent to the plaintiff's lawyers in response to the subpoena? Do you recognize them that way? 16 A. So far, yes. If's a minbow of colors. I 17 10 17 10 18 Q. Great. So having flipped through all of the photographs of the abergace and the plant flip through all of the photographs drive prove recognize all of these images 1 17 19 11 renember that, too. Yes, those look all of them I - tremember. 0 2 Q. Great. So having flipped through all of the photographs of the abekage. 10 17 19 11 renember that, too. Yes, those look all of them I - tremember. 0 3 Q. Great. So having flipped through all of the photographs of the abekage. 0 4 A. Yes. 0			A. 10.
12 been operating so far. 12 A. None. 13 MR, FARR: Okay. Thank you. 14 A. None. 14 MR, JONES: 1 1 15 BY MR, JONES: 1 1 16 photograph here. There's about 50 pages of the storage devices? A. Yes. 20 catent bit way: 2 A. That's correct. 1 did nt. 21 remember that, too. Yes, those look all of them 1 - 1 remember. 0. Okay. Start 50 pages of the storage devices from. 1s 217 19 21 remember that, too. Yes, those look all of them 1 - 1 remember. 1 that okay? 32 Q. Okay. Excellent. Would you figh to Page 23. 3 Q. Okay. And next could you please tell me just the month and the year when you got these devices. 34 Yes, 1do. </th <th></th> <th></th> <th></th>			
13 MR. FAR: Okay. Thank you. 13 Q on the storage devices? You have to 14 BY MR. JONES: Q on the storage devices? You have to 15 Q. Fm not going to go through every single Q. Yeah. You you II just start over again so we have a clean record. 15 Q. Yeah. You you did not make any changes to any G. So you you did not make any changes to any 16 photographs. But would you just take a A. Yes. 17 Photographs of the storage devices, both the C. So you you did not make any changes to any 18 Q. So you you did not make any changes to any G. So you you did not make any changes to any 18 Q. So you you did not make any changes to any G. So you you did not make any changes to any 19 The files or data on these storage devices? A. That's correct. I did not. 19 That's correct. I did not. C. Okay. Secondent. 10 That's correct. I did not. That's correct. I did not. 11 That okay? A. Yes. 12 of them I - I remember. I that okay? 13 Q. Great. So having flipped through all of these images A. Okay. And next could you please tell me just where specifically did you get the devices?		-	
 BY MR JONES Q. I'm not going to go through every single photographs here. There's about 50 pages of photographs here. There's about 50 pages of photographs here. There's about 50 pages of photographs bere, do you recognize these as photographs of the storage devices. So the subpoena? Q. Yeah. You you 'Il just start over again so we have a clean record. A. Yes. Q. Yeah. You you di not make any changes to any of the files or data on these storage devices abefore sending them to the plaintiffs' lawyers in response to the subpoena? Do you recognize the that way? A. So far, yes. It's a rainbow of colors. I Temember that, too. Yes, those look all of them 1 - 1 remember. Q. Great. So having flipped through all of the photographs here, you recognize all of these images set is my hands on and put in that package. A. Yes. Q. Okay. Excellent. Would you flip to Page 23. Do you seent he image ther of a storage devices? A. Yes, Ido. Q. Okay. Excellent. Would you flip to Page 23. Do you seent he image ther of a storage devices? A. Ido. Q. Okay. And ext could you please tell me just where specifically did you get the devices from he at pyringmoor. A. Ido. Q. Okay. And what is Springmoor? A. Ido. Q. Okay. And the image there of a storage devices? A. Ido. Q. Okay. Affere sending all of these storage devices? A. That's correct. Q. Okay. And the time you got these files from the Springmoor partment in Springmoor partment in October 2018, you alter any of the – the contents of the storage devices? A. Yes, she was. Q. Okay. Before sending all of these storage devices? A. Yes, she was. Q. Okay. Before getting the devices from the apartment in Springmoor, did you ask your 			
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24 them that way? 24 I have some some pretty basic questions about where you got the devices from. Is 25 A. So far, yes. It's a rainbow of colors. I 17 19 1 remember that, too. Yes, those look all of them I I remember. 1 that okay? 2 Q. Great. So having flipped through all of the photographs here, you recognize all of these images 3 Q. Okay. Great. So, first, can you please tell me just the month and the year when you got these devices. 6 A. Yes. Q. Okay. And next could you please tell me just where specifically did you get the devices from just the physical location for 9 my hands on and put in that package. 9 0. Okay. And next could you please tell me just where specifically did you get the devices from just the physical location for 12 Do you see the image there of a storage device with the label, NC Data? 14 A. The apartment where my recently deceased father lived with my mother at Springmoor. 13 A. Yes, I do. 13 Q. Okay. And your father and mother had been living in this apartment in Springmoor before his his death; is that right? 14 A. one of the 19 Q. Okay. And your father and mother had been living in this apartment in October 17 Q. Okay. Before sending all of these storage devices? 19 Q. Okay. And your father at the time?	22	that you sent to the plaintiffs' lawyers in	²² A. That's correct. I did not.
25 A. So far, yes. It's a rainbow of colors. I 25 about where you got the devices from. Is 1 1 1 that okay? 2 A. So far, yes. It's a rainbow of colors. I 1 1 1 remember that, too. Yes, those look all 1 that okay? 2 A. Yes, So far, yes. It's a rainbow of colors. I 1 that okay? 2 A. Yes, So far, yes. It's a rainbow of colors. I 1 that okay? 2 A. Yes, So far, yes, those look all 1 that okay? 2 A. Yes. 2 A. Yes. 3 Q. Great. So having flipped through all of these images 6 A. October 2018. 6 A. Yes. 6 A. October 2018. 7 Q. Okay. Excellent. Would you flip to Page 23. 7 Q. Okay. And next could you glease tell me just where specifically did you get the devices 11 A. Yes, Ido. 1 1 A. The apartment where my recently deceased father lived with my mother at Springmoor? 12 A. Job. 2 Okay. And next is that right? 2 13 A. Yes, Ido. 1 1 A. The apartment where my recently deceased father lived	23	response to the subpoena? Do you recognize	²³ Q. Okay. You can put that to the side. So now
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6 A. Yes. 6 A. October 2018. 7 Q			
7 Q as being 7 Q. Okay. And next could you please tell me just where specifically did you get the devices 8 A. I I don't see anything that I didn't have 8 where specifically did you get the devices 9 my hands on and put in that package. 9 from, just the physical location for 10 Q. Okay. Excellent. Would you flip to Page 23. 10 starters? 11 Do you see the image there of a storage 11 A. The apartment where my recently deceased 12 device with the label, NC Data? 11 A. The apartment where my recently deceased 12 device with the label, NC Data? 12 G. Okay. And what is Springmoor. 13 A. Yes, I do. 13 Q. Okay. And your father and mother had been 16 A. I do. 16 living in this apartment in Springmoor before 17 Q. Okay. Before sending all of these storage 19 Q. Okay. And at the time you got these files 18 A storage devices, yes. 20 G. Okay. And at the time you got these files 19 Q. Okay. Before sending all of these storage 21 Q. Okay. Before sending all of these storage 24 you alter any of the the contents of the 23		-	
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9my hands on and put in that package.9from, just the physical location for10Q. Okay. Excellent. Would you flip to Page 23.10starters?11Do you see the image there of a storage11A. The apartment where my recently deceased12device with the label, NC Data?11A. The apartment where my recently deceased13A. Yes, I do.13Q. Okay. And what is Springmoor?14Q. Do you recall that as one of the images that14A. Springmoor is a retirement community.15you sent?15Q. Okay. And your father and mother had been16A. I do.16living in this apartment in Springmoor before17Q. Or, sorry, as one of the18A. That's correct.19Q storage devices?19Q. Okay. And at the time you got these files20A storage devices, yes.20from the Springmoor apartment in October21Q. Okay. Before sending all of these storage212018, was your mother living there at the22devices to the plaintiffs' lawyers in23A. Yes, she was.23response to the subpoena you received, did23A. Yes, she was.24you alter any of the the contents of the24Q. Okay. Before getting the devices from the25storage devices?24Q. Okay. Before getting the devices from the26storage devices?2526A. Yes, she was.			
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15you sent?15Q. Okay. And your father and mother had been16A. I do.16living in this apartment in Springmoor before17Q. Or, sorry, as one of the16living in this apartment in Springmoor before18A. One of the17his his death; is that right?18A. One of the18A. That's correct.19Q storage devices?19Q. Okay. And at the time you got these files20A storage devices, yes.20from the Springmoor apartment in October21Q. Okay. Before sending all of these storage212018, was your mother living there at the22devices to the plaintiffs' lawyers in23response to the subpoena you received, did23response to the subpoena you received, did23A. Yes, she was.24you alter any of the the contents of the24Q. Okay. Before getting the devices from the25storage devices?25apartment in Springmoor, did you ask your	13	A. Yes, I do.	¹³ Q. Okay. And what is Springmoor?
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25 storage devices? 25 apartment in Springmoor, did you ask your		devices to the plaintiffs' lawyers in	time:
	23	devices to the plaintiffs' lawyers in response to the subpoena you received, did	²³ A. Yes, she was.
18 20	23 24	devices to the plaintiffs' lawyers in response to the subpoena you received, did you alter any of the the contents of the	 A. Yes, she was. Q. Okay. Before getting the devices from the
	23 24	devices to the plaintiffs' lawyers in response to the subpoena you received, did you alter any of the the contents of the	 A. Yes, she was. Q. Okay. Before getting the devices from the

5 (Pages 17 to 20)

		1
1	mother if it was okay to take them?	¹ flag that draped his coffin and a picture of
2	A. Yes, I did.	² my grandparents and inside the box was
3	Q. Okay. And did you ask her that in October	³ everything exactly as I had left it. So I
4	2018?	⁴ took that to mean that I was supposed to look
5	A. Yes, that that same day.	⁵ for other things and so I started I I
6	Q. Okay. Did your mother object to you taking	⁶ thought there was a chance that there might
7	the devices?	⁷ have been something specifically for me as in
8	A. No, she didn't.	⁸ a note or a message of some sort that I would
9	Q. Okay. Did did did she say it was okay	⁹ find.
10	to take the devices?	¹⁰ Q. Okay. And and was that when you found the
11	A. Yes. She encouraged me to.	¹¹ storage devices that we've been discussing?
12	Q. Okay. So now I'm I'm going to back and	¹² A. It was in that same incident, yes, that
13	and ask a few more questions just to fill in	¹³ that same evening.
14	some additional details about when and where	¹⁴ Q. Okay. And where in the apartment were the
15	you got the devices, okay?	¹⁵ storage devices?
16	A. Yes.	¹⁶ A. They were on a shelf in my father's room.
17	Q. Okay. When did you first learn that your	¹⁷ Q. Okay. Were they just sitting out open on the
18	father had died?	¹⁸ shelf?
19	A. September 30th, 2018.	¹⁹ A. Yes, they were. There was a bag a clear
20	Q. Okay. And when you when you learned of	²⁰ plastic bag with the thumb drives and
21	his death and and I'll say for the	²¹ ad-sticks and then there was just a stack
22	record, I'm I'm sorry for your for the	²² of it wasn't the only thing on the shelf.
23	loss.	²³ He had also some of those pullout boxes that
24	When you learned of your father's death,	²⁴ kind of are like drawers that had some of his
25	did you contact your mother?	²⁵ papers in there, and the the hard drives
	21	23
1	A. Yes.	¹ just were there in the corner of it was
2	Q. Did did you go to visit her then?	² a one of those kind of box-style book
3	A. Yes.	³ shelves. It wasn't just a straight shelf.
4	Q. Okay. And and did you go to visit her in	⁴ Some of them had those removable drawers in
5	Raleigh at the Springmoor apartment in	⁵ them and others were just open.
6	October 2018?	⁶ Q. Okay. But all of the four external hard
7	A. Yes, I did.	⁷ drives and the 18 thumb drives that you sent
8	Q. And at that time when you were there at the	⁸ to the plaintiffs' lawyers in response to the
9	Springmoor apartment in Raleigh in October	⁹ subpoena were on this bookshelf in your
10	2018 visiting your mother, did did you	¹⁰ father's room in the apartment at Springmoor?
11	go did you and your mother go through some	A. That S fight.
12	of your father's things?	Q. Okuy. This and they weren't in any sort of
13 14	A. There wasn't much to go through. Most of	 safe or lockbox; they were they were just out?
15	what there even was in there was what was	¹⁵ A. That's right.
16	left out, really. There were a couple of	¹⁶ Q. Okay. Had you seen any of these storage
17	desk drawers. I there were a couple of	¹⁷ devices before?
18	keepsakes of mine that I was looking for, but	¹⁸ A. Inasmuch as I could say later having looked
19	one of the main reasons that I was looking	¹⁹ at them and when they were done, then I was
20	was because when I walked in the door to his	²⁰ able to confirm that, yes, there were a
21	room, immediately I saw a keepsake of mine	²¹ couple of those that I recognized from when I
22	from my childhood, a a jewelry box that I	²² was either staying with on short trips or
23	had and that I had left in in my parents'	 ²³ living with my parents in their house in
23	care. And inside of it it was displayed prominently right under the flag that he was	 Alexandria, Virginia.
25	buried with and well, not with but the	²⁵ Q. Okay. And and could you just tell me
	22	24

6 (Pages 21 to 24)

1	briefly how how did you recognize what	1	A. Dalton Lamar Oldham. That was my father's
2	was the connection that you made to these	2	business partner, attorney. Together he and
3	storage devices?	3	my father were Geographic Strategies.
4	A. The one of them had that blue rubber	4	Q. Okay. And and you understood your mother
5	lining around it that I recognized	5	to be telling you that Mr. Oldham had come to
6	immediately, and I know that there could be	6	the apartment in Springmoor after your
7	more than one and I also know it's a	7	
8		8	father's death and taken is was it a
	removable cover, so but then it just it		laptop and a desktop computer?
9	appeared to be really what I what I was	9	A. Yes. And, again, it was a it wasn't clear
10	looking for, really.	10	exactly how much had he had taken as my
11	Q. And after getting the storage devices, when	11	father was dying that he had that my
12	did you ask your mother if it was okay to	12	father had said to him, take this. I don't
13	take them?	13	think my mother really remembers exactly what
14	A. When I noticed them, it was in a survey and	14	was there before and shortly before and
15	I'd first come in and and I was a little	15	then shortly after his his death.
16	overwhelmed with emotion when I first walked	16	Q. Okay. Great. Thank you. Okay. So now I
17	into my father's room. Excuse me. So, you	17	have some questions just about what you did
18	know, I was sort of looking around. There	18	after getting the devices, okay?
19	was heirloom furniture all around the	19	A. Uh-huh.
20	apartment and other other things that	20	Q. Great. So after getting the devices from
21	belonged to my extended family, my, you know,	21	your parents' apartment in Springmoor, did
22	great-grandparents and such, so I I sort	22	you consistently hold on to them until you
23		23	
24	of took the whole thing in, had another sort	24	sent them to the plaintiffs' lawyers in
	of, you know, casual, brief conversation with		response to the subpoena?
25	my mother about how things had unfolded, and	25	A. Yes.
	25		27
1	it was later when I was back in there and I	1	O. Okay. You didn't give them to anyone else
1 2	it was later when I was back in there and I also said, this is I think he wanted me to	1	Q. Okay. You didn't give them to anyone else for any period of time in there?
	also said, this is I think he wanted me to		for any period of time in there?
2	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm	2	for any period of time in there? A. No.
2 3 4	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she	2 3 4	for any period of time in there? A. No. Q. Okay.
2 3 4 5	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she said, of course. And I said, I'm going to	2 3 4 5	for any period of time in there? A. No. Q. Okay. A. I'm sorry I laugh. It's just I was so
2 3 4 5 6	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she said, of course. And I said, I'm going to take these, too. I think that I'll find the	2 3 4 5 6	for any period of time in there?A. No.Q. Okay.A. I'm sorry I laugh. It's just I was so thrilled to have some of this precious data
2 3 4 5 6 7	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she said, of course. And I said, I'm going to take these, too. I think that I'll find the pictures and some of the things that I'm	2 3 4 5 6 7	for any period of time in there?A. No.Q. Okay.A. I'm sorry I laugh. It's just I was so thrilled to have some of this precious data of mine that I would not let anyone else near
2 3 4 5 6 7 8	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she said, of course. And I said, I'm going to take these, too. I think that I'll find the pictures and some of the things that I'm looking for on on these. Can I take	2 3 4 5 6 7 8	for any period of time in there?A. No.Q. Okay.A. I'm sorry I laugh. It's just I was so thrilled to have some of this precious data of mine that I would not let anyone else near them.
2 3 4 5 6 7 8 9	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she said, of course. And I said, I'm going to take these, too. I think that I'll find the pictures and some of the things that I'm looking for on on these. Can I take these? And she said, absolutely. She she	2 3 4 5 6 7 8 9	 for any period of time in there? A. No. Q. Okay. A. I'm sorry I laugh. It's just I was so thrilled to have some of this precious data of mine that I would not let anyone else near them. Q. Great. And did did you stay in Raleigh
2 3 4 5 6 7 8	also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she said, of course. And I said, I'm going to take these, too. I think that I'll find the pictures and some of the things that I'm looking for on on these. Can I take these? And she said, absolutely. She she said, I don't even know how to use them.	2 3 4 5 6 7 8 9 10	 for any period of time in there? A. No. Q. Okay. A. I'm sorry I laugh. It's just I was so thrilled to have some of this precious data of mine that I would not let anyone else near them. Q. Great. And did did you stay in Raleigh then or did did you eventually go back to
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2 3 4 5 6 7 8 9 10 11	 also said, this is I think he wanted me to have this jewelry box. And so I said, I'm going to take that. Is that okay? And she said, of course. And I said, I'm going to take these, too. I think that I'll find the pictures and some of the things that I'm looking for on on these. Can I take these? And she said, absolutely. She she said, I don't even know how to use them. Q. Okay. Do you know if anyone else other than 	2 3 4 5 6 7 8 9 10 11 12 13	 for any period of time in there? A. No. Q. Okay. A. I'm sorry I laugh. It's just I was so thrilled to have some of this precious data of mine that I would not let anyone else near them. Q. Great. And did did you stay in Raleigh then or did did you eventually go back to Kentucky? A. I stayed in Raleigh for a few days that time and then I went back to Kentucky.
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7 (Pages 25 to 28)

STEPHANIE HOFELLER

1	laptop with me that I use. I had found a	¹ storage devices to the plaintiffs' lawyers in
2	an appropriate cable in one one of my	² this case in response to the subpoena, did
3	father's drawers I found a whole box of	³ you change or manipulate any of the files on
4	cables and one of them was the proper adapter	⁴ the storage devices that related to your
5	for that for those external hard drives.	⁵ father's work?
6	Q. Okay. And and when you when you did	⁶ A. No, I did not.
7	connect some of the the storage devices to	7 Q. Okay. Am I right that at some point after
8	the computer to be able to look at the	⁸ getting the storage devices, you contacted
9	contents, did did you see any personal	⁹ someone at the organization Common Cause; is
10	information in there like photographs or	¹⁰ that right?
11	other personal information?	¹¹ A. Yes.
12	A. Yes. I found specifically really what I was	¹² Q. Okay. And do do you remember the specific
13	looking for, which were files of mine that I	 ¹³ person who you first contacted at Common
14	had essentially I backed them up onto my	¹⁴ Cause?
15	parents' computer when I was visiting them	¹⁵ A. I first reached out to Bob Phillips, the
16	last and, actually, many times before that as	
17		director, and it was in hopes that he hight
18	I felt that it was a really good way to	be able he and Common Cause might be able
	assure that they would be preserved because I	to give the a referrar to find an attorney for
19	knew that my father was not you know, I	¹⁹ my mother.
20	knew he had a tendency to to be, you know,	²⁰ Q. Okay. And in the course of those discussions
21	careful about those things those kinds of	²¹ with Mr. Phillips, did you did you discuss
22	things. And, yes, I found a great many	²² these storage devices?
23	photographs that I was looking for of my	A. Not in that conversation, no.
24	children and other documents that were	²⁴ Q. Okay. Did Mr. Phillips connect you to
25	related to my life, matters that concerned me	²⁵ someone else at Common Cause?
	29	31
	2.5	
1	and my children, and it was it was I	¹ A. Yes.
2	-	
	telt, well, I buried this freasure and that I	² O. Okay. And who was that?
3	felt, well, I buried this treasure and that I was getting to dig it up. I was really very	Q. Okdy: And who was that:
3 4	was getting to dig it up. I was really very	³ A. Jane Pinsky.
	was getting to dig it up. I was really very excited to see those pictures again,	 A. Jane Pinsky. Q. Did you then have discussions with
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 was getting to dig it up. I was really very excited to see those pictures again, pictures also some pictures of my of my great-grandparents and things like that that I had hoped that I would find copies of as well. Q. Got it. So so some of these photographs and other personal materials were things that you yourself had stored on your parents' computer years earlier when your father was still alive; is that correct? A. That's correct. Q. Okay. And and you you saw some of those materials on these storage devices? A. Yes. Q. Okay. Other than personal files like photographs, letters, et cetera, did you see data or files on the storage devices re that related to your father's work creating maps? A. Yes, I did. Q. Okay. And I think I asked this before, but 	 A. Jane Pinsky. Q. Did you then have discussions with Ms. Pinsky? A. Yes, I did. Q. Okay. And in the course of those discussions with Ms. Pinsky did you mention the storage devices that we've been discussing? A. Yes, I did. Q. Okay. And did did you offer to to provide the devices to Ms. Pinsky and Common Cause? A. You know, when I first brought it up it was really just kind of an anecdotal reference to a interview with David Daley that I had recently read. At the end of this interview his last statement, and it was really the the gist of it was about the fact that the rejected districts had been sent for redraw back to my father and now he was deceased and the comment that David Daley made was, I wonder I I think that somewhere out there on a hard drive there's a gift for the
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8 (Pages 29 to 32)

1	Q. I see. And and am I right, Mr. Daley is a	¹ it because we were discussing whether
2	journalist, an author who covers	² there was new evidence or no new evidence,
3	redistricting issues?	³ errors of law only. So she mentioned that
4	A. Yes. He	⁴ the case of the state legislative districts
5	Q. Okay.	⁵ would be accepting new evidence and I said,
6	A. He sort of brought it to a little bit more	⁶ well, I think this might be pertinent. And I
7	mainstream attention by, I don't know, making	⁷ didn't know if it was I said even at
8	it a little more personal, personable maybe	⁸ that time I said that I was skeptical that
9	even.	⁹ there was anything here that was not already
10	Q. Got it. And and the article that you had	¹⁰ disclosed after all of those. I recall
11	read by Mr. Daley was one that was discussing	¹¹ personally discovery and discovery and
12	the the redraw of North Carolina's	¹² discovery and discovery and a lot of
13	legislative districts?	¹³ grumbling because everyone always grumbles
14	A. Specifically, yes. Yes. That was the first	 ¹⁴ about discovery in civil litigation. That's
15	time I did not even know that I was	¹⁵ my experience.
16	aware of Mr. Daley's book about Operation Red	¹⁶ Q. So when you say that this is pertinent, you
17	Map, but I was not aware that he was actually	¹⁷ mean you believed that the storage devices
18	from North Carolina and would have such a	
19		that you had gotten from your parents
20	specific interest in this for that reason.	apartment in springhoor had mes or evidence
21	Q. Got it. So so in these discussions with	that were pertinent of relevant to to this
22	Ms. Pinsky, having read Mr. Daley's article,	nuguton.
23	am I right that you you expressed to	<i>T</i> . Wen, in that they they were clearly about
23	Ms. Pinsky that you wanted to provide the	redistricting and they were clearly labeled,
	storage devices to her and to Common Cause?	Norui Carolilla.
25	A. Well, I I sim	²⁵ Q. Excellent. After speaking to Ms. Pinsky
	33	35
1	THE WITNESS: Pardon?	¹ about the devices, did she put you in touch
2	MR. SPARKS: I just want you to let him	² then with the plaintiffs' lawyers in this
3	finish.	³ case?
4	A. Oh, I'm sorry.	⁴ A. Yes. And I wanted to clarify. This the
5	Q. Yeah. Go ahead.	⁵ conversation about these hard drives did not
6	A. I I I simply quipped that, I have I	⁶ come up in the first of my conversations with
7	have some hard drives. And we continued the	⁷ Ms. Pinsky. That was a development later on
8	discussion about that. At that time I was	⁸ when we were discussing how I was very
9	not aware that there was that one of the	⁹ frustrated about what was what was going
10	matters was not an appeal. I I was under	¹⁰ on and with with my mother and I
11	the impression that all of the matters	¹¹ commented that's that's
12	pending were appeals, therefore, no new	¹² right. I commented on the progress that
13	evidence. I when I first mentioned these	¹³ Common Cause had made with their assertions
14	things, it was really from a journalistic	¹⁴ about the relative fairness of partisan
15	point of view and more anecdotal. I did not	¹⁵ redistricting and also the underlying issues
16	presume that they had any value as	¹⁶ that that sometimes are disguised, in my
17	evidence	¹⁷ opinion, as simply partisan. And I sort of
18	Q. I see. And	¹⁸ made that comment. I said, this is this
19	A per se.	¹⁹ is the furthest I've ever seen a plaintiff
20	Q did Ms. Pinsky explain to you that there	²⁰ get with anything that my father drew, and I
21	is, in fact, a lawsuit relating to North	²¹ will say I also said, and the way I knew my
22	Carolina's legislative districts that that	²² father a decade ago, he would have looked at
23	is not on appeal yet, that is still in the	 those maps and and laughed.
24	trial phase?	²⁴ Q. So am I understanding correctly that when you
25	A. She did explain. I think the way she put	 ²⁵ originally contacted Bob Phillips at Common
1	34	36

9 (Pages 33 to 36)

STEPHANIE HOFELLER

May 17, 2019

[
1	Cause and then in your initial discussions	¹ A. Yes.
2	with Jane Pinsky, you were not contacting	² Q. Okay. Then in February of of 2019 did you
3	them principally about these storage devices?	³ receive the subpoena from plaintiffs and
4	A. No, I was not.	⁴ that's when you sent the storage devices?
5	Q. Okay. Okay. Did you say you were you	⁵ A. Yes.
6	were contacting them in hopes that Common	⁶ Q. Okay. Did you tell anyone that you object to
7	Cause would be able to help refer you to a	⁷ the subpoena or that you object to providing
8	lawyer in connection with your with your	⁸ a response to the subpoena?
9	mother's situation?	⁹ A. No.
10	A. Yes.	¹⁰ Q. Okay. Did you, in fact, have any objection
11	MR. SPARKS: Objection.	¹¹ or problem with the subpoena or with
12	MS. SCULLY: Objection to form,	¹² providing a response to the subpoena?
13	mischaracterizes the witness's testimony.	¹³ A. No, I didn't.
14	A. I I know enough about litigation and	¹⁴ Q. Okay. Did anyone else tell you that they
15	attorneys because I'm a Hofeller. I knew	¹⁵ object to the subpoena?
16	that bias would come into play whether or not	16 A. No.
17	it was admitted. My father was often	¹⁷ Q. Did anyone else tell you that they had any
18	concerned that he would be discriminated	 ¹⁸ objection or problem with you providing a
19	against for his political position and took	¹⁹ response to the subpoena?
20	care to know the allegiance of someone he	²⁰ A. No.
21	-	
22	chose to represent him. I was not familiar with this town. I did not know I knew	 Q. Did you did you ever speak to your mother about the subpoena?
23		
24	that many of the parties that were	74. 105, 1 did.
	involved in the litigation surrounding my	Q. Okuy. And ald you ten her that you were
25	mother. I knew they had significant	²⁵ going to respond to the subpoena?
	37	39
1	allegiances here and I felt that the only	¹ A. Yes. And because there were files that
2	party in Raleigh that would both believe me	² belonged to her, I asked for her permission
3	that politics was an element and would know	³ also. I said she said that she had no
4	who might be actually independent counsel for	⁴ problem with that. She also felt, as I did,
5	my mother	⁵ that the process would most likely be
6	Q. Okay. And am I right that the the lawyer	⁶ centered around provably pertinent files
7	you were seeking for your mother was in	⁷ anyway, but that I I reassured her I
8	connection with the incompetency proceeding?	⁸ assured her, I should say, that she should be
9	A. Correct.	⁹ aware that once you and, again, this is
10	Q. Okay. Let's go go back. After you	¹⁰ something my father taught me. Once you let
11	discussed the storage devices with Ms. Pinsky	¹¹ go of it, you don't have control of it
12	at Common Cause, am I right that Ms. Pinsky	¹² anymore so you can't be guaranteed what will
13	then connected you directly with the	¹³ and won't be disclosed, so it's something you
14	plaintiffs' lawyers in this case?	¹⁴ should be prepared for when you are involved
15	A. That's correct.	¹⁵ with discovery.
16	Q. Okay. And is that Mr. Speas and Ms. Mackie?	¹⁶ Q. Okay. And in the course of that discussion
17	A. Yes.	¹⁷ with your mother, did you understand that
18	Q. Okay. Great. And did you did you have	¹⁸ your mother was giving you permission or her
19	conversations with them then?	¹⁹ okay to
20	A. Yes.	²⁰ A. Yes.
21	Q. Okay. And in the course of those	Q to let me let me finish the
22	conversations did you did you express that	²² question.
23	you wanted to provide the storage devices	²³ A. I'm sorry.
24	that you had gotten from the apartment in	²⁴ Q. That's okay. I'll just I'm just going to
25	Springmoor to them?	²⁵ ask it again, okay?
	38	40

10 (Pages 37 to 40)

STEPHANIE HOFELLER

		1
1	A. (Nods head).	¹ viewpoint to me seemed irrelevant to the
2	Q. So in the course of that discussion with your	² function of census data turning into voting
3	mother about the subpoena, did you understand	³ districts, and I really thought of it in
4	that she was giving you her permission or her	⁴ in those terms. I really I knew that if I
5	okay to provide the storage devices that	⁵ presented them this way that they would be
6	we've discussed to the plaintiffs' lawyers in	⁶ preserved, that they their integrity would
7	response to the subpoena?	⁷ be preserved and everything there, including
8	A. Yes.	⁸ my files, including other matters completely
9	Q. Okay. Thank you. Okay. I just have a a	⁹ unrelated to this, that those that that
10	few other questions and I I did want to	¹⁰ would be a snapshot in time.
11	ask you just a couple of questions about your	¹¹ Q. Was was there any financial benefit to you
12	relationship with each of your parents. And	¹² personally from providing these files to the
13	I and I don't intend to pry, but but	¹³ plaintiffs' lawyers? Did you did you make
14	I'll just ask a couple of basic questions if	¹⁴ any profit here?
15	that's okay.	¹⁵ A. No.
16	A. That is okay, yes.	¹⁶ Q. Okay.
17	Q. Okay. Would would you say that you had a	¹⁷ MR. JONES: Can we go off the record,
18	positive relationship with your father in	¹⁸ take a five-minute break?
19	recent years?	¹⁹ THE WITNESS: Sounds great.
20	A. Not in recent years, no.	²⁰ THE VIDEOGRAPHER: Going off the
21	Q. Okay. When was the last time you spoke to	²¹ record. The time is 10:24 a.m.
22	your father before his death last year?	²² (Whereupon, there was a recess in the
23	A. July of 2014.	²³ proceedings from 10:24 a.m. to 10:46 a.m.)
24	Q. Okay. Would you say that you have a positive	²⁴ THE VIDEOGRAPHER: Going back on the
25	relationship, a functional relationship, with	²⁵ record. The time is 10:46 a.m.
	41	43
1	your mother?	¹ MR. JONES: Thank you. Ms. Hofeller, I
2	A. Yes.	² have no more questions for you today. Thank
3	Q. Okay. Do you know whether an official estate	³ you for your time.
4	was opened for your father after his death?	4 THE WITNESS: My pleasure.
5	A. No. That has been a confused issue.	⁵ EXAMINATION
6	Q. Okay. So when you say no, you	⁶ BY MS. SCULLY:
7	A. I	⁷ Q. Ms. Hofeller, Elizabeth Scully. We met
8	Q the answer is, no, you don't know?	⁸ earlier this morning. I represent the
9	A. Exactly.	⁹ legislative defendants in this case and I do
10	Q. Okay. That's fine. Did you send these	¹⁰ have some follow-up questions that I would
11	storage devices to the plaintiffs' lawyers in	¹¹ like to ask of you today.
12	this case to to get back at your father or	¹² First, if I could turn your attention to
13	to spite your father for personal reasons?	¹³ the document that was marked as Exhibit 2
14	A. Not at all.	¹⁴ that you went through with counsel for the
15	Q. Okay. Could you just tell me briefly in your	¹⁵ plaintiffs earlier. Looking at at the
16	words, why did you want to provide these	¹⁶ at the first page where there's a photograph
17	devices to the plaintiffs' lawyers in this	17 of a of a box and then appears to be
18	case?	18 handwriting for addressed to Arnold &
19	A. When I was expressing my skepticism that	¹⁹ Porter.
20	there would be anything in the way of	²⁰ Do you see that there?
21	evidence, I stated that I felt that these	²¹ A. I see the handwriting behind the box.
22	files would if certainly be of historical	²² Q. Uh-huh.
23	value, that they would give insight into the	²³ A. Yes.
24	process, not any value judgment on that	Q. Is that your handwriting?
25	process. I did not have my political	²⁵ A. No.
	42	44

11 (Pages 41 to 44)

1	Q. No. Do you know whose handwriting that is?	1	Q. Did you review all of the drives that you
2	A. No.	2	sent to Arnold & Porter during the same day?
3	Q. Did you personally prepare the box, label it,	3	A. Yes. Yes. Maybe perhaps I had to take a
4	put the contents in the box and send it to	4	break overnight, but it was I I made
5	Arnold & Porter?	5	sure that I was not including anything that
6	A. I put the contents in the box, I sealed the	6	was mine that wasn't, you know, related to
7	box, and at the FedEx office the label was	7	this at all, that I hadn't mistakenly mixed
8	printed out and put on it in front of me.	8	anything in, that these were all just the
9	Q. Okay. Did you send the materials directly to	9	files and things that had come from my
10	Arnold & Porter or to a vendor before you	10	father's apartment. So that that's about
11	sent them to Arnold & Porter?	11	the extent of it.
12	A. I sent them directly to Arnold Porter.	12	Q. So if I understand you, if you found
13	Q. Did you ever send the materials to a a	13	materials on the in any of these thumb
14	vendor?	14	drives or drives that you thought were yours
15	A. No.	15	or your personal information, you removed
16	Q. Turning to the it's marked Number 4 in	16	that information before you sent it to
17	Exhibit Number 2.	17	Arnold & Porter?
18	A. Okay.	18	A. No.
19	Q. You have that in front of you?	19	MR. JONES: Objection. That
20	A. I do.	20	mischar
21	Q. And it appears on Page Number 4 of Exhibit	21	THE WITNESS: Oh, I'm sorry.
22	Number 2 is a picture of a thumb drive. Do	22	MR. JONES: mischaracterizes the
23	you see that?	23	testimony.
24	A. I do.	2.4	MS. SCULLY: I I believe
25	Q. And on that thumb drive there are some	25	MR. FARR: He asked she asked the
	Q. And on that thumb drive there are some		WIK. FARK. The asked she asked the
	45		47
1	drawing a handwritten drawing on that	1	question so she can answer it.
2	thumb drive. Do you recall what material was	2	MR. SPEAS: Tom, how many people are
3	contained in this thumb drive?	3	representing your side in this deposition?
4	A. Are are you please clarify the the	4	MR. FARR: Three.
5	handwriting being the A as opposed to the	5	BY MS. SCULLY:
6	label on the drive, which is etched into the	6	Q. I believe you testified earlier that when you
7	metal, I believe.	7	looked through the materials you took from
8	Q. Well, let me let me back up and ask you	8	your father's room that you did find
9	this: Do you know on this document on the	9	information on those electronic files that
10	fourth page there appears to be two	10	were personal to you, correct?
11	photographs. Both appear to reflect a thumb	11	A. That is correct.
12	drive. Do you know if these are two	12	Q. Did you produce that personal information
13	different thumb drives or one thumb drive?	13	when you sent the electronic materials to
14	A. I believe that is the two opposite sides of	14	Arnold & Porter?
15	the same thumb drive.	15	A. Yes, I did.
16	Q. Do you know that for a fact or is that	16	Q. A moment ago when you said you looked through
17	just you're making an assumption?	17	the electronic files before you produced them
18	A. I am making an assumption.	18	to Arnold & Porter to make sure that nothing
19	Q. Do you know if you in if you ever reviewed	19	that related only to you or that wasn't
20	the information that was on this thumb drive	20	relevant you wanted to make sure that
21	that appears on Page 4 of Exhibit Number 2	21	wasn't being produced, what did you mean by
22	that you sent to Arnold & Porter?	22	that?
23	A. I know that I reviewed all of the drives that	23	A. That wasn't what I said. What I said is I
24	I sent to to Arnold Porter. I do not	24	checked them to make sure that they were my
25	recall what was on which storage device.	25	father's, that I hadn't mistakenly grabbed
	_		
	46		48

12 (Pages 45 to 48)

1	something from my own room, a storage device	¹ take them, it was maybe I mentioned that I
2	that I would keep, use with my phone, with my	² was excited about the possibility that there
3	laptop, completely unrelated to this, never	³ would be pictures of my children, but she
4	having been touched by my father. That's	⁴ said, they're yours. Take them. I don't
5	what I meant.	⁵ have any use for them.
6	Q. Okay. Thank you for that clarification. How	⁶ Q. And when you had that initial conversation
7	many hours did it take you to go through and	⁷ with your mother, you had no discussions with
8	review the entire contents of the materials	⁸ her and expressed no interest in looking
9	that you provided to Arnold & Porter?	⁹ through to find any of your father's business
10	A. And please I would like to clarify that I	¹⁰ records or materials he may have created in
11	did not open every file. I merely observed	¹¹ connection with his work as as an expert
12	that this was the media that I thought it was	¹² in other litigations, correct?
13	when I arrived at my home. So it was, oh,	¹³ A. Correct. As a matter of fact, I went to the
14	two, three hours, I think, making sure. Some	¹⁴ point of making sure that I asked my mother
15	of them, you know, I they didn't light up	¹⁵ that all of his specifically work-related
16	at first. I had to put them in the other USB	¹⁶ material had already been collected. I
17	drive, reseat the connectors. Some some	¹⁷ didn't wish to assert myself in in
18	of them took some of them were slower than	¹⁸ in into the business intentionally.
19	others to open, but I would say that I had	¹⁹ Q. At some point you say when you were well,
20	made sure that done that last check before	²⁰ when you first took the the files, did
21	putting it in the mail that I knew what I was	²¹ you you didn't know what was on these
22	sending and that it was all what I was	²² files when you first took them, correct?
23	asserting it was, and I think that process	²³ A. Some of them I didn't. The backups that I
24	took, yeah, maybe about two or three hours.	²⁴ recognized from my parents' home PC back in
25	Q. Do you know how many files you opened during	²⁵ Alexandria I was at least vaguely familiar
	49	51
1	those two to three hours?	1 with what had been on my parents' home PC
1	those two to three hours?	¹ with what had been on my parents' home PC ² when I was there, so those were pretty much
2	A. During those two to three hours I didn't open	 what had been on my parents none i C when I was there, so those were pretty much
	A. During those two to three hours I didn't open any of the files. I merely looked in the	 what had been on my patents none re when I was there, so those were pretty much as I expected them. And then I my thought
2 3	A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it	 what had been on my patents none received with what had been on my patents none received a when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything
2 3 4	A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father	 what had been on my patents none re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was.
2 3 4 5	A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of	 what had been on my patents none re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home.
2 3 4 5	A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in	 what had been on my patents none re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know
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2 3 4 5 6 7 8 9 10 11 12 13 14	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files 	 what had been on my patents none re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files because you wanted to look through the files 	 what had been on my patents none i C when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal. Q. Do you have any documents that reflect when
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files because you wanted to look through the files to find personal things related to you, 	 what had been on my patents none re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal. Q. Do you have any documents that reflect when you were in North Carolina? A. Documents. I don't think so, no. Q. Did you go to any restaurants, make any
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files because you wanted to look through the files to find personal things related to you, photographs that may be on the files, correct? A. That's correct. Q. And with that understanding your mother gave 	 what had been on my patents notice i C when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal. Q. Do you have any documents that reflect when you were in North Carolina? A. Documents. I don't think so, no. Q. Did you go to any restaurants, make any credit card charges, purchase gasoline near your mother's apartment, any type of document
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files because you wanted to look through the files to find personal things related to you, photographs that may be on the files, correct? A. That's correct. Q. And with that understanding your mother gave you permission to take the files, correct? 	 what had been on my patents notice re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal. Q. Do you have any documents that reflect when you were in North Carolina? A. Documents. I don't think so, no. Q. Did you go to any restaurants, make any credit card charges, purchase gasoline near your mother's apartment, any type of document that would indicate the time period when you
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files because you wanted to look through the files to find personal things related to you, photographs that may be on the files, correct? A. That's correct. Q. And with that understanding your mother gave 	 what had been of my patents notice re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal. Q. Do you have any documents that reflect when you were in North Carolina? A. Documents. I don't think so, no. Q. Did you go to any restaurants, make any credit card charges, purchase gasoline near your mother's apartment, any type of document that would indicate the time period when you were visiting with your mother?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files because you wanted to look through the files to find personal things related to you, photographs that may be on the files, correct? A. That's correct. Q. And with that understanding your mother gave you permission to take the files, correct? A. I did not feel that my mother's permission for me to have these was conditional on 	 what had been of my patents notice re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal. Q. Do you have any documents that reflect when you were in North Carolina? A. Documents. I don't think so, no. Q. Did you go to any restaurants, make any credit card charges, purchase gasoline near your mother's apartment, any type of document that would indicate the time period when you were visiting with your mother? A. I believe that receipts would reflect that I
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. During those two to three hours I didn't open any of the files. I merely looked in the basic root folders on each to confirm what it was and that it had belonged to my father really was the point. The files on all of these that were mine specifically as in photographs I took, letters I wrote, those I had looked at early on. My interest in these drives initially was only for those. I ignored everything else for a period of time. Q. When you took these files from your father's room and spoke to your mother about it, you in that conversation with your mother you told her you were taking the files because you wanted to look through the files to find personal things related to you, photographs that may be on the files, correct? A. That's correct. Q. And with that understanding your mother gave you permission to take the files, correct? 	 what had been on my patents notice re- when I was there, so those were pretty much as I expected them. And then I my thought was that I would at least look at everything and see what it was. Q. Now, you said you went to your mother's home. It was sometime in October 2018. Do you know specifically when you were went to your mother's home and took these files? A. October 11th. Q. And how do you know it was October 11th? A. I have had to recount the details of my arrival at my mother's house several times over the past few months, so it's become pretty pretty normal. Q. Do you have any documents that reflect when you were in North Carolina? A. Documents. I don't think so, no. Q. Did you go to any restaurants, make any credit card charges, purchase gasoline near your mother's apartment, any type of document that would indicate the time period when you were visiting with your mother? A. I believe that receipts would reflect that I

13 (Pages 49 to 52)

STEPHANIE HOFELLER

1	2?	1	parents' personal computer, which would
2	A. Not specifically that one, no. None of them	2	contain the files that I was looking for of
3	specifically. They all seem to have sort of	3	mine.
4	a a mix a mixture of of different	4	Q. In the subpoena that you received from
5	kinds of data on different matters. All of	5	Arnold & Porter there was a specific request
6	them were mingle mingled.	6	looking for materials relating to the 2011 or
7	Q. Turning to Page 9, do you know what that is a	7	the 2017 North Carolina redistricting. You
8	picture of?	8	understood that, correct?
9	A. Once again, it appears to be a picture of	9	A. Yes, I yes.
10	of one of the external drives.	10	Q. Did you undertake any efforts to limit the
11	Q. I take it similar to the drive that we saw in	11	materials that you were turning over to
12	the picture immediately before that you have	12	Arnold & Porter in response to the subpoena
13	no specific recollection of what material is	13	to only documents that related to the 2011 or
14	contained on this drive, correct?	14	2017 North Carolina redistricting?
15	A. That's correct.	15	MR. JONES: I'll I'll I'll
16	Q. Is it fair to say that you do not have any	16	object. I think it mischaracterizes the
17	specific recollection of what information is	17	scope of the face of the subpoena.
18	contained on any of the hard drives or the	18	MR. SPARKS: Go ahead and answer.
19	thumb drives that are photographed that	19	A. The request was for any and all materials
20	appear in Exhibit 2?	20	that might, so I since there appeared to
21	A. Well, it's very similar with all of them was	21	be relevant relevant data, I I think I
22	my impression. So it was it would be very	22	already answered this question. I think the
23	difficult to say what was on which. I mean,	23	idea was that it was going to be preserved
24	I don't know offhand like there were	24	and that I would not be deciding which files
25	two for example, there were two drives	25	would go and which files wouldn't.
			would go and which mes wouldn't
	77		79
1		1	
1	that were identical in appearance, but they	1	Q. I take it from your answer that you did not
2	seemed to be backups of the same hard drive	2	review each hard drive and each thumb drive
2 3	seemed to be backups of the same hard drive but at different times. So that would be	2 3	review each hard drive and each thumb drive to confirm that each hard drive and each
2 3 4	seemed to be backups of the same hard drive but at different times. So that would be very hard for me to say which was the 2011	2 3 4	review each hard drive and each thumb drive to confirm that each hard drive and each thumb drive, in fact, had any information
2 3 4 5	seemed to be backups of the same hard drive but at different times. So that would be very hard for me to say which was the 2011 set and which was the 2013 set, for example.	2 3 4 5	review each hard drive and each thumb drive to confirm that each hard drive and each thumb drive, in fact, had any information with respect to the 2011 or 2017 North
2 3 4 5 6	seemed to be backups of the same hard drive but at different times. So that would be very hard for me to say which was the 2011 set and which was the 2013 set, for example.Q. You testified earlier when under your	2 3 4 5 6	review each hard drive and each thumb drive to confirm that each hard drive and each thumb drive, in fact, had any information with respect to the 2011 or 2017 North Carolina redistricting; instead, you just
2 3 4 5 6 7	seemed to be backups of the same hard drive but at different times. So that would be very hard for me to say which was the 2011 set and which was the 2013 set, for example.Q. You testified earlier when under your examination with plaintiffs' counsel that you	2 3 4 5 6 7	review each hard drive and each thumb drive to confirm that each hard drive and each thumb drive, in fact, had any information with respect to the 2011 or 2017 North Carolina redistricting; instead, you just turned it over in its entirety
2 3 4 5 6 7 8	seemed to be backups of the same hard drive but at different times. So that would be very hard for me to say which was the 2011 set and which was the 2013 set, for example.Q. You testified earlier when under your examination with plaintiffs' counsel that you recognized one of the hard drives because of	2 3 4 5 6 7 8	review each hard drive and each thumb drive to confirm that each hard drive and each thumb drive, in fact, had any information with respect to the 2011 or 2017 North Carolina redistricting; instead, you just turned it over in its entirety A. I was answering the subpoena
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20 (Pages 77 to 80)

		1
1	father, documents that I might have otherwise	¹ before you gave them to Arnold & Porter.
2	possession of if it weren't for first a house	² A. That would be difficult. Do you mean you
3	fire that destroyed everything I owned in	³ know, I for example, I printed out copies
4	2013 and also a divorce in which everything	⁴ of pictures of me and my children. Do you
5	else that I had pretty much was, you know,	⁵ consider me putting those on my wall time
6	left in the hands of of someone I didn't	 ⁶ reviewing the materials?
7	really feel like communicating with.	7 Q. No. Time spent looking through the
8	Q. You didn't consider the records relating to	 electronic files on a computer.
9	·	-
10	your father's work redistricting work to	A. That would be very difficult to determine. T
11	be your data, correct?	inean, i don't know. How inden time do you
12	A. The hard drives were given to me by my by	spend looking at pictures of your cilitaten?
	my mother, so I would say that I considered	Q. 1 utting aside the amount wen
13	everything on those hard drives that my	¹³ A. I didn't spend a lot of time looking at my
14	father had left in his room that my mother	¹⁴ father's work files if that's what you're
15	gave to me unconditionally I considered	¹⁵ driving at. No, I didn't.
16	all of it mine at that point when it was	¹⁶ Q. So let's focus on that point. Putting aside
17	given to me by my deceased father's wife.	¹⁷ the time you spent looking through files that
18	Q. Even if the material related to your father's	¹⁸ related to you or photographs related to you
19	business with another business partner, you	¹⁹ or issues that were personal to you, putting
20	considered it your material, your	²⁰ all of those personal materials aside, how
21	A. I considered the stor	²¹ much time would you estimate you spent
22	MR. JONES: Ob objection. It's	²² reviewing files that related to your father,
23	been asked and answered.	²³ his redistricting work, his business records,
24	MR. SPARKS: Go ahead and answer.	²⁴ any expert documents he may have created,
25	A. I considered everything that my mother gave	²⁵ those materials?
	81	83
1	me that had previously belonged to my father	¹ A. Well, it's also hard because there were
2	who was now dead mine, yes.	² certain situations in some of those backups
3	Q. Did your father have a will?	³ where there were folders that contained a
4	A. Yes.	⁴ multitude of mixed documents. In certain
5	Q. Do you know if in the will there was any	⁵ cases I would open something thinking that it
6	provision with respect to his personal	⁶ was one thing and find that it was something
7	property and who the personal property would	⁷ different. So there were there were both
8	be left to?	⁸ situations where for example, news
9	A. My understanding, not being an estate	⁹ articles that he had in a folder of I
10	attorney, is my mother was the beneficiary.	¹⁰ believe there were a lot of of news
11	Q. Have you seen a copy of the will?	¹¹ articles that I actually read through that he
12	A. Yes.	¹² had saved, maybe articles even that mentioned
13	Q. Did you did your father make any direct	¹³ him specifically and, of course, I was
14	gifts to you in the will?	¹⁴ interested in preserving that. Of course, I
15	A. I don't believe he did, no.	¹⁵ wanted, you know, a scrapbook of my father
16	Q. Did your father in the will address anything	¹⁶ and so also, there were just looking at
17	related to his his business records,	¹⁷ the file extensions and having a basic
18	business files?	¹⁸ familiarity with my father's work, I knew a
19	A. I don't recall.	¹⁹ lot of them would be file extensions that I
20	Q. Prior to turning over the electronic files to	²⁰ wouldn't even be able to open considering
21	Arnold & Porter you said you spent two to	that I didn't have the right proprietary
22	three hours immediately before turning them	²² software. So wow. I really it would
23	over to Arnold & Porter. I would like to	²³ be very difficult for me to give an estimate.
24	understand how much time in total you spent	²⁴ I don't really understand. Maybe I mean,
25	reviewing the materials at any point in time	²⁵ not not to be snide, but what what

21 (Pages 81 to 84)

		1	
1	Q. You have had more than one text communication	1	recollection what you said and what Mr. Speas
2	with Mr. Speas, correct?	2	said on that first telephone call.
3	A. I think there were may I think there were	3	A. I said that I had I said that I had
4	two, one in advance of of of two phone	4	material that might be relevant to the case.
5	calls, two, you know, are you going to be	5	Q. Did you explain in any further detail what
6	available at such and such a time sort of	6	material you had?
7	thing.	7	A. Vague detail, external storage devices
8	Q. After you communicated in response to	8	that I don't know whether or not I
9	Mr. Speas's first text where you said, yes,	9	mentioned I I don't think I
10	willing to talk to you, when was the next	10	specifically said backups. I just said
11	time you spoke with Mr. Speas?	11	external storage devices.
12	A. I think that that was about a week or so. It	12	Q. What do you recall Mr. Speas saying in
13	was you know, it was starting to get close	13	response to that?
14	to the holidays so, you know, there was time	14	A. I believe that he did even in that first
15	between communiques. If if, you know,	15	phone call want to clarify that these were
16	research needed to be done or references	16	that that these had been given to me.
17	or or questions asked, it everything	17	Q. What specifically did Mr. Speas ask you about
18	was starting to take a lot longer because it	18	the hard drives?
19		19	
20	was the holiday season.	20	A. The I think if they'd been given to me.
21	Q. The next time you spoke with Mr. Speas, was	21	Q. And so your recollection is Mr. Speas said,
22	that a telephone communication?	22	have these been given to you?
	A. Yes.		A. I don't know what his exact words were. The
23	Q. Did you initiate the call?	23	gist of it was, are they yours, and I said
24	A. I don't know. I really don't remember. It	24	that they had, indeed, been given to me.
25	was we the idea being follow-up	25	Q. Did you tell him the circumstances under
	109		111
1			
		1 1	1.1 1 1 1 . 1 . 1 . 0
	questions need to be asked on our end and	1	which you had obtained them?
2	and it the the discussion continued as	2	A. More or less, that along with things that
2 3	and it the the discussion continued as to whether or not there was I don't know.	2 3	A. More or less, that along with things that literally belonged to me and things that I
2 3 4	and it the the discussion continued as to whether or not there was I don't know. I think I I don't know how to to	2 3 4	 A. More or less, that along with things that literally belonged to me and things that I took to mean from my father that he wanted me
2 3 4 5	and it the the discussion continued as to whether or not there was I don't know. I think I I don't know how to to explain it any differently than I've already	2 3 4 5	A. More or less, that along with things that literally belonged to me and things that I took to mean from my father that he wanted me to have, I had I had asked for these, you
2 3 4 5 6	and it the the discussion continued as to whether or not there was I don't know. I think I I don't know how to to explain it any differently than I've already explained it, frankly.	2 3 4 5 6	A. More or less, that along with things that literally belonged to me and things that I took to mean from my father that he wanted me to have, I had I had asked for these, you know, and as I said, I asked my mother if I
2 3 4 5 6 7	and it the the discussion continued asto whether or not there was I don't know.I think I I don't know how to toexplain it any differently than I've alreadyexplained it, frankly.Q. On the first telephone call that you had with	2 3 4 5 6 7	A. More or less, that along with things that literally belonged to me and things that I took to mean from my father that he wanted me to have, I had I had asked for these, you know, and as I said, I asked my mother if I could take my jewelry box, too, even though,
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 and it the the discussion continued as to whether or not there was I don't know. I think I I don't know how to to explain it any differently than I've already explained it, frankly. Q. On the first telephone call that you had with Mr. Speas, was there anyone else on the call as far as you know? A. No. Q. So just you and Mr. Speas on the first telephone call? A. That's how I remember it. Q. And that's all I can ask you for is the best of your recollection A. Yeah. Q today. Approximately how long did the first telephone call between you and Mr. Speas last? A. Maybe ten minutes, again, just there was not a lot of detail Q. Tell me A discussed. It was really more just a 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. More or less, that along with things that literally belonged to me and things that I took to mean from my father that he wanted me to have, I had I had asked for these, you know, and as I said, I asked my mother if I could take my jewelry box, too, even though, of course, the answer would have been yes and many many would say that if it was something that I left with my father of mine specifically with the intent that he would hold it for me, that when I came to his apartment after his death, that anything that had belonged to me up till the point of his death was already mine, but I still went to the extra effort to make sure because, you know, I I didn't want to I didn't what to give anyone the impression that I was there to to pick over the corpse. Q. Just to clarify, your your father never told you he wanted you to have his external hard drives or these thumb drives, correct? A. He said that he wanted that he would keep

28 (Pages 109 to 112)

EXHIBIT B

STATE OF NORTH CAROLINA COUNTY OF WAKE IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION FILE NO.: 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

v.

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

Defendants.

EXPERT REPORT OF THOMAS BRUNELL, Ph.D.

Pursuant to the North Carolina Rules of Civil Procedure and the Case Management Orders of the Court in the above-captioned matter, I, Thomas Brunell, provide the following written report:

I am a Professor of Political Science at the University of Texas at Dallas. I received a Ph.D. in political science from the University of California, Irvine in 1997. I have published a book and dozens of refereed journal articles on redistricting, elections, and representation. My research has been published in, among other outlets, the *American Political Science Review*, the *Journal of Politics, Electoral Studies, Election Law Journal,* and *Legislative Studies Quarterly*. A copy of my curriculum vitae, which lists my publications in the last ten years, is attached.

Over the past seven years, I have provided testimony in the following cases: *Dickson v. Rucho* (NC), *Guy v. Miller* (NV), *Egolf v. Duran* (NM), *Backus*

is a far cry from maximizing compactness. Thus, the goals in the simulated maps and the enacted maps are not aligned and this presents problems for making comparisons.

The same caveat applies to Prof. Chen's treatment of splitting voting tabulation districts (VTDs). His computer program tried to minimize these while the legislature was instructed to "make reasonable efforts to draw legislative districts in the 2017 House and Senate plans that split fewer precincts than the current legislative redistricting plans" (Ex 37). By instructing the computer to split the minimum number of VTDs this may have affected the overall results of Prof. Chen's comparison maps.

Prof. Chen argues that his method allows him to draw conclusions about the intent of the map-makers. More specifically he believes that his outlier analysis is able to prove that "an overriding partisan intent" rather than "follow[ing] non-partisan districting criteria" (page 10) underlies the motivations of the person or persons who drew the boundaries. Divining the intent of the map-maker is extraordinarily difficult because the process of redistricting is complex. There are a multitude of competing demands at work when lines are being drawn – districts have to be nearly equally populated; districts need to be compact and contiguous; incumbents' districts can be preserved; city and county splits need to be minimized; North Carolina's county grouping rules must be complied with, and so on. Beyond these requirements there can be various other factors that affect where the boundaries are placed. Incumbents regularly make requests with regard to their district including preserving their core constituency and more. For instance,

legislators may ask that their parents' house, or children's house be included in their district. Or they might ask that a specific business, or park, or landmark be drawn inside their district. Changes in one district can require adjustments to nearby districts if the initial changes affect the population totals. The complex process of redistricting makes drawing conclusions about the intent of the map-maker through statistical analyses incredibly difficult.

North Carolina's redistricting process is one of the most constrained in the nation due to the county groupings requirements. This additional requirement significantly restricts the universe of possible districts. Further, the county groupings rules appear to advantage the Republican Party because the vast majority of Democratic voters in the state reside in the most heavily populated counties, while Republicans are advantaged in rural counties. Table 1 contains the Democratic margin of victory in the 2016 presidential election for the seven most populated counties in North Carolina. Hillary Clinton's margin of victory ranges from 10.37 percent to 59.5 percent in these counties. If the county groupings rules did not exist, more Democratic leaning districts could be drawn by using Democratic population in heavily populated districts mixed in with more rural areas in contiguous districts. So Democrats are disadvantaged by these rules as it limits the number of Democratic leaning districts that are theoretically possible.

EXHIBIT C

COMMON CAUSE, et al.

Plaintiffs,

v.

DAVID R. LEWIS, et al.

Defendants.

Expert Report of Dr. M.V. Hood III.

Pursuant to the North Carolina Rules of Civil Procedure and the Case Management Orders of the Court in the above-captioned matter, I, M.V. (Trey) Hood III, provide the following written report:

I. INTRODUCTION AND BACKGROUND

My name is M.V. (Trey) Hood III, and I am a tenured professor at the University of Georgia with an appointment in the Department of Political Science. I have been a faculty member at the University of Georgia since 1999. I also serve as the Director of the School of Public and International Affairs Survey Research Center. I am an expert in American politics, specifically in the areas of electoral politics, racial politics, election administration, and Southern politics. I teach courses on American politics, Southern politics, and research methods and have taught graduate seminars on the topics of election administration and Southern politics.

I have received research grants from the National Science Foundation and the Pew Charitable Trust. I have also published peer-reviewed journal articles specifically in the areas of redistricting and vote dilution. My academic publications are detailed in a copy of my vita that is attached to the end of this document. Currently, I serve on the editorial boards for *Social Science Quarterly* and *Election Law Journal*. The latter is a peer-reviewed academic journal focused on the area of election administration.

During the preceding four years, I have offered expert testimony (through deposition or at trial) in fourteen cases around the United States: United States v. North Carolina, 1:13-cv-861 (M.D. N.C), Bethune-Hill v. Virginia State Board of Elections, 3:14-cv-00852 (E.D. Va.), The Ohio Democratic Party v. Husted, 2:15-cv-1802 (S.D. Ohio), The Northeast Ohio Coalition v. Husted, 2:06-cv-00896 (S.D. Ohio), One Wisconsin Institute v. Nichol, 3:15-cv-324 (W.D. Wis.), Covington v. North Carolina, 1:15-cv-00399 (M.D.N.C.), Green Party of Tennessee v. Hargett, 3:11-cv-00692 (M.D. Tenn.), Vesilind v. Virginia State Board of Elections, CL15003886-00 (Richmond Circuit Court), Common Cause v. Rucho, 1:16-cv-1026 (M.D.N.C.), Greater

greater number of Republican incumbents paired in the Senate plan under which the election was held—a total of eight compared to only two Democrats.

To summarize, in both the House and Senate plans, the goal of limiting the number of incumbent pairings of either party was clearly achieved.

	House		Senate	
Pairings	2017 Enacted	2018 Elections	2017 Enacted	2018 Elections
D, R	0.8%	0.8%	2.0%	4.0%
	[1]	[1]	[1]	[2]
D, D	0.0%	0.8%	0.0%	0.0%
	[0]	[1]	[0]	[0]
R, R	0.8%	0.8%	6.0%	6.0%
	[1]	[1]	[3]	[3]
Open	1.7%	2.5%	8.0%	10.0%
	[2]	[3]	[4]	[5]
Unpaired	96.7%	95.0%	84.0%	80.0%
-	[116]	[114]	[42]	[40]
Total Seats	120	120	50	50

Table 5. Incumbent Pairings. 2018

D. Summary

The 2017 House and Senate plans met the goals stated in the adopted redistricting criteria. Compared to the 2011 plans, the 2017 plan saw measurable gains in terms of district compactness and reducing VTD splits as compared to the 2011 plans. The simulations prepared by Professor Chen that were designed to maximize these criteria perform only marginally better on these factors. In addition, the goal of protecting incumbents specified in the criteria was also met as very few House and Senate incumbent members, of either party, were paired in 2017. These factors, combined with the successful implementation of the county grouping system and the condition permitting only a single internal traverse, also meant respect for county boundaries was paramount in the plan's creation. In addition, all House and Senate districts are contiguous and meet the equal population standard as defined by the criteria. These goals, in my opinion, are certainly not partisan in nature. In using a different set of criteria from that adopted by the General Assembly, Professor Chen infers that any deviation from maximization of these factors is an indication of improper partisan motives. In my opinion, imputing motives based on the application of a different set of criteria in no ways proves the General Assembly was engaged in an effort to engage in extreme partisan gerrymander. As indicated in my discussion of the legislative redistricting in North

Carolina, the process is quite constrained, which greatly limits the ability of map drawers to create districts where partisan motives predominate.

EXHIBIT D

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.

Expert Report of Douglas Johnson, Ph.D.

Pursuant to the North Carolina Rules of Civil Procedure and the Case Management Orders of the Court in the above-captioned matter, I, Douglas Johnson, provide the following written report:

switching from "Safe Democratic" districts to "Safe Republican" two districts in Mecklenburg County and one each in Forsyth and Buncombe counties.

29. While I have drawn the "Maximum Republican" Senate map for the illustrative purposes of this report, a "Maximum Republican" House map would similarly provide significantly more Republican districts in the State House than the 2017 Adopted Map provides.

30. This test map proves that the "county groupings" requirement significantly limits the legislature's ability to draw lines based exclusively on partisanship.

31. Reflecting the direct influence of the "county groupings" requirement, the "Maximum Republican" test map bears significantly more resemblance in the odd shapes and partisan focus of the 2001 Senate map than it does to the 2017 Adopted. The 2001 Senate map is the map that was never used in an election because of the *Stevenson* ruling on the interpretation of the "county groupings" provision of the state constitution:

EXHIBIT E

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION COUNTY OF WAKE

Common Cause, et al.,	
Plaintiffs,	
V.	, , ,
Representative David R. Lewis, et al.,	
Defendants.	, , ,

Docket No. 18 CVS 014001

AFFIDAVIT OF JANET R. THORNTON, Ph.D.

STATE OF FLORIDA

COUNTY OF LEON

)) ss.)

Dr. Janet R. Thornton, affiant, affirms under oath as follows:

1. I am a Managing Director at Berkeley Research Group (BRG), a consulting firm specializing in the application of economic, econometric, and statistical analysis to litigation, regulatory compliance, and risk assessment matters, among other specialties. BRG experts have analyzed data for matters involving firms in many sectors, government entities, as well as institutions of higher education and research. My fields of special interest include computer analysis of large databases, applied econometrics and statistical analysis.

2. I received doctoral and master's degrees in economics from The Florida State University, and a bachelor's degree from the University of Central Florida in economics and political science.

3. I am a member of the American Economic Association and the National Association of Forensic Economics.

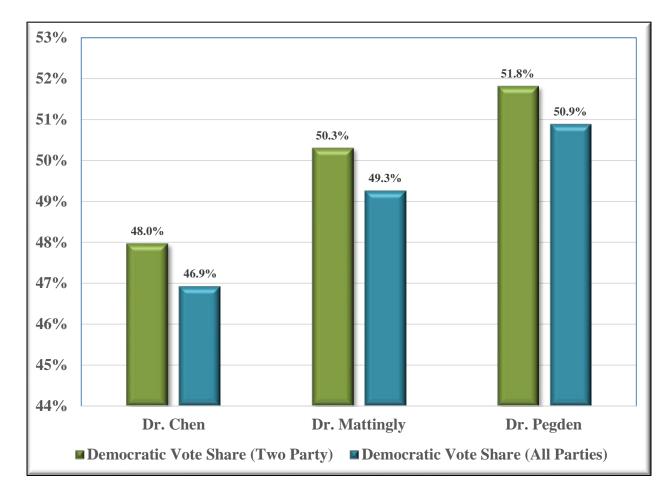


Figure 1—Average Democratic Vote Share Among Statewide Elections Included by Each Expert Preparing Simulations

III. Assumptions/Criteria Utilized by the Three Plaintiffs' Experts Deviate from the Actual Criteria Relied Upon for the 2017 Enacted Map

31. Each of the three Plaintiffs' experts deviate from the criteria utilized when constructing the 2017 enacted map. As a consequence, one should not expect that their simulations would contain a map identical to the enacted map or even be "close" to the enacted map. If the simulations had used the exact criteria of the 2017 enacted map, then we would anticipate that if the space of compliant maps was properly sampled, the enacted map or something close to it would have been among the simulations. Only then can one properly evaluate the simulated maps

compared to the enacted map. The results of the simulations are not informative because the premise of their simulated maps is incomplete and inaccurate. Each expert has added error to his results by not following the actual criteria used in constructing the enacted map.

32. The following summarizes the actual criteria utilized by the legislature in

constructing the enacted map:⁸

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

⁸ Bates Number LDNC1883.

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.

Dr. Pegden's Deviations from the Actual Criteria:

33. Dr. Pegden deviates from the population and compactness guidelines established for the 2017 enacted map. Rather than requiring a district to meet the \pm 5% population deviation, Dr. Pegden applies a less clear requirement: "I require comparison districtings to have district populations within the same range as the enacted House or Senate plan, respectively."⁹ In addition, Dr. Pegden does not apply the guide of the minimum Reock ("dispersion") score and Polsby-Popper score ("perimeter") that was used as a minimum threshold for the enacted map. Instead, Dr. Pegden requires the simulated maps to be at least as compact as the enacted map up to an error of 5%.¹⁰ A review of Dr. Pegden's simulation code suggests that in reality, he did not actually apply a compactness criterion. Thus, Dr. Pegden could accept simulated maps that do not meet the minimum thresholds of the enacted map and could have failed to include simulated maps that meet these minimum thresholds.

34. As a consequence of these deviations, Dr. Pegden will accept and reject simulated maps that do not meet the same criteria as the enacted map, resulting in yet another apples and oranges comparison.

⁹ Pegden Report, page 7.

¹⁰ Pegden Report, page 8.

35. Dr. Pegden also does not adjust for incumbency protection in accordance to the enacted plan. Thus, he does not apply a weight for the party of the incumbents, which would change his partisanship outcomes.

36. With respect to the simulations prepared by each of Plaintiffs' experts, none follow the guidelines used to construct the 2017 enacted map. As a consequence, the set of maps resulting from the simulations that are used to compare the Democratic Districts to that of the enacted map are faulty because, in each case, the foundation of the comparison is not the same as the enacted map.

Dr. Chen's Deviations from the Actual Criteria:

37. With respect to compactness the guidelines state, "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."¹¹ The minimum dispersion or Reock score is 0.15 and the minimum perimeter or Polsby-Popper score is 0.05 according to this article.¹²

38. Dr. Chen did not apply the compactness guidelines as they were described in the legislative record. Instead, Dr. Chen applies more stringent compactness criteria to accept maps by essentially keeping only those simulated maps with a better score. Thus, it is not surprising that he writes that all of his simulated maps have a higher Reock and Polsby-Popper score than the enacted map.¹³

¹¹ 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).

¹² 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), Table 3 and cited in Cromartie v. Hunt, 133 F.Supp. 2d 407 (2000), at 415.

¹³ Chen Report, page 16.

39. Dr. Chen's code for acceptance of a map states, "save this plan if it has the lowest t-score."¹⁴ The t-score is only a mathematically convenient criterion introduced by Dr. Chen to generate his maps.

40. In addition to including compactness to construct the t-score, Dr. Chen also included a measure for the splitting of precincts and municipalities as part of the score. The criteria established for the 2017 enacted plan do not state that the goal is to avoid the splitting of precincts and municipalities. Instead, the 2017 enacted plan was constructed to have fewer precinct splits than the prior plan in the districts that were to be redrawn and stated that municipal boundaries could be taken into consideration.

41. A t-score evaluation was not among the actual criteria relied upon for the creation of the 2017 enacted map. To create the t-score that he uses to evaluate a map, Dr. Chen subtracts the Reock and Polsby-Popper scores from 1.75. Dr. Chen does not explain why he decided to use 1.75, but were he to change the 1.75 to another number, he would derive a different t-score by which to evaluate each simulated map. As a consequence, Dr. Chen is able to influence the simulated maps that he accepts and rejects.

42. If Dr. Chen had applied the actual criteria utilized by those who constructed the enacted map, he presumably would have generated a different set of maps. The resulting maps would have been the more relevant simulations to compare to the enacted map to assess partian bias. Dr. Chen's modification of the actual criteria results in making apples and oranges

¹⁴ See for example code from Dr. Chen's file, NCU_BASE_SET1.JAVA:

double t_score = (1+tmcdfrags-ALLmcds.size()+ tvtdfrags-ALLvtds.size()) * (new Double(1.75)-reockpolsby); //lower is better

if(t_score<low_score){ low_score=t_score; Dpcts=makeCopy(districts, t_Dpcts); Dpops=(int[])t_Dpops.clone(); } //save this plan if it has the lowest t_score

System.out.println("tctyfrags: "+tctyfrags+" tmcdfrags: "+tmcdfrags+" tvtdfrags: "+tvtdfrags+" reock: "+reock+" polsby: "+polsby+" t_score: "+t_score+" try: "+t);

System.out.println("======="); break; //System.exit(0);

comparisons. It should not be surprising to have maps with "better" scores, although only slightly better based on a review of Tables 5 and 6 of his report, compared to the enacted map. To properly evaluate the enacted map would require using the same, not modified, criteria. Dr. Chen could have accepted maps with the same or fewer splits as the enacted map.

43. Dr. Chen's Set 2 simulations are an attempt to include incumbency protection among his criteria. He states that he prepared another set of simulations "that intentionally protect exactly as many incumbents as is mathematically possible within each county grouping while otherwise adhering to the same traditional districting criteria."¹⁵ This approach appears to focus on the first criterion used to prepare the enacted plan, 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."¹⁶

44. However, Dr. Chen does not take into account the additional criterion used with respect to incumbency protection: "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."¹⁷ Dr. Chen ignores this piece of the 2017 enacted map criteria which was to allow for incumbents to win, not to just consider the pairing. He could have modified his criterion to weight the vote share for the political party of the incumbent, but chose not to.

45. A review of the current political party representation in districts that are not frozen and in which non-incumbents were elected reveals a higher proportion of Democratic Party House and Senate members elected to these seats.¹⁸

¹⁵ Chen Report, page 43.

¹⁶ Bates Number LDNC1883.

¹⁷ Bates Number LDNC1883.

¹⁸ Among the frozen House Districts, half of the Districts (or 9 of 18) were Democratic Party candidates. Among the frozen Senate Districts, one-third (or 7 of 21) were Democratic Party candidates. See the North Carolina House of Representatives website, https://www.ncleg.gov/House, and the North Carolina Senate website, https://www.ncleg.gov/Senate.

EXHIBIT F

[CORRECTED] RESPONSE REPORT OF JOWEI CHEN, Ph.D.

June 7, 2019

Response to Dr. Hood's and Dr. Thornton's claims that the General Assembly Followed the 2017 House and Senate Plans Criteria:

In their rebuttal reports, Dr. Hood and Dr. Thornton claim that in drawing the 2017 House Plan and the 2017 Senate Plan, the General Assembly followed the 2017 House and Senate Plans Criteria adopted by the House and Senate Redistricting Committees on August 10, 2017 (hereinafter: "The Adopted Criteria"). Specifically, Dr. Hood argues that "Taking into account all the criteria discussed [in the Adopted Criteria], a map drawer creating district boundary lines within a county group is quite constrained as to the amount of discretion they may exercise" (p. 2-3, Hood report of April 30, 2019). Dr. Hood further conducts an analysis to purportedly demonstrate that the 2017 Plans comply with the Adopted Criteria, and he concludes that "[t]he 2017 House and Senate plans met the goals stated in the adopted redistricting criteria." (p. 9 of Hood report of April 30, 2019). Similar to Dr. Hood, Dr. Thornton asserts that the Adopted Criteria reflect "the actual criteria utilized by those who constructed the enacted [2017] map, " and Dr. Thornton bases much of the analysis in her report upon this assumption (Para. 32, 33-56, 80-86, Thornton report of May 7, 2019).

I have two responses to this claim by Dr. Hood and Dr. Thornton. My first response is that Dr. Hofeller logically could not have been following the 2017 Adopted Criteria in June 2017, which is when he drafted much of the General Assembly's eventually enacted House and Senate districts. My second response to Dr. Hood's and Dr. Thornton's argument is that at all times in drawing the 2017 Plans, including after the 2017 Adopted Criteria were passed on August 10, 2017, Dr. Hofeller appeared to violate the Adopted Criteria's prohibition against any "consideration of racial data" (2017 House and Senate Plans Criteria, August 10, 2017). I explain both of these findings in detail below.

Dr. Hofeller Could Not Have Followed the Adopted Criteria When He Drafted the House and Senate Districts During June 2017: As detailed above, Dr. Hood and Dr. Thornton argue that the General Assembly followed the 2017 Adopted Criteria in producing the 2017

	EXHIBIT 13
	WIT: Chen
No.	DATE: @/14/19
	DENISE MYERS BYRD

House and Senate Plans. In response to this argument by these experts, I examined and analyzed draft maps prepared by Dr. Thomas Hofeller, who was responsible for drawing the General Assembly's enacted 2017 House and Senate Plans. I found that many of the new districts that the General Assembly enacted in the 2017 Plans are identical or nearly identical to drafts of those districts that Dr. Hofeller had drawn by June 2017—approximately 1.5 months before the House and Senate Redistricting Committees passed the Adopted Criteria on August 10, 2017, and before Legislative Defendants have claimed that there was any redistricting activity occurring at all. Thus, Dr. Hofeller logically could not have been following the Adopted Criteria when he drafted these House and Senate districts during June 2017.

In reaching these findings, I examined and analyzed draft House and Senate maps prepared by Dr. Hofeller during June 2017, which I understand Plaintiffs' counsel received through a subpoena to Dr. Hofeller's daughter. I received the files containing Dr. Hofeller's draft maps directly from Plaintiffs' forensic vendor, Stroz Friedberg.*

These draft maps were prepared by Dr. Hofeller using Maptitude for Redistricting software and saved in electronic format. I compared the individual districts in Dr. Hofeller's draft maps to the final August 2017 maps that the General Assembly passed in House Bill 927 and Senate Bill 691. I found that many of the districts in the General Assembly's enacted maps were identical or nearly identical to districts appearing in Dr. Hofeller's draft maps last modified during June 2017.

In other words, Dr. Hofeller had already completed drafting the vast majority of the House Bill 927 and Senate Bill 691 plans by late June 2017. As explained below, in a June 28, 2017 draft House map, Dr. Hofeller had already finished assigning 90.9% of North Carolina's census blocks (containing 88.2% of the state's population) into their final districts. Subsequent changes made after Dr. Hofeller's June 28 draft map and prior to the final House Bill 927 map affected only 9.1% of the census blocks (containing 11.8% of the state's population). Similarly, in a June 24, 2017 draft Senate map, Dr. Hofeller had already finished assigning 95.6% of North Carolina's census blocks (containing 97.6% of the state's population) into their final districts. Subsequent changes made after Dr. Hofeller's June 24 draft map and prior to the final Senate Bill 691 map affected only 4.4% of the census blocks (containing 2.4% of the state's population).

^{*} Plaintiffs' consulting expert, Blake Esselstyn, also received Dr. Hofeller's draft maps directly from Plaintiffs' vendor, and assisted me in exporting shapesfiles of the two draft maps analyzed in this section. Mr. Esselstyn also assisted me in preparing the screenshots presented in Figures 25-29.

Dr. Hofeller's Draft House Map of June 28, 2017:

In a folder named "NC House J-25003.bak.zip",¹ Dr. Hofeller saved a draft House map that was last modified on June 28, 2017 (hereinafter: "the draft House map"). This draft House map contained numerous redrawn districts that are identical or nearly identical to the final districts in the General Assembly's House Bill 927. In other words, these districts were changed from the previous 2011 House Plan, and Dr. Hofeller had already drawn the General Assembly's final version or a near-final version of these districts in his June 28, 2017 draft House map. Below, I describe these districts by county grouping:

The Mecklenburg County Grouping: As detailed in Figure 1, all 12 districts in this county grouping in Dr. Hofeller's draft House map are identical or nearly identical to their corresponding final districts in the General Assembly's House Bill 927. Specifically, 100% of the population in each of 9 districts (Districts 88, 98, 99, 101, 102, 103, 105, 106, and 107) in Dr. Hofeller's draft House map is also assigned to its respective corresponding district in the General Assembly's House Bill 927. District 88 in Dr. Hofeller's draft map was later renamed as HD-92 in House Bill 927, but the boundaries of these two districts are perfectly identical. Meanwhile, 96.44% of the population of District 92 in Dr. Hofeller's draft House map is also assigned to SD-88 in the General Assembly's House Bill 927. Additionally, 95.97% of the population of District 100 in Dr. Hofeller's draft House map is also assigned to HD-100 in the General Assembly's House Bill 927. Finally, 93.51% of the population of District 104 in Dr. Hofeller's draft House map is also assigned to HD-104 in the General Assembly's House Bill 927.

¹ The full filepath of this folder's location is: C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748d314-4cc2-a86b-ea77894bb5b2\20170628_120524_toshibaInc2724\C\MPRwork\NCPlans\NC House J-25 Backups\NC House J-25003.bak.zip

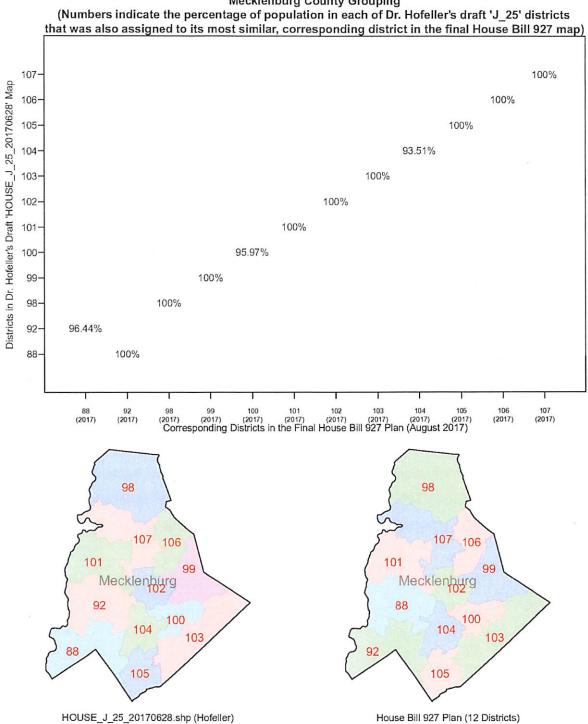
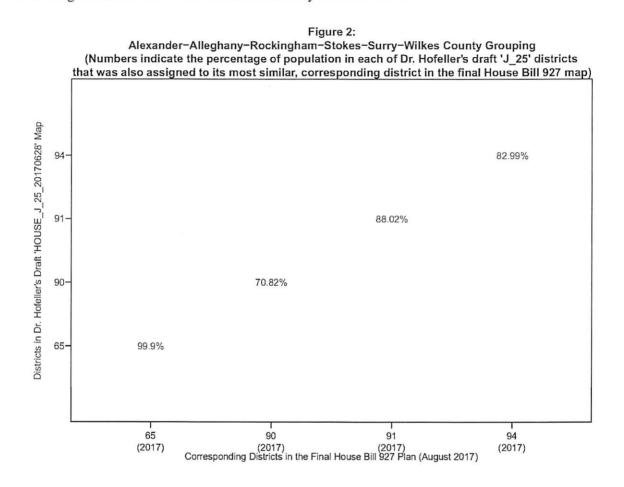
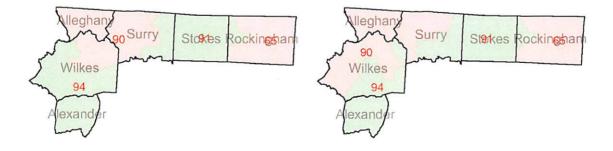


Figure 1: Mecklenburg County Grouping

The Alexander–Alleghany–Rockingham–Stokes–Surry–Wilkes County Grouping: As detailed in Figure 2, 99.9% of the population in District 65 in Dr. Hofeller's draft House map is also assigned to HD-65 in the General Assembly's House Bill 927.

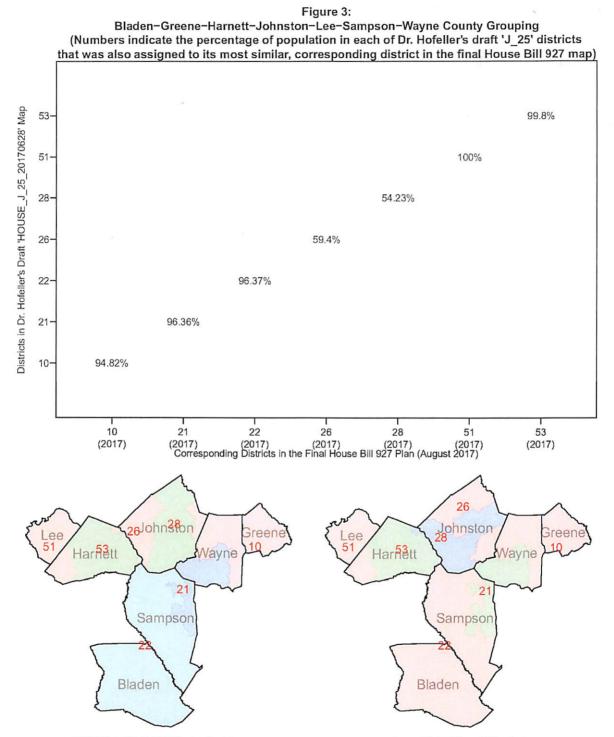




HOUSE_J_25_20170628.shp (Hofeller)

House Bill 927 Plan (4 Districts)

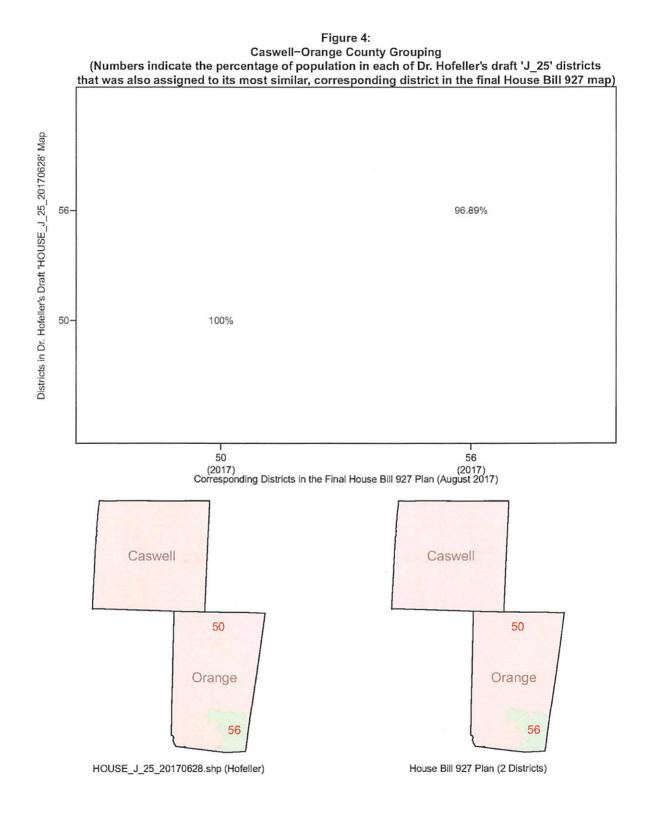
Bladen-Greene-Harnett-Johnston-Lee-Sampson-Wayne County Grouping: As detailed in Figure 3, most of the districts in Dr. Hofeller's draft House map in this county grouping are identical or nearly identical to districts in the General Assembly's House Bill 927. District 51 in Dr. Hofeller's draft House map is perfectly identical to HD-51 in the General Assembly's House Bill 927. Districts 10, 21, 22, and 53 each overlap by over 94% with the same-numbered district in the General Assembly's House Bill 927.





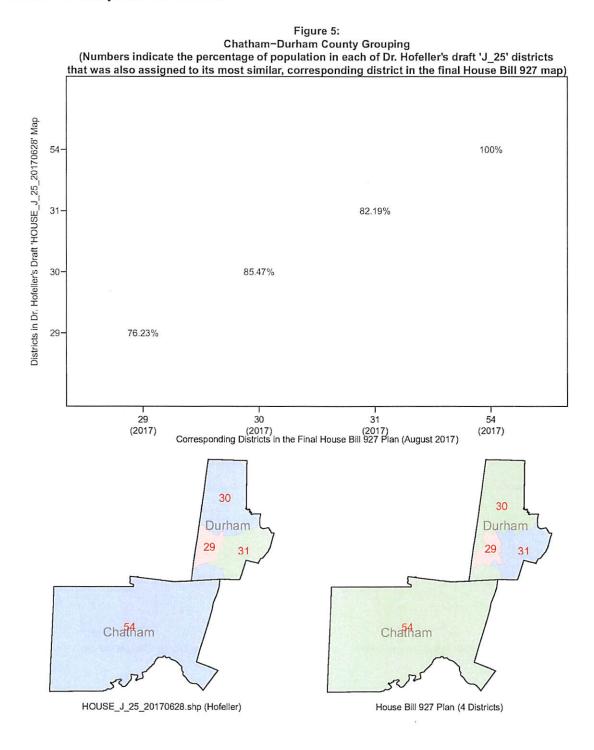
House Bill 927 Plan (7 Districts)

Caswell-Orange County Grouping: As detailed in Figure 4, this county grouping contains two districts (HD-50 and HD-56), and both districts in Dr. Hofeller's map are nearly identical to these two districts in the General Assembly's House Bill 927. Specifically, 100% of the population of District 50 in Dr. Hofeller's draft House map is also assigned to HD-50 in the General Assembly's House Bill 927. Meanwhile, 96.89% of the population of District 56 in Dr. Hofeller's draft House map is also assigned to HD-50 in the General Assembly's House Bill 927. Meanwhile, 96.89% of the population of District 56 in Dr. Hofeller's draft House map is also assigned to HD-50 in the General Assembly's House Bill 927. The only difference between the draft House map's version and the General Assembly's final version of these districts is that a small neighborhood in the northwestern portion of Chapel Hill (containing Homestead Park) was shifted from District 56 in the draft House map to HD-50 of the General Assembly's House Bill 927.

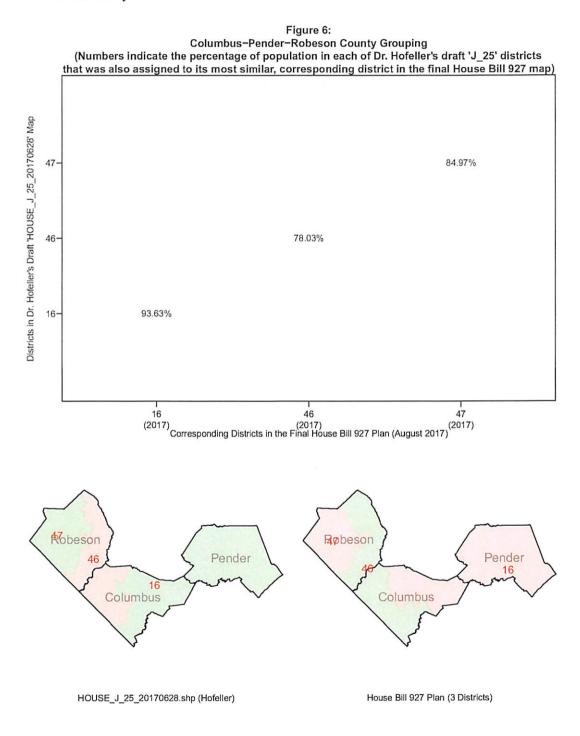




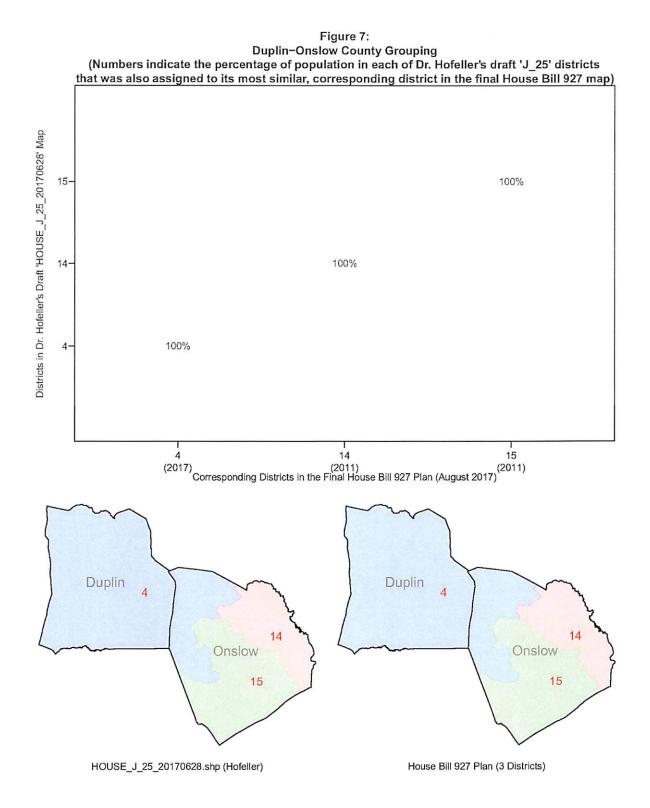
Chatham-Durham County Grouping: As detailed in Figure 5, District 54 in the draft House map is perfectly identical to HD-54 in the General Assembly's House Bill 927. That is, 100% of the population of District 54 in Dr. Hofeller's draft House map is also assigned to HD-54 in the General Assembly's House Bill 927.



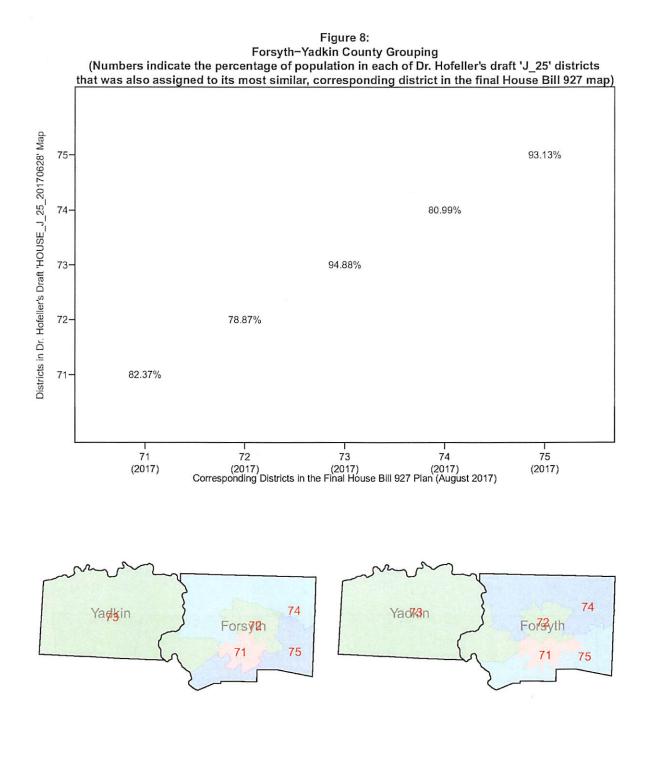
Columbus-Pender-Robeson County Grouping: As detailed in Figure 6, District 16 in the draft House map is nearly identical to HD-16 in the General Assembly's House Bill 927. Specifically, 93.63% of the population of District 16 in Dr. Hofeller's draft map is also assigned to HD-16 in the General Assembly's House Bill 927.



Duplin-Onslow County Grouping: As detailed in Figure 7, this county grouping contains three districts (HD-4, HD-14, and HD-15), and all three districts in Dr. Hofeller's map for this county grouping are virtually identical to these three districts in the General Assembly's House Bill 927. Specifically, 100% of the population in District 4 in Dr. Hofeller's draft House map is also assigned to HD-4 in the General Assembly's House Bill 927, 100% of the population of District 14 in Dr. Hofeller's draft House map is also assigned to HD-4 in the General Assembly's House Bill 927, 100% of the population of District 15 in Dr. Hofeller's draft House map is also assigned to HD-14 in the General Assembly's House Bill 927, and 100% of the population of District 15 in Dr. Hofeller's draft House map is also assigned to HD-15 in the General Assembly's House Bill 927. The only difference between the draft House map's version and the General Assembly's final version of these districts is that a small, unpopulated portion of District 15 in Dr. Hofeller's draft House map was shifted to HD-14 of the General Assembly's House Bill 927.



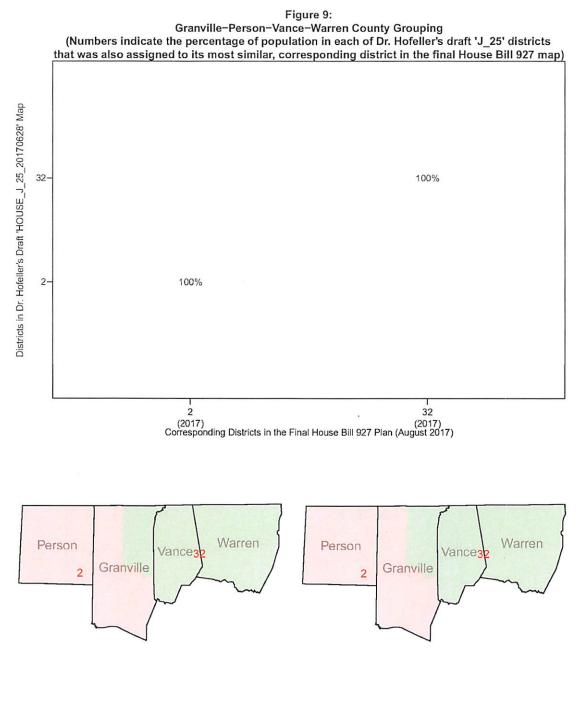
Forsyth-Yadkin County Grouping: As detailed in Figure 8, two of the districts in Dr. Hofeller's draft House map in this county grouping are nearly identical to two districts in the General Assembly's House Bill 927. Specifically, 94.88% of the population of District 73 in Dr. Hofeller's draft House map is also assigned to HD-73 in the General Assembly's House Bill 927. Meanwhile, 93.13% of the population of District 75 in Dr. Hofeller's draft House map is also assigned to HD-75 in the General Assembly's House Bill 927.



HOUSE_J_25_20170628.shp (Hofeller)

House Bill 927 Plan (5 Districts)

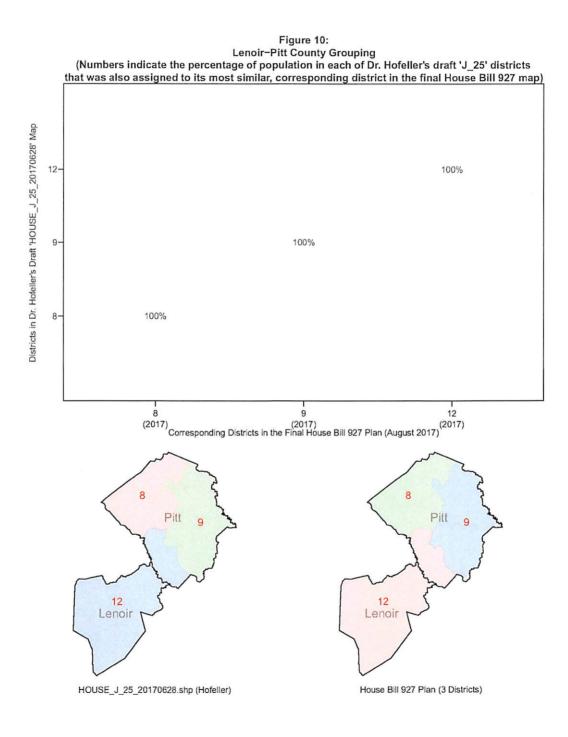
The Granville-Person-Vance-Warren County Grouping: As detailed in Figure 9, both of the districts in Dr. Hofeller's map for this county grouping are perfectly identical to HD-2 and HD-32 in the General Assembly's House Bill 927.



HOUSE_J_25_20170628.shp (Hofeller)

House Bill 927 Plan (2 Districts)

Lenoir-Pitt County Grouping: As detailed in Figure 10, this county grouping contains three districts (HD-8, HD-9, and HD-12), and all three districts in Dr. Hofeller's map for this county grouping are perfectly identical to these three districts in the General Assembly's House Bill 927.



Figures 11-16 below show the remaining House county groupings that were changed in 2017 and contain more than one district. As can be seen, these groupings also contain districts that substantially overlap with the final versions of those districts.

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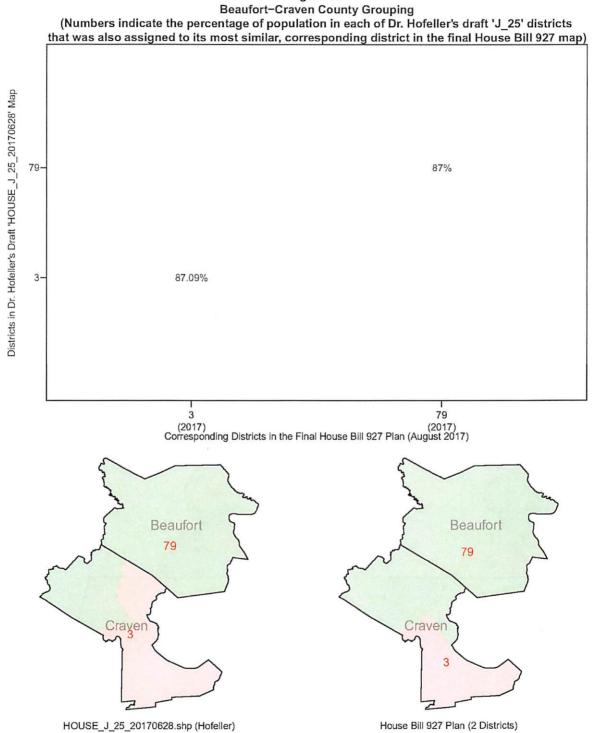


Figure 11:

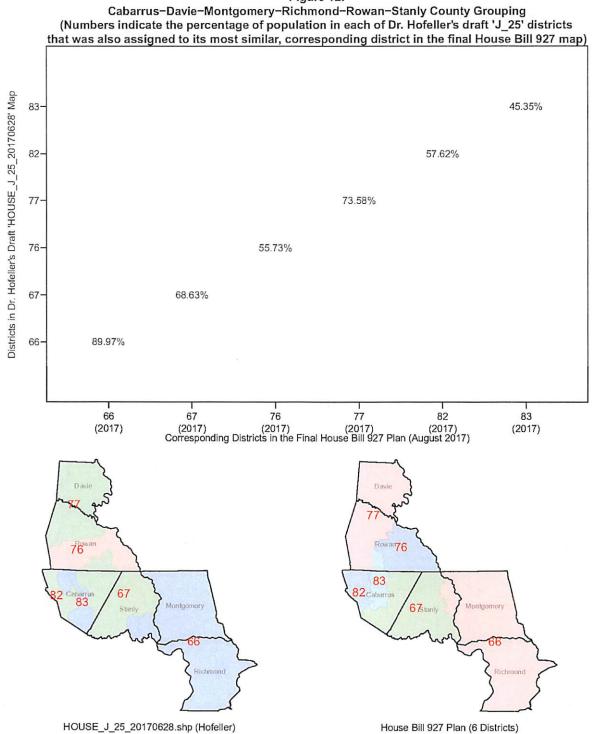
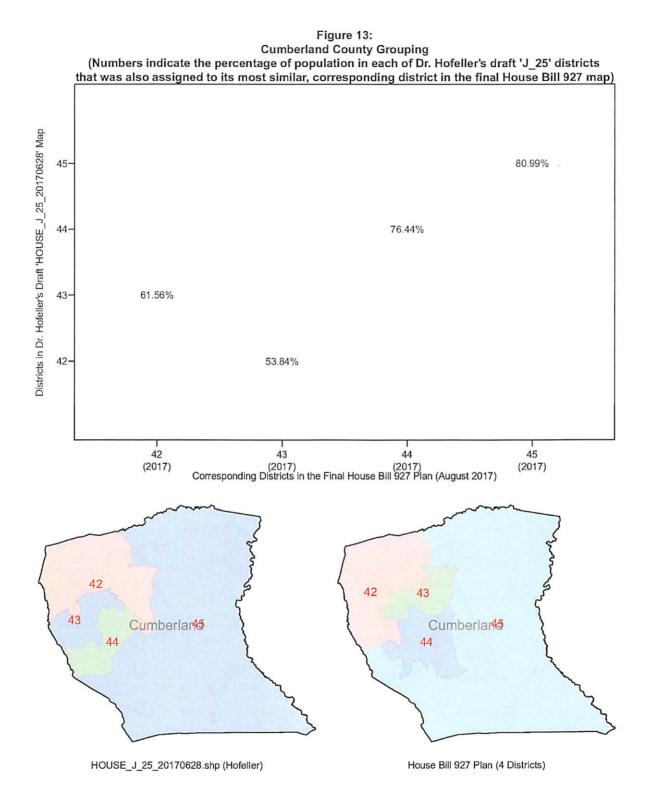
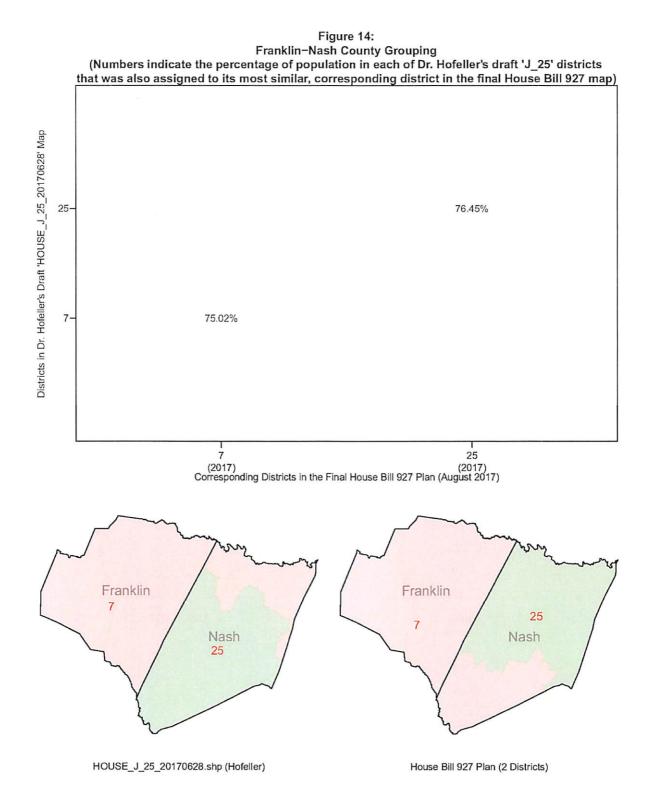


Figure 12:





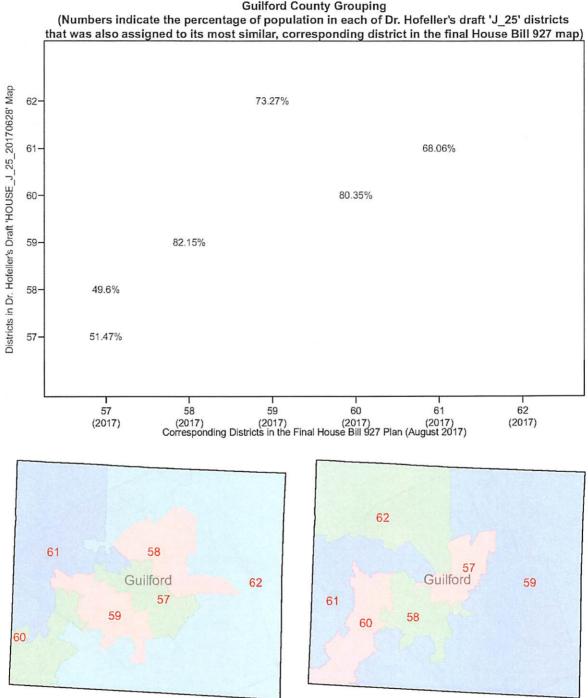
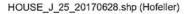


Figure 15: **Guilford County Grouping**



House Bill 927 Plan (6 Districts)

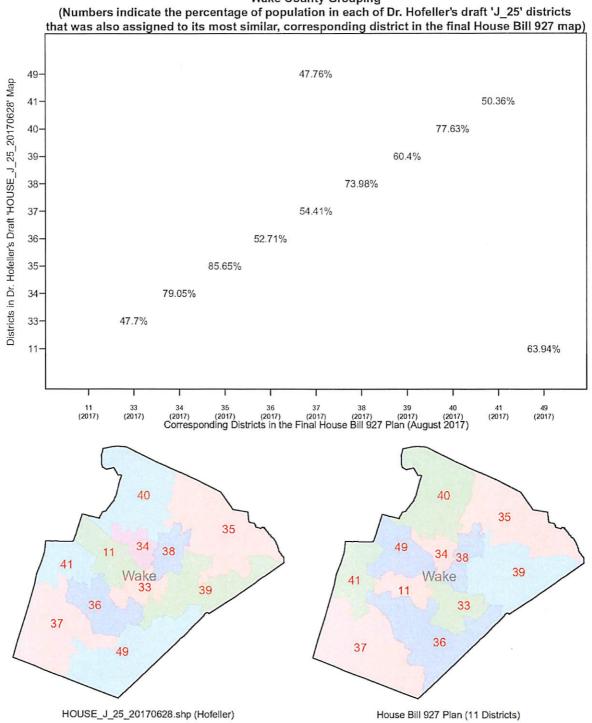


Figure 16: Wake County Grouping

Dr. Hofeller's Draft Senate Map of June 24, 2017

In a folder named "NC Senate J-24001.bak.zip",² Dr. Hofeller saved a draft Senate map that was last modified on June 24, 2017 (hereinafter: "the draft Senate map"). This draft Senate map contained numerous redrawn districts that are identical or nearly identical to the final districts in the General Assembly's Senate Bill 691. In other words, these districts were changed from the previous 2011 Senate Plan, and Dr. Hofeller had already drawn the General Assembly's final version or a near-final version of these districts in his June 24, 2017 draft Senate map. Below, I describe these districts by county grouping:

The Alamance–Guilford–Randolph County Grouping: As detailed in Figure 17, all four of the districts in Dr. Hofeller's draft Senate map in this county grouping are identical or nearly identical to districts in the General Assembly's Senate Bill 691. District 29 in Dr. Hofeller's draft Senate map is perfectly identical to SD-26 in the General Assembly's Senate Bill 691. Districts 24, 27, and 28 in the draft Senate map each overlap by over 91% with the same-numbered district in the General Assembly's Senate Bill 691.

² The full filepath of this folder's location is: "ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-ea77894bb5b2\20170624_093938_toshibaInc2590\ C\MPRwork\NCPlans\NC Senate J-24 Backups\NC Senate J-24001.bak.zip"

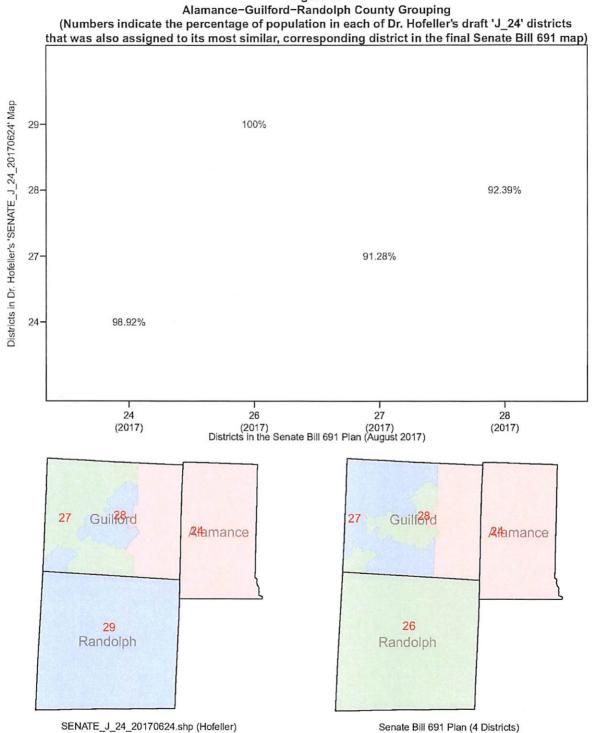


Figure 17

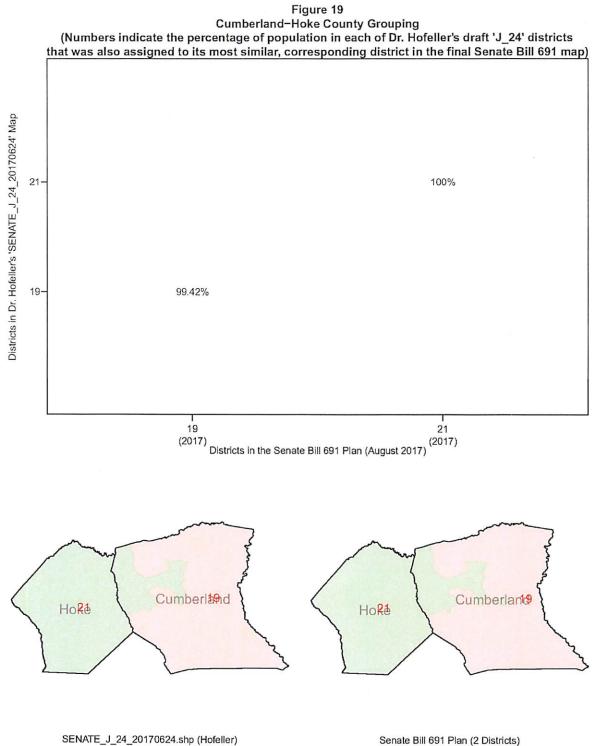
Alleghany-Ashe-Caswell-Rockingham-Stokes-Surry-Watauga-Wilkes County Grouping: In this county grouping, as detailed in Figure 18, the two districts in Dr. Hofeller's draft Senate map are nearly identical to two districts in the General Assembly's Senate Bill 691. Specifically, 94.4% of the population of District 26 in Dr. Hofeller's draft Senate map is also assigned to SD-30 in the General Assembly's Senate Bill 691. Meanwhile, 98.18% of the population of District 30 in Dr. Hofeller's draft Senate map is also assigned to SD-45 in the General Assembly's Senate Bill 691.

Figure 18 Alleghany-Ashe-Caswell-Rockingham-Stokes-Surry-Watauga-Wilkes County Grouping (Numbers indicate the percentage of population in each of Dr. Hofeller's draft 'J_24' districts that was also assigned to its most similar, corresponding district in the final Senate Bill 691 map) Districts in Dr. Hofeller's 'SENATE_J_24_20170624' Map 30-98.18% 26-98.4% 30 45 (2017) Districts in the Senate Bill 691 Plan (August 2017) Surry Stokespci26ghtaswe Stokeroca0ngharaswe Surry ata Vilkes ilkes

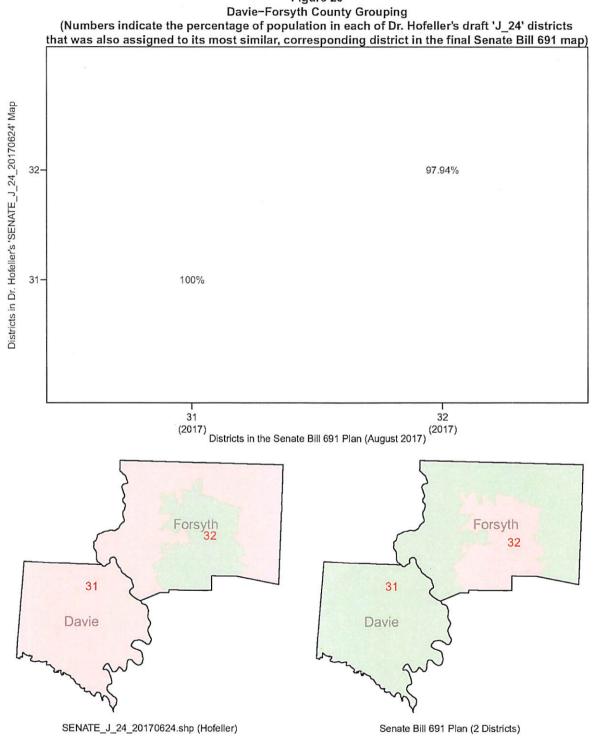
SENATE_J_24_20170624.shp (Hofeller)

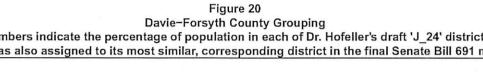
Senate Bill 691 Plan (2 Districts)

Cumberland–Hoke County Grouping: As detailed in Figure 19, this county grouping contains two districts (SD-19 and SD-21), and both districts in Dr. Hofeller's map are essentially identical to these two districts in the General Assembly's Senate Bill 691. Specifically, 100% of the population of District 21 in Dr. Hofeller's draft Senate map is also assigned to SD-21 in the General Assembly's Senate Bill 691. Meanwhile, 99.42% of the population of District 19 in Dr. Hofeller's draft Senate map is also assigned to SD-19 in the General Assembly's Senate Bill 691. The small, remaining portion of District 19 in Dr. Hofeller's draft Senate map is assigned to SD-21 in the SD-19 in the General Assembly's Senate Bill 691. However, after the passage of Senate Bill 691, both SD-19 and SD-21 were later redrawn by Special Master Nathaniel Persily.

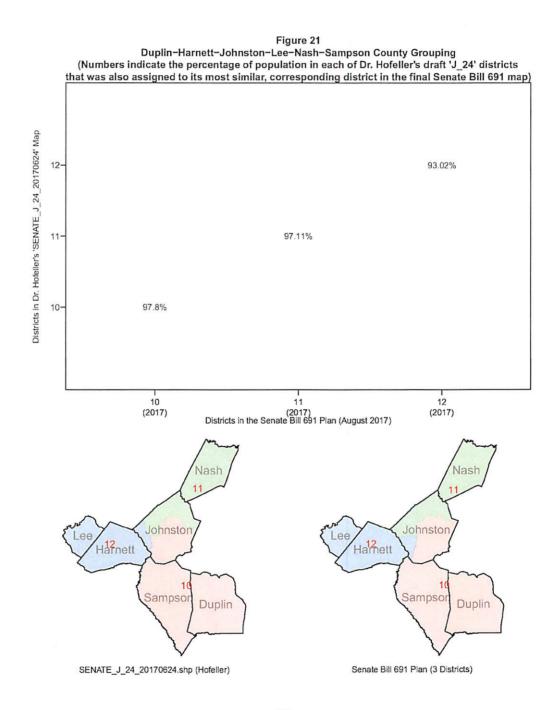


Davie–Forsyth County Grouping: As detailed in Figure 20, this county grouping contains two districts (SD-31 and SD-32), and both districts in Dr. Hofeller's map are identical or nearly identical to these two districts in the General Assembly's Senate Bill 691. Specifically, 100% of the population of District 31 in Dr. Hofeller's draft Senate map is also assigned to SD-31 in the General Assembly's Senate Bill 691. Meanwhile, 97.94% of the population of District 32 in Dr. Hofeller's draft Senate map is also assigned to SD-31 in the General Assembly's Senate Bill 691. Meanwhile, 97.94% of the population of District 32 in Dr. Hofeller's draft Senate map is also assigned to SD-31 in the General Assembly's Senate Bill 691. The small, remaining portion of District 32 in Dr. Hofeller's draft Senate map is assigned to SD-31 in the General Assembly's Senate Bill 691.

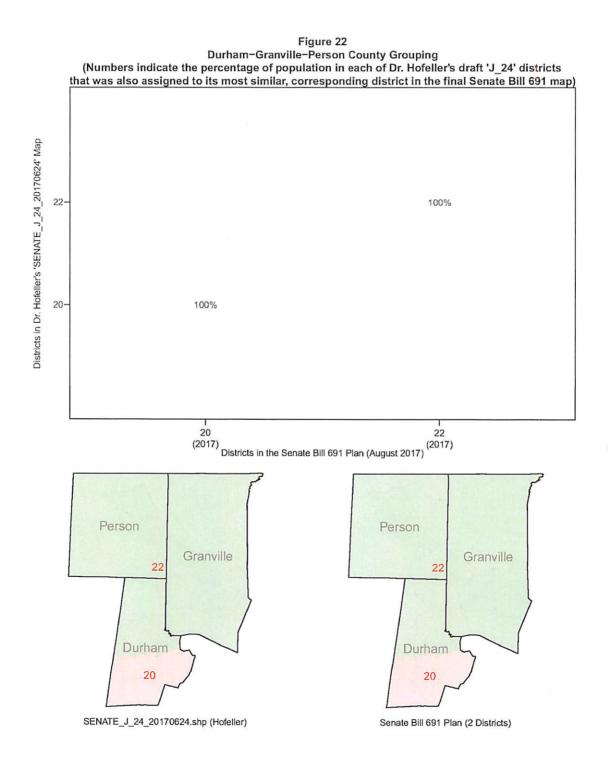




Duplin–Harnett–Johnston–Lee–Nash–Sampson County Grouping: In this county grouping, as detailed in Figure 21, the three districts in Dr. Hofeller's draft Senate map are nearly identical to the three districts in the General Assembly's Senate Bill 691. Specifically, Districts 10, 11, and 12 each overlap by 97.8%, 97.11%, and 93.02%, respectively, with the same-numbered district in the General Assembly's Senate Bill 691.



Durham–Granville–Person County Grouping: As detailed in Figure 22, this county grouping contains two districts (SD-20 and SD-22), and both districts in Dr. Hofeller's draft Senate map are 100% identical to these two districts in the General Assembly's Senate Bill 691.



Franklin–Wake County Grouping: As detailed in Figure 23, this county grouping contains two districts in Dr. Hofeller's draft Senate map that are nearly identical to two of the final districts in the General Assembly's Senate Bill 691. Specifically, 93.46% of the population of District 16 in Dr. Hofeller's draft Senate map is also assigned to SD-16 in the General Assembly's Senate Bill 691. Meanwhile, 91.23% of the population of District 17 in Dr. Hofeller's draft Senate map is also assigned to SD-16 in the General Assembly's Senate Bill 691.

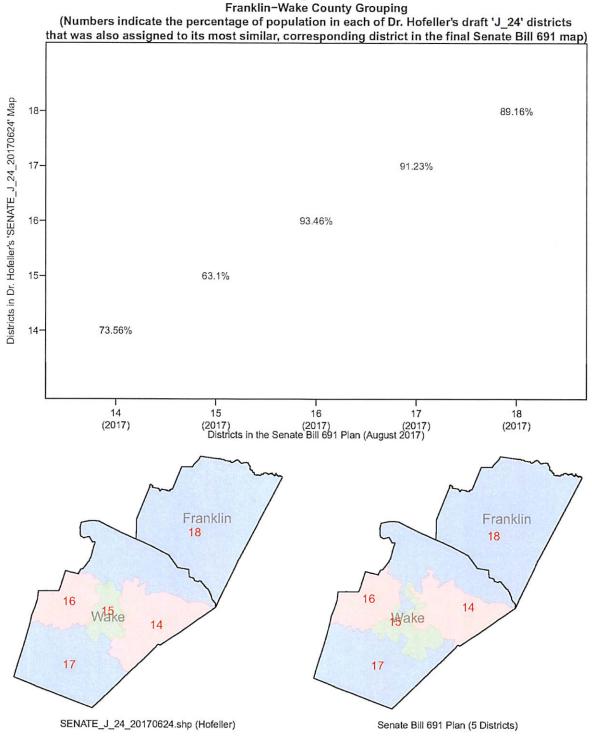
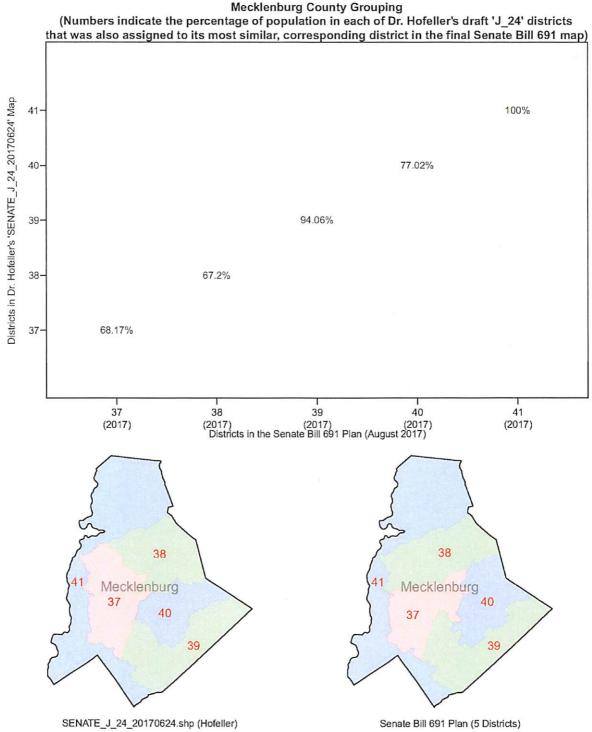


Figure 23 Franklin-Wake County Grouping (Numbers indicate the percentage of population in each of Dr. Hofeller's draft 'J_24' districts

Mecklenburg County Grouping: As detailed in Figure 24, this county grouping contains two districts in Dr. Hofeller's draft Senate map that are identical or nearly identical to two of the final districts in the General Assembly's Senate Bill 691. Specifically, 100% of the population of District 41 in Dr. Hofeller's draft Senate map is also assigned to SD-41 in the General Assembly's Senate Bill 691; the only differences between District 41 in Dr. Hofeller's draft Senate map and SD-41 in the General Assembly's Senate Bill 691 involve a small, unpopulated area. Meanwhile, 94.06% of the population of District 39 in Dr. Hofeller's draft Senate map is also assigned to SD-39 in the General Assembly's Senate Bill 691.



Dr. Hofeller Had Racial Data for His Draft Districts, Including after the Adopted Criteria's Passage:

As detailed above, Dr. Hood and Dr. Thornton argue in their rebuttal reports that the General Assembly followed the 2017 Adopted Criteria in producing the 2017 House and Senate Plans. One of the 2017 Adopted Criteria includes the following discussion of racial data:

"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." (2017 House and Senate Plans Criteria, August 10, 2017).

Subsequent statements by Senator Ralph Hise clarified this criterion. During an August 24, 2017 hearing of the Senate Redistricting Committee, Senator Hise claimed that, pursuant to this criterion, Dr. Hofeller did not have any racial data on any of the draft districts when drafting the 2017 House and Senate Plans:

"Dr. Hofeller was given the criteria of this Committee...and from the criteria, drew maps that did not include race. Race was not part of the database. It could not be calculated on the system that is done." (p. 102, August 24, 2017 Transcript, Senate Redistricting Committee Hearing).

Legislative Defendants said the same in a September 22, 2017 court filing, asserting that "data regarding the race of voters was not . . . even loaded into the computer used by the map drawer to construct the districts." *Covington v. North Carolina*, ECF No. 192 at 28.

However, analysis of Dr. Hofeller's Maptitude backup folders reveals that district-level racial calculations were clearly contained within Dr. Hofeller's draft House and Senate maps, including drafts produced after the August 10, 2017 passage of the Adopted Criteria. "[T]he computer used by the map draw" certainly had racial data on the new districts, and Dr. Hofeller clearly used his Maptitude "database" to calculate the racial characteristics of his draft districts. In fact, Dr. Hofeller even sorted the districts in two of his draft maps from highest to lowest BVAP, and for at least one of them, went so far as to label the districts on the map he was displaying on his screen to prominently show the racial characteristics of each district.

An example of these race calculations and racial demographic district labels appears in Dr. Hofeller's draft House plan titled "NC House J-25003.bak.zip",³ which was last modified and backed up on August 14, 2017.⁴ I examined this draft House plan in Maptitude for Redistricting,

"ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-ea77894bb5b2\ 20170814_071931_toshibaInc3051\C\MPRwork\NCPlans\NC House J-25 Backups\NC House J-25003.bak.zip "

³ The full filepath of this Maptitude draft plan on Dr. Hofeller's hard drive is:

⁴ I previously analyzed a version of this House map last modified on June 28, 2017.

and I observed the following: First, as illustrated in the district-level "Dataview" displaying the Dr. Hofeller's 120 draft House districts, Dr. Hofeller created a summary field titled "% 18+_AP_Blk", which calculates each district's Any-Part African-American share of total Voting Age Population. Second, the "Dataview" window lists Dr. Hofeller's 120 draft House districts ordered from highest to lowest percent Black VAP. The sorting of districts by African-American population is not an automatic setting; Dr. Hofeller clearly had to purposefully instruct the "Dataview" window to sort all 120 districts according to their African-American proportions. Figure 25 contains a full screenshot showing how Dr. Hofeller's "Dataview" window displayed the racial demographics of his draft plan's districts. Figure 26 contains a portion of this same screenshot, zoomed in to focus on the first nine columns of the "Dataview" window, including the seventh column ("% 18+ AP Blk") reporting each district's African-American VAP.

Moreover, Maptitude for Redistricting allows the mapdrawer to label a district map using any "Formula Field" specified by the mapdrawer. As the screenshot in Figure 27 reveals, for his "NC House J-25003.bak.zip" draft House plan, Dr. Hofeller used the "Formula" window to create labels for his draft districts containing two pieces of information: The district's number and the district's Any-Part African-American share of the district's Voting Age Population (which is labeled as "% 18+_AP_Blk" in Dr. Hofeller's draft plan). In other words, not only did Dr. Hofeller calculate the racial characteristics of his draft districts, he also prominently marked his map of his draft districts with labels reporting each district's African-American VAP.

Dr. Hofeller made these labels with racial data for all districts across this entire draft Maptitude plan, as illustrated in the screenshot in Figure 28. This screenshot also reveals that the "Pending Changes" window in Dr. Hofeller's draft Maptitude plan, which dynamically updates and reports the characteristics of the selected district or districts that the mapdrawer is actively editing, includes the racial characteristics of the district being edited. In other words, when editing his draft districts, Dr. Hofeller would have been able to immediately observe how small changes to a particular district's boundaries affected the African-American VAP of that district.

40

Figure 25: Screenshot of Dataview Window For Dr. Hofeller's "NC House J-25003.bak.zip" Draft Plan (August 14, 2017)

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Figure 26: Screenshot of Dataview Window For Dr. Hofeller's "NC House J-25003.bak.zip" Draft Plan (August 14, 2017)

Maptitude for Redistricting (Licensed to FrontWater geo)

🔒 🎭 All Rei	cords	~ 🗐 🖬	XA	X X	孝 🎉 📲	🔒 %\$ 🖞 🕌	fx Ex 🖬	1 5: B:	in my
	(and a support of the second							
	a second of the second second	ew1 - Districts in P							
	District	Population		Members		[% NH18+_Wht] [%			[%18+_Ind
	107	0	-79,462	1.0	-100%	17.25%	68.95%	9.02%	0.53%
	27	2	-79,460	1.0	-100%	41.54%	53.71%	1.53%	2.71%
	23	0	-79,462	1.0	-100%		51.83%	2.78%	0.3
MC Hou	31	2	-79,460	1.0	-100%		50.87%	12.72%	0.55%
	32	3	-79,459	1.0	-100%		49.12%	4.13%	1.445
	43	2	-79,460	1.0	-100%		48.97%	10.4%	0.873
	72	3	-79,459	1.0	-100%	38.97%	46.63%	12.79%	0.472
	42	0	-79,462	1.0	-100%		46.6%	8.68%	1.01
1	58	2	-79,460	1.0	-100%	43.49%	46.22%	6.47%	0.48
	99	0	-79,462	1.0	-100%		46.19%	17.55%	0.56
a film the	8	2	-79,460	1.0	-100%		44.91%	4.65%	0.33
	57	1	-79,461	1.0	-100%		44.5%	3.85%	0.46
	5	0	-79,462	1.0	-100%	51.26%	44.32%	2.75%	0.64
	39	0	-79,462	1.0	-100%	40.85%	44.2%	13.17%	0.62
	59	2	-79,460	1.0	-100%	40.64%	42.33%	10.59%	0.73
	38	3	-79,459	1.0	-100%	37.61%	42.25%	15.37%	0.59
	101	3	-79,459	1.0	-100%	46.35%	42.02%	7.78%	0.52
	21	3	-79,459	1.0	-100%	46.53%	41.9%	9.68%	0.64
	71	2	-79,460	1.0	-100%	44.82%	40.56%	13.2%	0.41
	1	1	-79,461	1.0	-100%	57.23%	39.71%	1.93%	0.32
	33	2	-79,460	1.0	-100%	45.7%	39.34%	9.77%	0.51
Market	92	1	-79,461	1.0	-100%	41.32%	38.67%	15.3%	0.55
-	102	2	-79,460	1.0	-100%	43.38%	38.43%	14.32%	0.52
	24	3	-79,459	1.0	-100%	53.16%	38,11%	7.6%	0.28
	60	1	-79,461	1.0	-100%	49.41%	37.05%	7.46%	0.62
	12	1	-79,461	1.0	-100%	57.25%	36.6%	5.2%	0,41
	48	1	-79,461	1.0	-100%		36.13%	6.42%	9.48
	7	1	-79,461	1.0	-100%	57.9%	35.83%	5.14%	0.61
	106	1	-79,461	1.0	-100%	48.31%	34.97%	7.37%	0.37
	29	1	-79,461	1.0	-100%	46.96%	32.71%	12.6%	0,47
	30	4	-79,458	1.0	-99.99%	54.09%	32.35%	10.2%	0.39
	100	1	-79,461	1.0	-100%	47.76%	32.17%	16.18%	0.61
	25	2	-79,460	1.0	-100%	62.61%	30.25%	5.64%	0.62
	88	2	-79,460	1.0	-100%	46.13%	29.82%	17.86%	0.48
	18	0	-79,462	1.0	-100%	63.5%	29.24%	5.35%	0.75
	22	0	-79,462	1.0	-100%		28.56%	9.7%	2.1
	2	Ő	-79,462	1.0	-100%	65.76%	27.79%	5.28%	0.67
	45	2	-79,460	1.0	-100%	63.53%	26.76%	5.02%	2.95
	46	3	-79,459	1.0	-100%	56.41%	26.51%		
/	44	3	-79,459	1.0	-100%			5.79%	10.05
1	79	2	-79,460	1.0	-100%	60.72% 68.1%	25.99%	7.98%	1.72
1	47	0					25.67%	5.02%	0.45
a laine the se	66	0	-79,462	1.0	-100%	16.27%	25.13%	6.18%	51.56
No. Constant	55	3	-79,462	1.0	-100%	66.72%	24.24%	6.12%	1.46
			-79,459	1.0	-100%	70.64%	24.12%	3.9%	0.46
and the second states	4 16	2	-79,460 -79,461	1.0 1.0	-100% -100%	62.97% 70.46%	22.59% 22.04%	13.39% 4.69%	0.492

Figure 27: Screenshot of "Formula" Window and District Labels For Dr. Hofeller's "NC House J-25003.bak.zip" Draft Plan (August 14, 2017)

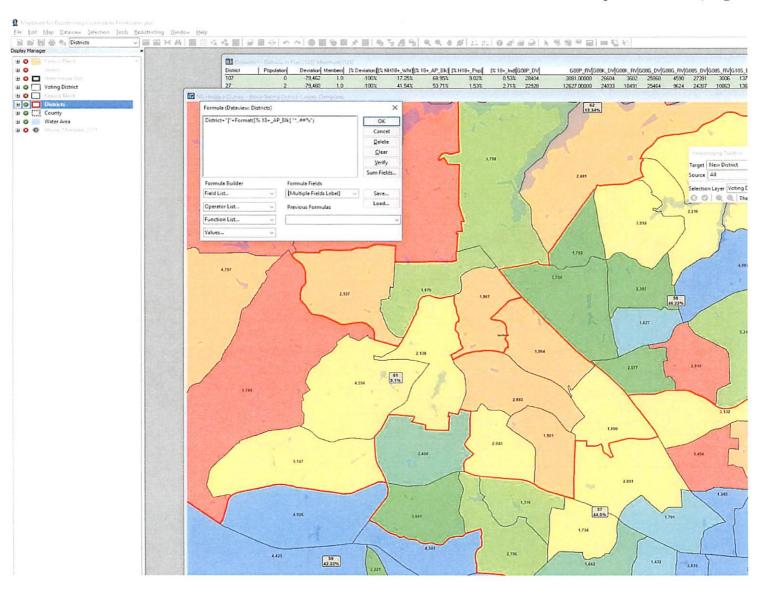
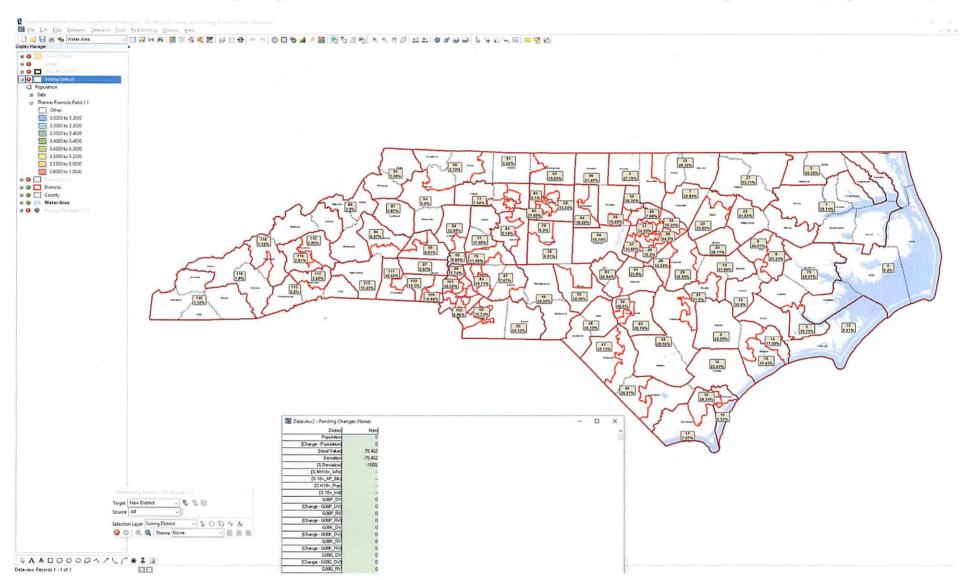


Figure 28: Screenshot of District Labels Reporting Racial Characteristics of Dr. Hofeller's "NC House J-25003.bak.zip" Draft Plan (August 14, 2017)



In summary, Dr. Hofeller's "NC House J-25003.bak.zip" draft House plan was last modified and backed up on August 14, 2017—four days after the House and Senate Redistricting Committees passed the Adopted Criteria on August 10, 2017. In this August 14 draft House plan, Dr. Hofeller clearly imported racial data and calculated each draft district's African-American VAP, and he used this data to align the districts in his "Dataview" window according to the districts' Black VAP, to label his draft districts on his displayed map, and to monitor racial changes in his draft districts in the "Pending Changes" window. Clearly, Dr. Hofeller did not follow the Adopted Criteria's prohibition on having racial data on the new districtings being developed, and Senator Hise's August 24, 2017 assertion that racial data was not available to the General Assembly's mapdrawer appears to be inaccurate. Thus, I conclude that Dr. Hood's and Dr. Thornton's rebuttal reports were again wrong to claim that the General Assembly's mapdrawer followed the Adopted Criteria.

Similar evidence regarding racial data appears in Dr. Hofeller's "NC Senate J-23005.bak.zip"⁵ draft Senate plan, which was last modified and backed up on August 13, 2017. I examined this draft House plan in Maptitude for Redistricting, and I similarly observed that Dr. Hofeller imported racial data and calculated each district's Any-Part African-American share of Voting Age Population (denoted as "% 18+_AP_Blk"), as illustrated in the screenshot in Figure 29. Additionally, Dr. Hofeller again purposefully sorted the 50 draft Senate districts according to their racial composition in the Maptitude "Dataview" window, as illustrated in the Figure 29 screenshot.

⁵ The full filepath of this Maptitude draft plan on Dr. Hofeller's hard drive is:

[&]quot;ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-

ea77894bb5b2\20170813_172720_toshibaInc3047\C\MPRwork\NCPlans\NC Senate J-23 Backups\NC Senate J-23005.bak.zip"

- 0

Figure 29: Screenshot of Dataview Window For Dr. Hofeller's "NC Senate J-23005.bak.zip" Draft Plan (August 13, 2017) Bit & Universe Section Teols Endeduction Window Hee

	lan (50); Maxin																														o e
Population 197059	Deviation [6.349	2 Deviation 608P_DV 3.332 71571			DV GORK_RV								G12P_DV	G12P_RV	G12G_DV	G12G_RV	6120_DV	G120_RV	G145_DV		NH18+_WH										[% 18+_Ind]
183261	-7,449	-3.91% 50694	21053.000		255 23544						32574 24555	14194	75988.06	21593.49 20257.50	69707.50 48792.93	25298.56 21330.71	73955.03 51238.54	20781.68	44169.72 29274.88	13178.94 12368.41	33.05% 37.73%	49.15%	7.42%	151297 133852	62952 55670	41.61%	72636 61587	48.01%	74366 63763	11229	0.6%
192477	1,767	0.93% 53027	34757 000		Sector Contractor							23457	56361.03	35263.86	54975.79	35932.85	58834.64	31063 59	25677.00	23010.00	45 15%	47 45%	4.53%	145928	69155	47.39%	58518	47 023	69253	5616	1.25%
182039	-8.671	4.55% 49405	37106.000	00 511	34 31211	1 5728	84 274	435	52575	31882	31118	27064	50245.29	37410.93	48790.18	37764.62	53470.94	31074.69	32751.00	24904.00	51.04%	44.36%	3.43%	141242	73437	51.99%	61976	43.09%	62649	4846	0.87%
183328	-7,392	-3.87% 59215	18439.000		15 20466	6 4783	30 274	477	57009	17628	28061	11843	65997.08	21705.94	54293.11	31492.46	62605.27	20856.17	37169.43	11581.74	43.51%	41.6%	10.43%	141546	66483	46.97%	57586	40,68%	58885	14845	0.47%
183417	-7,233	3.82% 50240	19792.000						49014		22987	12749	58241.40	22874.22	49180.68	30347.16	56036.37	22232,12	30237.09	12476.51	38.24%	40.76%	14,54%	135063	59763	44.25%	53799	39.83%	55058	19639	0.53%
164237	-6.473	-3.39% 52250	19612 000			2 1977-15	55 T 13	100 C	A CONTRACTOR OF		25560	12514	58279.23	19311.00	49789.13	26534.31	56490.01	1868212	31997.04	11088.05	37.86%	40.68%	17.5%	134290	58716	43.72%	53011	39.48%	54600	23634	0.61%
184237 191250	6,473 540	-3.39% 74468 0.28% 55669	17471.000	2000 C		10 10 10 10 10 10 10 10 10 10 10 10 10 1			AN	100000	40914	11670	77238.12	18885.06	71309.78	22137.10	74756.08	17908.02	51318.00	11313.00	41.3%	40.35%	12.1%	142941	65057	45.51%	56347	39.42%	57573	17302	0.5%
196474	7.764	4.07% 60185	24708.000								26519	16776	53734.49	26192.62	50095.09 57313.02	31364.00 29875.30	53999.42 61740.36	26033.36 24646.76	37553.52 36171.29	17971.40 15157.52	43.293 45.335	39.1%	14.39%	136594	66054 74767	48.36% 49.94%	51994 57044	38.06%	53410 59400	19660	0.63%
182118	-8,592	-4.51% 35812	40283.000									27572	37243.50	41618.12	37581 54	42273.96	39698.94	37127 14	23084.10	26662 73	90.336	33.935	7.04%	137302	81975	43.54%	45871	33.41%	46586	9670	0.393
189510	-1,200	-0.63% 44053	39055.000	00 4290			12 314					24190	45617.88	40624.56	42622.45	42390.38	46647.02	37337.44	25414.00	24107.00	59.81%	32.94%	5173	146760	90259	61.5%	47513	32.37%	48336	7585	0.38%
182730	-7,900	4.16% 50474	36345.000	100 4765	53 34821	1 5060	12 330	800	52018	32438	29403	23800	56006.05	37777.34	51616.03	40053.25	57773.92	32482.14	34146.00	22548.00	59.74%	30.8%	7.13%	141258	87762	62.13%	42704	30.23%	43501	10071	0.43%
196665	5,955	3.12% 46368	45796.000									31904	45522.79	46513.82	44605.57	44073.99	49092.02	39568.04	29029.00	30750.00	66.67%	28.44%	3.15%	153426	104891	68.37%	43040	29.05%	43631	4836	0.47%
191463	753	0.39% 65851		00 5665								21442	69121.31	35818.69	63227.10	40473.91	69990.21	31660 83	44355.43	20442.61	61.17%	26.48%	802%	155863	100033	64,18%	40045	25.63%	41267	12506	0.42%
192266 185173	1.556	0.82% 34134	30427,000									19146	36035.40	30448.38	37213.19	27973.87	41269.19	22601.62	19982.00	17904.00	40.43%	26.37%	5.73%	142807	59791	41.87%	37019	25.92%	37661	8161	26,49%
183122	-5,5.37	-2.93 38431 -1963 33226	47921.000		1000			20.54	Section 2.	100 C 100 C	and the second	33448 22143	38093.92	46903.09 37224.88	35687.59 31397.74	48472.18 37931.80	40417.32 35474.24	42692.48 33152.01	26405.07	34187.87 22549.59	65.87% 61.48%	26.25%	6.43% 7.53%	136249	92745 86460	68.07% 65.1%	35118	25.77%	35766 34519	8761 9939	0.59%
197991	7,291	3.82% 41817	46642.000									30550	41641.77	48823.21	31397.74	3/531.80 50370.70	35474.24 47882.54	33152.01	19317.12	22549.59	61.48%	25.99%	3,793	132805	103471	67.98%	33093	24.92%	34519 39464	5774	219%
182208	-6.502	-4.45% 23718	38740.000									26325	30779.24	43506.28	23735.00	44149.19	33719.15	39654.60	18445.67	25377.33	60.22%	24%	14.435	135310	66072	63.61%	31963	23.64%	32475	19523	1.03%
182722	7,588	4.19% 45086	37246.000		100000	ALL STREET		1975 - C			100000000000000000000000000000000000000	24190	50120.53	43637.65	38437.45	53886 07	47717.36	41678.13	30011.91	24998.58	66.6%	21.73%	6.03%	135945	94722	69.68%	28531	20 993	29537	8273	0.34%
191817	1.107	0.56% 30006	41621.000	00 2985					33144			27718	31483.85	46320.91	29013.49	47732.42	34386.34	41339.20	19127.15	27323.05	67.84%	19.53%	10 53%	133900	100640	71.94%	26504	19.02%	27404	14731	0.93%
194767	4,057	2.13% 37489	48198.000						Transferred V	State of the second	1.000	33834	38077.49	52883.69	33775.59	55458 87	39846.66	48887.93	24553.05	34032.98	72.4%	18.54%	7.27%	149381	112011	74.98%	26983	18.06%	27637	10853	0.58%
200133 187925	9,423	4.94% 41422	52037.000							Section 2	And set of the local division of the	41161	42345.34	57291.92	37937.96	59913.07	43441,43	52767 21	29007.05	32130.79	75.47%	18.42%	4.45%	159646	122365	77.13%	20653	18.06%	29229	7052	0.85%
18/325	-2.795 3.451	-1.46% 21877 1.81% 30848	30095.0000	200 TON				100 C		and the second		19362	20842.23	35081.48	18742.13	35658.22	21355.97	32113.32	11858.01	21858.02	71.18%	16.09%	8.55%	140779	106403	75.58%	22411	15.92%	23762	12031	0.73%
192693	1,983	1.04% 44474	45786.000									27960 39012	29658.79 50824.74	50102.05 63672.98	26663.62 43168.96	52148.36 69779.49	30367.17 52348.08	47306.95	16124.05	28762.18	72.27%	16.53%	821%	145535	109598	75.31%	23572 22300	16.2%	24151 22977	11943	0.67%
163118	-7.592	-3.96% 32933	51371.000									37109	31703.02	55756.27	28705.56	57547.30	33970.86	50274.92 51243.00	21666.00	37104.00	75.884	16.42%	3.96%	143996	114947	78.21%	22129	15.37%	22797	5636	0.304
197996	7,288	3.82% 34797	52136.0000	Control Control	A CONTRACTOR	50	20 - R. 8					35397	32166.23	54951.37	29523.75	56409.98	35549.97	48439.42	20532.03	34354.18	80.03%	15.25%	3.6%	154325	125675	81.44%	23031	14.92%	23538	5257	0.33%
197035	6,325	3.32% 29059	49481.0000							43238		31082	31823.97	53049.06	25921.94	58445.72	32976.60	49100.20	18297.00	31 343.00	78.37%	14.75%	4.93%	149991	120517	80.35%	21596	14.4%	22125	7396	0.42%
195302	4.592	2.41% 47197	58408 0000	00 4022	26 60076	6 45560	0 5658	i90	51750	51042	22157	41618	46291.88	63539.98	33220.41	68626.81	45366.94	60140.04	32722.18	43106.50	77.37%	14.44%	3.9%	150436	119457	79.41%	20939	13.92%	21725	5063	0.35%
195244	-5.466	-2.87% 32367	49609.0000		10 - 10 - 10 - 10 - 10 - 10 - 10 - 10 -							32467	33703.45	52539.37	25396.28	60113.77	34348.27	47997.71	20606.60	31277.63	76.02%	14.34%	7.31%	134530	106157	78.91%	18706	13.92	19290	9629	0.36%
199013	8,303	4.355 31964	56405.0000		The second second	1	10 A		Contract of the second	STREET.		36147	31081.05	58677.81	24789.90	64471.48	32946.28	53837.51	18962.00	35725.00	79.12%	14.254	4.9%	152338	123262	80.91%	21273	13.96%	21709	7457	0.35%
195394 197306	-5,316 6,596	-2.79% 30293 3.46% 71668	52341.0000 34534.0000									33049 25502	29435.18 72264.33	54152.05	25379.01 65606.44	57610.90 42006.61	31812.21 70762.94	49493.04 35474.94	19432.00 53699.00	33218.00 24697.00	81.82% 73.735	13.3%	362%	141718 155496	119590 119697	83.67% 76.98%	16471 19176	13.03%	19947 19919	5126 12147	0.28%
197372	6.662	3.49% 46476	50139.0000									37303	46055.37	53199.20	39188.64	4206 61 56859.15	44368.17	35474.54 50308.45	30115.94	24537.00	81.12%	12.61%	4.415	159436	11969/	83.07%	19176	12.330	19919	6983	0.48%
132901	2,191	1.15% 51994	38319.0000		And a second			1.00	100 A 100 A	10.000		27854	61068.17	43961.96	51443.93	50097 93	59232 33	41089.30	39960.09	27603.07	67.51%	12.3%	7.16%	143508	102174	71.2%	16734	11.66%	17655	10290	0.38%
194059	3,349	1.76% 30283	51361.0000		10.0							32947	31618.49	58124.42	23834.75	64873.03	32346.33	53641.44	18518.89	35683.01	76.43%	12.11%	3135	135112	106485	80.29%	15849	11.735	16369	12334	0.42%
193305	2.595	1.35% 45788	52498.0000	00 3757	78 56535	5 41014	4 535	71	45240	49882	23915	38523	45945.19	54610.70	38166.11	59248 93	45983.90	50606.63	34207.91	40081.93	78.11%	11%	6.44%	136852	111438	81,433;	14434	10.55%	15047	8812	0.52%
190675	-34	-0.02% 27357	51571.0000		81 50465	5 32048	6 4490	64	32554	44247	14509	33627	25328.62	55792.39	22078.06	58230.82	28289.95	50884.98	15180.00	33578.00	82.13%	10.24%	5.64%	145058	122043	84.13%	14531	10.02%	14858	8186	0.46%
197843	7.133	3.74% 31827	57526.0000						o'o'raa			37834	30029.34	61966.15	23379.00	67646.58	31433.43	56721.13	18653,19	39573.22	82.05%	10.12%	5.86%	148320	125065	B4 32%	14564	9.82%	15005	8631	0.3%
193436	2,726	1.43% 36711	62946.0000									45638	35142.57	68264.87	29346.30	73088.92	36114.91	63843.98	23590.79	43923.73	84.9%	8.4%	4.6%	147052	127798	86.91 %	11901	8.09%	12357	6765	0.32%
191556 193282	846 2,572	0.443; 30796 1.353; 58528	54753.0000									35355	20583.97 50379.73	56805.57 42598.20	22123.61	62956.94 44970.37	30115.12	53048.23 39535.04	17369 13 42565 51	35379.41	82.98% 86.57%	8.03% 5.78%	5.942	146308	125192	85.57% B8.84%	11314	7.73%	11748	0698 7256	0.31%
195924	4,796	-2.51% 41926	57268.0000	2010 C 2010 C	Carlos Services			Contract of the second			20071	42371	39625.21	64133.96	25121.15	77666.12	39107.29	59681.22	27542.05	40823.48	83.63%	6.65%	4.47%	139445	120542	86.44%	8750	6.27%	9271	6237	0.27%
191738	1,028	0.54% 29144	50290.0000									31940	26460.61	51260.55	20724.49	56753 64	28353.37	46996.03	15228.89	31227.77	88.12%	5.82%	3.78%	149705	133675	89.29%	8348	5.56%	8713	5654	0.32%
187477	-3,233	-1.7% 32358	52029.0000									38045	29705.65	53433.48	31809.58	50625.43	33152.43	46685.35	21325.63	34509.33	90.41%	5.33%	3.08%	147841	135556	91,69%	7623	5.16%	7874	4560	0.31%
184866	-5.844	-3.06% 36437	52454.0000	00 3530	08 50773	3 39977	7 4743	36	40501	47174	22200	39941	35730.62	54747.13	31931.75	56382.71	36045.16	51179.57	25558.02	36326.52	88.62%	3.5%	5.9%	147107	134555	91.47%	4762	3.24%	5152	8675	0.36%
199293	8,583	4.5% 35733			89 51478			200 L				37999	31513.45	57031.85	27339.72	59635.28	34008.10	50293.85	20430.67	35860.17	91.38%	2.63%	4.82%	159404	148705	93.29%	3864	2.42%	4197	7682	0.24%
194102	3,392	1,78% 37592	51074.0000	.0 3872	23 45524	4478	18 403.	133	41924	44226	25165	38165	34333.41	53696.16	33090.71	52632.00	37162.02	47473.34	24543.84	35114.62	90.2%	1.38%	315%	156458	143449	91.69%	1906	1.22%	2152	4936	3912
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In addition to two draft plans described above, I also reviewed several of Dr. Hofeller's other draft plans in Maptitude for Redistricting. For the four draft plans listed below, I found similar evidence in each Maptitude backup folder that Dr. Hofeller imported racial data, which he then used to create a summary field titled "% 18+_AP_Blk", calculating each of his draft district's Any-Part African-American share of total Voting Age Population:

1) "NC House A-1001.bak.zip" (Draft House map; Last modified on August 11, 2017)⁶

2) "NC House J-3003.bak.zip " (Draft House map; Last modified on August 14, 2017)⁷

3) "NC Senate J-24001.bak.zip" (Draft House map; Last modified on June 24, 2017)⁸

4) "NC Senate J-24005.bak.zip" (Draft House map; Last modified on July 12, 2017)⁹

These files are Maptitude files that I have personally reviewed; I have not reviewed any Matptitude files from Dr. Hofeller in this time period that did not have racial data on the new districts being created.

In addition to having racial data in his Maptitude files, Dr. Hofeller also created Excel spreadsheets with racial data on his draft districts. For instance, in an Excel spreadsheet titled "Senate County Groups" (Last modified on August 3, 2017), Dr. Hofeller he listed all of the county groupings in the Senate Plan. For each county grouping, Dr. Hofeller also calculated the grouping's Any-Part Black Voting Age Population (Column I and J), among other racial breakdowns.

In summary, the above Maptitude and Excel files reveal that Dr. Hofeller had racial data and calculated and displayed district-level racial demographics, both in his draft plans prior to and after the August 10, 2017 passage of the 2017 Adopted Criteria. Clearly, contrary to the

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⁷ The full filepath of this Maptitude draft plan on Dr. Hofeller's hard drive is:

"ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-

⁶ The full filepath of this Maptitude draft plan on Dr. Hofeller's hard drive is:

ea77894bb5b2\20170811_083948_toshibaInc3039\C\MPRwork\NCPlans\NC House A-1 Backups\NC House A-1 1001.bak.zip"

[&]quot;ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-

ea77894bb5b2\20170814_203114_toshibaInc3065\C\MPRwork\NCPlans\NC House J-3 Backups\NC House J-3003.bak.zip"

⁸ The full filepath of this Maptitude draft plan on Dr. Hofeller's hard drive is:

[&]quot;ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-

ea77894bb5b2\20170624_093938_toshibaInc2590\C\MPRwork\NCPlans\NC Senate J-24 Backups\NC Senate J-24001.bak.zip"

⁹ The full filepath of this Maptitude draft plan on Dr. Hofeller's hard drive is:

ea77894bb5b2\20170712_151351_toshibaInc2792\C\MPRwork\NCPlans\NC Senate J-24 Backups\NC Senate J-24005.bak.zip"

assertions of Dr. Hood and Dr. Thornton that the 2017 Plans strictly adhered to the 2017 Adopted Criteria, Dr. Hofeller did not follow the Adopted Criteria's prohibition on having racial data on the new districts being developed.

Response to Dr. Brunell's, Dr. Hood's, and Dr. Johnson's Claims Regarding Partisan Intent:

In their rebuttal reports, Dr. Hood and Dr. Johnson claim that the role of partisan motives in the drawing of the 2017 House and Senate Plans was significantly limited. Specifically, Dr. Hood argues that the General Assembly's redistricting process was "quite constrained, which greatly limits the ability of map drawers to create districts where partisan motives predominate" (p. 9-10, Hood report of April 30, 2019). Similarly, Dr. Johnson argues that the "county groupings' requirement significantly limits the legislature's ability to draw lines based exclusively on partisanship" (Para. 30, Johnson report of April 30, 2019).

Furthermore, Dr. Brunell and Dr. Hood both claim that it is simply difficult to prove whether the General Assembly had partisan intent when drawing the 2017 House and Senate Plans. Dr. Hood argues that the enacted plans' deviations from non-partisan districting criteria "in no ways proves the General Assembly was engaged in an effort to engage in extreme partisan gerrymander" (p. 9, Hood report of April 30, 2019). More generally, Dr. Brunell asserts that "Divining the intent of the map-maker is extraordinarily difficult because the process of redistricting is complex" (p. 7, Brunell report of April 30, 2019).

In response to these arguments by Dr. Brunell, Dr. Hood, and Dr. Johnson, I examined and analyzed draft House and Senate maps prepared by Dr. Hofeller, as well as several associated files in which Dr. Hofeller analyzed the characteristics of his various draft maps. Again, I understand that Plaintiffs received these files through a subpoena to Dr. Hofeller's daughter, and I received these files directly from Plaintiffs' forensic vendor, Stroz Friedberg.

These associated files, most of which were saved as Microsoft Excel spreadsheets, reveal Dr. Hofeller's near-singular focus on the partisan characteristics of the districts while producing his various draft maps. As described below, Dr. Hofeller's various spreadsheets employed three different election formulas for measuring the partisanship of districts in his draft maps. The draft districts followed the county groupings boundaries and population deviation requirements, but the spreadsheets otherwise contain no evidence that Dr. Hofeller focused on other non-partisan

criteria, such as geographic compactness and avoiding municipal, precinct, or VTD splits. Therefore, Dr. Hofeller's spreadsheets are strong evidence that partisan considerations predominated over non-partisan redistricting criteria in Dr. Hofeller's process of drafting the General Assembly's 2017 House and Senate Plans.

Below, I describe the files associated with Dr. Hofeller's draft maps that I analyzed, and I describe my findings from examining Dr. Hofeller's files:

1) Dr. Hofeller's "Avg R" Election Formula: Dr. Hofeller's first partisanship measure is described in detail in his document named "FORMULA FOR POLITICAL ANALYSIS OF LEGISLATIVE DISTRICTS.docx" (Last modified: November 7, 2016). Figure 30 contains a screenshot of the entirety of this document. This partisan measure aggregates together the results of nine statewide election in North Carolina during 2008-2014. These elections are the 2008 US President, Governor, US Senate, and Commissioner of Insurance elections, the 2010 US Senate election, the 2012 US President, Governor, and Commissioner of Labor elections, and the 2014 US Senate election. Votes from these nine elections are weighted equally, and Dr. Hofeller's formula calculates the Republican share of the total two-party votes summed across the nine elections.

Dr. Hofeller's Excel spreadsheet named "NC House Plan June 7.xls" (Last modified: June 7, 2017) contains an example of his use of this formula. Figure 31 contains a screenshot of this spreadsheet. In this spreadsheet, Dr. Hofeller describes the partisan characteristics of the 120 districts in a draft plan he referred to as "NC_House_Plan_June_7". For each district in this draft plan, Dr. Hofeller calculated the total number of votes received by Republican candidates in these nine elections (column B), as well as the total number of two-party votes in these elections. Dr. Hofeller then calculated each district's Republican share of the two-part votes across in these elections. Finally, Dr. Hofeller ranked the districts from most to least Republican in this spreadsheet, allowing him to compare the relative partisanship of the 120 districts in his draft plan. Figure 31 contains a screenshot of this Excel spreadsheet, illustrating how Dr. Hofeller calculated the spreadsheet; he then sorted all of the districts in this draft map from most to least Republican strength of each district.

Figure 30:

Dr. Hofeller's "FORMULA FOR POLITICAL ANALYSIS OF LEGISLATIVE DISTRICTS.doc"

FORMULA FOR POLITICAL ANALYSIS OF LEGISLATIVE DISTRICTS USING 2-PARTY VOTE

(G08P_RV+G08G_RV+G08S_RV+G08K_RV+G12P_RV+G12G_RV+G12O_RV+G10S_RV+ G14S_RV)/(G08P_DV+G08P_RV+G08G_DV+G08G_RV+G08S_DV+G08S_RV+G08K_DV+ G08K_RV+G12P_DV+G12P_RV+G12G_DV+G12G_RV+G12O_DV+G12O_RV+G10S_DV+ G10S_RV+G14S_DV+G14S_RV)

2008 President 2008 Governor 2008 U. S. Senate 2008 insurance Commissioner 2010 U. S. Senate 2012 President 2012 Governor 2012 Commissioner of Labor 2014 U. S. Senate

Note: The full filepath location of this file is:

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Figure 31: Screenshot of Dr. Hofeller's Draft Plan File: "NC House Plan June 7.xls"

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	96,421	271,714	72.29%	9261	23181	8859	22615	11084	20486	11435	19795	4029	14213	8662.72	27236.36	7851.95	27897.23	9481.84			15431.368	
	18,982 68,461	306,185	71.52%	10655	26663	10734	25271	10613	26188	13087	22826	6222	17732	10098.75	28047.94	7716.87	30321	11761.33				
	97,540	236,467 280,147	71.24% 70.51%	8939 10239	21173 23827	8356 9778	20909 23508	10289	18905	10762	18244	3558	12749	7463.86	21078.91	6346.6	21891.91	7916.02				
	98,582	290,677	68.32%	11713	23627	11503	23508	12055 10691	21066 24193	12259 13597	20836 20333	4779 6958	15452 15653	9534.17	25996.84	8260.95	26890.01	10330.9			15617	
	B0,709	268,964	67.19%	10987	22714	10770	20878	12848	19770	12868	19452	6014	15653	11024.15 9751.89	25266.02 23342.98	8229.03	27844.89	11689.94			15860	
	96,836	292,985	67.18%	11574	24764	12034	22959	13664	22176	14202	21008	7929	15873	9751.89	23342.98	8724.28 8567.38	23754.45 26251.5	10488.6 11406			14350.466 15914.529	
	90,235	283.345	67.14%	11767	23134	11430	22346	11433	22911	13284	20341	6077	14252	11501.98	23984.96	8873.76	26427.32	11833.8		6909	14193	
18	84,233	277,260	66.45%	12222	22076	11624	22079	11194	22756	13498	19564	6177	13998	11353.09	22956.02	8620.75	25437.57	11817.24			13868	
18	83,312	278,080	65.92%	12065	22497	11996	21719	12172	22066	14293	18900	6908	14382	10896.96	23228.13	8402.69	25770.04	11775.84			13308	
19	97,701	300,006	65.90%	13876	22652	12706	21859	10950	24813	14523	20276	5680	14174	13403.15	25566.11	9674.09	28752.67	13236.14			15724.949	
19	90,959	290,025	65.84%	12526	22938	11250	22773	13932	20533	14172	20212	5955	16659	11769.23	24151.26	9836.05	25734.25	12343.13		7283	15763	
19	90,438	290,607	65.53%	12128	23731	12333	22609	15433	19484	14679	20114	6348	16177	10687.99	24897.2	9666.79	25632.61	12220.61	22366.49	6672.3794	15427.101	
18	86,216	284,385	65.48%	10507	21952	11090	19965	13507	18398	12402	19431	5922	15031	12085.58	25970.45	11504.52	26148.82	14174.64	23296.17	6976.1981	16023.489	
	76,313	269,653	65.39%	12177	19306	10711	18909	9041	21804	12359	17898	5344	12791	13194.91	23130.82	9628.34	26155.27	12965.29	21702.87	7919.1133	14616.223	
	82,693	281,112	64.99%	11601	22659	12002	20911	15102	18400	14276	19072	6952	15362	10309.66	24646.23	9149.18	25418.71	12219.67	21112.87	6807.9548	15110.806	
	10,410	327,376	64.27%	13483	25901	13850	23728	19215	19352	15497	22775	7638	18590	12653.08	27610.63	11362.35	28510.31	14032.84	4 25405.87	9235.0067	18537.023	
	67,046	259,963	64.26%	12072	19438	11202	18629	9811	21040	12566	17649	5446	12148	12511.55	21410.2	9447.68	24123.48	12722.31			12760.379	
	76,694	275.368	64.17%	12192	21589	11869	21201	14344	18554	14445	18384	6468	13884	11089.36	23389.46	9497.76	24611.02	12277.99			13656	
	87,054	293,740	63.68%	13424	22465	13471	21204	12892	22440	14879	19630	7244	14736	12669.15	23722.75	10365.99	25822.76	13701.08				
	D4,585 77,163	321,421 278,435	63.65% 63.63%	15897 13429	22644 20913	13940 12035	22450 21594	10280 11789	27766 22173	16331 14425	20934	7849	16157	15866.63	25172.45	10509.04	30140.97	15348.72		10815.11	15821.99	
	03,589	320.052	63.61%	13429	20913	12035	21594	16904	20549	14425	18905 22674	6470 9909	13705	12715.17 11788.6	21581.14	9731.01	24286.86	12901.08			13576	
	33,388	369,674	63.13%	16781	27428	14632	27603	17381	20549	19286	22674	9909 8409	19081 18738	16754.97	26835.88 30084.64	12098.94 14308.58	25147.32	13482.74				
	94,317	308,283	63.03%	14458	22261	13194	21786	11650	24470	15612	19611	7356	15163	15397.59	24785.72	11112.33	31868.16 28719.26	16702.65 15389.36				
	93,484	308,291	62.76%	15686	20276	13218	20613	10169	25153	15799	18894	6849	14098	16290.21	25350.92	10977.3	29855.78	15389.36				
	26,912	363,262	62.46%	19744	24442	16923	24402	11115	32536	19712	23216	9634	18842	17836.17	27193.2	11025.8	33642.41	17194.94				
- 26	83,894	294,589	62.42%	13640	22071	12683	21857	14523	20334	14763	19938	7523	15490	13129.78	23159.62	11441.84	24139.22	13994.73				
16	63,707	262,403	62.39%	11561	19745	11994	18143	11647	19259	13383	16842	6366	12134	12285.57	22156.76	10812.76	23247.09	13470.19				
22	28,637	366,577	62.37%	17504	26248	14674	26869	16994	25339	19488	23130	8423	19081	17108.63	29089.36	14257.07	31142.23	16783.14				
19	92,271	309,554	62.11%	16536	20519	14048	20924	10380	26249	16512	19337	7111	14618	16402.55	24061.05	10692.16	29291.72	15489.85				
	05,173	331,072	61.97%	15838	23957	14243	23623	15540	23209	17345	21221	8130	16852	15151.61	26340.63	13535.11	27253.88	15589.49				
	57,950	256,119	61.67%	11844	18968	11608	18013	10944	19474	13141	16538	5880	11794	13291.95	20038.17	10507.82	22568.1	13414.23	18888.13	7537.9999	11669	
	60,152	260,866	61.39%	10995	21169	12085	18561	13475	17455	14329	16593	6370	14175	10644.16	21463.69	13175.53	18793.49	12313.13	18585.84	7326.504	13356.238	
	25,023	367,964	61.15%	18136	26265	16160	26542	18383	24864	19503	23780	8978	19345	17321.79	28490.81	14576.83	30730.4	17729.71				
	81,034	296,820	60.99%	14579	21731	13254	21087	15378	19464	15399	19569	8152	16500	13636.77	22884.26	12154.59	23457.1	13737.83				
	06,058	338,757	60.83%	15538	24326	15596	22017	17177	20964	18979	19216	9560	20050	15610.48	27141.06	13034.29	28822.17	15856.64		11348.217		
15	59,693	262.704	60.79%	11981	20848	12921	18447	12901	19451	14826	16822	7206	12341	11633.11	20543.02	10977.97	21002.03	13062.43	3 17874.98	7502.5267	12363.689	
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Dr. Hofeller then labeled this district-level measure of Republican vote share as "Avg R" in several of his Excel spreadsheets analyzing the districts in his various draft maps. Specifically, for this section of this report, I analyzed a number of Dr. Hofeller's Excel spreadsheets analyzing his various House draft plans and Senate draft plans.

Each of these spreadsheets contains a list of all districts in one of Dr. Hofeller's draft plans, along with the "Avg R" Republican vote share of the district using Dr. Hofeller's 2008-2014 election formula. Dr. Hofeller then shaded each of the districts with a multi-color shading scheme, ranging from blue (for districts with a "Avg R" under 45%) to dark red (for districts with a "Avg R" over 65%). Images of these files are reproduced further below. Figures 32 to 44 contain screenshots of these spreadsheets on depicting Dr. Hofeller's various draft districts.

2) *Dr. Hofeller's "PPI Indicator" Formula:* Dr. Hofeller's second partisanship measure is described in detail in his Excel spreadsheet named "PPI Indicator Votes for New 2017 Legislative Districts.xlsx" (Last modified on June 24, 2017). Figure 45 contains a screenshot of this spreadsheet. This partisan measure aggregates together the results of ten statewide elections in North Carolina during 2010-2016.¹⁰ These ten elections match the elections that Representative David Lewis announced at the August 10, 2017 meeting of the Joint Select Committee on Redistricting would be used in drawing new House and Senate districts. As detailed in Dr. Hofeller's Excel spreadsheet, votes from these ten elections are weighted equally, and Dr. Hofeller's formula calculates the Republican share of the total two-party votes summed across the ten elections.

¹⁰ These elections are: The 2010 US Senate election, the 2012 US President, Governor, and Lieutenant Governor elections, the 2014 US Senate election, and the 2016 US President, US Senate, Governor, Lieutenant Governor, and Attorney General elections.

Figure 32: Dr. Hofeller's Draft Plan File: "House Minimum-Partisan-Members D.xlsx" (December 6, 2016)

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	Group Type	Dist	Avg R	Off Year	Incumbent	Pty	Note	Old Avg.	New - Old Avg		
1	New	1	44.49%	50.90%	Steinburg	R	##	56.77%			
1	Gra-Per-Van-War	2	52.41%	14-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-	Yarborough	R		51.84%	0.57%		
	New	3	59.57%	65.68%	Speciale	R		56.36%	3.21%		
	New	4	55.22%	60.24%	Dixon	R		61.60%	-6.38%		
	New	5	37.17%	42.20%	Hunter	D	-				
	New	6	57.79%	62.46%	Boswell	R		54.96%	2.83%		
	Fran-Nash	7	43.21%	45.77%	Richardson	D.	##	38.61%	4.60%		
	New	8	34.79%	37.03%	Vacant	D.	#				
	New	9	54.96%	59.58%	Murphy	R		53.89%	1.07%		
l	New	10	62.11%	66.57%	Bell	R	1	62.82%	-0.71%		
	Wake	11	40.34%	39.63%	Hall/Ball	D-D	#				
1	New	12	47.60%	51.58%	Graham	D		40.79%	6.81%		
	Old	13	64.27%	68.75%	McElraft	R		64.27%	0.00%		
1	Old	14	58.00%	Contractory of the local division of the	Cleveland	R	_	58.00%	0.00%		
	Old	15	60.31%	67.14%	Shepard	R		60.31%	0.00%		
	New	16	52.95%	57.51%	Millis	R		59.57%	-6.62%		
1	Old	17	60.83%	64.70%		R		60.83%	0.00%		
	Old	18	37.12%	and the second se	Hamilton	D					
	Old	19	58.04%	60.71%		R		58.04%	0.00%		
1	Old	20	58.55%	the second s	Grange	R		58.55%	0.00%		
	New	21	38.92%	42.84%		D					
	New	22	54.03%	57.09%		D	##	52.47%	1.56%		
1	Old New	23 24	34.23% 45.20%	and the second second second	Willingham	D		50.00%	0.000/		
	Fran-Nash	25	54.99%		Martin/Butterfield Collins	R-D	#	53.20% 59.22%	-8.00%		
	New	26	62.42%	65.30%		R	m	58.67%	-4.23% 3.75%		
	Old	27	32.28%	36.27%		D		30.0770	5.7570		
	New	28	60.67%	and the second second second	Strickland	R		52.47%	8.20%		
	New	29	15.07%	14.99%		D		52.4773	0.2070		
1	New	30	34.76%		Lehman	D.					
1	New	31	22.26%		Michaux	D					
	Gra-Per-Van-War	32	33.08%		Garrison	D					
	Wake	33	20.83%	17.84%		D					
	Wake	34	45.21%	46.34%		D		37.99%	7.22%		
	Wake	35	55.97%		Malone	R		54.92%	1.05%		
	Wake	36	53.02%	53.44%	Dollar	R		54.94%	-1.92%		
	Wake	37	53.64%	55.11%	Williams	R		56.45%	-2.81%		
	Wake	38	28.48%	28.51%	Holley	D					
	Wake	39	32.72%	32.10%	Jackson	D					
	Wake	40	57.05%	58.19%		D	###	54.63%	2.42%		
	Wake	41	45.86%		Adcock	D		50.53%	-4.67%		
	Cumb	42	32.06%	34.49%	Lucas	D					

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Figure 33: Dr. Hofeller's Draft Plan File: "House Minimum-Partisan-Members.xlsx" (December 3, 2016)

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Γ	Group Type	Dist	Avg R	Off Year	Incumbent	Dtv	Note	Old Avg.	New -			
L	Group Type	DISL	-			Pty			Old Avg			
L	New	1	44.49%		Steinburg	R	##	56.77%				
1	Gra-Per-Van-War	2	52.41%		Yarborough	R		51.84%				
F	New	3	54.37%	61.02%		R		56.36%	-1.99%			
┝	New	4	54.77%	59.69%	Dixon	R	-	61.60%	-6.83%			
┝	New	5	37.17%	42.20%	Hunter Boswell	D R		54.059/	2.029/			
ŀ	New	6	57.79% 51.17%	62.46% 56.15%		D	###	54.96% 38.61%	2.83%			
┢	Fran-Nash New	8	35.06%	37.15%	Vacant	D	#	50.0176	12.3070			
ŀ	New	9	53.40%	57.78%	Murphy	R	**	53.89%	-0.49%			
F	New	10	62.11%	66.57%	Bell	R	10	62.82%	-0.71%			
	Wake	11	40.34%	39.63%	Hall/Ball	D-D	#					
F	New	12	48.98%	53.19%	Graham	D		40.79%	8.19%			
F	Old	13	64.27%	68.75%	McElraft	R		64.27%	0.00%			
	Old	14	58.00%	64.41%	Cleveland	R	1	58.00%	0.00%			
	Old	15	60.31%	67.92%	Shepard	R		60.31%	0.00%			
L	New	16	53.53%	58.08%	Millis	R	1.11	59.57%	-6.04%			
	Old	17	60.83%	64.70%	ller	R		60.83%	0.00%			
	Old	18	37.12%	39.63%	Hamilton	D						
+	Old	19	58.04%	60.71%		R		58.04%	0.00%			
H	Old	20	58.55%	61.15%	Grange	R	1	58.55%	0.00%			
ŀ	New	21	38.93%	42.84%	Bell	0	##	52.47%	1.55%			
ł	Old	22 23	54.02% 34.23%	57.09% 37.64%	Brison			52.4170	1.55%			
ł	New	23	45.20%	47.27%	Willingham Martin/Butterfield	-	#	53.20%	-8.00%			
	Fran-Nash	25	47.17%	48.30%	Collins	R	##	59.22%	-12.05%			
	New	26	62.42%	65.30%	While	R		58.67%	3.75%			
F	Old	27	32.28%	36.27%	Wray	6						
T	New	28	60.67%	64.85%	Strickland	R		52.47%	8.20%			
	New	29	11.36%	14.99%	Hall	D						
	New	30	37.17%	34.44%	Lehman	D						
	New	31	23.18%	21.17%	Michaux	0						
	Gra-Per-Van-War	32	33.08%	36.55%	Garrison	D						
L	Wake	33	20.83%	17.84%		D						
ŀ	Wake	34	45.21%	46.34%		D		37.99%	7.22%			
ŀ	Wake	35	55.97%	58.19%	and the second se	R		54.92%	1.05%			
$\left \right $	Wake	36	53.08%	53.44%		R		54.94% 56.45%	-1.86%	= -		
\mathbf{F}	Wake Wake	37	53.63% 28.48%	55.11% 28.51%		D		30.45%	-2.82%			
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ŀ	Wake	40	57.05%	58.19%		0	##	54.63%	2.42%			
t	Wake	41	45.85%	45.97%		D	111	50.53%	-4.68%			
t	Cumb	42	32.49%	34.61%	Lucas	a						
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Figure 36: Dr. Hofeller's Draft Plan File: "House Minimum-Partisan-Members D.xlsx" (June 12, 2017)

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	Group Type	Dist	Avg R	Off Year	Incumbent	Pty	Note	Old Avg.	New - Old Avg		
	New	1	44.49%	50.90%	Steinburg	R	##	56.77%			
(Gra-Per-Van-War	2	52.41%	55.17%	Yarborough	R		51.84%	0.57%		
	New	3	59.57%	65.68%	Speciale	R		56.36%	3.21%		
	New	4	55.22%	60.24%	Dixon	R	1	61.60%	-6.38%		
Г	New	5	37.17%	42.20%	Hunter	D					
	New	6	57.79%	A REAL PROPERTY OF THE OWNER	Boswell	R	1	54.96%	2.83%		
	Fran-Nash	7	43.21%	45.77%	Richardson	D	##	38.61%	4.60%		
	New	8	34.79%	37.03%	Vacant	D	#				
	New	9	54.96%	59.58%	Murphy	R		53.89%	1.07%		
	New	10	64.66%	69.67%	Bell	R		62.82%	1.84%		
	Wake	11	40.34%	39.63%	Hall/Ball	D-D	#				
	New	12	47.60%	51.58%	Graham	D.		40.79%	6.81%		
	Old	13	64.27%	68.75%	McElraft	R	1	64.27%	0.00%		
	Old	14	58.00%	64.58%	Cleveland	R	2	58.00%	0.00%		
	Old	15	60.31%	67.14%	Shepard	R	100	60.31%	0.00%		
	New	16	52.95%	57.51%	Millis	R		59.57%	-6.62%		
	Old	17	60.83%	64.70%	Iler	R		60.83%	0.00%		
	Old	18	37.12%	39.63%	Hamilton	D					
	Old	19	58.04%	60.71%	Davis	R		58.04%	0.00%		
	Old	20	58.55%	61.15%	Grange	R		58.55%	0.00%		
	New	21	44.04%	47.83%	Bell	D	9				
	New	22	44.04%	47.83%	Brison	D		52.47%	-8.43%		
	Old	23	34.23%	37.64%	Willingham	D	C. C. A.				
	New	24	45.20%	47.27%	Martin/Butterfield	R-D	#	53.20%	-8.00%		
	Fran-Nash	25	54.99%	58.12%	Collins	R	##	59.22%	-4.23%		
	New	26	62.42%	65.30%	While	R		58.67%	3.75%		
	Old	27	32.28%	36.27%	Wray	D					
	New	28	60.67%	64.85%	Strickland	R		52.47%	8.20%		
	New	29	15.07%	14.99%	the second s	D					
	New	30	34.76%		Lehman	D	-				
	New	31	22.26%	21.17%	Michaux	D					
0	Gra-Per-Van-War	32	33.08%		Garrison	D					
	Wake	33	20.83%	17.84%		Ð					
	Wake	34	45.21%	46.34%		D	1.000	37.99%	7.22%		
	Wake	35	55.97%		Malone	R	1	54.92%	1.05%		
	Wake	36	53.02%	53.44%	Contraction of the local division of the loc	R		54.94%	-1.92%		
	Wake	37	53.64%	The second se	Williams	R	N. J.	56.45%	-2.81%		
	Wake	38	28.48%		Holley	D					
	Wake	39	32.72%		Jackson	D					
	Wake	40	57.05%	58.19%		D	##	54.63%	2.42%		
-	Wake	41	45.86%	the state of the s	Adcock	D		50.53%	-4.67%		
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3	Group Type	Dist	Avg R	14 Sen%		Pty	Note	Old Ave R				
1	New	1	47.94%	52.31%	Cook	R		53.54%	-5.60%			
5	Old	2	60.16%	63.13%	Sanderson	R		60.16%	0.00%			
5	New	3	40.10%	THE R. D. C. P. LEWIS CO.	Smith-Ingram	D		34.18%	5.93%	-		
7	New	4	37.39%	39.24%	Horner	R	##	31.88%	5.51%			
3	New	5	45.94%	48.68%	Davis	D		36.80%	9.15%			
	Old	6	59.16%	64.83%	Brown	R		59.16%	0.00%	_		
0	New	7	50.94%	53.60%	Pate	R		59.37%	-8.43%	-		
1	Old	8	54.69%	56.14%	Rabon	R		54.69%	0.00%			
2	Old	9	53.05%	51.05%	Lee	R		53.05%	0.00%	-		
.3	New	10	54.75%		Jackson	R		57.13%	-2.38%	-		
4	New	11	54.47%		Bryant	D	##	57.61%	-3.13%			
5	New	12	57.19%	58.83%	Rabin	R		57.19%	0.00%			
6	Old	13	41.09%	47.12%	Britt	R	##	41.09%				
.7	Wake-Franklin	14	25.37%	22.89%	Blue	D		25.54%	-0.17%			
8	Wake-Franklin	15	53.04%	49.97%	Alexander	R		53.32%	-0.28%			
9	Wake-Franklin	16	39.77%		Chaudhuri	D		38.80%	0.97%			
0	Wake-Franklin	17	54.36%	51.52%	Barringer	EK C		53.45%	0.91%			
1	Wake-Franklin	18	52.57%	53.26%	Barefoot	R		52.76%	-0.19%			
2	Cumberland	19	50.79%	53.27%	Meredith	R		49.30% 24.15%	-3.23%			
3	New	20	20.93%	18.06%	McKissick Clark	D		30.53%	-1.01%			
4	Cumberland New	21 22	29.52% 40.57%	29.98% 39.77%	Woodard	D	-	37.71%	2.86%			
	Old	Conceptual designation	and the second se			D		34.84%	0.00%	-		
26	and the second	23	34.84%	31.50%	Foushee	R		59.06%	-2.14%			
8	New	24	56.91% 51.51%	58.10% 54.18%	Gunn McInnis	R		55.19%	-3.68%	-		
9	New	25	59.18%	62.59%	Berger	R		57.51%	1.67%	-		
0	New	27	57.95%	56.89%	Wade	R	10.2	55.06%	2.90%			
1	New	28	22.97%	22.18%		D		18.65%		-		
32	New	20	60.90%	64.77%	Tillman	R	1.2	67.04%		-		
3	New	30	60.87%	63.71%		-	#	66.15%	10000	-		
4	New	31	64.87%	65.07%	and the second se	R.R	#	62.71%	2.16%	-		
5	New	32	30.42%	the second se	Lowe	D		31.20%				
6	Old	33	65.39%	68.87%	Dunn	R		65.39%	0.00%	2		
7	New	34	66.29%	67.96%	Vacant	R	#	63.53%	2.76%			
38	Old	35	65.63%	65.84%	Tucker	R	**	65.36%	0.27%			
9	Old	36	61.81%	60.28%	Newton	R		62.18%	-0.38%			
10	Mecklenburg	37	31.35%	29.21%	Vacant	D	#	37.87%	-6.52%	-		
1	Mecklenburg	38	28.06%	23.76%	Jackson	D	17	23.36%	4.70%			
12	Mecklenburg	39	63.96%	59.63%	Bishop	8		61.93%	2.03%	-		
13	Mecklenburg	40	29.05%	25.80%	Waddell	D		20.96%	8.09%	-		
14	Mecklenburg	40	49.59%	45.44%	Ford, Tarte	D,R	###	57.53%	-7.94%			
15	Old	41	65.81%	67.05%	Wells	R		65.81%	0.00%			
16	New	43	62.82%	63.14%	Jarromgtpm	R		62.82%	0.00%			
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Figure 39: Dr. Hofeller's Draft Plan File: "NC Senate Minimum Partisan J-2" (June 13, 2017)

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Figure 40: Dr. Hofeller's Draft Plan File: "House Minimum-Partisan-Members J-2.xlsx" (June 14, 2017)

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	Group Type	Dist	Avg R	Off Year	Incumbent	Pty	Note	Old Avg.	New -			
F	New	1	44.49%	10 27%	Steinburg	2	##	56.77%	Old Avg -12.28%			
	Gra-Per-Van-War	2	52.41%		Yarborough	8	###	51.84%	0.57%			
ľ	New	3	60.04%	and the second second	Speciale	*		56.36%	3.68%			
F	New	4	55.22%	60.42%	Dixon	8	-	61.60%	-6.38%			
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\vdash	New	6	57.79%	60.48%	Boswell	R		54.96%	2.83%			
	Fran-Nash	7	43.21%	Course of the second second second	Richardson	D		38.61%	4.60%			
F	New	8	34.82%		Vacant	3	#	53.20%	1.0070			
t	New	9	54.66%	and the set of the set of	Murphy	-		53.89%	0.77%			
F	New	10	55.52%	the second s	Vacant	-		62.82%	-7.30%			
	Wake	11	40.34%	the second s	Hall/Ball	0-0	#	39.02%	1.5070			
F	New	12	47.66%		Graham	12		40.79%	6.88%			
h	Old	13	64.27%	Contraction of the local division of the loc	McElraft	- 4		64.27%	0.00%			
	Old	14	58,00%	63.85%	Cleveland	8	1.1.1	58.00%	0.00%			
	Old	15	60.31%	Contract of the local design of the local desi	Shepard	-	-	60.31%	0.00%			
F	New	16	53.01%	55.35%		R		59.57%	-6.56%			
	Old	17	60.83%	61.69%	Iler	8		60.83%	0.00%			
1	Old	18	37.12%	and the second state of th	Hamilton	D		37.12%				
	Old	19	58.04%	55.14%		-8		58.04%	0.00%			
	Old	20	58.55%	56.63%	Grange	8		58.55%	0.00%			
	New	21	54.71%	57.18%		5	##	34.18%	20.52%			
	New	22	45.15%	and the second second	Brison/Bell	D-6		52.47%	-7.32%			
	Old	23	34.23%	the second s	Willingham	B		34.23%				
Γ	New	24	45.20%		Martin/Butterfield	R-D	#	27.25%	17.95%			
	Fran-Nash	25	54.99%	CONTRACTOR OF THE OWNER OWNE	Collins	R	###	59.22%	-4.23%			
Γ	New	26	62.42%	63.41%	While	R		58.67%	3.75%			
	Old	27	32.28%	35.04%	Wray	D		32.28%				
	New	28	60.67%	63.28%	Strickland	- R .	1	64.55%	-3.88%			
L	New	29	21.23%	17.64%	Hall	0		14.84%				
	New	30	31.91%	29.02%	Lehman			30.09%				
	New	31	19.37%	17.54%	Michaux	p.	N	18.28%				
C	Gra-Per-Van-War	32	33.08%	34.86%	Garrison	Ð		33.37%				
	Wake	33	20.83%	16.85%	Gill	-		19.72%				
	Wake	34	45.21%	42.30%	Martin	D.		37.99%	7.23%			
	Wake	35	56.07%	55.57%	Malone	R		54.94%	1.13%			
	Wake	36	53.02%	49.02%	Dollar	8		54.92%	-1.90%			
	Wake	37	53.64%	51.33%	Williams	E.		56.45%	-2.81%			
	Wake	38	28.48%	26.13%	Holley	D		23.36%				
	Wake	39	32.87%		Jackson	8		44.88%				
	Wake	40	57.09%	53.97%		2	##	54.63%	2.46%			
	Wake	41	45.86%	the second s	Adcock	Ð	_	50.53%	-4.68%			
	Cumb	42	27.35%	26.64%	Lucas	E.		27.32%				

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Figure 41: Dr. Hofeller's Draft Plan File: "House Minimum-Partisan-Members J-2.xlsx" (June 14, 2017)

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	Group Type	Dist	Avg R	Off Year	Incumbent	Pty	Note	Old Avg.	Old Avg			
	New	1	44.49%	49.27%	Steinburg	R	##	56.77%	-12.28%			
	Gra-Per-Van-War	2	52.41%	54.23%	Yarborough	R		51.84%	0.57%			
1	New	3	60.04%	63.52%		8	-	56.36%	3.68%			
-	New	4	55.22%	60.42%	Dixon	81		61.60%	-6.38%			
+	New	5	37.17%		Hunter	0		32.23%				
-	New	6	57.79%	60,48%	Boswell	8	<u></u>	54.96%	2.83%			
-	Fran-Nash	7	43.21%		Richardson	0		38.61%	4.60%			
4	New	8	34.82%	And and an and a state of the s	Vacant	p	#	53.20%	0.775/			
	New	9	54.66%		Murphy	R R		53.89%	0.77%			
	New	10	55.52%		Vacant	0-0		62.82% 39.02%	-7.30%			
;	Wake New	11	40.34%		Hall/Ball Graham	1.0	#	40.79%	6.88%			
-	Old	12	and the second se		McElraft	8		64.27%	0.88%			
	Old	13	54.27% 58.00%	63.85%	Cleveland	R		58.00%	0.00%		-	
	Old	14	60.31%	State of the local division of the local div	Shepard	9		60.31%	0.00%			-
)	New	15	53.01%	55.35%		R.		59.57%	-6.56%			
Ĺ	Old	17	60.83%	the second s	ller	8		60.83%	0.00%			
2	Old	18	37.12%	the second s	Hamilton	D		37.12%	0.0070			
3	Old	19	58.04%	55.14%		÷.		58.04%	0.00%			
1	Old	20	58.55%		Grange	8	1.1	58.55%	0.00%			
5	New	21	54.71%	57.18%		1.191	##	34.18%	20.52%			
5	New	22	45.15%	Contraction of the local division of the loc	Brison/Bell	8-0	1.1.1	52.47%	-7.32%			
,	Old	23	34.23%	the second se	Willingham	B		34.23%				
3	New	24	45.20%	46.85%	Martin/Butterfield	R-D	#	27.25%	17.95%			
)	Fran-Nash	25	54.99%	57.48%	Collins	R	##	59.22%	-4.23%			
)	New	26	62.42%	63.41%	While	Ŧ		58.67%	3.75%			
L	Old	27	32.28%	35.04%	Wray	-B		32.28%				
2	New	28	60.67%	63.28%	Strickland	R		64.55%	-3.88%			
3	New	29	21.23%	17.64%	Hall	1		14.84%				
1	New	30	31.91%		Lehman	2 B).	1.11	30.09%				
5	New	31	19.37%	ALC: NO DECISION OF	Michaux	D		18.28%				
5	Gra-Per-Van-War	32	33.08%		Garrison	P		33.37%				
1	Wake	33	20.83%	16.85%		.2.		19.72%				
3	Wake	34	45.21%	and the second second	Martin	0		37.99%	7.23%			
)	Wake	35	56.07%	The second se	Malone	8		54.94%	1.13%			
	Wake	36	53.02%	49.02%		R		54.92%	-1.90%			
	Wake	37	53.64%	All Property and the second second	Williams	8		56.45%	-2.81%			
2	Wake	38	28.48%		Holley	- And		23.36%				
3	Wake	39	32.87%		Jackson	States of		44.88%	0.000			
1	Wake	40	57.09%	53.97%		P	##	54.63%	2.46%			
5	Wake	41	45.86%	The statement of	Adcock	and the second	-	50.53%	-4.68%			
i	Cumb	42	27.35%	26.64% et3	Lucas	D.		27.32%		-		-

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Figure 42: Dr. Hofeller's Draft Plan File: "NC Senate Minimum-Partisan J-2.xlsx" (June 13, 2017)

					Data Review $A^* \equiv \equiv \gg \bullet$							
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[Group Type	Dist	Avg R	14 Sen%	Incumbent	Pty	Note	Old Ave R	11 ti 17			
	New	1	52.70%		Cook	R			-			
	Old	2	60.16%		Sanderson	R						
	New	3	35.11%		Smith-Ingram	D						
ł	New	4	37.39%		Horner	R	###					
ł	New	5	45.94%		Davis	D	-					
+	Old	6 7	59.16% 50.94%		Brown	R						
	Old	8	54.69%		Pate Rabon	R						
ł	Old	9	53.05%		Lee	R						
ł	New	10	55.32%		Jackson	R						
t	New	11	54.35%		Bryant	D	##					
Ì	New	12	56.83%		Rabin	R						
	Old	13	41.09%		Britt	R	###					
	Wake-Franklin	14	24,66%		Blue	D						
	Wake-Franklin	15	52.46%		Alexander	R						
	Wake-Franklin	16	40.50%		Chaudhuri	D						
	Wake-Franklin	17	54.36%		Barringer	R						
	Wake-Franklin	18	52.70%		Barefoot	R						
+	Cumberland	19	50.64%		Meredith	R						
	New	20	27.50%		McKissick	D						
	Cumberland New	21	29.64% 33.39%		Clark Woodard	D						
ł	Old	23	34.84%		Foushee	D						
ł	New	23	56.91%		Gunn	R						
ł	New	25	51.51%		McInnis	8						
ł	New	26	59.18%		Berger	R						
t	New	27	58.05%		Wade	R						
ľ	New	28	23.67%		Robinson	D						
	New	29	60.90%		Tillman	R						
	New	30	60.87%		Randleman, Ballard	R,R	#					
l	New	31	64.87%		Brock, Krawiec	R,R	#					
	New	32	30.42%		Lowe	D						
	Old	33	65.39%		Dunn	R						
	New	34	66.29%		Vacant	R	#					
ł	Old	35	65.63%		Tucker	R						
ł	Old	36	61.81%		Newton	R						
	Mecklenburg	37	32.84%		Vacant	D	#					
	Mecklenburg	38	26.55%		Jackson	D						
	Mecklenburg Mecklenburg	39 40	63.97%		Bishop	R						
\mathbf{F}	Mecklenburg	40	28.50% 49.66%		Waddell Ford, Tarte	D D,R	# ##					
	Old	41	65.81%		Wells	R R						
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Figure 43: Dr. Hofeller's Draft Plan File: "Senate Minimum-Partisan-Members.xlsx" (November 26, 2016)

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	Old	2		6 Sanderson	R				
,	New	3		6 Smith-Ingram	D	##			
	New	4	the second second second	6 Horner 6 Davis	D				
,	Old	6		& Brown	R				
0	New	7		% Pate	R				
1	Old	8		% Rabon	R		1		
2	Old	9		% Lee	R				
3	New	10	55.32	6 Jackson	R				
4	New	11	54.35	% Bryant	D	##			
5	New	12	56.83	% Rabin	R				
6	Old	13	41.09	% Britt	R	##			
7	Wake-Franklin	14	24.66	6 Blue	D				
8	Wake-Franklin	15	52.46	% Alexander	R				
9	Wake-Franklin	16	40.50	6 Chaudhuri	D				
0	Wake-Franklin	17	and the second sec	% Barringer	R				
1	Wake-Franklin	18		% Barefoot	R				
2	Cumberland	19		% Meredith	R				
3	New	20	the second second	McKissick	D				
4	Cumberland	21	and the second s	& Clark	D		-		
5	New	22	The second second second	Woodard	D				
6 7	Old New	23	New York Control of the local sectors of the local	Foushee	D				
8	New	24		% Gunn % McInnis	R				
9	New	20		% Berger	R				
0	New	20	the second second second second	% Wade	R				
1	New	28		& Robinson	D				
2	New	29		% Tillman	R		1		
3	New	30	and the second se	Randleman, Ballard	R,R	#			
4	New	31	64.87	Brock, Krawiec	R,R	#			
5	New	32	30.42	% Lowe	D		-		
6	Old	33	65.39	% Dunn	R				
7	New	34	66.29	% Vacant	R	#			
8	Old	35	65.63	% Tucker	R				
9	Old	36	And in case of the local division of the loc	% Newton	R				
0	Mecklenburg	37	and a second second second	% Vacant	D	#			
1	Mecklenburg	38	and the second second	% Jackson	D			-	
2	Mecklenburg	39		% Bishop	R				
3	Mecklenburg	40		& Waddell	D				
4	Mecklenburg	41	The second se	% Ford, Tarte	D,R	# ##			
5	Old	42	A rest of the local data	Wells	R				
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Figure 44: Dr. Hofeller's Draft Plan File: "Senate Minimum-Partisan-Members J-2.xlsx " (June 13, 2017)

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4	New	1	52.70%		Cook	R						
5	Old	2	60.16%		Sanderson	R						
6	New	3	35.11%		Smith-Ingram	D						
7	New	4	37.39%		Horner	R	###					
В	New	5	45.94%		Davis	D						
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4	New	11	54.35%		Bryant	D	###					
15	New	12	56.83%		Rabin	R						
16	Old	13	41.09%		Britt	R	###					
7	Wake-Franklin	14	24.66%		Blue	D						
8	Wake-Franklin	15	52.46%		Alexander	R						
9	Wake-Franklin	16	40.50%		Chaudhuri	D						
20	Wake-Franklin	17	54.36%		Barringer	R						
21	Wake-Franklin	18	52.70%		Barefoot	R						
22	Cumberland	19	50.64%		Meredith	R						
23	New	20	27.50%		McKissick	D						
24	Cumberland	21	29.64%		Clark	D						
5	New Old	22	33.39%		Woodard	D						
6	New	23	34.84%		Foushee	R						
8	New	24	56.91% 51.51%		Gunn McInnis	R						
9	New	25	59.18%			R						
0	New	20	58.05%		Berger Wade	R						
1	New	27	23.67%		Robinson	D						
2	New	29	60.90%		Tillman	R						
3	New	30	60.87%		Randleman, Ballard	-	#					
4	New	31	64.87%		Brock, Krawiec	R,R	#					
5	New	32	30.42%		Lowe	D						
6	Old	33	65.39%	-	Dunn	R						
7	New	34	66.29%		Vacant	R	#					
8	Old	35	65.63%		Tucker	R						
9	Old	36	61.81%		Newton	R						
0	Mecklenburg	37	32.84%		Vacant	D	#					
1	Mecklenburg	38	26.55%	-	Jackson	D						
2	Mecklenburg	39	63.97%		Bishop	R						
3	Mecklenburg	40	28.50%		Waddell	D						
4	Mecklenburg	41	49.66%		Ford, Tarte	D,R	# ##					
5	Old	42	65.81%		Wells	R						
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	Year	Office	Democrat	% 2 Party	Republican	% 2 Party	Lib.	Tot. 2-Pty	Rep. + Lib.	% R. + L.	TVCO	TVC	Rolloff
	2010	U. S. Senate	1,145,074	43.99%	1,458,046	56.01%	55,687	2,603,120	1,513,733	56.93%	2,658,808	2,700,383	1.54%
	2012	President	2,178,391	48.97%	2,270,395	51.03%	44,515	4,448,786	2,314,910	51.52%	4,493,302	4,542,488	1.08%
	2012	Governor	1,931,580	44.18%	2,440,707	55.82%	94,652	4,372,287	2,535,359	56.76%	4,466,940	4,542,488	1.66%
	2012	Lt. Governor	2,180,087	49.91%	2,187,728	50.09%	-	4,367,815	2,187,728	50.09%	4,367,816	4,542,488	3.85%
	2014	U. S. Senate	1,377,651	49.19%	1,423,251	50.81%	109,100	2,800,902	1,532,351	52.66%	2,910,003	2,939,767	1.01%
	2016	President	2,189,316	48.10%	2,362,631	51.90%	130,126	4,551,947	2,492,757	53.24%	4,682,074	4,769,640	1.84%
	2016	U. S. Senate	2,128,165	47.05%	2,395,376	52.95%	167,592	4,523,541	2,562,968	54.63%	4,691,134	4,769,640	1.65%
	2016	Governor	2,309,157	50.11%	2,298,880	49.89%	102,977	4,608,037	2,401,857	50.98%	4,711,015	4,769,640	1.23%
	2016	Lt. Governor	2,093,375	46.66%	2,393,375	53.34%	132,641	4,486,750	2,526,016	54.68%	4,619,392	4,769,640	3.15%
	2016	Atty. Gen.	2,303,619	50.27%	2,279,006	49.73%		4,582,625	2,279,006	49.73%	4,582,626	4,769,640	3.92%
	All	All Votes	19,836,415		21,509,395		837,290	41,345,810	22,346,685		42,183,110	43,115,814	2.16%
	All	Average Vt.	1,983,642	47.98%	2,150,940	52.02%	104,661	4,134,581	2,255,601	53.47%	4,218,311	4,311,581	2.16%
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Figure 45: Dr. Hofeller's Draft Plan File: "PPI Indicator Votes for New 2017 Legislative Districts.xlsx" (June 24, 2017).

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3) Dr. Hofeller's "Off Year" Election Formula: Dr. Hofeller used a third measure of partisanship, which he referred to in various Excel spreadsheets as "Off Year". Although there is no single document explaining his motivations for using this measure, various Excel spreadsheets clearly illustrate how Dr. Hofeller calculated his "Off Year" partisan measure, and the "Off Year" label for this measure makes Dr. Hofeller's motivation for using this measure quite intuitively obvious.

Dr. Hofeller's "Off Year" measure is clearly illustrated in an Excel spreadsheet named "House Minimum Renumbered.xls" (Last modified on January 3, 2017). Figure 45b contains a screenshot of this Excel spreadsheet. This spreadsheet describes the 120 districts in a draft plan that Dr. Hofeller referred to as "House_Minimum_Renumbered". For each district in this draft plan, Dr. Hofeller calculated the total number of votes for the Republican candidates in the 2010 and 2014 US Senate elections in North Carolina (column G). He also calculated the total number of two-party votes in these two elections (column H). He then calculated, for each district, the Republican share of the two-party votes in these two elections (column B), yielding a Republican vote percentage between 0% and 100%. Dr. Hofeller then copied these district-level Republican vote percentages into another Excel spreadsheet named "House Minimum-Partisan-Members.xlsx", in which he labeled these Republican vote percentages as "Off Year".

Based on my expertise, it is intuitively obvious why Dr. Hofeller developed and analyzed his "Off Year" measure of district partisanship. Among all of the 2008-2016 statewide elections whose results Dr. Hofeller used in analyzing his various draft plans, only the 2010 and 2014 US Senate election contests occurred during non-presidential election years. Such contests are sometimes colloquially referred to as "Off-Year" elections. It appears that Dr. Hofeller sought to estimate the partisan performance of his draft districts during non-presidential, or "Off Year", elections, and Dr. Hofeller did so by measuring the Republican partisanship of each district's electorate during recent, past non-presidential election contests.

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Figure 45b: Dr. Hofeller's Draft Plan File: "House Minimum Renumbered.xls" (December 3, 2016).

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4) Dr. Hofeller's Partisan Comparisons of New Draft Districts to Existing Districts: For each of several draft House and Senate maps, Dr. Hofeller created an Excel spreadsheet tracking the partisan characteristics of each district within the plan. In these spreadsheets, Dr. Hofeller used his "Avg R" measure or partisanship to compare each new draft district to the prior version of that district under the 2011 Plans. In each spreadsheet, column D reports the partisanship of the new draft districts and is labeled as "Avg R"; column I reports the partisanship of the districts under the 2011 Plans and is labeled as "Old Avg". Finally, in column J, Dr. Hofeller calculates the difference in Republican vote share between new draft districts and the existing plan's version of the districts. Dr. Hofeller labeled this column as "New - Old Avg", indicating that he was seeking to measure how his new draft districts differed from the 2011 plans' districts in terms of their Republican vote shares; higher, positive values in this column indicate that Dr. Hofeller's new draft version of a district is more heavily Republican than the existing, old version of the district, while lower, negative values in dictate that the new draft district is more Democratic.

However, Dr. Hofeller did not perform these partisan comparisons of new-to-old districts for every single district in each draft plan. Instead, he calculated and displayed these partisan

¹¹ These spreadsheets are: "House Minimum-Partisan-Members D.xlsx" (December 6, 2016), "House Minimum-Partisan-Members.xlsx" (December 3, 2016), "House Minimum-Partisan-Members D.xls" (May 31, 2017), "House Minimum-Partisan-Members D.xlsx" (June 12, 2017), "House Minimum-Partisan-Members D.xlsx" (June 12, 2017), "House Minimum-Partisan-Members D.xlsx" (June 12, 2017),

¹² These spreadsheets are: "House Minimum-Partisan-Members J-2.xlsx" (June 13, 2017), "House Minimum-Partisan-Members J-2.xlsx" (June 14, 2017).

comparisons primarily for districts that contain a Republican incumbent and for districts that have a Republican vote share over 50% (either under the 2011 plan or in Dr. Hofeller's new draft map), as measured by Dr. Hofeller's "Avg R" formula for partisanship. In other words, Dr. Hofeller generally did not calculate and display these partisan comparisons for districts that affected only Democratic incumbents and that had Democratic-leaning electorates. Instead, Dr. Hofeller appeared to be primarily interested in these comparisons for districts that had a Republican incumbent and districts that were predicted by his "Avg R" formula to favor Republican candidates.

5) Dr. Hofeller's Tallying of Republican Districts in Draft Plans: In most of the Excel spreadsheets in which Dr. Hofeller calculates his "Avg R" measure of district partisanship for a draft map, he also produces a table tallying the total number of districts in the map that achieve particular levels of Republican partisanship. Most commonly, this table contains several rows reporting the number of districts in the draft map that contain a Republican vote share above the thresholds of 45%, 50%, 53%, 55%, 60%, and 65%, as measured using Dr. Hofeller's "Avg R" formula for district partisanship. The table also generally contains similar calculations using Dr. Hofeller's "Off Year" measure of partisanship.

These tables tallying the Republican districts in each draft map reveal Dr. Hofeller's motivation in developing his various formulas for measuring district partisanship: Dr. Hofeller carefully tracked the precise number of Republican districts in each plan, as well as districts rising above particular thresholds of Republican vote shares. As is apparent from the fact that these tables appear in most of the Excel spreadsheets containing district-level "Avg R" and "Off Year" calculations for a draft map, Dr. Hofeller clearly evaluated each of his various draft maps through this lens of counting the number of Republican districts in the plan.

6) Dr. Hofeller's Particular Focus on Districts with Over 53% Republican Vote Share: Among the various Republican vote share thresholds analyzed in his tables, Dr. Hofeller had a particular interest in analyzing whether his draft districts' Republican vote shares were above or below 53%. In his Excel spreadsheets, districts just below the 53% threshold were shaded in yellow, whereas districts just above the 53% threshold were shaded in light orange. Moreover, in some of his Excel spreadsheets analyzing the district-level "Avg R" partisanship measure for a particular draft plan, Dr. Hofeller simply reported the number of draft districts that failed to reach the 53% threshold, in lieu of a full table tallying the districts at all of the various thresholds listed above. For example, Dr. Hofeller's "Senate Minimum-Partisan-Members.xlsx" (November 26, 2016) file, which analyzes the 50 districts in a draft Senate plan named "New 2016 Senate Plan", contains a note at the bottom of the spreadsheet that reads: "23 Under 53%." This note indicates Dr. Hofeller calculated that this particular draft Senate map contained 23 districts under 53% and 27 districts over 53% Republican vote share, as measured using his "Avg R" formula; Dr. Hofeller did not analyze the draft districts using any other Republican vote share threshold in this spreadsheet. A similar analysis and notation also appears at the bottom of Dr. Hofeller's "Senate Minimum-Partisan-Members J-2.xlsx" (June 13, 2017) file, which analyzes another of Dr. Hofeller's draft Senate maps.

7) Dr. Hofeller's Analysis of "Pressure Points for GOP Incumbents": In various Excel spreadsheets tracking the district-level partisan characteristics of draft maps, Dr. Hofeller included a section titled "Pressure Points for GOP Incumbents". In this section, Dr. Hofeller analyzes how various Republican incumbent legislators might experience "pressure points" under the draft map being analyzed. From Dr. Hofeller's comments in this section, it is apparent that "Pressure Points for GOP Incumbents" specifically refers to the potential electoral vulnerability of Republican incumbents who are placed into a non-Republican district or who are paired with another incumbent.

For example, Dr. Hofeller's Excel spreadsheet named "House Minimum-Partisan-Members D.xlsx" analyzes a draft House map entitled "New 2016 House Plan - December 5". In this spreadsheet, Dr. Hofeller makes note of several Republican incumbent House members who might experience "pressure points" under this draft House map. First, Dr. Hofeller notes that Republican incumbent Bob Steinberg "will be in a Democrat district." Later, Dr. Hofeller noted that another Republican incumbent, Jeffrey Collins, "will be in a leaning Republican district instead of a Republican district." Other "pressure points" are noted by Dr. Hofeller in districts where a Republican incumbent would be paired with another incumbent.

Notably, Dr. Hofeller's spreadsheets do not contain a similar discussion of "pressure points" for Democratic incumbents. Dr. Hofeller did not, for example, list all of the Democratic incumbents who had been placed into Republican-leaning districts at the bottom of his spreadsheets, as he did for Republican incumbents. Instead, the "Pressure Points" section of his spreadsheets reveal a focus only on the Republican incumbents that Dr. Hofeller believed might be electorally vulnerable under each draft map.

8) Dr. Hofeller Focused on Partisanship in Drawing Districts Within County

Groupings: Dr. Hofeller's draft districts were drawn following the various county groupings boundaries of the House and Senate maps. Within each county grouping, however, Dr. Hofeller's consideration and analysis of different district boundaries was clearly focused primarily on partisan considerations. This partisan focus is revealed by Dr. Hofeller's analysis in his various Excel spreadsheets. Aside from verifying that the districts adhere to county grouping boundaries, Dr. Hofeller's spreadsheets analyze only the partisan characteristics of each district and the identities and partisanship of the incumbents in each district.

A spreadsheet named "Johnston Senate Switch.xlsx" presents a clear illustration of Dr. Hofeller's singular focus on partisan considerations when drawing district lines *within* county groupings. Figure 46 contains a screenshot of this Excel spreadsheet. In this spreadsheet, Dr. Hofeller considered two possible versions of new draft districts within the Duplin-Harnett-Johnston-Lee-Nash-Sampson county grouping; Dr. Hofeller simply referred to this entire county grouping as "Johnston". Dr. Hofeller referred to his two different draft versions of the district boundaries in this grouping as "New Plan" and "New Plan Switch". The spreadsheet compares these two different draft plans solely on the basis of their districts' partisanship, as measured by Republican vote share in the 2008 US Presidential election. Thus, the spreadsheet makes clear that Dr. Hofeller was considering two different draft versions of the district boundaries in this county grouping, and Dr. Hofeller apparently compared the two draft maps exclusively on the basis of partisanship; there are no non-partisan criteria (such as geographic compactness, municipality splits, or precinct splits) mentioned in this spreadsheet.

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Figure 46: Dr. Hofeller's Draft Plan File: "Johnston Senate Switch.xlsx" (December 11, 2016).

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9) Dr. Hofeller's Identified the Districts Draw by Campbell Law Students Most Favorable for Republicans: In 2017, Common Cause organized a simulation in which students from Campbell Law School drew a set of House and Senate plans. Dr. Hofeller created several Excel spreadsheets analyzing these Campbell Law students' plans. I examined these spreadsheets and found that Dr. Hofeller had analyzed the Republican partisanship of each of these districts. Dr. Hofeller then analyzed whether some of these Common Cause-drawn districts are optimal for Republicans, or whether a "better possible" version of these districts could be drawn in a manner more favorable to Republicans. Finally, I found that the four districts drawn by the Campbell Law students that match districts in the enacted 2017 Plans (HD-2, HD-7, HD-25, and HD-32) are in county groupings in which drawing an even more Republican-favorable set of districts would be implausible under a districting process adhering to the 2017 Adopted Criteria. In other words, after analyzing the partisanship of all of the Campbell Law students' districts and assessing whether it would be possible for Republicans to do better for each districts, the General Assembly enacted four districts that (a) match the Campbell Law students' districts, and for which (b) it would not have been possible for Republicans to draw districts in these county groupings more favorable for their party while adhering to the 2017 Adopted Criteria. I explain below how I reached these findings:

Dr. Hofeller created an Excel spreadsheet named "NC Senate CCNC Sample Plan - June 2017.xlsx" to calculate the district-level Republican vote shares of the Campbell Law students' Senate districts. Figure 47 contains a screenshot of this Excel spreadsheet. In this spreadsheet, Dr. Hofeller measured each district's Republican vote share using his "Avg R" election formula described above. A second spreadsheet named "NC Senate CCNC PPI.xlsx" contains a copy of these district-level Republican vote shares (Figure 48a and 48b provide screenshots of this second spreadsheet). This second spreadsheet also contains an additional column labeled "Better Poss." (column H). I examined this "Better Poss." column in relation to Dr. Hofeller's district-level partisan calculations. I found that Dr. Hofeller used this "Better Poss." column to indicate whether a "better possible" version of each district could be drawn in a manner more favorable to Republicans than the version drawn by the Campbell Law students. In this column, Dr. Hofeller wrote "Yes", "No", or "Little" for each district, indicating his assessment of whether a more Republican-favorable version of the Senate district was possible. For example, in any county grouping containing only a single Senate district, such as the Alexander-Catawba County

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grouping, no alternative version of the district is possible, so Dr. Hofeller marked "No" for any districts in such county groupings. By contrast, Dr. Hofeller marked "Yes" for each the five districts in the Mecklenburg County grouping, indicating that a "better possible" version of the Mecklenburg districts could be drawn in a manner more favorable to Republicans.

Two spreadsheets named "NC House CCNC Sample Plan - June 2017.xlsx" and "NC House CCNC PPI.xlsx" reflect analysis by Dr. Hofeller of the Campbell Law students' House plan. As before, Dr. Hofeller appears to have used his "Avg R" election formula to measure the partisanship of the Campbell Law students' districts. Figure 49 contains a screenshot of this "NC House CCNC Sample Plan - June 2017.xlsx" spreadsheet.

The General Assembly's enacted House plan (House Bill 927) ultimately included four districts that match those drawn by the Campbell Law students: HD-2 and HD-32 (from the Granville-Person-Vance-Warren County grouping); and HD-7 and HD-25 (from the Franklin-Nash County grouping). These are both county groupings for which there are discrete, limited numbers of ways of drawing the districts in the groupings while adhering to the Whole County Rule. In my original April 8, 2019 expert report, I analyzed the partisanship of these four House districts in these two county groupings in Figures 30, 31, 45, and 46 (p. 95, 96, 110, and 111). In these two county groupings, these Figures illustrate that no computer-simulated plan created a more Republican-favorable set of districts than the 2017 House Plan's districts (which match the Campbell Law students' district than each of these two county groupings' most Republican district in the 2017 House Plan.

From this analysis, it is apparent that: 1) Dr. Hofeller analyzed the partisanship of all of the Campbell Law students' districts; and 2) Dr. Hofeller then selectively kept and included in the enacted House Bill 927 map only those Campbell Law student-drawn districts where he believed it was not possible to draw even more favorable districts for the Republicans.

Figure 47: Dr. Hofeller's Draft Plan File: "NC Senate CCNC Sample Plan - June 2017.xlsx" (July 8, 2017).

Pic Copy B ✓ Format Painter B ✓ Format Painter Clipboard Topp ▲ B B ▲ B Dev 196665 183116 Dev 182039 192477 189510 187925 182118 187925 187108 186168 185009 187221 192266 190212 190212 197978 193237 19109 182470 183182 183985 197306 197106 197918 197286 197298 197286 197293 197298 197286 197293 191778 191778 200132 191786	MS Ser B I Dev. 59 -75 -66 -66 -66 -75 -75 -66 -66 -73 -72 -27 -85 -86 -69 -34 -34 -34 -34 -15 -177 -4 -72 -77 -77 -77 -77 -77 -75 -75 -75 -75 -75	U ·	0 • A A A 2 • A • A 2 • A • A 5 •	Data Rev ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■		Wrap Text	t Center - ra	Numb	er 5	Eormatting L G08G_DV G 54219 44647 57284 57651 48802 27798 42486 44903	M 08G_RV G 34702 37886 27435 28743 31462 24459 31551	Normal Neutral 085_DV G 45972 35800 52575 55799 45346 23941 37746	Styles	P 310S_DV G1 25606 17393 31118 32883 22397 10015	Q 10S_RV Q 31904 37109 27064 23457 24190	R 612P_DV 45522.79 31709.02 50246.29 56361.03	S S S S S S S S S S S S S S	T G12G_DV 44605.57 28705.56 48790.18 54975.79 42622.45	U G12G_RV 44073.99 57547.3 37764.62 35932.85 42390.38	V 49092.02 33970.86 53470.94 58834.64 46647.02	Sort & Filter - 1 diting G120_RV 39568.04 51243.8 31074.89 31063.59	Find & Select -	Y G14S_R 3075 3710 2480 2301 2410
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189510 187925 187925 187118 199397 198108 186168 185009 187221 192266 190212 197978 193237 191199 182470 183182 183913 183705 197306 197106 197991 197998 197286 197286 197293 197293 191798 200132	-12 -27 -85 86 73 -45 -49 -34 15 -17 -4 72	200 -0.00629 785 -0.0146 592 -0.04505 687 0.04555 980 0.038792 542 -0.02382 901 -0.0257 489 -0.01829 556 0.008159 724 -0.00261 486 -0.00261	309,100 258,556 319,573 438,008 407,679 334,378 382,427 330,956 215,484 245,023 297,349 392,898	672,801 437,069 627,405 781,551 788,253 600,488 707,621 582,353 524,397 689,714	45.94% 59.16% 50.94% 56.04% 51.72% 55.60% 54.04% 56.83% 41.09%	44053 21877 35812 39755 48143 29889 38823 29443	38055 33095 40283 53018 49158 40583 47567	42801 22084 35690 40313 42170	36086 28797 36290 47038	48802 27798 42486 44983	31 462 24459 31551	45346 23941	34848 28132	22397 10015	24190	45617.88	40624.56	42622.45	42390.38	46647.02			
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199397 198108 186168 185009 187221 192266 188986 190212 197978 193237 191199 182470 183182 183913 183785 197306 197106 197991 197998 197286 197286 197293 197293 197293 191778 200132	86 73 -45 -49 -34 15 -17 -4 72	687 0.045551 398 0.038792 542 -0.02382 901 -0.0257 489 -0.01829 556 0.008159 724 -0.00904 498 -0.00261 268 0.03811	438,008 407,679 334,378 382,427 330,956 215,484 245,023 297,349 392,898	781,551 788,253 600,488 707,621 582,353 524,397 689,714	56.04% 51.72% 55.68% 54.04% 56.83% 41.09%	39755 48143 29889 38823 29443	53018 49158 40583 47567	40313 42170	47038	44983				20490	27572	37243.5				39698.94		23084.1	26662
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185009 187221 192266 190212 197978 193237 191199 182470 183182 183313 183705 197306 197106 197901 197998 197286 197287 197286 197286 197287 197287 197286 197286 197287 197286 197287 197286 197287 197286 197287 197287 197286 197287 197287 197286 197287 197287 197286 197287 197287 197287 197287 197287 197377 197377 197377 197377 197377 197377 197377 197377777 1973777 19737777777777	-49 -34 15 -17 -4 72	901 -0.0257 489 -0.01829 556 0.008159 724 -0.00904 498 -0.00261 268 0.03811	382,427 330,956 215,484 245,023 297,349 392,898	707,621 582,353 524,397 689,714	54.04% 56.83% 41.09%	38823 29443	47567	31389		47660	44524	51804	40948	24675		47963.83				46149.96		30990	308
187221 192266 188966 190212 197978 193237 191199 162470 183182 183913 183705 197306 197106 197906 197998 197286 197286 197286 197298 197286 197293 197293 197293 191778 200132	-34 15 -17 -4 72	489 -0.01829 556 0.008159 724 -0.00904 498 -0.00261 268 0.03811	330,956 215,484 245,023 297,349 392,898	582,353 524,397 689,714	56.83% 41.09%	29443			36271	36265	33031	34194	34774	18858		31591.01	46439.1			34801.96	41432.6	18648.9	26579
192266 108986 190212 197978 193237 191399 162470 183182 183913 183785 197306 197106 197991 197998 197286 197286 197287 188980 192293 191778 200132	15 -17 -4 72	556 0.008159 724 -0.00904 498 -0.00261 268 0.03811	215,484 245,023 297,349 392,898	524,397 689,714	41.09%			37942 29287	45779 37962	42219 32759	42760 35407	41775 32416	42824 35409	22942 17201		38326.82 30439.18	46333.07 44063.11		47882.97	40621.01 33099.84	42111.01 39342.67	26604 18725	339
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193237 191199 162470 183182 183913 183785 197306 197906 197991 197998 197286 197286 197286 197297 197998 197286 197293 197293 191778 200132				013,103	36.30%	64669	31914	55409	37285	56671	35956	62759	31300	33983	23439	69421.42	38332.3	63004.59	43269.27	70569.5	33668.42	45274.01	22184
191199 182470 183182 183913 193705 197306 197906 197991 197998 197286 197286 197297 188880 199293 191778 200132				829,182	47.38%	54011	43136	43187	48949	45789	46881	52190	41753	27838	31988	61388.1				59519.11		41088	310
182470 183182 183913 183785 197306 197106 197991 197998 197286 197817 188980 199293 191778 200132		527 0.01325	435,525	791,717	55.01%	45495	49922	37297	53986	40809	50932	44820	47421	23057						46256.56	48960.36	33400.95	38076
183182 183313 183785 197306 197106 197991 197998 197286 197286 197217 180880 199293 191778 200132		489 0.002564	424,763	791,586	53.66%	43140	46468	38287	47926	41530	45380	44086	43134	24133 22009				43572.13		51065.2 44999.88	53038.11 32148.85	31184.03 25349	35520.
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183785 197306 197106 197991 197998 197286 197286 197817 188980 199293 191778 200132		797 -0.03564	172,280	500,226	34.44%	40981	22280	38931	21576	41464	19504	41015	20079	19333	12412		21559.21				19955.13	23243	125
197306 197106 197991 197998 197286 197286 197917 188980 199293 191778 200132		925 -0.03631	295,874	716,173	41.31%	50450	36716	47587	35501	50848	33492	51862	32874	29726			37540.14		39858.1		32574.05	33924	231
197991 197998 197286 197917 188980 199293 191778 200132		596 0.034587	308,217	884,598	34.84%	71668	34934	63412	37727	65213	36386	70353	33280	43402	25502	72264.33	38207.7	65606.44	42008.61	70762.94	35474.94	53699	246
197998 197286 197917 188980 199293 191778 200132		396 0.033538	401,980	723,281	55.58%	38976	47709	35736	47691	41267	42442	42299	41647	21069		39919.69				40641.94	48332.4	25835.05	33569
197286 197917 188980 199293 191778 200132		281 0.038178	374,630	727,254	51.51%	41817	46842	41021	43319	43822	42606	46174	39618	24146		41641.77	48823.21			47882.54		27626	326
197917 188980 199293 191778 200132		288 0.038215 576 0.034482	416,552 383,351	703,860	59.18% 49.98%	34797 48759	52136 44718	34876 43040	48670 46046	41695 47488	42402 42718	40150 51510	43792 39203	18012 21333		49357.86				35549.97 48044.9			34354. 32383.
188980 199293 191778 200132		207 0.034402	228,801	767,066 795,720	28.75%	71547	26545	64349	29378	67190	27326	72589	22985	32286						72411.35	26189.1		17743.
199293 191778 200132		730 -0.00907	453.676	675,584	67.15%	27823	54473	25566	54049	30567	49327	32417	47095	12545						27437.61			36385.
200132		583 0.045006	442,736	727,374	60.87%	35733	54853	34489	51478	40316	47866	40206	47519	20602	37999	31513.45	57031.85	27339.72	59835.28	34008.1	50293.85	20430.67	35860.
		068 0.0056	434,610	775,754	56.02%	42749	50965	38216	51996	43394	47576	45316	45992	20599						43326.59		27569.18	34915
		422 0.049405	310,613	738,852	42.04%	54147	36589	49918	37501	53738	34164	55202	33032	23777						54528.68	37152.1		24165
190676 197843		-34 -0.00018 133 0.037402	423,380 484,196	647,504 730,391	65.39% 66.29%	27357 31827	51571 57526	26781 30491	50465 54952	32046 29902	44984 57614	32554 35122	44247 50463	14509 15298		25328.62 30029.34				28289.95		15180 18653.19	335 39573.
197843		487 0.034015	484,196	695,459	65.95%	30576	52634	28387	54952	24656	56897	32057	47825	13891			59526.39			32642.27			36590
182106		604 -0.04512	403,831	657,791	61.39%	32074	47335	29966	46044	27519	50581	35017	41315	16215		33457.43				34052.33		20449.6	30376.
183195		515 -0.03941	191,909	602,729	31.84%	50729	20513	46585	21384	43000	26351	49647	18977	23464	13197	59194.74	23798.87	49588.64	31830.1	56899.99	22859.79	31711.94	12997.
188399		311 -0.01212	217,917	658,158	33.11%	57227	22836	51394	24173	44974	32741	55192	21890	27018						58375.77		34968	152
183574		136 -0.03742	444,757	754,873	58.92%	43119	48142	37216	48857	27793	62238	42988	45313	19465		42854.75				40826.76			33134
182572		138 -0.04267	260,436	638,637	40.78%	47543	29430	43342	30143	39011	36354	47168	27163 29156	23257 24340		53082.13 55890.65	31013 37061.85	43290.77		51409.9 53443.87	29627.86		18014
181888 191556		822 -0.04626 846 0.004436	293,905 458,067	690,861 696,077	42.54% 65.81%	50107 30796	31434 54753	45058 29318	32527 54585	40105 28634	39841 56178	49604 34417	48405	16533		28683.97	37061.85			30115.12			35379
189586	a design of the second s	124 -0.00589	392,125	627,739	62.47%	29192	47577	28582	45230	27015	48673	32164	41787	14426	30085	30562				31219.53		17713	297
192843	-11	133 0.011185	443,154	702.031	63.12%	30960	54245	31993	49853	30940	53136	36880	45235	18261						33569.28		19016	347
199013		303 0.043537	464,022	719,888	64.46%	31964	56405	31454	53914	31188	55811	36274	49033	17207	36147	31081.05	58677.81	24789.8	64471.48	32946.28	53837.51	18962	357

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Figure 48a: Screenshot (Upper Half) of Dr. Hofeller's Draft Plan File: "NC Senate CCNC PPI" (July 8, 2017).

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ŀ	1 2	196,665 183,118	5,955 (7,592)	3.12%	356,060	742,716	No No			_												
r	3	182,039	(8,671)	-4.55%	285,752	712,527	No.	60.16% 40.10%	Sanders (R.) Cook (R.)													
-	4	192,477	1,767	0.93%	274,133	733,123	NO	37.39%	Horner (R.)	_												
r	5	189,510	(1,200)	-0.63%	309,100	672,801	No	45.94%	Davis (D)	-												
ľ	6	187,925	(2,785)	-1.46%	258,556	437,069	Ne	59.16%	Brown (R.)													
Ľ	7	182,118	(8,592)	-4.51%	319,573	627,405	No	50.94%	Pate (R.)													
L	8	199,397	8,687	4.56%	438,008	781,551	Little	56.04%	Rabon (R.)													
-	9	198,108	7,398	3.88%	407,679	788,253	Little	51.72%	Lee (R.)													
F	10	186,168	(4,542)	-2.38%	334,378	600,488	Little	55.68%	Jackson (R.)													
F	11 12	185,809 187,221	(4,901) (3,489)	-2.57% -1.83%	382,427 330,956	707,621 582,353	Little	and the second second second	Bryant (D)	_												
ŀ	13	192,266	1,556	0.82%	215,484	524,397	Little	State of the second second second	Robin (R.) Britt (R.)	-												
r	14	188,986	(1,724)	-0.90%	245,023	689,714	Yes	Concernant of the second second	Blue (D)	-												
r	15	190,212	(498)	-0.26%	297,349	819,109	Yes	36.30%	Chaudhuri (D)/Alexander (R.)	-												
C	16	197,978	7,268	3.81%	392,898	829,182	Yes		Barringer (R.)	-												
	17	193,237	2,527	1.33%	435,525	791,717	Yes	55.01%	Vacant (R.)													
F	18	191,199	489	0.26%	424,763	791,586	Yes	53.66%	Barfoot (R.)													
-	19	182,470	(8,240)	-4.32%	282,819	635,389	Yes	44.51%	Merideth (R.)	-												
-	20	183,182 183,913	(7,528) (6,797)	-3.95%	155,365 172,280	761,418 500,226	Yes	20.40%	McKissick (D)/Woodard (D)	-												
r	22	183,785	(6,925)	-3.63%	295,874	716,173	Yes	34.44%	Clark (D) Vacant (D)	-												
r	23	197,306	6,596	3.46%	308,217	884,598	No	34.84%	Foushee (D)	-												
r	24	197,106	6,396	3.35%	401,980	723,281	Yes	55.58%	Gunn (R.)	-												
ľ	25	197,991	7,281	3.82%	374,630	727,254	No		McInnis (R.)													
L	26	197,998	7,288	3.82%	416,552	703,860	Little	59.18%	Berger (R.)													
L	27	197,286	6,576	3.45%	383,351	767,066	Yes	49.98%	Robinson (D)													

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Figure 48b: Screenshot (Lower Half) of Dr. Hofeller's Draft Plan File: "NC Senate CCNC PPI" (July 8, 2017).

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2	8 19	97,917	7,207	3.78%	228,801	795,720	Yes	28.75%	Vacant (D)													
2	9 18	38,980	(1,730)	-0.91%	453,676	675,584	Yes	67.15%	Tillman (R.)													
3	0 19	99,293	8,583	4.50%	442,736	727,374	Little	60.87%	Ballard (R.)/Rendleman *													
3	1 19	91,778	1,068	0.56%	434,610	775,754	Yes	56.02%	Davis *													
3	2 20	00,132	9,422	4.94%	310,613	738,852	Yes	42.04%	Lowe (D)/Krawiec (R.)													
3	3 19	90,676	(34)	-0.02%	423,380	647,504	No	65.39%	Dunn(R.)													
3	4 19	97,843	7,133	3.74%	484,196	730,391	NO	66.29%	Vacant (R.)													
3	5 19	97,197	6,487	3.40%	458,688	695,459	No	65.95%	Tucker (R.)													
3	6 18	32,106	(8,604)	-4.51%	403,831	657,791	No	61.39%	Newton (R.)													
3	7 18	33,195	(7,515)	-3.94%	191,909	602,729	Yes	31.84%	Ford (D)													
3	8 18	38,399	(2,311)	-1.21%	217,917	658,158	Yes	33.11%	Jackson (D)/Bishop (R.)													
3	9 18	33,574	(7,136)	-3.74%	444,757	754,873	Yes	58.92%	Vacant (R.)													
4	0 18	32,572	(8,138)	-4.27%	260,436	638,637	Yes	40.78%	Wadell (D)	_												
4	1 18	31,888	(8,822)	-4.63%	293,905	690,861	Yes	42.54%	Tarte (R.)	_												
-	_	91,556	846	0.44%	458,067	696,077	Na	65.81%	Wells (R.)	-												
-		89,586	(1,124)	-0.59%	392,125	627,739	Little	62.47%	Harrington (R.)	_												
4	_	92,843	2,133	1.12%	443,154	702,031	Little	63.12%	Curtis (R.)	4												
-		99,013	8,303	4.35%	464,022	719,888	No	64.46%		_												
-		91,738	1,028	0.54%	407,367	637,986	No	63.85%	Daniel (R.)	-												
-		37,477	(3,233)	-1.70%	408,302	688,768	No	59.28%	Hise (R.)	_												
-		90,126	(584)	-0.31%	447,235	762,284	Little	58.67%	Edwards (R.)	-												
_		88,022	(2,688)	-1.41%	322,431	794,686	Little	and the second second	Van Dyne (D)	_												
5	0 19	94,102	3,392	1.78%	408,838	726,260	No	56.29%	Davis (R.)													
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Figure 49: Dr. Hofeller's Draft Plan File: "NC House CCNC Sample Plan - June 2017.xlsx" (July 5, 2017).

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	82634	3,172	3.99%	148,217	282,818	52.41%		18512	15461	17032	17570	15815	17321	15991	9138	11711	16284.04	19862.13	14964.1	20485.02	17623.09			
	75684 78712	(3,778) (750)	-4.75%	142,965 118,847	259,321 216,743	55.13% 54.83%		17368 15353	13530 11941	16568 12766	17857 14752	12786 10784	14436	15989	7017								8771	125
	76148	(3,314)	-4.17%	161,294	292,218	55.20%		20682	15944	17431	18643	15849	12827 15239	12653 19731	6745 8747			16488.98 21222.05			17269.83	14712.88		
	78988	(474)	-0.60%	145,836	301,079	48.44%	19279	18483	18928	16429	21948	14401	18420	18305	9650						19411.22		11262	123
	78432	(1.030)	-1.30%	158,334	297,198	53.28%		18191	15305	17267	16955	16024	16994	15860	9576						19223.46		11397	144
	75507 76141	(3,955) (3,321)	-4.98% -4.18%	98,998 146,002	267,938 274,139	36.95% 53.26%		11341 18570	19579 15389	10815 18156	21325 18183	9457 16025	20237 16998	10508 17230	10308 7422						22311.53			7341.1
	83434	3,972	5.00%	128.020	280,034	45.72%		16928	18098	15306	20500	13805	19063	15237	10542		18015.31				15673.49 18806.22			1052
	83147	3,685	4.64%	162,296	376,499	43.11%	25453	17683	21102	20249	21960	19432	24765	17230	13697		30203.47				31230.55			
	75995	(3,467)	-4.36%	135,255	284,385	47.56%		17203	17092	15156	21089	11945	17615	15290	10338		18135.34						11351.29	
	76622 76496	(2,840) (2,966)	-3.57% -3.73%	210,410 97,578	327,376 182,201	64.27% 53.56%		25901 13514	13850 11181	23728	19215 13530	19352 10259	15497	22775	7638				11362.35					
	81069	1,607	2.02%	103,601	157,860	65.63%		12232	6166	12163 10433	7937	9191	12049 6885	11683 10177	4887 2430	7537 7125		11832.02				11026.83		7446.9
	81821	2,359	2.97%	158,259	293,458	53.93%		20405	16770	17241	19018	15588	18575	16010	9820			21024.37						127
	81362	1,900	2.39%	211,976	348,798	60.77%		25296	16291	22832	17962	21622	19673	19950	9869				13426.48	29440.58	16243.84		11333	184
	75725 76030	(3,737) (3,432)	-4.70% -4.32%	101,838 199,077	274,992 326,620	37.03% 60.95%		12681 23686	19559 13858	12809 22895	21207 16240	11614	22477	10664	10829			12709.58			21498.42			
	76981	(2,481)	-3.12%	165,179	297,200	55.58%		19385	14358	18474	16438	21523 17048	18193 17872	19764 15758	8415 8947				12787.97		5 16137.18	24038.76		
	83434	3,972	5.00%	171,554	277,877	61.74%		20050	11937	18221	14495	16576	13254	17716	6367						15258.71			
	83434	3,972	5.00%	136,008	291,190	46.71%		17717	18904	14945	20927	13662	19693	14800	12644				17313.75			15185.04		
	81057	1,595	2.01%	108,290	316,316	34.23%		14378	24847	12151	27419	10345	25436	12234	14653						26618.05		15736	88
	81234 78027	1,772 (1,435)	2.23%	140,584 143,470	311,022 317,395	45.20% 45.20%		17375 18810	19415 20915	16132 17570	21087 22779	15109 16356	20776 22014	15384 16983	13631 12874			17953.07 16519.28			21615.98 21030.85		13326 14061	117
	83429	3,967	4.99%	195,324	302,484	64.57%		22275	11690	21052	13579	19685	13320	19735	7095						15776.59		7848.426	
	76790	(2,672)	-3.36%	95,128	294,730	32.28%		12627	24033	10491	25464	9624	24207	10863	13603			12247.21			25640.57	10440.65	15229	82
	83433	3,971	5.00%	164.294	281,004	58.47%		20560	13802	20474	15488	19251	15906	18633	8107			18815.86			13674.68	17326.97		
	82395 83137	2,933 3,675	3.69% 4.62%	51,050 120,647	344,178 371,559	14.83% 32.47%		5575 14692	33197 26840	6809 15478	33058 27602	6534 14941	35014 29222	5856 14117	19276 17829		38242.97	6193.97 14055.09	36101.98		37097.99 33635.07	5719.01	24675.99 21412	33 86
	83248	3,786	4.76%	81,397	321,234	25.34%		9276	26961	10366	27762	9562	28669	8976	16313			10146.08			30718.96	9685.95		58
	83140	3,678	4.63%	106,491	321,896	33.08%	25721	13598	25887	11943	26778	11699	26786	11694	15476	9595	26032.74	13607.93	24907.62	14186.24	27184.68	11264.28	16632.94	8903.0
	79012	(450)	-0.57%	77,823	313,073	24.86%		7629	26421	9528	26527	9272	28746	7698	15184		30064.97				29957.99		20149.96	
	82964 82988	3,502 3,526	4.41%	183,386 160,726	387,448 329,096	47.33%		20256 17669	20762 17979	23045 18569	21905 19301	22134 17436	24973 20286	19667 16486	13245 11228	15288 12526 2		22704.03	23895.93 20075.28		28138.07		17182 14315.99	
	81453	1,991	2.51%	182,051	341,246	53.35%		20933	16627	22848	18094	21692	20208	19850	10452						20997.59			
	82293	2,831	3.56%	169,478	350,790	48.31%	23099	19485	18487	21996	19909	20779	22464	18659	12377						23605.02		17111.69	
	79266	(196)	-0.25%	98,492	282,770	34.83%		11659	20560	13187	21411	12338	22835	11202	12325						23452.84		15502	75
	82432 82621	2,970 3,159	3.74%	88,978 227,323	296,326 390,073	30.03% 58.28%		10233 24015	24389 15674	11487 25728	25259 16901	10668 24835	26239 19125	9726 23085	16089 10109						24181.79			
	82978	3,516	4.42%	145,095	303,007	47.89%		15809	15388	17762	16325	24835	18650	15310	9713				19625.87 18581.16		5 23857.9 5 21298.06			18129
	81775	2,313	2.91%	69,654	212,279	32.81%		9284	17132	9138	17984	8430	17921	8527	8481		18173.96		16890.81		17903.08	7796.85	10010	
	77782	(1,680)	-2.11%	86,114	238,603	36.09%		11073	17857	10944	19187	9669	18975	9946	8990						2 19602.86	10027.04	10889	
	78272 81602	(1,190) 2,140	-1.50% 2.69%	116,185 132,873	260,911 295,591	44.53% 44.95%		15171 16623	17315 19061	14513 15680	19212 21285	13083 13883	18998 20615	13341 14465	8964						18046.92	12554	10200	
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10) The Predominance of Partisan Considerations Over Non-Partisan Redistricting Criteria: Dr. Hofeller's backup devices that Plaintiffs obtained through a subpoena to his daughter contain two folders titled "NC 2017 redistricting" and "2017 redistricting." All of the Excel spreadsheets analyzed above come from these two folders. I have reviewed the entire contents of these two folders, and they reveled a near-singular focus on partisan considerations. In some spreadsheets, Dr. Hofeller verified that his draft districts' populations adhered to the 5% population deviation threshold while falling within the appropriate county grouping boundaries for the House and Senate plans. There are a few files among the hundreds of files in these folders that report on VTD and county splits in Dr. Hofeller's draft maps.

But beyond these few files, Dr. Hofeller's analyses of his draft maps in his own Excel spreadsheets make no mention of non-partisan districting criteria, such as geographic compactness, split precincts, or split municipalities. Instead, Dr. Hofeller's spreadsheet files overwhelmingly focused on each party's share of the electorate within draft districts, as well as the identities and the partisan affiliations of incumbents residing within each district. Therefore, these spreadsheets strongly suggest that Dr. Hofeller's partisan considerations predominated over non-partisan redistricting criteria in Dr. Hofeller's process of drafting the General Assembly's 2017 House and Senate Plans.

Response to Dr. Lewis' Expert Report:

In Tables 2, 3, and 4 of his April 30, 2019 expert report, Dr. Jeffrey Lewis reports his own estimates of the African-American share of Citizen Voting Age Population (hereinafter: "Black CVAP") necessary for African-American-preferred candidates to have "an even chance of winning" in various primary elections (Table 2) and various general elections (Table 3 and 4) in certain House and Senate county groupings and individual counties. Because Dr. Lewis analyzes different general and primary elections separately, he produces several different Black CVAP threshold estimates for the same counties or county groupings. For example, in his Table 2, Dr. Lewis estimates that Guilford County would require a 30% Black CVAP for African-Americans to elect their preferred candidate in the 2018 Sheriff Democratic primary election, but only a 5% Black CVAP for African-Americans to elect their preferred candidate in the 2016 Commissioner of Labor Democratic primary election.

Because Dr. Lewis produces multiple Black CVAP threshold estimates for individual counties and county groupings, I treat each one of Dr. Lewis' Black CVAP threshold estimates separately. Specifically, I performed analyses to answer the following eight questions:

1) For each Black CVAP threshold estimate that Dr. Lewis produced for a specific House or Senate Plan county grouping, how many districts in the enacted 2017 House or Senate Plan in that grouping satisfy Dr. Lewis' Black CVAP threshold within this county grouping?

2) Among the computer-simulated House or Senate plans from my original April 8, 2019 report, how many computer-simulated plans also contain at least as many districts within each county grouping that satisfy Dr. Lewis' estimated Black CVAP threshold?

3) When I analyze only these computer-simulated plans that match or exceed the 2017 House Plan's or Senate Plan's number of districts satisfying Dr. Lewis' Black CVAP thresholds, are the 2017 House or Senate Plan districts in each county grouping statistical outliers (compared to the simulated plans) in terms of their district-level partisanship? 4) How many computer-simulated plans for a particular county grouping contain *more* districts that satisfy Dr. Lewis' Black CVAP threshold than the 2017 House or Senate Plan does in that county grouping?

5) For each Black CVAP threshold estimate that Dr. Lewis produced for a specific county (as opposed to county grouping), how many districts in the enacted 2017 House or Senate Plan are wholly contained within this county and satisfy Dr. Lewis' Black CVAP threshold within this county grouping?

6) Within each county (as opposed to county grouping), how many computer-simulated plans also contain at least as many districts as the 2017 House or Senate Plan that are wholly within that county and satisfy Dr. Lewis' estimated Black CVAP threshold for that county?

7) Within each county, how many computer-simulated plans contain more districts as the 2017 House Plan or Senate Plan that satisfy Dr. Lewis' estimated Black CVAP threshold for that county?

8) Within the Nash-Franklin county grouping in the House Plan and within the Davie-Forsyth county grouping in the Senate plan, is it possible to create a single district of at least 50% Black Voting Age Population (BVAP) while still adhering to the equal population, contiguity, and compactness criteria listed in the 2017 Adopted Criteria?

9) Among the county groupings not analyzed by Dr. Lewis, in which county groupings does the most heavily African-American district have a significantly higher black proportion under the simulated plans than under the enacted plan?

I describe my findings regarding these eight questions below. Notably, I do not analyze or evaluate the reliability of Dr. Lewis estimates for the minimum Black CVAP needed for an African-American preferred candidate to succeed; I simply analyze the subset of my simulations

that produce at least as many (or more) districts as the enacted plan with a BVAP above Dr. Lewis' estimates, for the relevant county or county grouping.

Black VAP and Black CVAP of 2017 House Plan Districts and 2017 Senate Plan

Districts: First, I calculate and report the racial demographics of each district in the 2017 House and Senate Plans. In Table 3, I report the Black Voting Age Population (BVAP) and the Black Citizen Voting Age Population (Black CVAP) of each district in the 2017 House Plan. In Table 4, I report the BVAP and Black CVAP of each district in the 2017 Senate Plan.

The BVAP calculations are based on 2010 Decennial Census population counts, and BVAP is calculated as the Any-Part-Black share of each district's total Voting Age Population; individuals who are Any Part Black include those who are multi-racial and identify as partly African-American. The Black CVAP calculations are based upon the 2013-2017 American Community Survey (ACS) 5-year Estimates of Citizen Voting Age Population. Specifically, Black CVAP includes individuals who identify as single-race Black, as part-Black and part-White, or as part-Black and part-American Indian (The ACS CVAP data do not include estimates for other part-Black, mixed-race combinations). To calculate the Black CVAP of each district, I begin with the blockgroup-level estimates of CVAP racial breakdowns.¹³ I disaggregate these estimates to the Census block level using 2010 Voting Age Population. I then aggregate these block-level estimates up to the legislative district level to calculate the Black CVAP of the 2017 House and Senate Plan districts as well as districts in the computer-simulated House and Senate plans.

¹³ Downloaded from: <u>https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html</u>

Table 3: African-American Population of 2017 House Plan Districts

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2017 House Plan District	Population (2010 Census)	Black Voting Age Population	Black Citizen Voting Age Population	County Grouping
				Bertie-Camden-Chowan-Perquimans-
1	77,143	39.71%	39.55%	Tyrrell-Washington
2	82,634	27.79%	26.92%	Granville-Person-Vance-Warren
3	75,726	21.24%	21.34%	Beaufort-Craven
4	81,905	22.59%	24.18%	Duplin-Onslow
5	77,527	44.32%	44.58%	Gates-Hertford-Pasquotank
6	76,421	9.20%	9.09%	Currituck-Dare-Hyde-Pamlico
7	78,432	25.20%	25.69%	Franklin-Nash
8	75,926	44.85%	46.02%	Lenoir-Pitt
9	75,794	20.45%	23.21%	Lenoir-Pitt Bladen-Greene-Harnett-Johnston-Lee-
10	83,434	21.44%	23.65%	Sampson-Wayne
11	83,266	14.32%	15.86%	Wake
12	75,923	37.40%	39.20%	Lenoir-Pitt
13	76,622	9.41%	9.30%	Carteret-Jones
14	77,065	17.39%	17.84%	Duplin-Onslow
15	77,307	15.43%	13.83%	Duplin-Onslow
16	81,425	23.06%	22.07%	Columbus-Pender-Robeson
17	77,263	7.97%	7.26%	Brunswick-New Hanover
18	77,681	29.24%	26.66%	Brunswick-New Hanover
19	76,666	6.33%	7.34%	Brunswick-New Hanover
20	78,488	8.24%	9.06%	Brunswick-New Hanover
				Bladen-Greene-Harnett-Johnston-Lee-
21	83,431	39%	41.41%	Sampson-Wayne
				Bladen-Greene-Harnett-Johnston-Lee-
22	83,437	31.49%	33.36%	Sampson-Wayne
23	81,057 ·	51.83%	53.67%	Edgecombe-Martin
24	81,234	38.11%	41.53%	Wilson
25	78,027	40.73%	44.63%	Franklin-Nash
	~~ ~~~	4.4 700/		Bladen-Greene-Harnett-Johnston-Lee-
26	83,432	14.79%	16.41%	Sampson-Wayne
27	76,790	53.71%	53.95%	Halifax-Northampton Bladen-Greene-Harnett-Johnston-Lee-
28	83,431	16.52%	17.46%	Sampson-Wayne
29	82,735	37.49%	41.26%	Chatham-Durham
30	83,272	28.74%	33.35%	Chatham-Durham
31	82,773	49.56%	53.57%	Chatham-Durham
32	83,140	49.12%	51.05%	Granville-Person-Vance-Warren
33	82,644	44.18%	47.91%	Wake
34	77,948	15.83%	. 15.59%	Wake
35	82,728	15.57%	18.26%	Wake
36	81,926	9.25%	11.73%	Wake
37	81,952	14.34%	·13.34%	Wake
		•*		

38	83,061	48.30%	49.61%	Wake
39	83,055	35.45%	37.99%	Wake
40	80,675	7.74%	7.75%	Wake
41	80,739	8.05%	9.20%	Wake
42	81,439	42.23%	39.85%	Cumberland
43	77,725	49.96%	50.76%	Cumberland
44	80,973	31.78%	33.84%	Cumberland
45	79,294	24.16%	24.35%	Cumberland
46	80,440	24.71%	26.14%	Columbus-Pender-Robeson
47	82,618	25.84%	26.29%	Columbus-Pender-Robeson
48	83,109	36.13%	37.97%	Hoke-Scotland
49	82,999	12.82%	12.86%	Wake
50	80,866	21.15%	20.95%	Caswell-Orange
				Bladen-Greene-Harnett-Johnston-Lee-
51	83,434	20.54%	21.78%	Sampson-Wayne
52	76,894	12.96%	13.01%	Moore-Randolph
				Bladen-Greene-Harnett-Johnston-Lee-
53	83,429	20.79%	22.83%	Sampson-Wayne
54	82,312	15.74%	15.77%	Chatham-Durham
55	75,792	24.12%	24.88%	Anson-Union
56	76,654	10.30%	11.16%	Caswell-Orange
57	83,303	38.36%	40.40%	Guilford
58	82,137	42.66%	46.75%	Guilford
59	79,457	18.80%	23.06%	Guilford
60	81,856	40.06%	44.90%	Guilford
61	79,754	40.33%	40.22%	Guilford
62	81,899	11.45%	13.44%	Guilford
63	75,550	19.18%	21.54%	Alamance
64	75,581	18.52%	19.57%	Alamance
	00 400	40.000		Alexander-Alleghany-Rockingham-Stokes-
65	83,430	19.63%	20.25%	Surry-Wilkes
66	83,032	24.86%	26.32%	Cabarrus-Davie-Montgomery-Richmond- Rowan-Stanly
00	03,032	24.8078	20.3270	Cabarrus-Davie-Montgomery-Richmond-
67	82,583	8.42%	9.08%	Rowan-Stanly
68	76,067	11.70%	11.59%	Anson-Union
69	76,381	12.74%	13.37%	Anson-Union
70	76,125	6.30%	7.48%	Moore-Randolph
71	75,793	36.56%	37.96%	Forsyth-Yadkin
72	76,245	47.51%	52.24%	Forsyth-Yadkin
73	78,189	7.20%	7.90%	Forsyth-Yadkin
74	79,963	13.44%	14.43%	Forsyth-Yadkin
75	78,886	14.47%	16.60%	Forsyth-Yadkin
	•			Cabarrus-Davie-Montgomery-Richmond-
76	81,908	20.05%	20.49%	Rowan-Stanly
				Cabarrus-Davie-Montgomery-Richmond-
77	82,918	8.72%	9.17%	Rowan-Stanly

78	76,980	6.51%	6.22%	Moore-Randolph
79	75,538	24.26%	24.32%	Beaufort-Craven
80	81,522	8.41%	9.03%	Davidson
81	81,356	9.14%	10.04%	Davidson
				Cabarrus-Davie-Montgomery-Richmond-
82	81,088	14.11%	17.16%	Rowan-Stanly
	04 4 7 2	10.010/	10.000/	Cabarrus-Davie-Montgomery-Richmond-
83	81,172	16.81%	19.98%	Rowan-Stanly
84	77,282	13.85%	15.10%	Iredell
85	78,372	3.50%	3.60%	Avery-McDowell-Mitchell
86	79,175	6.27%	6.75%	Burke-Rutherford
87	83,029	4.87%	4.94%	Caldwell
88	76,022	38.42%	41.01%	Mecklenburg
89	77,838	8.61%	9.32%	Catawba
00	83 77 0	2 420/	2.040/	Alexander-Alleghany-Rockingham-Stokes-
90	82,779	3.43%	3.84%	Surry-Wilkes Alexander-Alleghany-Rockingham-Stokes-
91	82,843	5.07%	5.35%	Surry-Wilkes
92	77,172	30.16%	37.69%	Mecklenburg
93	78,360	1.59%	1.63%	Ashe-Watauga
33	78,500	1.55%	1.0570	Alexander-Alleghany-Rockingham-Stokes-
94	83,358	5.74%	5.56%	Surry-Wilkes
95	82,155	9.85%	9.54%	Iredell
96	76,520	8.42%	8.98%	Catawba
97	78,265	5.67%	5.84%	Lincoln
98	75,602	7.74%	9.45%	Mecklenburg
99	77,141	49.54%	57.56%	Mecklenburg
100	75,589	32.11%	37.49%	Mecklenburg
101	79,876	50.82%	53.08%	Mecklenburg
102	77,391	43.89%	44.18%	Mecklenburg
103	76,381	7.73%	8.44%	Mecklenburg
104	76,869	6.22%	5.64%	Mecklenburg
105	75,967	8.25%	10.34%	Mecklenburg
106	75,762	38%	48.66%	Mecklenburg
107	75,856	49.39%	56.07%	Mecklenburg
108	76,926	14.43%	15.96%	Cleveland-Gaston
109	75,517	18.88%	19.25%	Cleveland-Gaston
110	, 75,573	15.30%	17.41%	Cleveland-Gaston
111	76,148	16.32%	16.67%	Cleveland-Gaston
112	79,547	10.23%	9.51%	Burke-Rutherford
113	81,089	3.20%	3.55%	Henderson-Polk-Transylvania
114	82,902	12.57%	12.96%	Buncombe
115	79,883	2.71%	3.09%	Buncombe
116	75,533	3.03%	2.94%	Buncombe
117	79,251	3.62%	3.88%	Henderson-Polk-Transylvania
118	76,322	1.12%	1.40%	Haywood-Jackson-Madison-Swain-Yancey
119	75,548	1.80%	1.86%	Haywood-Jackson-Madison-Swain-Yancey

120 80,814 1.12% 1.27% Cherokee-Clay-Gra	iranam-iviacon
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Note: Black Voting Age Population is calculated using 2010 Decennial Census population counts. Black Voting Age Population includes individuals 18 years or older who identify as Any Part Black. Black Citizen Voting Age Population is calculated using 2013-2017 American Community Survey (ACS) 5-year Estimates of Citizen Voting Age Population. Black Citizen Voting Age Population includes individuals who identify as single-race Black, as part-Black and part-White, or as part-Black and part-American Indian.

District (2010 Census) Age Population Population Caruty Grouping Carden-Chowan-Currituck-Dare-Gates-Hertford- Hyde-Pasquotank-Perquimans-Tyrrell- Washington 1 196,665 28.44% 28.16% Washington 2 183,118 15.83% 15.56% Carteret-Craven-Pamilco Beaufort-Bertie-Martin-Northampton-Vance- Beaufort-Bertie-Martin-Martin-Martin-Martin-Bartin-Walke 10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.14% Columbus-Robeson 12 182,438 20.09% 21.46% Doplin Harnett-Johnston-Lee-Nash-Sampson 13 </th <th></th> <th>2017 Senate Plan</th> <th>Population</th> <th>Black Voting</th> <th>Black Citizen Voting Age</th> <th></th>		2017 Senate Plan	Population	Black Voting	Black Citizen Voting Age	
Hyde-Pasquotank-Perquimans-Tyrrell- 1 196,665 28.44% 28.16% Washington 2 183.118 15.83% 15.56% Carteret-Craven-Pamilico Beaufort-Bertie-Martin-Northampton-Vance- 3 182,039 44.36% 49.70% Edgecombe-Halifax-Wilson 4 192,477 47.46% 49.70% Edgecombe-Halifax-Wilson 5 189,510 32.94% 35.03% Greene-Pitt 6 187,925 16.88% 16.13% Jones-Onslow 7 182,118 35.93% 25.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus: Robeson 14 194,087 38.85%	_	District	(2010 Census)	Age Population	Population	
1 196,665 28.44% 28.16% Washington 2 183,118 15.83% 15.56% Carteret-Craven-Pamilico Beaufort-Bette-Martin-Morthampton-Vance- 3 182,039 44.36% 45.12% Warren 4 192,477 47.46% 49.70% Edgecombe-Halifax-Wilson 5 189,510 32.94% 35.03% Greene-Pitt 6 187,925 16.88% 16.13% Jones-Onslow 7 182,118 33.93% 35.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% 12.58% Bladen-Brunswick-New Hanover-Pender 10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195						
2 183,118 15.83% 15.56% Carteret-Craven-Pamilico Beaufort-Berlie-Martin-Northampton-Vance- Warren 4 192,477 47.46% 49.70% Edgecombe-Halifax-Wilson 5 189,510 32.94% 35.03% Greene-Pitt 6 187,252 16.88% 16.13% Jones-Onslow 7 182,118 33.93% 25.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Biden-Brunswick-New Hanover-Pender 10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,488 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 11.74% 12.25% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake <t< td=""><td></td><td>1</td><td>196,665</td><td>28.44%</td><td>28.16%</td><td></td></t<>		1	196,665	28.44%	28.16%	
Beaufort-Bertie-Martin-Northampton-Vance- 3 182,039 44.36% 45.12% Warren 4 192,477 47.46% 49.70% Edgecombe-Halifax-Wilson 5 189,510 32.94% 35.03% Greene-Pitt 6 187,925 15.88% 15.13% Jones-Onslow 7 182,118 33.93% 35.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% 12.58% Bladen-Brunswick-New Hanover-Pender 10 183,566 24.06% 25.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 22.85% Franklin-Wake </td <td></td> <td></td> <td></td> <td>15.83%</td> <td></td> <td>-</td>				15.83%		-
4 192,477 47.46% 49.70% Edgecombe-Halifax-Wilson 5 189,510 32.94% 35.03% Greene-Pitt 6 187,925 16.88% 16.13% Jones-Onslow 7 182,118 33.93% 58.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% 12.25% Bladen-Brunswick-New Hanover-Pender 10 183,566 24.06% 25.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Columbus-Robeson 14 194,067 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69%			·			Beaufort-Bertie-Martin-Northampton-Vance-
5 189,510 32.94% 35.03% Greene-Pit 6 187,925 16.88% 16.13% Jones-Onslow 7 182,118 33.93% 35.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% 12.58% Bladen-Brunswick-New Hanover-Pender 10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 18 192,915 1		3	182,039	44.36%	45.12%	Warren
6 187,925 16.88% 16.13% Jones-Onslow 7 182,118 33.93% 35.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% 12.58% Bladen-Brunswick-New Hanover-Pender 10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.33% 7.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237		4	192,477	47.46%	49.70%	Edgecombe-Halifax-Wilson
7 182,118 33.93% 35.82% Lenoir-Wayne 8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% Bladen-Brunswick-New Hanover-Pender 9 193,3566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.55% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 15.50% 16.19% Franklin-Wake 16 19 182,869 31.69% 32.48% Durham-Granville-Person 16 182,2730 30.80%		5	189,510	32.94%	35.03%	Greene-Pitt
8 200,133 18.42% 17.16% Bladen-Brunswick-New Hanover-Pender 9 197,372 12.33% 12.58% Bladen-Brunswick-New Hanover-Pender 10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.42% 12.14% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 182,51		6	187,925	16.88%	16.13%	Jones-Onslow
9 197,372 12.33% 12.58% Bladen-Brunswick-New Hanover-Pender 10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 41.72% Cumberland-Hoke 21 182,560 12.81% 13.32% Chatham-Orange 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,910 <td< td=""><td></td><td>7</td><td>182,118</td><td>33.93%</td><td>35.82%</td><td>Lenoir-Wayne</td></td<>		7	182,118	33.93%	35.82%	Lenoir-Wayne
10 183,566 24.06% 26.32% Duplin-Harnett-Johnston-Lee-Nash-Sampson 11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63%		8	200,133	18.42%	17.16%	Bladen-Brunswick-New Hanover-Pender
11 193,194 25.43% 27.34% Duplin-Harnett-Johnston-Lee-Nash-Sampson 12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 16 197,033 21.47% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89%		9	197,372	12.33%	12.58%	Bladen-Brunswick-New Hanover-Pender
12 182,438 20.09% 21.46% Duplin-Harnett-Johnston-Lee-Nash-Sampson 13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.66% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Alsonp-AsheCasuell-Rockingham-Stokes- 27 189,954 18.34% <t< td=""><td></td><td>10</td><td>183,566</td><td>24.06%</td><td>26.32%</td><td>Duplin-Harnett-Johnston-Lee-Nash-Sampson</td></t<>		10	183,566	24.06%	26.32%	Duplin-Harnett-Johnston-Lee-Nash-Sampson
13 192,266 26.37% 27.14% Columbus-Robeson 14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,91 25.88% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 28 198,954 18.34% 20.88% Alamance-Guilford-Randolph 29 10.24% 15.28% Surry-Watau		11	193,194	25.43%	27.34%	Duplin-Harnett-Johnston-Lee-Nash-Sampson
14 194,087 38.85% 40.53% Franklin-Wake 15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davi		12	182,438	20.09%	21.46%	Duplin-Harnett-Johnston-Lee-Nash-Sampson
15 195,003 26.81% 29.81% Franklin-Wake 16 197,303 11.74% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 28 198,458 15.22% <		13	192,266	26.37%	27.14%	Columbus-Robeson
16 197,303 11.74% 12.25% Franklin-Wake 17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Alamance-Guilford-Randolph 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery 31 197,532 8.86% 9.45%		14	194,087	38.85%	40.53%	Franklin-Wake
17 182,304 11.42% 12.14% Franklin-Wake 18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Alamance-Guilford-Randolph 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 32		15	195,003	26.81%	29.81%	Franklin-Wake
18 192,915 15.60% 16.19% Franklin-Wake 19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% <t< td=""><td></td><td>16</td><td>197,303</td><td>11.74%</td><td>12.25%</td><td>Franklin-Wake</td></t<>		16	197,303	11.74%	12.25%	Franklin-Wake
19 182,869 31.69% 32.48% Cumberland-Hoke 20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 <		17	182,304	11.42%	12.14%	Franklin-Wake
20 184,237 40.35% 43.46% Durham-Granville-Person 21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly		18	192,915	15.60%	16.19%	Franklin-Wake
21 183,514 42.15% 41.72% Cumberland-Hoke 22 182,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% <t< td=""><td></td><td>19</td><td>182,869</td><td>31.69%</td><td>32.48%</td><td>Cumberland-Hoke</td></t<>		19	182,869	31.69%	32.48%	Cumberland-Hoke
22 18,730 30.80% 33.15% Durham-Granville-Person 23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Davie-Forsyth 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 <td></td> <td>20</td> <td>184,237</td> <td>40.35%</td> <td>43.46%</td> <td>Durham-Granville-Person</td>		20	184,237	40.35%	43.46%	Durham-Granville-Person
23 197,306 12.81% 13.32% Chatham-Orange 24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- Alleghany-Ashe-Caswell-Rockingham-Stokes- Alleghany-Ashe-Caswell-Rockingham-Stokes- Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35		21	183,514	42.15%	41.72%	Cumberland-Hoke
24 197,106 19.63% 22.26% Alamance-Guilford-Randolph 25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 14.10% 16.42% Cabarrus-Union 37 185,257 42.73% 44.54% Mecklenburg		22	182,730	30.80%	33.15%	Durham-Granville-Person
25 197,991 25.89% 26.31% Anson-Moore-Richmond-Scotland 26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 14.10% 16.42% Cabarrus-Union 37 185,257 42.73% 44.54% Mecklenburg		23	197,306	12.81%	13.32%	Chatham-Orange
26 196,115 16.66% 18.51% Alamance-Guilford-Randolph 27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 14.10% 16.42% Cabarrus-Union 37 185,257 42.73% 44.54% Mecklenburg		24	197,106	19.63%	22.26%	Alamance-Guilford-Randolph
27 189,954 18.34% 20.88% Alamance-Guilford-Randolph 28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery 29 190,676 10.24% 11.02% Davidson-Montgomery 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 14.10% 16.42% Cabarrus-Union 37 185,257 42.73% 44.54% Mecklenburg		25	197,991	25.89%	26.31%	Anson-Moore-Richmond-Scotland
28 198,114 43.64% 45.54% Alamance-Guilford-Randolph 29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 14.10% 16.42% Cabarrus-Union 37 185,257 42.73% 44.54% Mecklenburg		26	196,115	16.66%	18.51%	Alamance-Guilford-Randolph
29 190,676 10.24% 11.02% Davidson-Montgomery Alleghany-Ashe-Caswell-Rockingham-Stokes- 30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 14.10% 16.42% Cabarrus-Union 37 185,257 42.73% 44.54% Mecklenburg		27	189,954	18.34%	20.88%	Alamance-Guilford-Randolph
Alleghany-Ashe-Caswell-Rockingham-Stokes-30198,45815.22%15.28%Surry-Watauga-Wilkes31197,5328.86%9.45%Davie-Forsyth32194,37839.18%42.63%Davie-Forsyth33199,01314.25%15.03%Rowan-Stanly34197,84310.12%10.68%Iredell-Yadkin35189,79412.31%12.85%Cabarrus-Union36189,50914.10%16.42%Cabarrus-Union37185,25742.73%44.54%Mecklenburg		28	198,114	43.64%	45.54%	Alamance-Guilford-Randolph
30 198,458 15.22% 15.28% Surry-Watauga-Wilkes 31 197,532 8.86% 9.45% Davie-Forsyth 32 194,378 39.18% 42.63% Davie-Forsyth 33 199,013 14.25% 15.03% Rowan-Stanly 34 197,843 10.12% 10.68% Iredell-Yadkin 35 189,794 12.31% 12.85% Cabarrus-Union 36 189,509 14.10% 16.42% Cabarrus-Union 37 185,257 42.73% 44.54% Mecklenburg		29	190,676	10.24%	11.02%	Davidson-Montgomery
31197,5328.86%9.45%Davie-Forsyth32194,37839.18%42.63%Davie-Forsyth33199,01314.25%15.03%Rowan-Stanly34197,84310.12%10.68%Iredell-Yadkin35189,79412.31%12.85%Cabarrus-Union36189,50914.10%16.42%Cabarrus-Union37185,25742.73%44.54%Mecklenburg						Alleghany-Ashe-Caswell-Rockingham-Stokes-
32194,37839.18%42.63%Davie-Forsyth33199,01314.25%15.03%Rowan-Stanly34197,84310.12%10.68%Iredell-Yadkin35189,79412.31%12.85%Cabarrus-Union36189,50914.10%16.42%Cabarrus-Union37185,25742.73%44.54%Mecklenburg		30	198,458	15.22%	15.28%	
33199,01314.25%15.03%Rowan-Stanly34197,84310.12%10.68%Iredell-Yadkin35189,79412.31%12.85%Cabarrus-Union36189,50914.10%16.42%Cabarrus-Union37185,25742.73%44.54%Mecklenburg		31	197,532	8.86%	9.45%	Davie-Forsyth
34197,84310.12%10.68%Iredell-Yadkin35189,79412.31%12.85%Cabarrus-Union36189,50914.10%16.42%Cabarrus-Union37185,25742.73%44.54%Mecklenburg			-	39.18%	42.63%	•
35189,79412.31%12.85%Cabarrus-Union36189,50914.10%16.42%Cabarrus-Union37185,25742.73%44.54%Mecklenburg						•
36189,50914.10%16.42%Cabarrus-Union37185,25742.73%44.54%Mecklenburg				10.12%	10.68%	
37 185,257 42.73% 44.54% Mecklenburg			-		12.85%	
				14.10%	16.42%	
38 182,674 48.46% 55.42% Mecklenburg					44.54%	-
		38	182,674	48.46%	55.42%	Mecklenburg

Table 4: African-American Population of 2017 Senate Plan Districts

39	184,099	6.62%	7.09%	Mecklenburg
40	183,426	38.88%	45.53%	Mecklenburg
41	184,172	14.25%	18.70%	Mecklenburg
42	191,556	8.03%	8.58%	Alexander-Catawba
43	197,035	14.75%	16.32%	Cleveland-Gaston-Lincoln
44	185,394	13.30%	13.46%	Cleveland-Gaston-Lincoln Alleghany-Ashe-Caswell-Rockingham-Stokes-
45	198,833	2.64%	2.80%	Surry-Watauga-Wilkes
46	191,738	5.82%	5.80%	Avery-Burke-Caldwell McDowell-Madison-Mitchell-Polk-Rutherford-
47	187,477	5.33%	5.47%	Yancey
48	184,866	3.50%	3.64%	Buncombe-Henderson-Transylvania
49	193,282	6.78%	7.06%	Buncombe-Henderson-Transylvania Cherokee-Clay-Graham-Haywood-Jackson-
50	194,102	1.38%	1.46%	Macon-Swain

Note: Black Voting Age Population is calculated using 2010 Decennial Census population counts. Black Voting Age Population includes individuals 18 years or older who identify as Any Part Black. Black Citizen Voting Age Population is calculated using 2013-2017 American Community Survey (ACS) 5-year Estimates of Citizen Voting Age Population. Black Citizen Voting Age Population includes individuals who identify as single-race Black, as part-Black and part-White, or as part-Black and part-American Indian.

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Dr. Lewis' Black CVAP Threshold Estimates for House Plan County Groupings: For each Black CVAP threshold estimate that Dr. Lewis produced for a specific House Plan county grouping, I first analyzed the number of enacted 2017 House Plan districts in this county grouping that satisfy Dr. Lewis' Black CVAP threshold. Next, I analyze the 2,000 computersimulated House plans from my original April 8, 2019 report, and I analyze how many of these computer-simulated House plans also contain at least as many districts within this county grouping that satisfy Dr. Lewis' Black CVAP threshold.

Table 5 describes my findings for each of the House county groupings that Dr. Lewis analyzed, and Table 6 describes my findings for each of the Senate county groupings that Dr. Lewis analyzed. Each row in these Tables describes one of the county groupings for which Dr. Lewis produced a Black CVAP threshold estimate. Many groupings appear multiple times because Dr. Lewis produced different estimates for the county grouping using results from different elections.

The first row of Table 5, for example, describes the Bladen-Greene-Harnett-Johnston-Lee-Sampson-Wayne county grouping, in which Dr. Lewis estimated a Black CVAP of 21% was necessary for an African-American candidate to win the 2016 Democratic Attorney General Primary, as reported in the third column. The fourth column reports that the 2017 House Plan contains 5 districts (HDs 10, 21, 22, 51, and 53) that satisfy this Black CVAP threshold. The fifth column reports that 95.4% of the computer-simulated plans in House Simulation Set 1 from my original report also contain at least 5 or more districts satisfying this Black CVAP threshold of 21%. Similarly, the seventh column reports that 91.5% of the plans in House Simulation Set 2 from my original report also contain at least 5 or more districts satisfying this Black CVAP threshold. The sixth column reports that 37 (3.7%) of the computer-simulated plans in Simulation Set 1 contain more than 5 districts satisfying the 21% Black CVAP threshold, and the eighth column reports that 10 (1%) of the computer-simulated plans Simulation Set 2 contain more than 5 districts satisfying the 21% Black CVAP threshold. Hence, not only do almost all of the computer-simulated plans match the 2017 House Plan's number of districts satisfying Dr. Lewis' 21% Black CVAP threshold, it is actually possible to create more such districts than the 2017 House Plan contains.

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House County Grouping (# of Districts):	Election for Which Dr. Lewis Estimates Black CVAP Threshold	Dr. Lewis' Black CVAP Threshold:	Number of Enacted 2017 House Plan Districts Satisfying Dr. Lewis' Black CVAP Threshold:	House Simulation Set 1 Plans With At Least As Many Black CVAP Threshold Districts As 2017 House Plan:	House Simulation Set 1 Plans With More Black CVAP Threshold Districts Than The 2017 House Plan:	House Simulation Set 2 Plans With At Least As Many Black CVAP Threshold Districts As 2017 House Plan:	House Simulation Set 2 Plans With More Black CVAP Threshold Districts Than The 2017 House Plan:
Bladen; Greene; Harnett; Johnston; Lee; Sampson; Wayne (7)	Attorney General, Primary (2016)	21%	5 (HD-10, 21, 22, 51, 53)	954 (95.4%) (HD-21 and 22 frozen)	37 (3.7%)	915 (91.5%) (HD-21 and 22 frozen)	10 (1%)
Bladen; Greene; Harnett; Johnston; Lee; Sampson; Wayne (7)	Hypothetical State House (2016)	41%	1 (HD-21)	1,000 (100%) (HD-21 frozen)	0 (0%)	1,000 (100%) (HD-21 frozen)	O (O%)
Columbus; Pender; Robeson (3)	Attorney General, Primary (2016)	4%	3 (HD 16, 46 and 47)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Columbus; Pender; Robeson (3)	Hypothetical State House (2016)	26%	2 (HD 46 and 47)	565 (56.5%)	0 (0%)	250 (25%)	0 (0%)
Cumberland (4)	Attorney General, Primary (2016)	13%	4 (HD 42, 43, 44, 45)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Cumberland (4)	Hypothetical State House (2016)	34%	2 (HD 42 and 43) (HD-44 barely misses at 33.84%)	1,000 (100%)	701 (70.1%)	1,000 (100%)	872 (87.2%)

Cumberland (4)	Commissioner of Labor, Primary (2016)	65%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Forsyth; Yadkin (5)	Hypothetical State House (2016)	41%	1 (HD-72)	961 (96.1%)	120 (12%)	754 (75.4%)	13 (1.3%)
Forsyth; Yadkin (5)	Attorney General, Primary (2016)	42%	1 (HD-72)	927 (92.7%)	66 (6.6%)	705 (70.5%)	8 (0.8%)
Franklin; Nash (2)	Lt. Gov, Primary (2016)	12%	2 (HD-7, 25)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Franklin; Nash (2)	Hypothetical State House (2016)	40%	1 (HD-25)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Granville; Person; Vance; Warren (2)	Hypothetical State House (2016)	32%	1 (HD-32)	1,000 (100%)	115 (11.5%)	1,000 (100%)	32 (3.2%)
Granville; Person; Vance; Warren (2)	Attorney General, Primary (2016)	34%	1 (HD-32)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Guilford (6)	Commissioner of Labor, Primary (2016)	5%	6 (HD-57, 58, 59, 60, 61, 62)	1,000 (100%) (HD-57, 61, and 62 frozen)	0 (0%)	1,000 (100%) (HD-57, 61, and 62 frozen)	0 (0%)
Guilford (6)	Sheriff, Primary (2014)	23%	5 (HD-57, 58, 59, 60, 61)	1,000 (100%) (HD-57 and 61 frozen)	0 (0%)	1,000 (100%) (HD-57 and 61 frozen)	0 (0%)
Guilford (6)	Attorney General, Primary (2016)	26%	4 (HD-57, 58, 60, 61)	1,000 (100%) (HD-57 and 61 frozen)	1000 (100%)	1,000 (100%) (HD-57 and 61 frozen)	1000 (100%)
Guilford (6)	Sheriff, Primary (2018)	30%	4 (HD-57, 58, 60, 61)	1,000 (100%) (HD-57 and 61 frozen)	72 (7.2%)	1,000 (100%) (HD-57 and 61 frozen)	179 (17.9%)
Guilford (6)	Sheriff, General (2018)	31%	4 (HD-57, 58, 60, 61)	1,000 (100%) (HD-57 and 61 frozen)	72 (7.2%)	1,000 (100%) (HD-57 and 61 frozen)	164 (16.4%)

Guilford (6)	Hypothetical State House (2016)	40%	4 (HD-57, 58, 60, 61)	994 (99.4%) (HD-57 and 61 frozen)	0 (0%)	905 (90.5%) (HD-57 and 61 frozen)	0 (0%)
Guilford (6)	Sheriff, General (2014)	43%	2 (HD-58, 60)	0 (0%)	0 (0%)	1 (0.1%)	0 (0%)
Lenoir; Pitt (3)	Attorney General, Primary (2016)	18%	3 (HD-8, 9, 12)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Lenoir; Pitt (3)	Hypothetical State House (2016)	38%	2 (HD-8, 12)	134 (13.4%)	0 (0%)	270 (27%)	O (O%)

Overall, Table 5 illustrates that for almost all of Dr. Lewis' various Black CVAP thresholds, a significant number of the computer-simulated House plans matches or exceeds the 2017 House Plan's number of districts in each grouping satisfying Dr. Lewis' Black CVAP thresholds. Among the following House county groupings that Dr. Lewis analyzes, nearly all of the computer-simulated plans in both House Simulation Set 1 and Set 2 either match or exceed the 2017 House Plan's number of districts satisfying most of Dr. Lewis' Black CVAP thresholds:

1) The Bladen-Greene-Harnett-Johnston-Lee-Sampson-Wayne county grouping;

2) The Columbus-Pender-Robeson county grouping;

3) The Cumberland county grouping;

4) The Forsyth-Yadkin county grouping;

5) The Franklin-Nash county grouping;

6) The Granville-Person-Vance-Warren county grouping;

7) The Guilford county grouping.

In fact, as reported in Table 5, some of the computer-simulated House plans demonstrate that it is possible to exceed the 2017 House Plan's number of districts satisfying Dr. Lewis' Black CVAP thresholds in the following county groupings:

1) The Bladen-Greene-Harnett-Johnston-Lee-Sampson-Wayne county grouping;

2) The Cumberland county grouping;

3) The Forsyth-Yadkin county grouping;

4) The Granville-Person-Vance-Warren county grouping;

5) The Guilford county grouping.

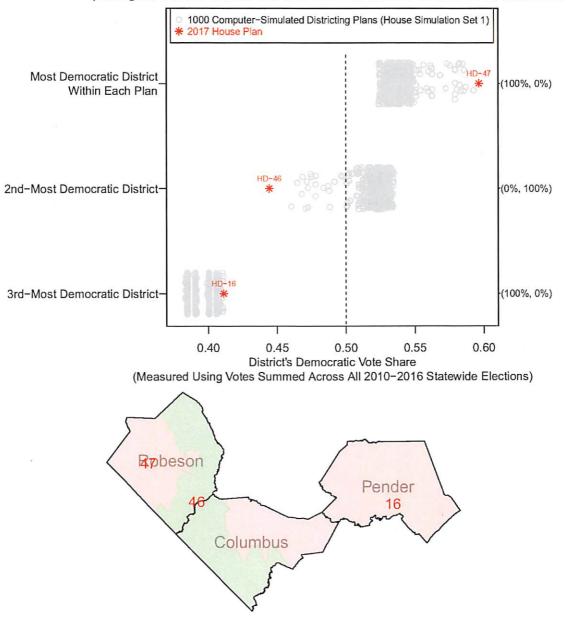
Partisan Comparisons of 2017 House Plan to Simulated House Plans Satisfying Black

CVAP Thresholds: For each county grouping that both Dr. Lewis analyzes in his report and that I analyzed in my opening report, I then analyze the partisan characteristics of the subset of simulated plans in my House Simulation Set 1 and House Simulation Set 2 that have at least as many districts above Dr. Lewis' Black CVAP threshold estimates as the enacted 2017 House Plan.

For example, for the Forsyth-Yadkin county grouping, Dr. Lewis offered a Black CVAP threshold estimate of 41%, so I identified the 961 House Simulation Set 1 plans and 754 House Simulation Set 2 plans that match or exceed the 2017 House Plan's one district that satisfies this

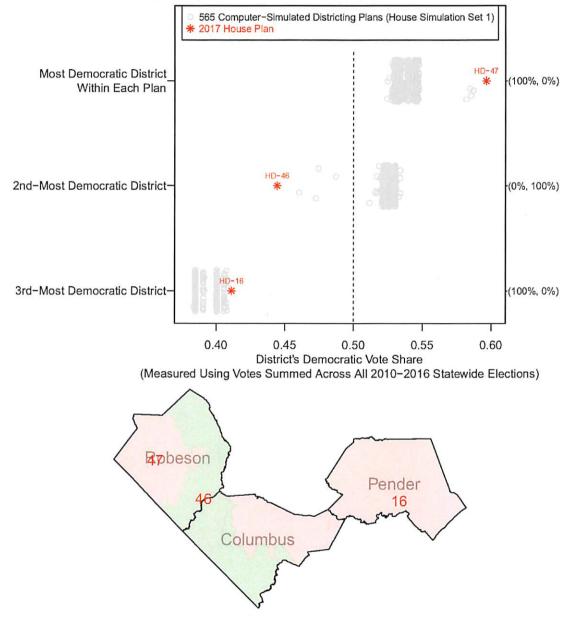
41% Black CVAP threshold. I then compare the partisanship of the individual districts in the 2017 House Plan to these 961 House Simulation Set 1 plans and 754 House Simulation Set 2 plans. Figures 101 and 123 display these partisanship comparisons. Specifically, as I did in my original expert report, I align each plan's districts within this grouping from least to most Democratic. The top row compares the most Democratic enacted district to the most Democratic district in each simulated plan, the second row compares the second-most Democratic districts in the 2017 House Plan and to the second-most Democratic districts in each simulated plan, and so on.

Overall, Figures 101 to 120 compare the 2017 House Plan districts to the House Simulation Set 1 districts within individual county groupings for which Dr. Lewis' estimated a Black CVAP threshold and that I analyzed in my opening report. Figures 123 to 142 present similar comparisons of the 2017 House Plan districts to the House Simulation Set 2 districts. Each of these Figures focuses on a different Black CVAP threshold that Dr. Lewis estimated for a particular county grouping. These Figures reveal that when I analyze only the simulated House plans that match or exceed the 2017 House Plan's number of districts satisfying Dr. Lewis' Black CVAP thresholds, the 2017 House Plan contains districts that are partisan outliers, compared to the computer-simulated districts, in all of the county groupings for which Dr. Lewis' estimated a Black CVAP threshold and that I analyzed in my opening report. Figure 101: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Columbus-Pender-Robeson County Grouping (Among the 1000 Simulated Plans With 3 or More Districts of At Least 4% Black CVAP)



2017 Enacted House Plan Districts (3 Districts)

Figure 102: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Columbus-Pender-Robeson County Grouping (Among the 565 Simulated Plans With 2 or More Districts of At Least 26% Black CVAP)

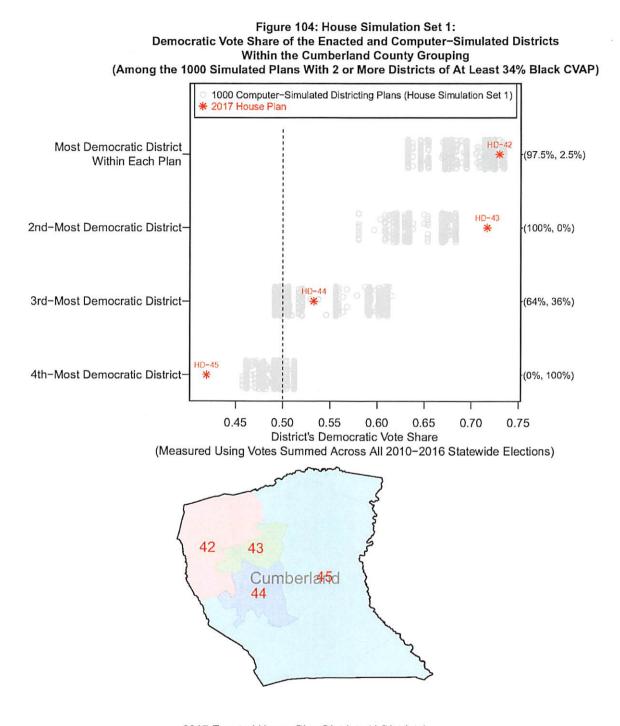


2017 Enacted House Plan Districts (3 Districts)

Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Cumberland County Grouping (Among the 1000 Simulated Plans With 4 or More Districts of At Least 13% Black CVAP) 1000 Computer-Simulated Districting Plans (House Simulation Set 1) 2017 House Plan Most Democratic District HD-42 (97.5%, 2.5%) Within Each Plan HD-43 2nd-Most Democratic District-(100%, 0%) * HD-44 3rd-Most Democratic District-(64%, 36%) HD-45 4th-Most Democratic District-(0%, 100%) * 0.45 0.50 0.55 0.60 0.65 0.70 0.75 District's Democratic Vote Share (Measured Using Votes Summed Across All 2010-2016 Statewide Elections) 42 43 Cumberl 245d 44

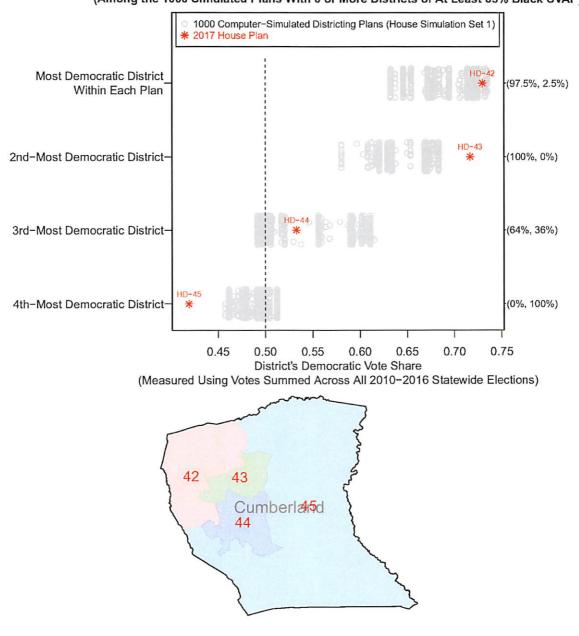
Figure 103: House Simulation Set 1:

2017 Enacted House Plan Districts (4 Districts)

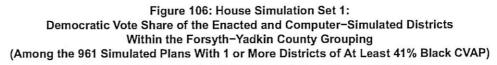


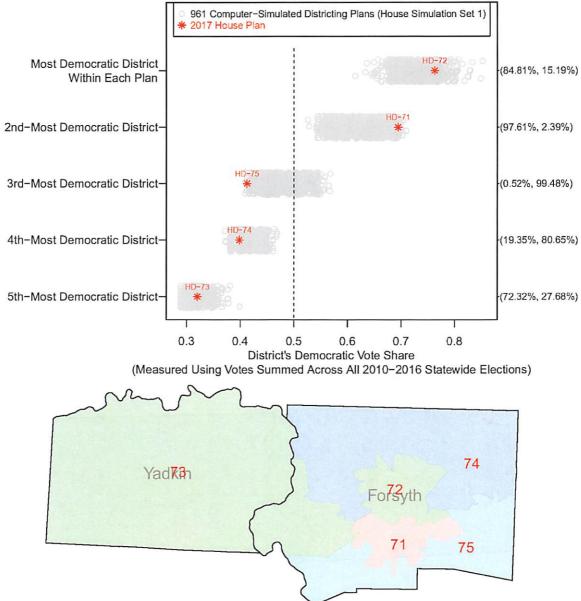
2017 Enacted House Plan Districts (4 Districts)

Figure 105: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Cumberland County Grouping (Among the 1000 Simulated Plans With 0 or More Districts of At Least 65% Black CVAP)



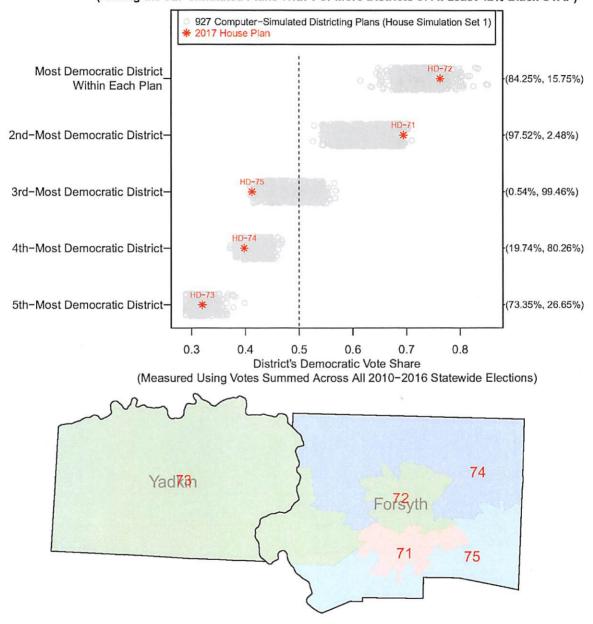
2017 Enacted House Plan Districts (4 Districts)





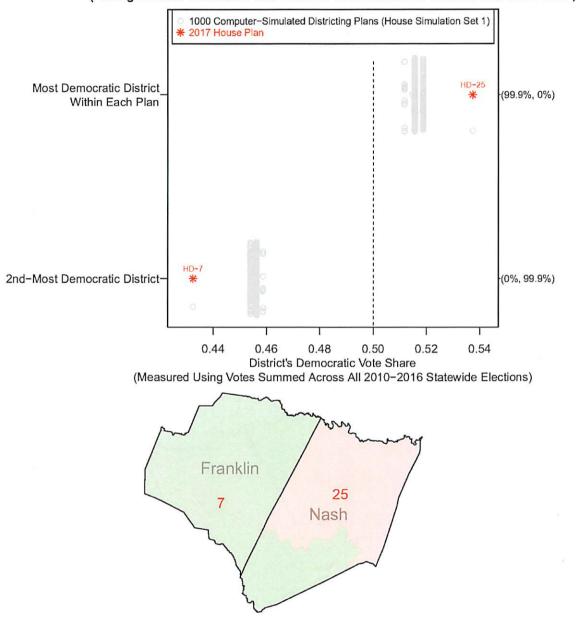
2017 Enacted House Plan Districts (5 Districts)

Figure 107: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Forsyth-Yadkin County Grouping (Among the 927 Simulated Plans With 1 or More Districts of At Least 42% Black CVAP)



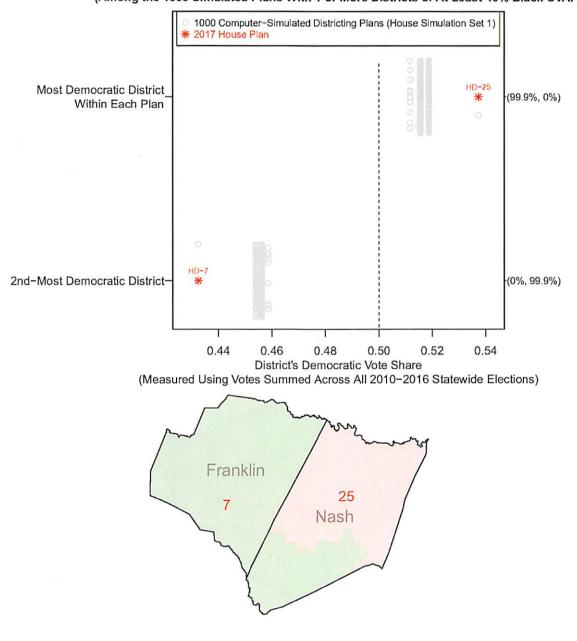
2017 Enacted House Plan Districts (5 Districts)

Figure 108: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer–Simulated Districts Within the Franklin–Nash County Grouping (Among the 1000 Simulated Plans With 2 or More Districts of At Least 12% Black CVAP)

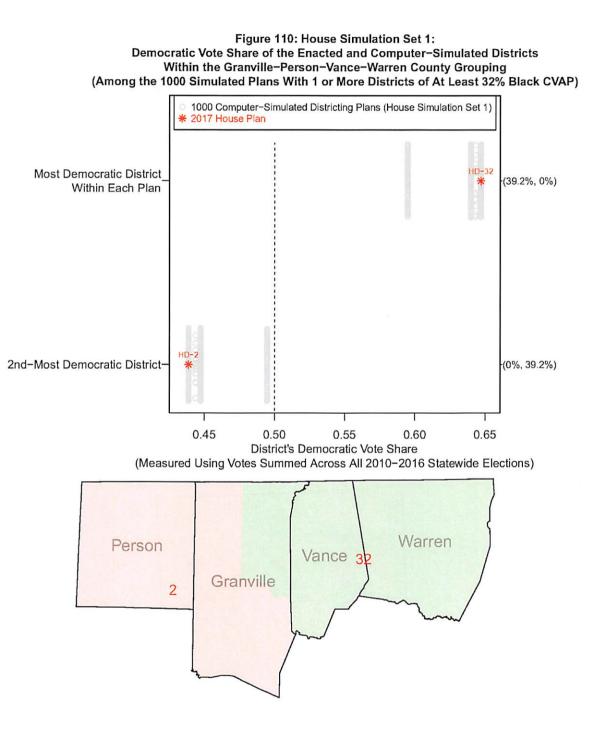


2017 Enacted House Plan Districts (2 Districts)

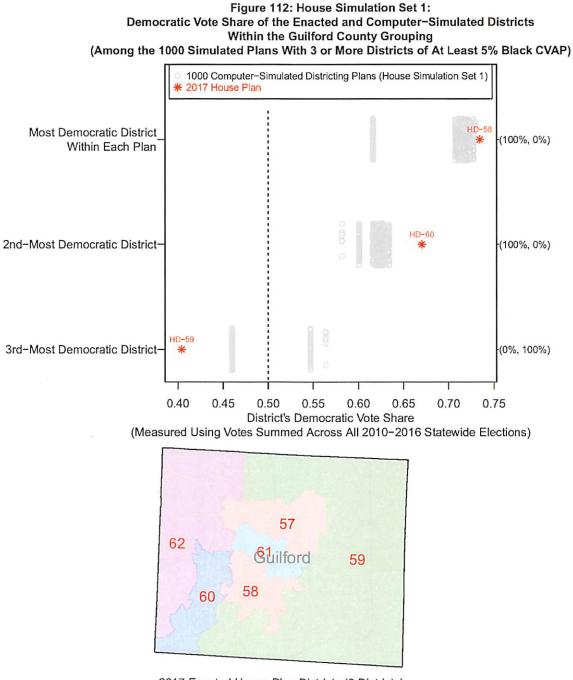
Figure 109: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Franklin-Nash County Grouping (Among the 1000 Simulated Plans With 1 or More Districts of At Least 40% Black CVAP)

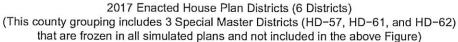


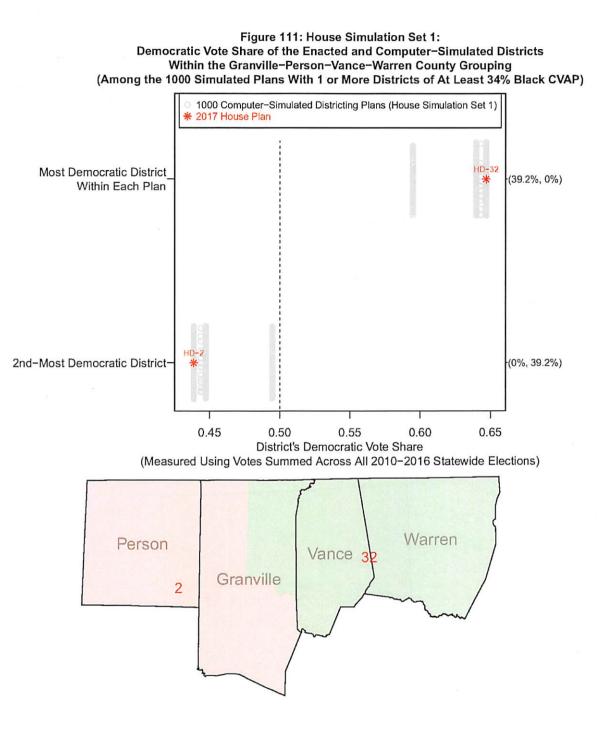
2017 Enacted House Plan Districts (2 Districts)



2017 Enacted House Plan Districts (2 Districts)

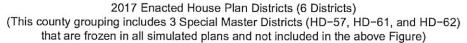


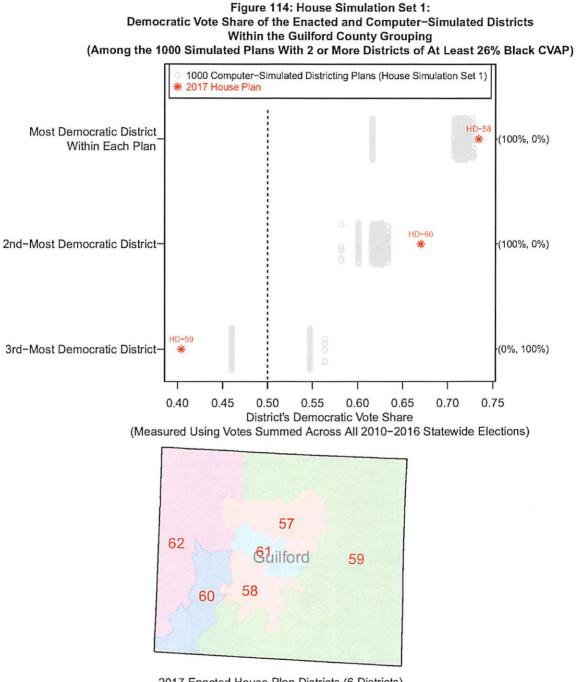


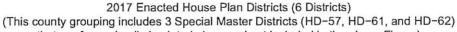


2017 Enacted House Plan Districts (2 Districts)

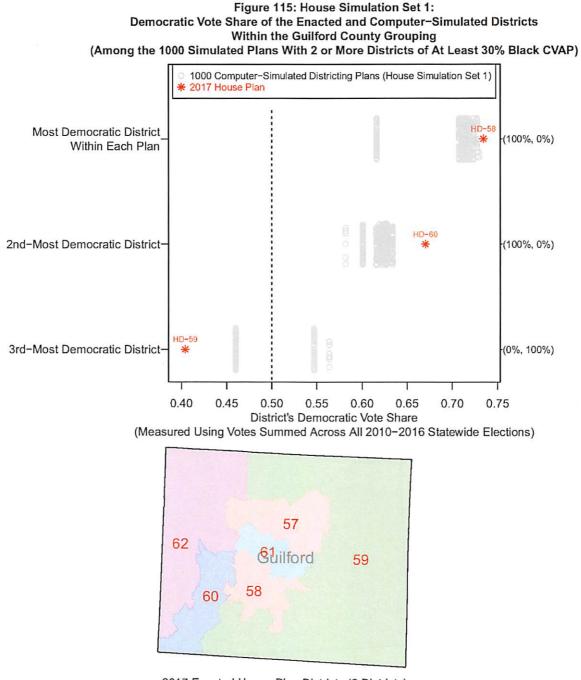
Figure 113: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Guilford County Grouping (Among the 1000 Simulated Plans With 3 or More Districts of At Least 23% Black CVAP) 1000 Computer-Simulated Districting Plans (House Simulation Set 1) 2017 House Plan HD-58 Most Democratic District (100%, 0%) Within Each Plan HD-60 2nd-Most Democratic District-(100%, 0%) HD-59 3rd-Most Democratic District-(0%, 100%) 0.40 0.45 0.50 0.55 0.60 0.65 0.70 0.75 District's Democratic Vote Share (Measured Using Votes Summed Across All 2010-2016 Statewide Elections) 57 62 Guilford 59 58 60







that are frozen in all simulated plans and not included in the above Figure)



2017 Enacted House Plan Districts (6 Districts) (This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)

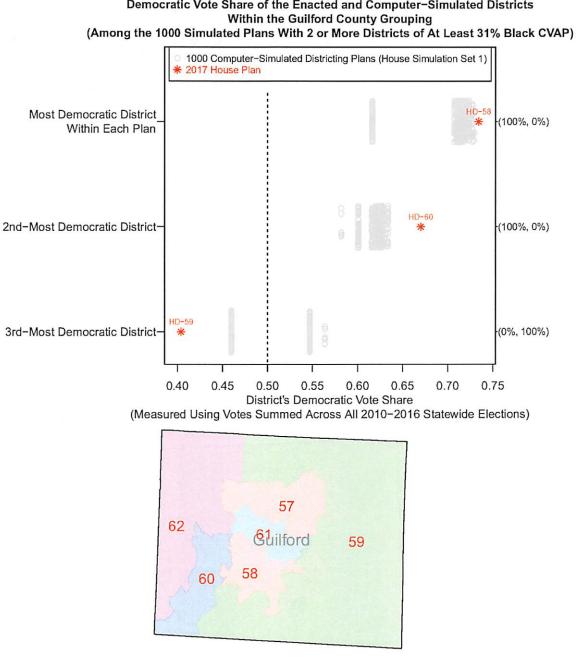


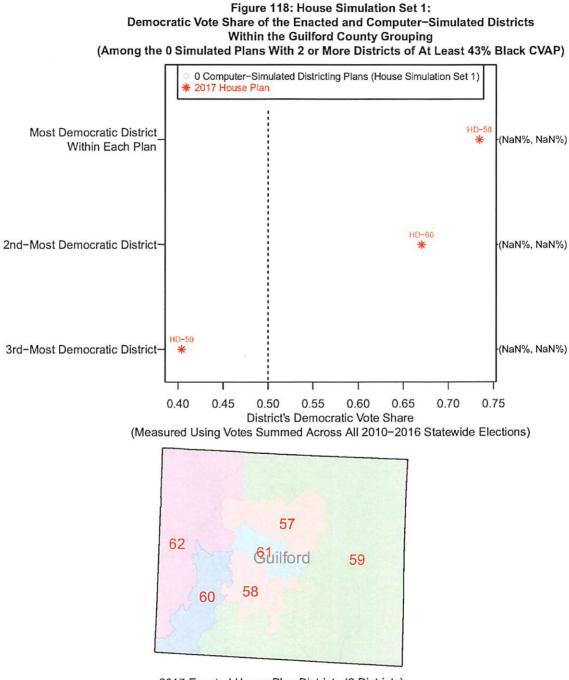
Figure 116: House Simulation Set 1: Democratic Vote Share of the Enacted and Computer-Simulated Districts

2017 Enacted House Plan Districts (6 Districts)

(This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)



2017 Enacted House Plan Districts (6 Districts) (This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)





(This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)

 Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Lenoir-Pitt County Grouping (Among the 1000 Simulated Plans With 3 or More Districts of At Least 18% Black CVAP)

 Most Democratic District

 Within Each Plan

 Most Democratic District

 Within Each Plan

 Image: A construct District

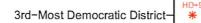
 Image: A construct D construct District

 Image: A construct D construct D

(0%, 100%)

0.65

Figure 119: House Simulation Set 1:



(Measured Using Votes Summed Across All 2010–2016 Statewide Elections)

0.50

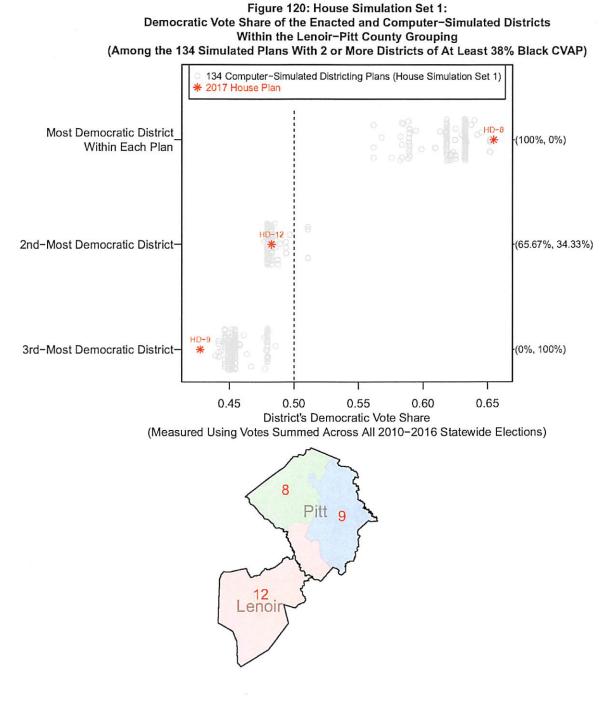
0.55

District's Democratic Vote Share

0.60

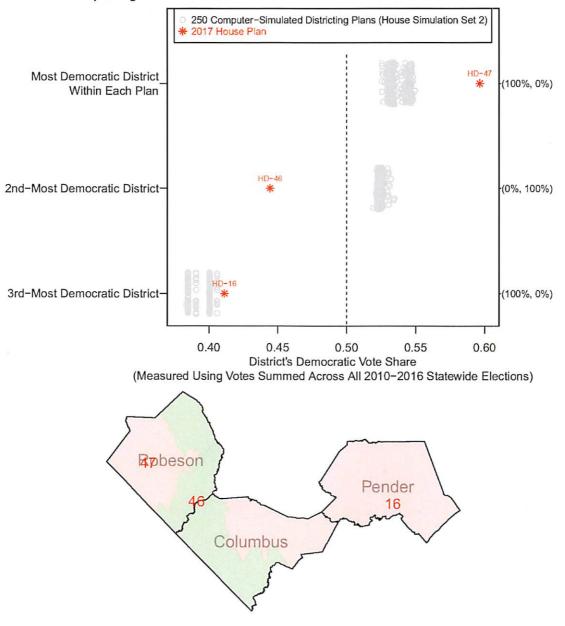
0.45

2017 Enacted House Plan Districts (3 Districts)

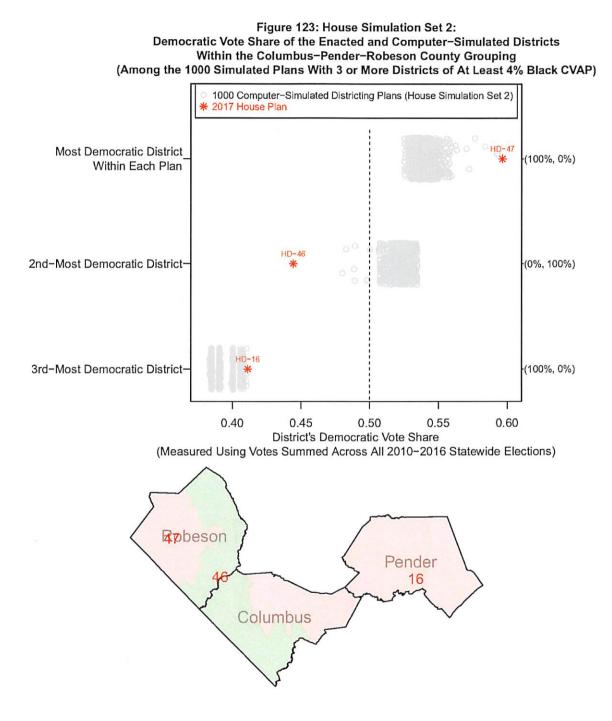


2017 Enacted House Plan Districts (3 Districts)

Figure 124: House Simulation Set 2: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Columbus-Pender-Robeson County Grouping (Among the 250 Simulated Plans With 2 or More Districts of At Least 26% Black CVAP)



2017 Enacted House Plan Districts (3 Districts)

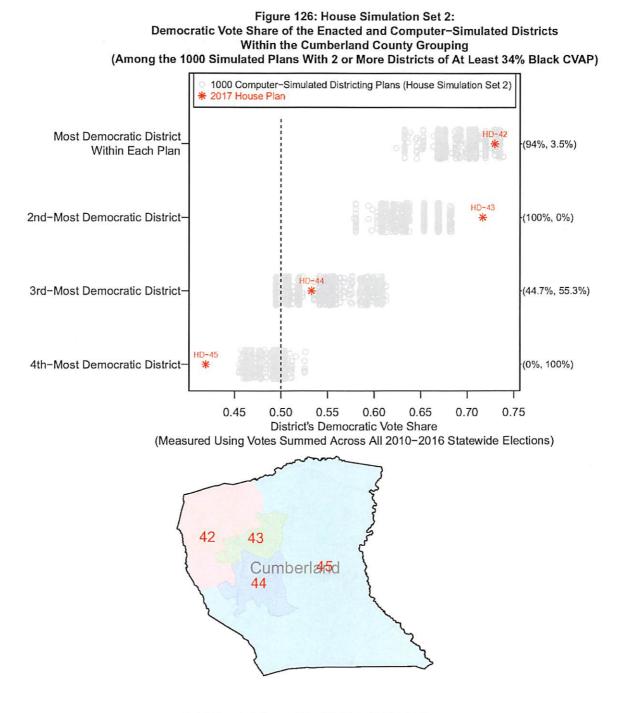


2017 Enacted House Plan Districts (3 Districts)

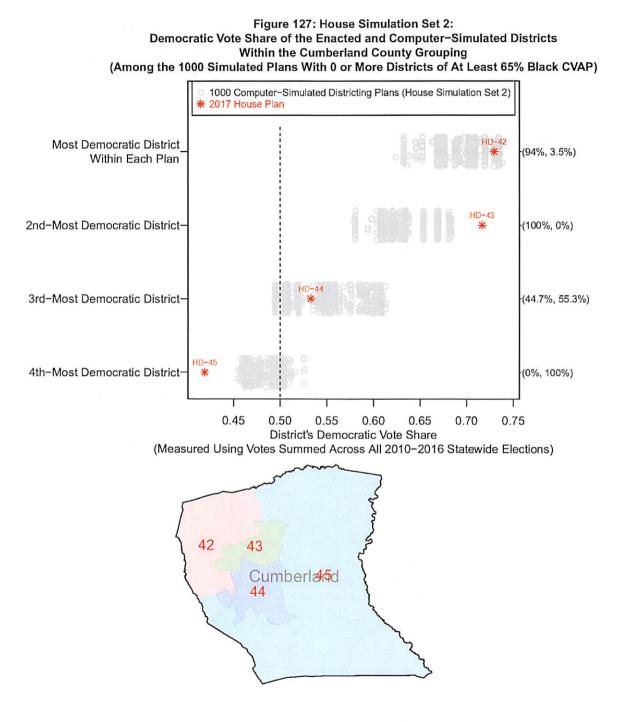
(Among the 1000 Simulated Plans With 4 or More Districts of At Least 13% Black CVAP) 1000 Computer-Simulated Districting Plans (House Simulation Set 2) 2017 House Plan HD-42 Most Democratic District (94%, 3.5%) Within Each Plan HD-43 2nd-Most Democratic District-* (100%, 0%) HD-44 3rd-Most Democratic District-(44.7%, 55.3%) HD-45 4th-Most Democratic District-(0%, 100%) * Т 0.45 0.50 0.55 0.60 0.65 0.70 0.75 District's Democratic Vote Share (Measured Using Votes Summed Across All 2010-2016 Statewide Elections) 42 43 Cumberl 245d 44

Figure 125: House Simulation Set 2: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Cumberland County Grouping (Among the 1000 Simulated Plane With 4 or Marc Districts of At Logst 12% Plank CVA

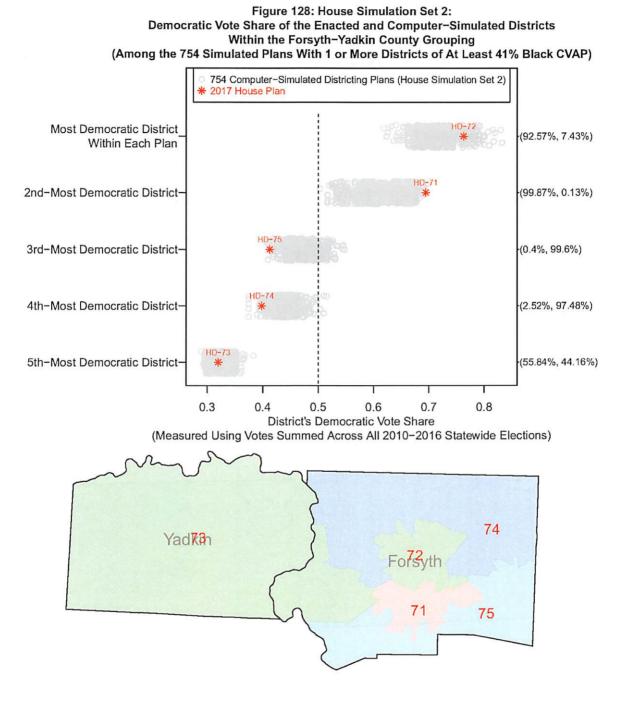
2017 Enacted House Plan Districts (4 Districts)



2017 Enacted House Plan Districts (4 Districts)

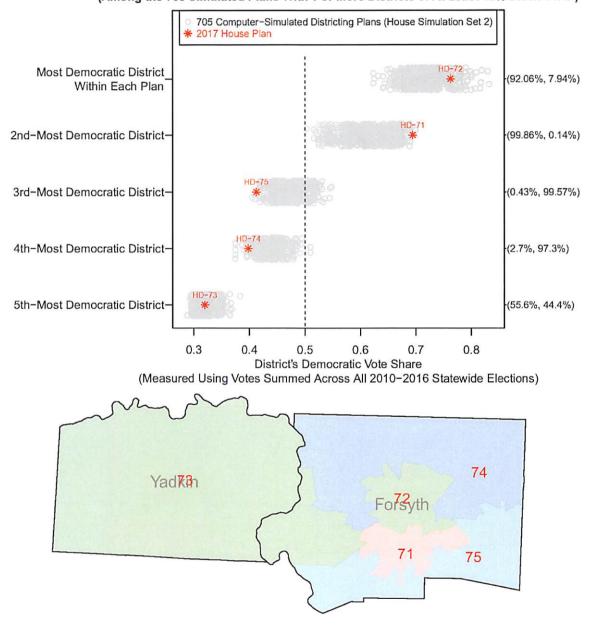


2017 Enacted House Plan Districts (4 Districts)



2017 Enacted House Plan Districts (5 Districts)

Figure 129: House Simulation Set 2: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Forsyth-Yadkin County Grouping (Among the 705 Simulated Plans With 1 or More Districts of At Least 42% Black CVAP)

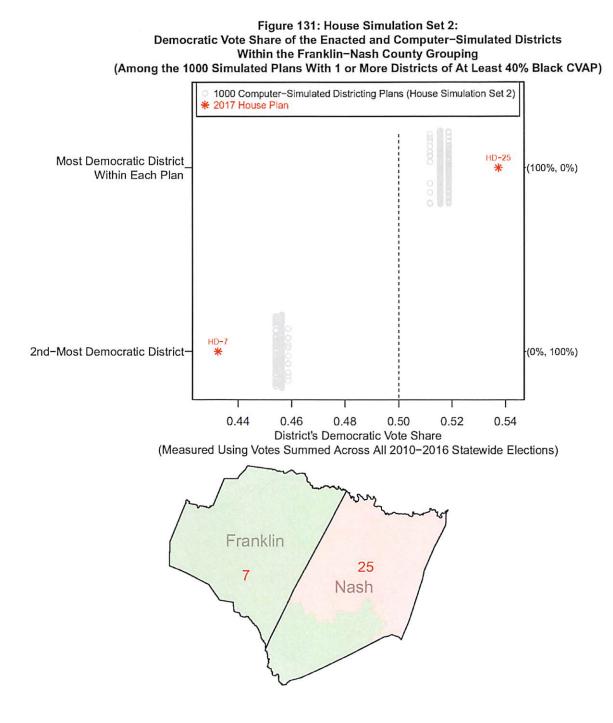


2017 Enacted House Plan Districts (5 Districts)

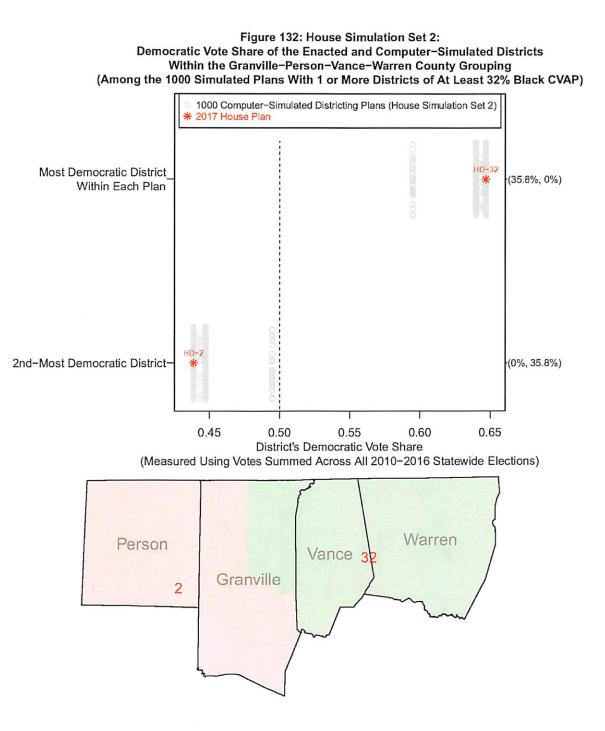
Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Franklin-Nash County Grouping (Among the 1000 Simulated Plans With 2 or More Districts of At Least 12% Black CVAP) 1000 Computer-Simulated Districting Plans (House Simulation Set 2) * 2017 House Plan HD-25 Most Democratic District (100%, 0%) * Within Each Plan HD-7 2nd-Most Democratic District-(0%, 100%) 0.44 0.46 0.48 0.50 0.52 0.54 District's Democratic Vote Share (Measured Using Votes Summed Across All 2010-2016 Statewide Elections) Franklin 25 7 Nash

Figure 130: House Simulation Set 2:

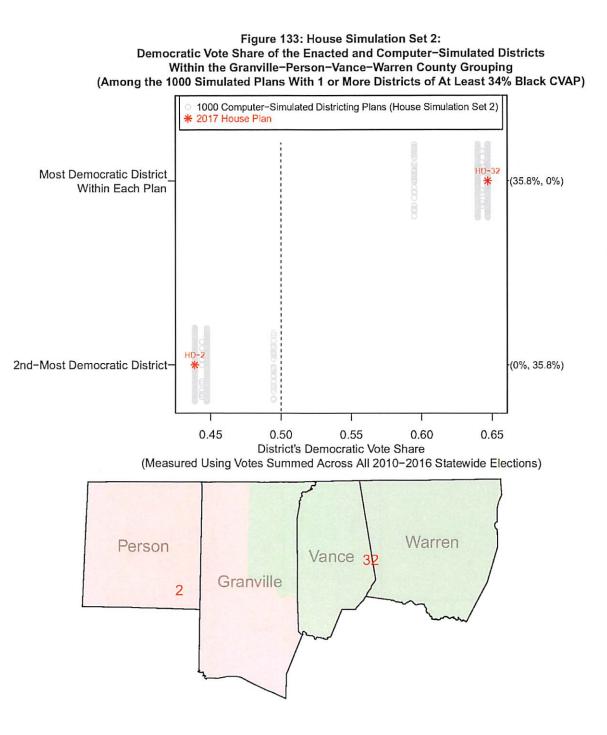
2017 Enacted House Plan Districts (2 Districts)



2017 Enacted House Plan Districts (2 Districts)

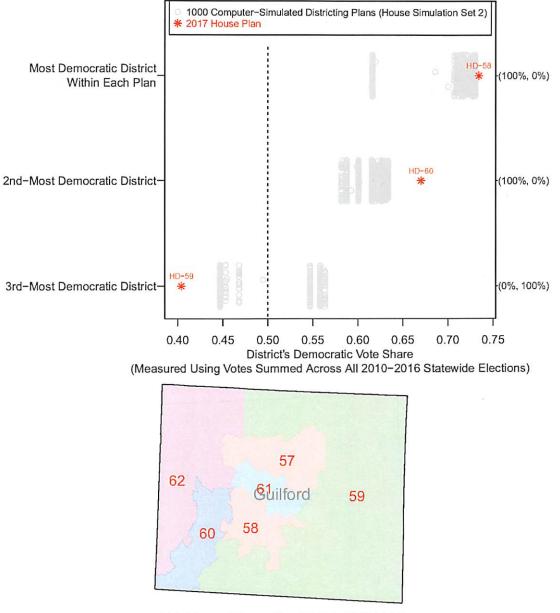


2017 Enacted House Plan Districts (2 Districts)



2017 Enacted House Plan Districts (2 Districts)

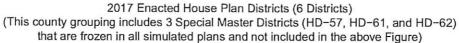
Figure 134: House Simulation Set 2: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Guilford County Grouping (Among the 1000 Simulated Plans With 3 or More Districts of At Least 5% Black CVAP)

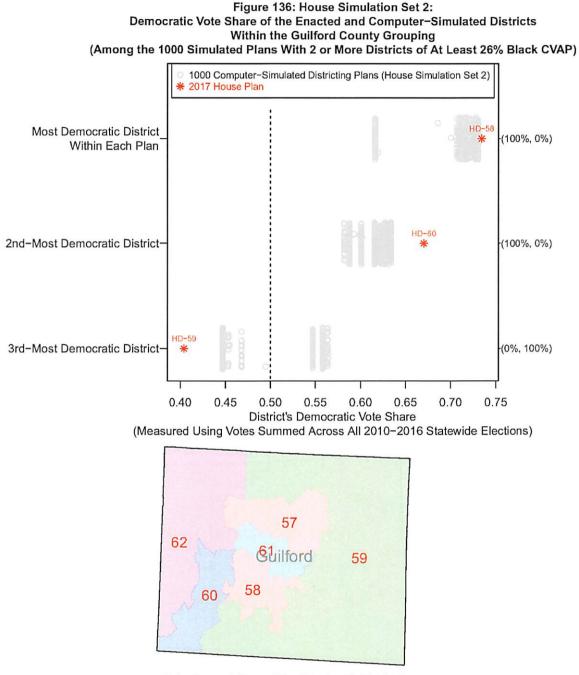


2017 Enacted House Plan Districts (6 Districts)

(This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)

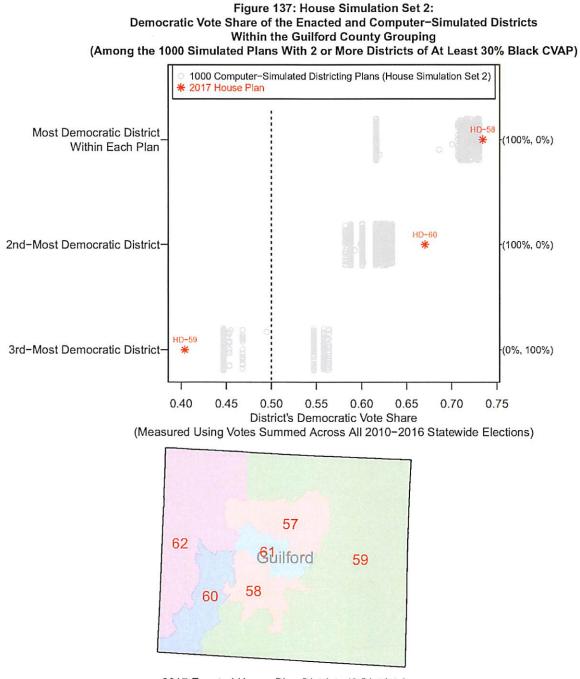






2017 Enacted House Plan Districts (6 Districts)

(This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)



2017 Enacted House Plan Districts (6 Districts) (This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)

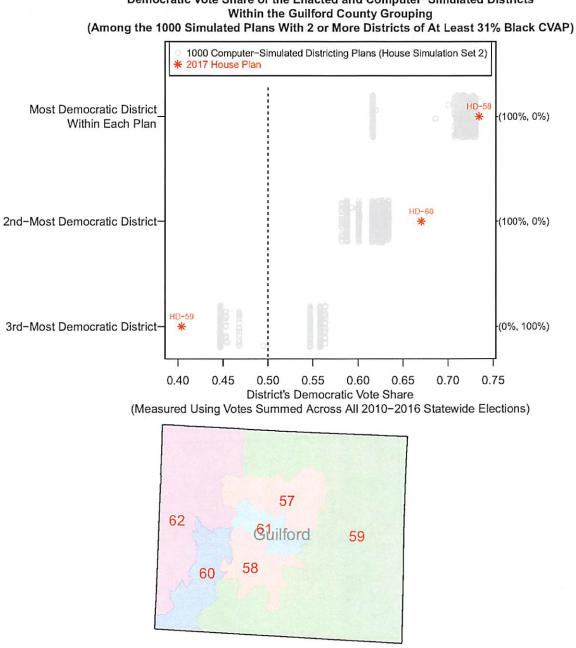


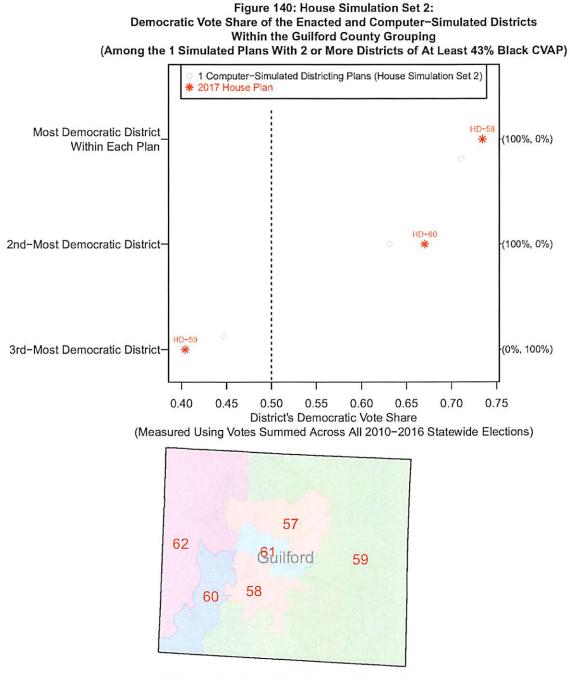
Figure 138: House Simulation Set 2: Democratic Vote Share of the Enacted and Computer-Simulated Districts

2017 Enacted House Plan Districts (6 Districts)

(This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)



2017 Enacted House Plan Districts (6 Districts) (This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)



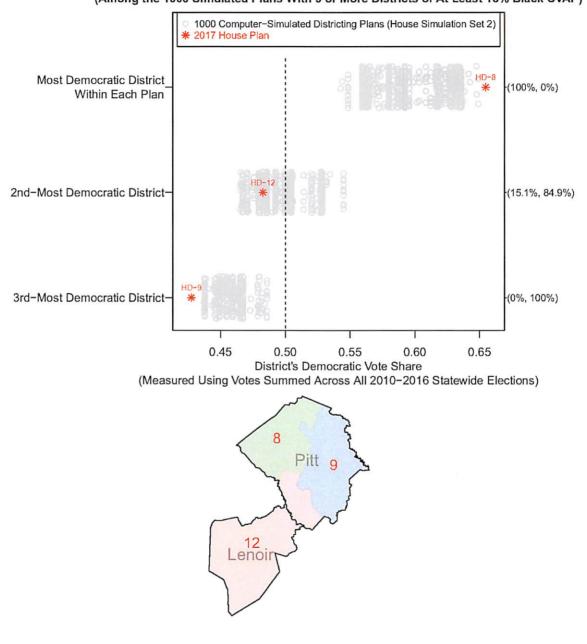


(This county grouping includes 3 Special Master Districts (HD-57, HD-61, and HD-62) that are frozen in all simulated plans and not included in the above Figure)

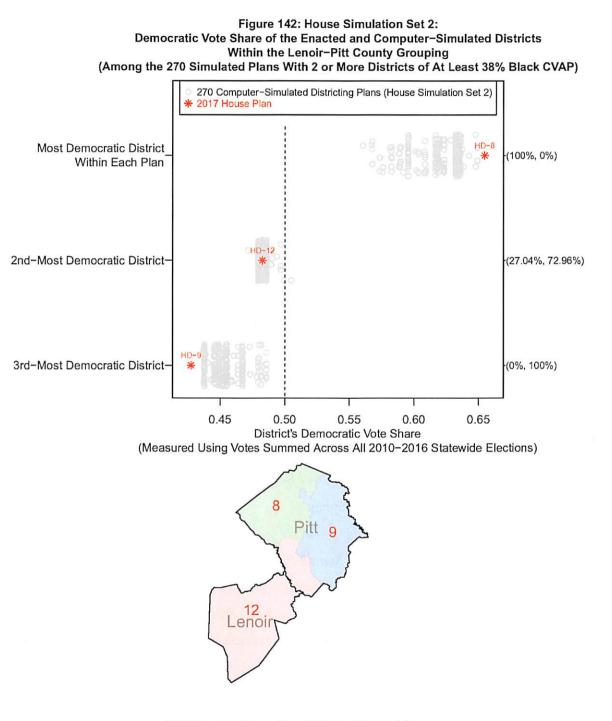
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Figure 141: House Simulation Set 2: Democratic Vote Share of the Enacted and Computer-Simulated Districts Within the Lenoir-Pitt County Grouping (Among the 1000 Simulated Plans With 3 or More Districts of At Least 18% Black CVAP)



2017 Enacted House Plan Districts (3 Districts)



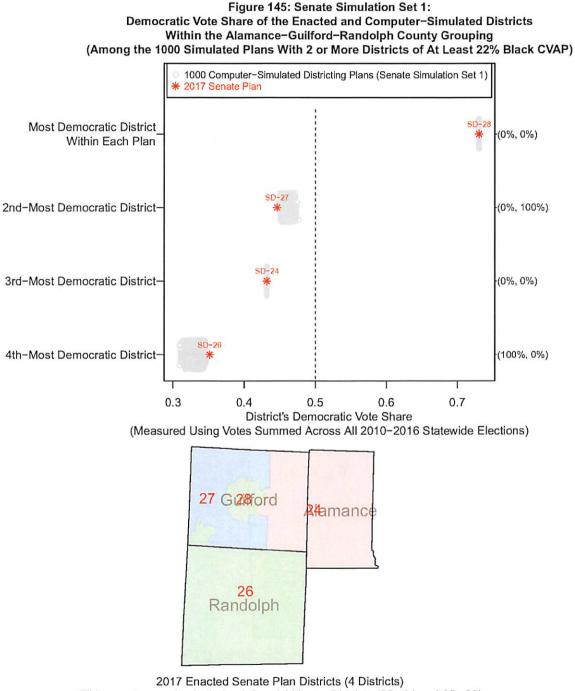
2017 Enacted House Plan Districts (3 Districts)

Dr. Lewis' Black CVAP Threshold Estimates for the Alamance-Guilford-Randolph County Grouping in the Senate Plan: For the Alamance-Guilford-Randolph county grouping in the 2017 Senate Plan, Dr. Lewis produced two different Black CVAP threshold estimates. Dr. Lewis estimated that a Black CVAP of 22% is necessary for an African-American-preferred candidate to win the 2016 Attorney General Democratic primary election (p. 17, Lewis Report of May 1), and Dr. Lewis estimated that a Black CVAP of 41% is necessary for an African-Americanpreferred candidate to win a "hypothetical 2016 general election" (p. 20, Lewis Report of May 1).

For these two different Black CVAP thresholds, Table 6 reports that the enacted 2017 Senate Plan contains one district (SD-28) satisfying the 41% Black CVAP threshold and two districts (SD-24 and 28) satisfying the 22% Black CVAP threshold. Moreover, as the fifth and seventh columns of Table 6 report, all 1,000 of the computer-simulated plans in Senate Simulation Set 1 either match or exceed the 2017 Senate Plan's number of districts satisfying each of these two thresholds.

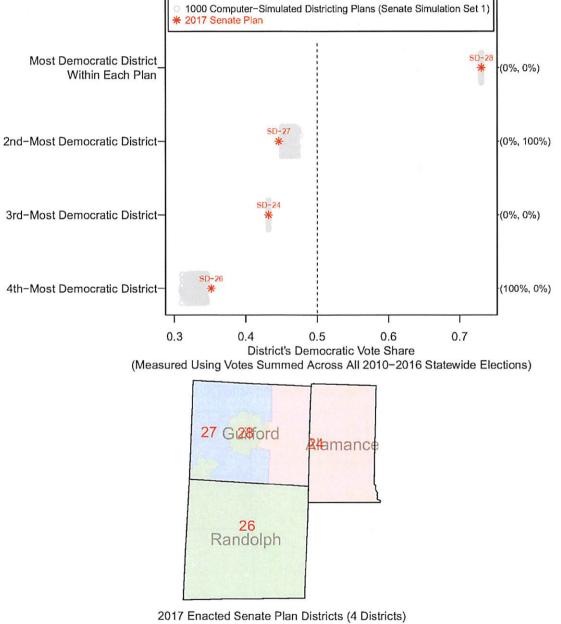
In fact, as reported in the sixth and eighth columns of Table 6, most of the computersimulated Senate plans demonstrate that it is possible to exceed the 2017 Senate Plan's number of districts satisfying Dr. Lewis' 22% Black CVAP threshold in the Alamance-Guilford-Randolph county grouping. Specifically, 79.9% of the Senate Simulation Set 1 plans and 79.3% of the Senate Simulation Set 2 plans exceed the 2017 Senate Plan's two districts satisfying Dr. Lewis' 22% Black CVAP threshold in this grouping.

Partisan Comparisons of 2017 Senate Plan to Simulated Senate Plans Satisfying Black CVAP Thresholds: For the Alamance-Guilford-Randolph county grouping in the 2017 Senate Plan, all 1,000 plans in Senate Simulation Set 1 and all 1,000 plans in Senate Simulation Set 2 match or exceed the 2017 Senate Plan's number of districts satisfying Dr. Lewis' 22% and 41% Black CVAP thresholds in this grouping. Therefore, in Figures 145 through 148, I include all of these 2,000 computer-simulated Senate plans, and I compare them to the 2017 Senate Plan in terms of the partisanship of each plan's four districts in the Alamance-Guilford-Randolph county grouping. These Figures show that the 2017 Senate Plan districts in this grouping contain partisan outliers compared to the partisan distribution of districts in the computer-simulated plans, and this conclusion is not altered if we consider only the simulated plans that match the 2017 Senate Plan's number of districts satisfying Dr. Lewis' Black CVAP threshold.



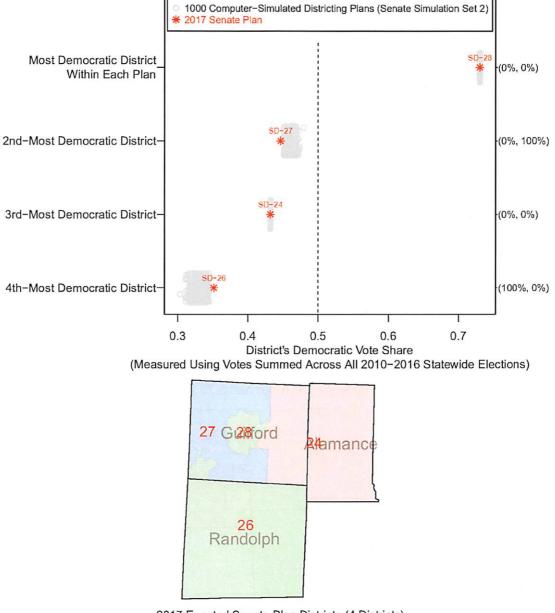
(This county grouping includes 2 Special Master Districts (SD-24 and SD-28) that are frozen in all simulated plans and included in the above Figure)

Figure 146: Senate Simulation Set 1: Democratic Vote Share of the Enacted and Computer–Simulated Districts Within the Alamance–Guilford–Randolph County Grouping (Among the 1000 Simulated Plans With 1 or More Districts of At Least 41% Black CVAP)



(This county grouping includes 2 Special Master Districts (SD-24 and SD-28) that are frozen in all simulated plans and included in the above Figure)

Figure 147: Senate Simulation Set 2: Democratic Vote Share of the Enacted and Computer–Simulated Districts Within the Alamance–Guilford–Randolph County Grouping (Among the 1000 Simulated Plans With 2 or More Districts of At Least 22% Black CVAP)



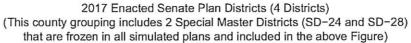
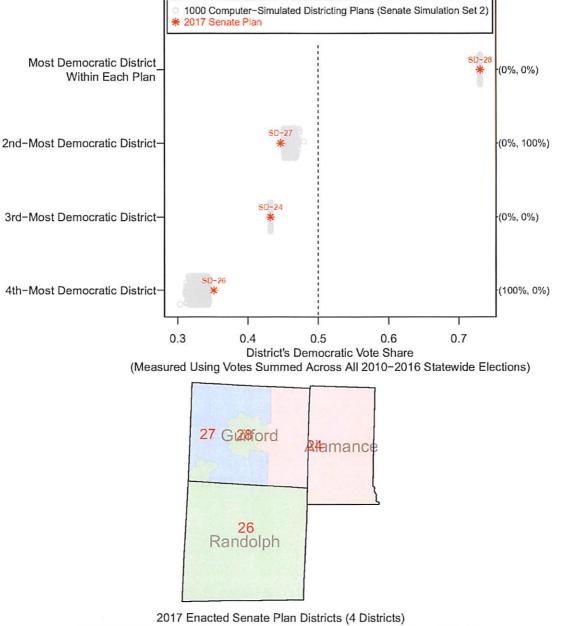


Figure 148: Senate Simulation Set 2: Democratic Vote Share of the Enacted and Computer–Simulated Districts Within the Alamance–Guilford–Randolph County Grouping (Among the 1000 Simulated Plans With 1 or More Districts of At Least 41% Black CVAP)



2017 Enacted Senate Plan Districts (4 Districts) (This county grouping includes 2 Special Master Districts (SD-24 and SD-28) that are frozen in all simulated plans and included in the above Figure)

136

Senate County Grouping (# of Districts):	Election for Which Dr. Lewis Estimates Black CVAP Threshold	Dr. Lewis' Black CVAP Threshold:	Number of Enacted Districts Satisfying Dr. Lewis' Black CVAP Threshold:	Senate Simulation Set 1 Plans With At Least As Many Black CVAP Threshold Districts as 2017 Senate Plan:	Senate Simulation Set 1 Plans With More Districts with Dr. Lewis' Black CVAP Threshold than the 2017 Senate Plan:	Senate Simulation Set 2 Plans With At Least As Many Black CVAP Threshold Districts as 2017 Senate Plan:	Senate Simulation Set 2 Plans With More Districts with Dr. Lewis' Black CVAP Threshold than the 2017 Senate Plan:
Alamance- Guilford- Randolph (4 Districts)	Attorney General, primary (2016)	22%	2 (SD-24, 28)	1,000 (100%) (SD-24 and 28 frozen)	799 (79.9%) (SD-24 and 28 frozen)	1,000 (100%) (SD-24 and 28 frozen)	793 (79.3%) (SD-24 and 28 frozen)
Alamance- Guilford- Randolph (4 Districts)	Hypothetical State Senate (2016)	41%	1 (SD-28)	1,000 (100%) (SD-28 frozen)	0 (0%)	1,000 (100%) (SD-28 frozen)	0 (0%)
Davie; Forsyth (2 Districts)	Hypothetical State Senate (2016)	41%	1	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Davie; Forsyth (2 Districts)	Attorney General, primary (2016)	42%	1	0 (0%)	0 (0%)	0 (0%)	0 (0%)

House Districts Satisfying Dr. Lewis' Black CVAP Threshold Estimates for Individual Counties: Dr. Lewis also produced Black CVAP threshold estimates for individual counties within larger county groupings. For each county that Dr. Lewis examined, I counted the number of 2017 House Plan districts wholly within the county that satisfy Dr. Lewis' estimated Black CVAP threshold for that county. I then analyzed whether each computer-simulated House plan contains as many or more districts in the county that satisfy this Black CVAP threshold.

Table 7 illustrates the results of this analyses for the 2017 House Plan and House Simulation Set 1 and Set 2. Overall, in every county that Dr. Lewis analyzed, the vast majority of the computer-simulated plans match or exceed the 2017 House Plan's number of districts satisfying most of Dr. Lewis' various Black CVAP thresholds. In fact, for most of Dr. Lewis' various Black CVAP thresholds, all 1,000 simulated plans in House Simulation Set 1 and Set 2 either match or exceed the 2017 House Plan's number of districts above the Black CVAP threshold.

Finally, as Table 7 illustrates, there are four counties in which some computer-simulated House plans exceed the 2017 House Plan's number of districts above one of Dr. Lewis' Black CVAP thresholds. These counties are: Cumberland County (34% Black CVAP threshold); Forsyth County (44% Black CVAP threshold); Guilford County (26%, 30%, and 31% Black CVAP threshold); and Pitt County (28% Black CVAP threshold). Thus, in these four counties, the computer-simulated plans demonstrate that it is possible to create more African-American districts exceeding Dr. Lewis' Black CVAP thresholds than the 2017 House Plan does.

Senate Districts Satisfying Dr. Lewis' Black CVAP Threshold Estimates for Individual

Counties: For each individual county that Dr. Lewis examined, I also counted the number of 2017 Senate Plan districts wholly within the county that satisfy Dr. Lewis' estimated Black CVAP threshold for that county. I then analyzed whether each computer-simulated Senate plan contains as many or more districts in the county that satisfy this Black CVAP threshold.

Table 7:Comparison of 2017 House Plan and House Simulation Set 1 and Set 2On Number of Districts with Dr. Lewis' Black CVAP Thresholds in Individual Counties

County:	Number of 2017 House Plan Districts Wholly Within County:	Election for Which Dr. Lewis Estimates Black CVAP Threshold:	Dr. Lewis' Black CVAP Threshold:	Number of 2017 House Plan Districts Satisfying Dr. Lewis' Black CVAP Threshold:	House Simulation Set 1 Plans Containing At Least the Same Number of Districts with Dr. Lewis' Black CVAP Threshold as the 2017 House Plan:	House Simulation Set 1 Plans Containing More Districts with Dr. Lewis' Black CVAP Threshold than the 2017 House Plan:	House Simulation Set 2 Plans Containing At Least the Same Number of Districts with Dr. Lewis' Black CVAP Threshold as the 2017 House Plan:	House Simulation Set 2 Plans Containing More Districts with Dr. Lewis' Black CVAP Threshold than the 2017 House Plan:
Bladen	0	Attorney General, Primary (2016)	14%	0	1,000 (100%)	0 (0%)	1,000 (100%)	O (O%)
Bladen	0	Hypothetical State House (2016)	27%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Bladen	0	Lt. Gov., General (2016)	32%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Bladen	0	President, General (2016)	37%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Columbus	0	Sheriff, General (2018)	31%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Cumberland	4	Attorney General, Primary (2016)	13%	4 (HD 42, 43, 44, 45)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Cumberland	4	Hypothetical State House	34%	2 (HD 42, 43)	1,000 (100%)	701 (70.1%)	1,000 (100%)	872 (87.2%)

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(%0) 0	(%T.O) L	(%0) 0	(%0) 0	2 (HD 28'	43%	Sheriff,	9	Guilford
(%0) 0	(%5.06) 206	(%0) 0	(%7.66) 466	(T9 '09 '8S 'LS DH) †	%0 7	Hypothetical State House (2016)	9	Guilford
(%4.91) 491	(%00T) 000'T	(%2.7) 27	(%00T) 000'T	(T9 '09 '8S '2S DH) 7	%TE	(2018) General Sheriff,	9	Guilford
(%6 [.] /1) 6/1	(%00T) 000'T	(%2.7) 27	(%00T) 000'T	(T9 '09 '85 '25 DH) 7	%0E	Sheriff, Primary (2018)	9	Guilford
(%00T) 000'T	(%00T) 000'T	(%00T) 000'T	(%00T) 000'T	28' 90' 91) t (HD 22'	%97	Attorney General, Primary (2016)	9	Guilford
(%0) 0	(%00t) 000't	(%0) 0	(%00T) 000'T	(T9 '09 '65 '85 '25 DH) S	%82	Sheriff, Primary (2014)	9	Guilford
(%0) 0	(%00t) 000't	(%0) 0	(%00T) 000'T	(79 '79 '09 '65 '85 '25 DH) 9	%S	Commissioner of Labor, Primary (2016)	9	Guilford
(%T.O) T	(%5'T9) 5T9	(%4.0) 4	(%22) 022	(ZZ OH) T	%77	Attorney General, Primary (2016)	Þ	Forsyth
(%8.E) 8E	(%6`6८) 66८	(%81) 081	(%८.86) 786	(72 OH) T	%07	Hypothetical State House (2016)	Þ	Forsyth
(%0) 0	(%00T) 000'T	(%0) 0	(%00T) 000'T	(SZ '7Z 'ZZ 'TZ OH) 7	%5	Commissioner of Labor, Primary (2016)	4	Forsyth
(%0) 0	(%00T) 000'T	(%0) 0	(%00T) 000'T	0	%59	Commissioner of Labor, Primary (2016)	Þ	pnehədmuƏ
						(5016)		

		General (2014)		60)	,			
Nash	1	Sheriff, Primary (2014)	30%	1 (HD 25)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Nash	1	Hypothetical State House (2016)	41%	1 (HD 25)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Nash	1	Sheriff, General (2014)	54%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Pitt	2	Sheriff, General (2018)	28%	1 (HD 8)	1,000 (100%)	392 (39.2%)	1,000 (100%)	624 (62 [.] 4%)
Robeson	1	Sheriff, Primary (2018)	36%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)

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Table 8:Comparison of 2017 Senate Plan and Senate Simulation Set 1 and Set 2On Number of Districts with Dr. Lewis' Black CVAP Thresholds in Individual Counties

County:	Number of 2017 Senate Plan Districts Wholly Within County:	Election for Which Dr. Lewis Estimates Black CVAP Threshold:	Dr. Lewis' Black CVAP Threshold:	Number of 2017 Senate Plan Districts Satisfying Dr. Lewis' Black CVAP Threshold:	Senate Simulation Set 1 Plans Containing At Least the Same Number of Districts with Dr. Lewis' Black CVAP Threshold as the 2017 Senate Plan:	Senate Simulation Set 1 Plans Containing More Districts with Dr. Lewis' Black CVAP Threshold than the 2017 Senate Plan:	Senate Simulation Set 2 Plans Containing At Least the Same Number of Districts with Dr. Lewis' Black CVAP Threshold as the 2017 Senate Plan:	Senate Simulation Set 2 Plans Containing More Districts with Dr. Lewis' Black CVAP Threshold than the 2017 Senate Plan:
		Attorney General,						
Bladen	0	Primary (2016)	14%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Bladen	0	Hypothetical State Senate (2016)	27%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Bladen	0	Lt. Gov., General (2016)	32%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Bladen	0	President, General (2016)	37%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Cölumbus	0.	Sheriff, General (2018)	31%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Cumberland	1	Attorney General, Primary (2016)	13%	1 (SD 19)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Cumberland	1	Hypothetical State Senate (2016)	34%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Cumberland	1	Commissioner of Labor, Primary (2016)	65%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
Forsyth	11	Commissioner	5%	1 (SD 32)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)

		of Labor,						
		Primary (2016)						
		Hypothetical						
		State Senate						
Forsyth	1	(2016)	40%	1 (SD 32)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
		Attorney						
		General,						
Forsyth	1	Primary (2016)	44%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Commissioner						
		of Labor,						
Guilford	2	Primary (2016)	5%	2 (SD 27, 28)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Sheriff, Primary						
Guilford	2	(2014)	23%	1 (SD 28)	1,000 (100%)	140 (14%)	1,000 (100%)	131 (13.1%)
		Attorney						
		General,						
Guilford	2	Primary (2016)	26%	1 (SD 28)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Sheriff, Primary						
Guilford	2	(2018)	30%	1 (SD 28)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Sheriff, General						
Guilford	2	(2018)	31%	1 (SD 28)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Hypothetical						
		State Senate						
Guilford	2	(2016)	40%	1 (SD 28)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Sheriff, General						
Guilford	2	(2014)	43%	1 (SD 28)	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
	1	Sheriff, Primary						
Nash	0	(2014)	30%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Hypothetical						
		State Senate						
Nash	0	(2016)	41%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Sheriff, General						
Nash	0	(2014)	54%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
		Sheriff, General						
Pitt	0	(2018)	28%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)
r I		Sheriff, Primary						
Robeson	0	(2018)	36%	0	1,000 (100%)	0 (0%)	1,000 (100%)	0 (0%)

•

Table 8 illustrates the results of this analyses for the 2017 Senate Plan and Senate Simulation Set 1 and Set 2. Overall, in every county that Dr. Lewis analyzed, every single computer-simulated plan in Senate Simulation Set 1 and Set 2 matches or exceeds the 2017 Senate Plan's number of districts satisfying most of Dr. Lewis' various Black CVAP thresholds. In other words, all 2,000 of the computer-simulated plans in Senate Simulation Set 1 and Set 2 create as many as or more districts in that county exceeding Dr. Lewis' Black CVAP thresholds than the 2017 Senate Plan does.

The Franklin-Nash House Plan County Grouping: In the 2017 House Plan, the Franklin-Nash county grouping contains two House districts. In his expert report, Dr. Lewis estimated that in this grouping, a 12% Black CVAP is necessary for African-Americans to elect their preferred candidate in the 2016 Lieutenant Governor Democratic primary, while a 40% Black CVAP is necessary for African-Americans to elect their preferred candidate in a "hypothetical 2016 general election contest" (p. 17 and 20, Lewis Report).

In response to Dr. Lewis' claims regarding the Franklin-Nash county grouping, plaintiffs' counsel asked me to answer the following question: Is it possible to form a district in this county grouping that contains a BVAP over 50%, while adhering to the equal population and contiguity criteria listed in the 2017 Adopted Criteria and while having a Polsby-Popper score of at least 0.05 and a Reock score of at least 0.15?

I determined that it is not possible to do so. To answer this question, I conducted a set of new, 10,000 independent computer simulations in which district boundaries in the Franklin-Nash grouping are drawn to intentionally create one district with a 50% or higher Black Voting Age Population (BVAP). First, I found it was not possible to create a 50% BVAP district by drawing districts based only on precinct or VTD boundaries. Instead, it was necessary to use census block as the building blocks in order to produce computer-simulated plans containing a majority-African-American House district. The algorithm proceeded by reassigning census blocks from one district to the other in an intentional effort to increase the BVAP of the more heavily African-American district; this redrawing of the boundaries continued until one of the two districts in the Franklin-Nash grouping achieved at least a 50% BVAP.

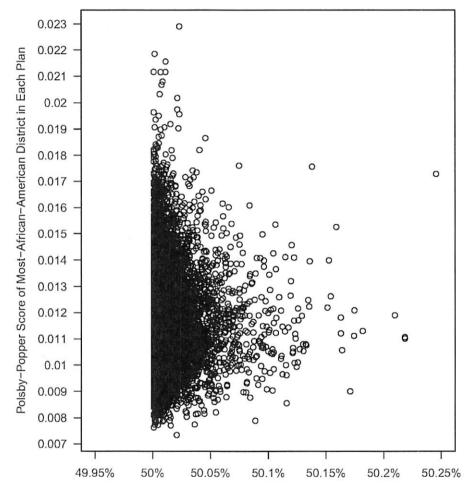
I conducted 10,000 independent runs of this algorithm, producing 10,000 plans in the Franklin-Nash grouping that each contained one district with at least 50% BVAP. All of these plans were required to remain within the contiguity and equal population requirements described in the 2017 Adopted Criteria. I then measured the Polsby-Popper and Reock scores of each plan to measure the compactness of these 50% BVAP districts.

In Figure 149, each of the 10,000 black circles represents one of the 10,000 computersimulated plans for the Franklin-Nash county grouping. The horizontal axis depicts the BVAP of the most heavily African-American district within the plan, while the vertical axis depicts the Polsby-Popper score of this most heavily African-American district. Figure 149 illustrates that although all of these 10,000 plans contain a majority-African-American district, none of these districts have a Polsby-Popper score remotely close to 0.05. Instead, all 10,000 of these majority-African-American districts have Polsby-Popper scores ranging from 0.007 to 0.023, indicating they are significantly less compact than a district with a Polsby-Popper score of 0.05.

Hence, having conducted 10,000 computer-simulated plans, I concluded that it is very likely impossible to create a majority-African-American VAP House district with at least a 0.05 Polsby-Popper compactness score in the Franklin-Nash county grouping. Figure 150 illustrates the *most* compact of the computer-simulated plan among these 10,000. The simulated plan shown in Figure 150 contains two districts. District 1, shaded in red, has a BVAP of 50.02% and a Polsby-Popper score of 0.023.

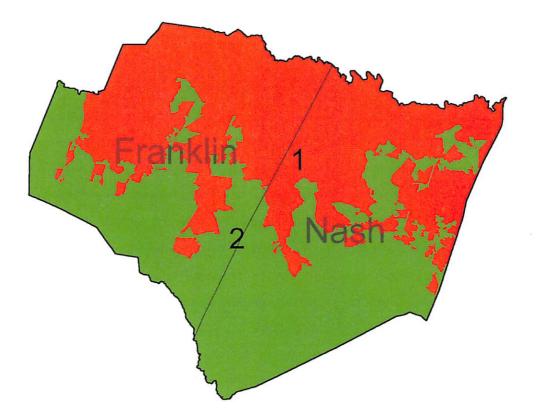
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Figure 149: 10,000 Computer-Simulated House Plans for the Franklin-Nash County Grouping Intentionally Creating One District Over 50% BVAP



Black Voting Age Population of the Most-African-American District in Each Plan

Figures 150: The Computer-Simulated House Plan for the Franklin-Nash County Grouping With the Highest Polsby-Popper Score While Intentionally Creating One District Over 50% BVAP:



District:	1 (Red)	2 (Green)
Population:	75,646	80,813
African-American VAP:	50.02%	16.72%
Polsby-Popper Score:	0.023	0.023
Reock Score:	0.319	0.313
Contiguous:	Yes	Yes

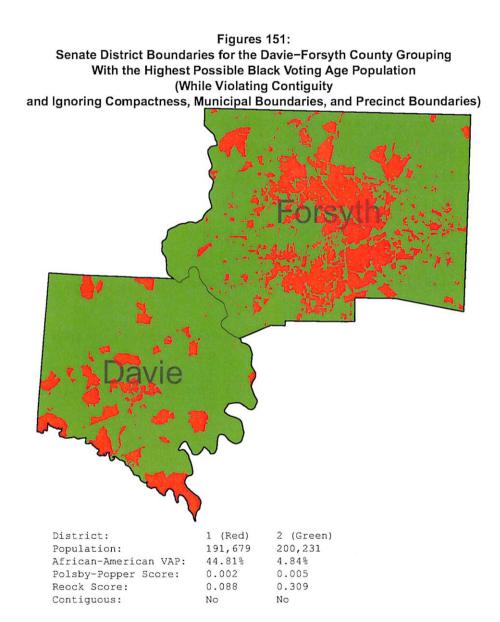
The Davie-Forsyth Senate Plan County Grouping: In the 2017 Senate Plan, the Davie-Forsyth county grouping contains two Senate districts. In his expert report, Dr. Lewis estimated that in this grouping, a 42% Black CVAP was necessary for African-Americans to elect their preferred candidate in the 2016 Attorney General Democratic primary, while a 41% Black CVAP was necessary for African-Americans to elect their preferred candidate in a "hypothetical 2016 general election contest" (p. 17 and 20, Lewis Report).

In response to Dr. Lewis' claims regarding the Davie-Forsyth county grouping, plaintiffs' counsel asked me to answer the following question: Is it possible to form an African-American majority (based on Voting Age Population) in a single member district that adheres to the equal population and contiguity criteria listed in the 2017 Adopted Criteria while having a Polsby-Popper score of at least 0.05 and a Reock score of at least 0.15?

I determined that it is not possible to do so because there are mathematically not enough African-Americans in the Davie-Forsyth county grouping to form a majority-Black Senate district that complies with the $\pm 5\%$ equal population threshold requirement. To arrive at this answer, I simply calculated whether or not a majority-African-American district could be created in Davie-Forsyth while complying with the equal population threshold requirement while ignoring all other districting criteria, such as geographic contiguity and compactness.

Specifically, I first calculated that the Davie-Forsyth county grouping has a total population of 391,910. Each of the two Senate districts must contain a population no lower than 191,665 and no higher than 200,245, in order to comply with the \pm 5% equal population threshold requirement. Next, to calculate whether creating a majority-African-American district is numerically possible, I identified the most heavily-African-American census blocks within the Davie-Forsyth county grouping. I iteratively assigned the most heavily-African-American unassigned census block to District 1. These census blocks were assigned to the district regardless of whether doing so would violate geographic contiguity and other non-partisan criteria. This iterative process of assigning the most heavily-African-American census blocks continued until District 1's population had just surpassed the 191,665 minimum Senate district population for the Davie-Forsyth grouping. This process resulted in a population-compliant Senate district whose BVAP is only 44.81%, as illustrated in Figure 151.

Hence, I concluded that, even if one were to ignore districting criteria such as geographic contiguity and compactness, it is numerically impossible to form a majority-African-American Senate district in the Davie-Forsyth county grouping.



County Groupings Not Analyzed by Dr. Lewis: Finally, I analyze the following question: Among the county groupings not included in Dr. Lewis' report, in which county groupings does the most heavily African-American district have a significantly higher Black CVAP under the simulated plans than under the enacted plan?

For the 2017 House Plan, I find that in five county groupings, the most heavily African-American district within the grouping under the 2017 House Plan contains a lower Black CVAP than under all or most of the computer-simulated plans in both House Simulation Set 1 and Set 2. For each of these five county groupings, Figures 152 to 161 display the Black CVAP of each district under the 2017 House Plan and under the computer-simulated plans. In each figure, the districts within the county grouping are aligned from most-to-least heavily African-American. Hence, in each Figure, the top row contains the most African-American district, the second row contains the second-most African-American district, and so on. The horizontal axis measures each district's Black CVAP. Thus, these Figures reveal that within each of these five county groupings, the most African-American district under the 2017 House Plan has a lower Black CVAP than under all or most of the computer-simulated plans.

These five county groupings are:

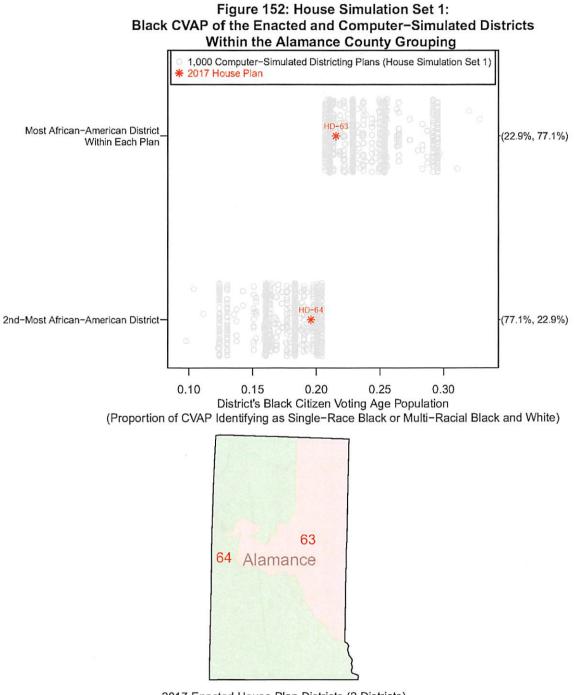
1) The Alamance county grouping: Figure 152 (House Simulation Set 1) and Figure 157 (House Simulation Set 2)

2) The Anson-Union county grouping: Figure 153 (House Simulation Set 1) and Figure 158 (House Simulation Set 2)

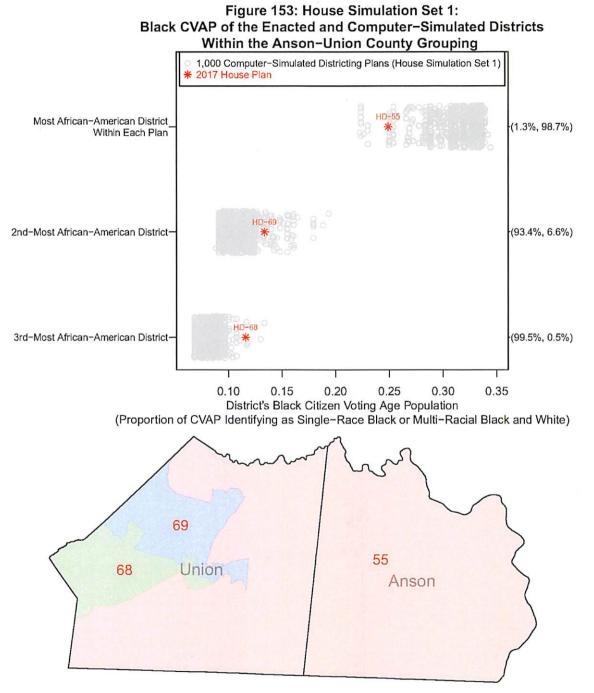
 The Cleveland-Gaston county grouping: Figure 154 (House Simulation Set 1) and Figure 159 (House Simulation Set 2)

4) The Columbus-Pender-Robeson county grouping: Figure 155 (House Simulation Set 1) and Figure 160 (House Simulation Set 2)

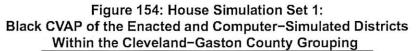
5) The Duplin-Onslow county grouping: Figure 156 (House Simulation Set 1) and Figure 161 (House Simulation Set 2)

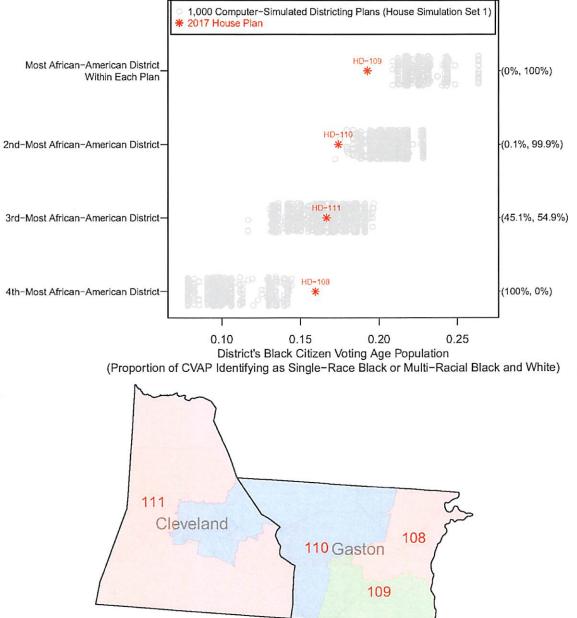


2017 Enacted House Plan Districts (2 Districts)

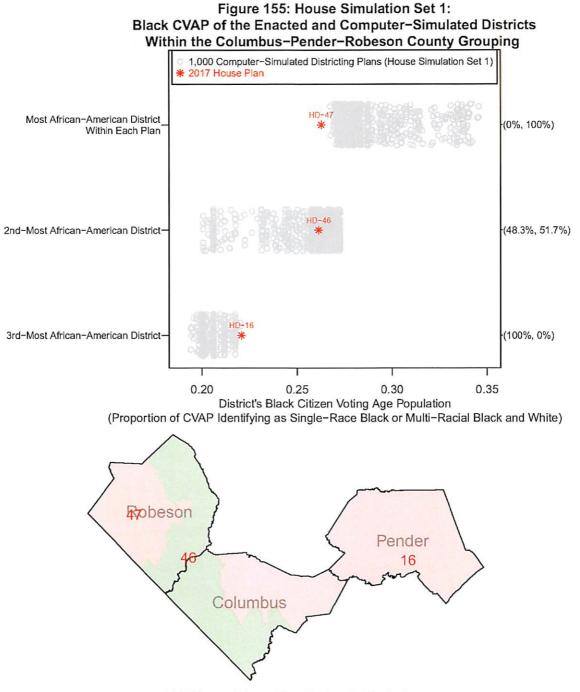


2017 Enacted House Plan Districts (3 Districts)

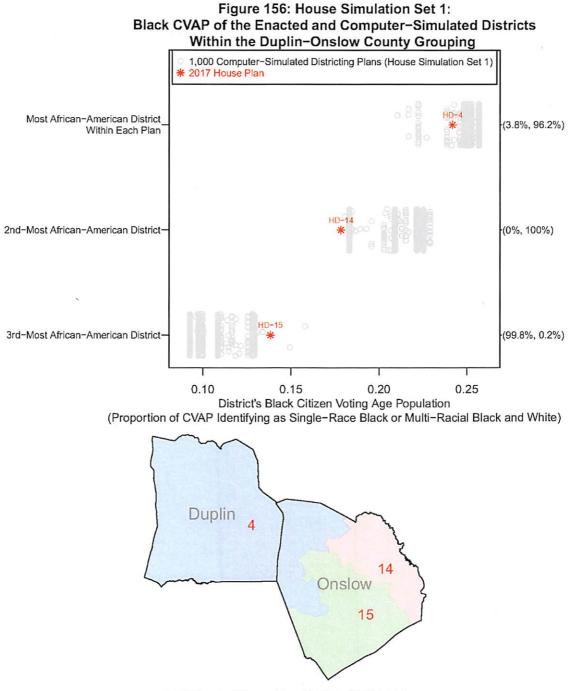




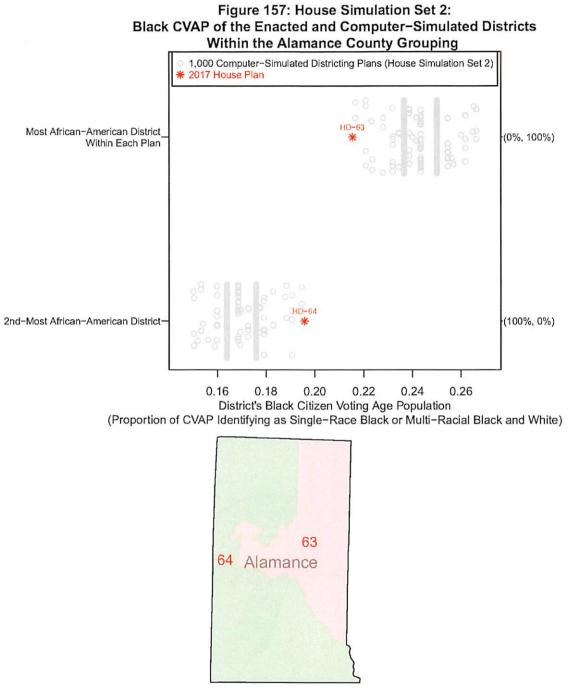
2017 Enacted House Plan Districts (4 Districts)



2017 Enacted House Plan Districts (3 Districts)



2017 Enacted House Plan Districts (3 Districts)



2017 Enacted House Plan Districts (2 Districts)

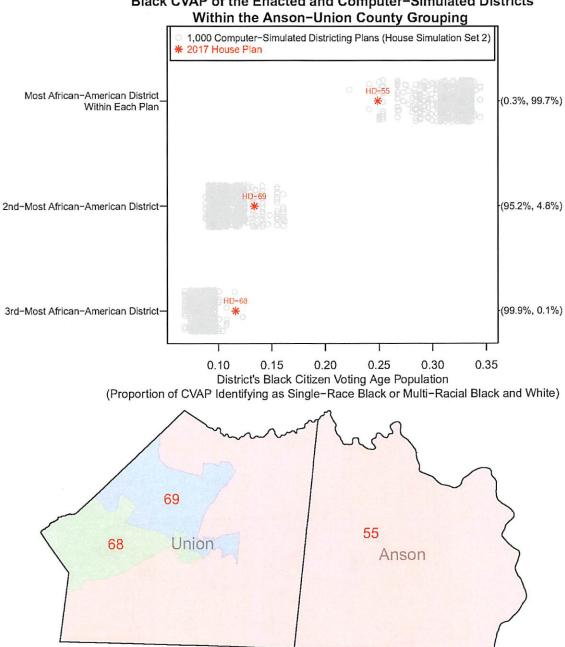
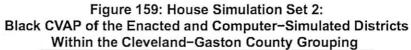
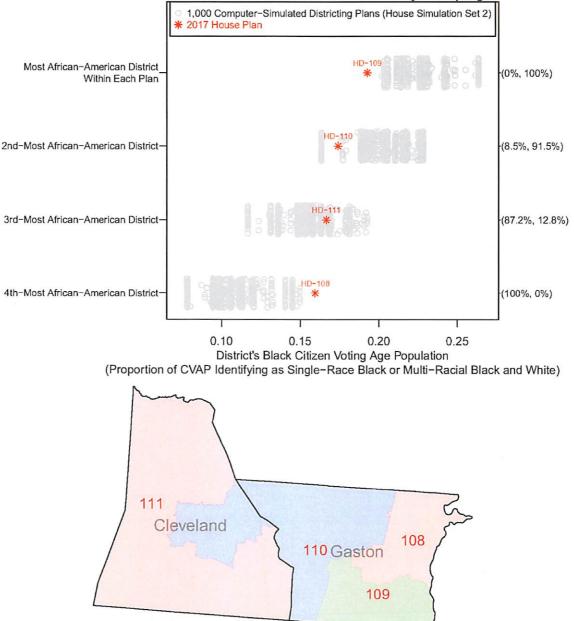


Figure 158: House Simulation Set 2: Black CVAP of the Enacted and Computer-Simulated Districts Within the Anson-Union County Grouping

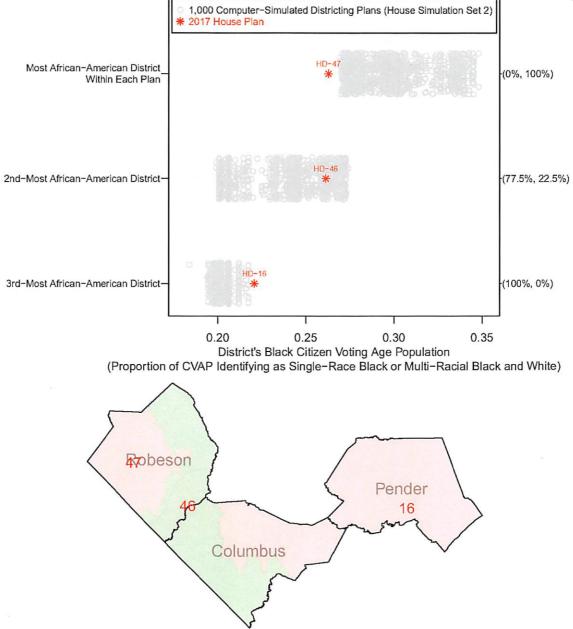
2017 Enacted House Plan Districts (3 Districts)



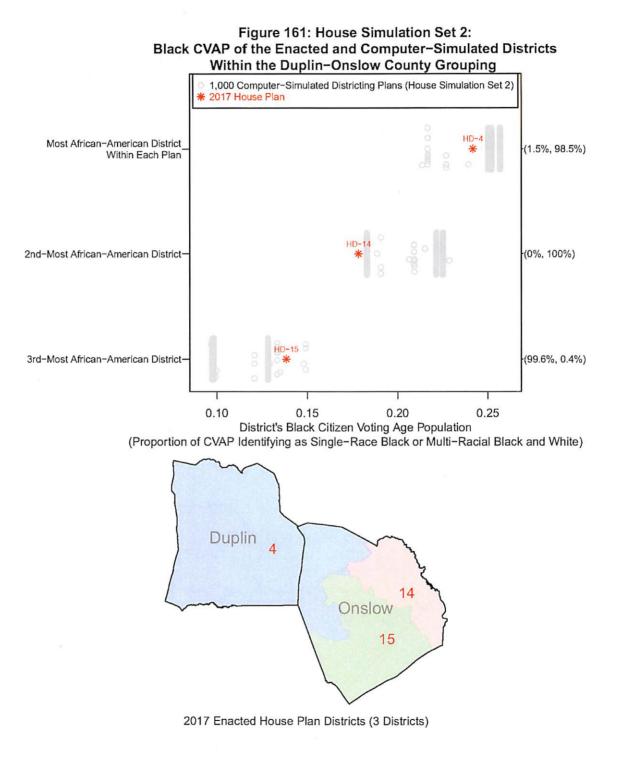


2017 Enacted House Plan Districts (4 Districts)





2017 Enacted House Plan Districts (3 Districts)



Response to Dr. Thomas Brunell's Criticisms Regarding the Computer Simulations:

First, Dr. Brunell criticizes my computer simulation algorithm for not considering race, "which means that some unknown number of these districts are unsuitable due to noncompliance with Section 2 of the Voting Rights Act" (p. 4, Brunell Rebuttal Report of April 30, 2019). However, the General Assembly's Adopted Criteria explicitly prohibited any consideration of racial information, and my computer algorithm therefore ignored racial considerations for this reason.

Second, Dr. Brunell criticizes the computer simulation algorithm for not intentionally "preserving the cores of districts" (p. 3, Brunell Rebuttal Report of April 30, 2019). Dr. Brunell asserts that incumbents "regularly make requests" regarding "preserving their core constituency" (p. 7, Brunell Rebuttal Report of April 30, 2019).

My response is as follows: First, the 2017 Adopted Criteria make no mention of preserving district cores, so the computer simulation algorithm does not include this as a districting consideration. Second, preserving the cores of the previous plan's districts, or core retention, is not a traditional districting criteria. Third, 28 of North Carolina's state legislative districts from the existing map were found to be racially gerrymandered in the *Covington* litigation. An intentional effort to preserve the cores of these districts would simply bias the map towards having districts similar or identical to the prior, unconstitutional plans' districts.

Third, Dr. Brunell asserts that "In Prof. Chen's county groupings analysis there are many instances in which the districts in the enacted map are in the middle of the distribution of simulated maps" (p. 11, Brunell Rebuttal Report of April 30, 2019). Dr. Brunell then asserts that "In Figure 28 (pg. 93) for Cumberland County enacted districts 42 and 44 are not outliers" (p. 11, Brunell Rebuttal Report of April 30, 2019).

This assertion is plainly incorrect. In my original expert report, Figure 28 (p. 93) clearly shows that in Cumberland County, HD-42, HD-43, and HD-45 are clear partisan outliers compared to the computer-simulated districts. HD-42, for example, is more heavily Democratic than 97.5% of the most Democratic districts within the 1,000 plans in House Simulation Set 1. Dr. Brunell simply misread or mischaracterized this Figure.

Dr. Brunell also observes that there are some overlaps between the enacted and the simulated districts in Mecklenburg County (House), and he asserts that "for the Forsyth-Yadkin

County grouping, all five of the districts are contained in the cloud of grey dots that indicated the simulated outcomes." (p. 11, Brunell Rebuttal Report of April 30, 2019).

As a general matter, it is hardly surprising that not every single enacted district in these various county groupings is an extreme partisan outlier when compared to the computer-simulated districts. Rather, some enacted districts are partisan outliers, and others are not. The purpose of these Figures in my original expert report was to identify county groupings where such partisan outliers exist. In the Mecklenburg county grouping (Figure 33 on p. 98 of the Chen Expert Report), for example, HD-92, HD-98, HD-103, HD-104, HD-105 are extreme partisan outliers when compared to the House Simulation Set 1 districts. In the Forsyth-Yadkin county grouping (Figure 29 on p. 94), HD-71 and HD-75 are both partisan outliers when compared to the this grouping. Dr. Brunell appears to have either misread this Figure or misunderstood the definition of a statistical outlier.

Finally, Dr. Brunell claims the following:

"Figure 82 (pg. 152) is a good example – the two enacted districts are "outliers" but the distinction is not substantively meaningful – the Republican district is more Republican than the simulated districts and the Democratic district is more Democratic than the simulated districts" (p. 12, Brunell Rebuttal Report of April 30, 2019).

Dr. Brunell appears to be claiming that although both enacted Senate districts (SD-31 and SD-32) in the Davie-Forsyth county grouping are extreme partisan outliers when compared to the Senate Simulation Set 2 districts, this "distinction is not substantively meaningful" because neither of these enacted districts was flipped from Democratic to Republican-favoring, or vice versa, using the 2010-2016 statewide Election Composite.

Partisan outlier districts such as SD-31 and SD-32 are substantively significant, even if the enacted district favors the same party as the computer-simulated districts. As explained on p. 29 of my original report, such partisan outliers could be consequential in an election with either a strong pro-Democratic or pro-Republican uniform swing. In the case of the Davie-Forsyth county grouping (Figure 82 on p. 152 of the April 8 Chen Expert Report), the computersimulated districts in every Senate Simulation Set 2 plan are always significantly more competitive than the two enacted districts (SD-31 and SD-32) in this county grouping. Moreover, Figure 82 of my original report measures districts' partisanship using the 2010-2016 statewide Election Composite, which, as explained on p. 29 of my original report, is a Republicanfavorable election measure. Hence, in a strong pro-Democratic election year, Democrats might have a reasonable chance of winning both Senate districts in many of the computer-simulated Senate plans, but Democrats would likely have no chance of doing so under the 2017 Senate Plan districts in the Davie-Forsyth county grouping.

Response to Dr. Barber's, Dr. Hood's, and Dr. Johnson's Claims Regarding Political Geography

Dr. Hood claims that the clustering of Republican voters and Democratic voters in North Carolina "can affect the manner in which legislative districts are created." Dr. Barber claims that the "inefficient" concentration of Democratic voters in North Carolina, combined with the county groupings requirement, may limit the areas where Democratic candidates can win districts. Dr. Johnson also claims that the county groupings requirement affects the partisan control of legislative districts in North Carolina.

All three of these experts simply misunderstand the purpose of using computer-simulated districting plans. Generating computer-simulated plans in a non-partisan manner is valuable because it allows us to precisely measure how North Carolina's unique voter geography, combined with the state's county groupings requirement and the other non-partisan portions of the 2017 Adopted Criteria, combine to form statewide, legislative districting plans. Each simulated plan combines North Carolina's census geographies together in a different way, but always in compliance with the non-partisan districting criteria that the computer has been programmed to follow. The simulations thus produce a large distribution of non-partisan districting plans drawn solely on the basis of the non-partisan portions of the 2017 Adopted Criteria. Producing such computer-simulated plans is the most accurate way to precisely measure how North Carolina's political geography affects legislative districting.

As I have explained in my published academic research,¹⁴ the proper way to analyze how a state's political geography skews (or does not skew) its districting maps is by producing a large

¹⁴ Jowei Chen, 2017. "The Impact of Political Geography on Wisconsin Redistricting: An Analysis of Wisconsin's Act 43 Assembly Districting Plan," Election Law Journal. Vol. 16, No. 4: 443-452.

number of randomly computer-simulated districting maps following partisan-neutral districting criteria and examining the partisanship of these simulated maps. To properly examine the impact of North Carolina's political geography on actual state legislative plans, it is necessary to randomly generate large numbers of House and Senate plans that comply with the state's nonpartisan redistricting criteria. When I use computer simulations to generate thousands of North Carolina House and Senate plans following the non-partisan portions of the 2017 Adopted Criteria, I find that not one of the computer-generated House and Senate maps is as favorable to Republicans direction as the enacted 2017 House and Senate Plans. Therefore it is clear that North Carolina's political geography and county boundaries cannot possibly explain the partisanship of the 2017 House and Senate Plans.

Response to Dr. Hood's Claims Regarding Measuring the Partisanship of Districts:

Dr. Hood's observes that Democratic legislative candidates performed better in November 2018 than in the several prior elections. That fact, however, in no way affects my overall finding that the 2017 House Plan and Senate Plan exhibit a significant pro-Republican bias when compared to the baseline of computer-simulated maps. As a general matter, a favorable Democratic election year involves both a pro-Democratic shift in the overall statewide vote, as well as a pro-Democratic shift in the number of districts the Democratic can expect to win under a computer-simulated map produced by a non-partisan districting process. The fact that the Democrats win relatively more districts in a pro-Democratic election year does not somehow prove that a districting plan was not drawn to create an intentional partisan bias. Moreover, it says nothing about whether Democrats would not have even won more seats that year but for the gerrymandering.

This concept is illustrated clearly by Figures U1 through U12 in my original April 8 expert report. These 12 Figures compare the number of Democratic-favoring districts in the 2017 House and Senate Plans to the number of Democratic-favoring districts in the 4,000 computer-simulated House and Senate plans under various alternative uniform swing conditions. Hence, for example, Figure U2 compares the number of Democratic-favoring districts under the 2017 House Plan and under the 1,000 plans in House Simulation Set 1, assuming a pro-Democratic uniform swing of +4.5%; Figure U3 shows these same comparisons for a pro-Democratic uniform swing of +5.0%. Figures U5 and U6 show similar comparisons for House Simulation Set 2.

Overall, these Figures illustrate an important finding: The partisan gap between the 2017 House Plan and the computer-simulated House plans becomes even wider under a strong pro-Democratic uniform swing than under neutral electoral conditions (with little or no uniform swing). Under a +5% pro-Democratic uniform swing, the 2017 House Plan creates nine fewer Democratic House districts (or nine additional Republican districts) than the median computersimulated House plan. This gap between the 2017 House Plan and the computer-simulated plans is significantly wider than under neutral electoral conditions with no uniform swing, suggesting that the 2017 House Plan exhibits its greatest partisan effect during strong Democratic election years. Figures U7 to U12 exhibit a similar partisan gap between the 2017 Senate Plan and the computer-simulated Senate plans.

Next, Dr. Hood criticizes my use of previous statewide election results to measure the partisanship of legislative districts in the computer-simulated maps and in the 2017 House and Senate Plan (p. 14, Hood Rebuttal Report of May 2019). Specifically, Dr. Hood argues that future election results may diverge from past election results.

My response to Dr. Hood's criticisms is as follows: Although no measure of district partisanship will be completely perfect, there are five reasons it is appropriate to use prior statewide elections results such as the 2010-2016 statewide election results that I used in my expert report to evaluate the partisanship of legislative districts drawn in 2017: First, Representative David Lewis announced on August 10, 2017 that the House and Senate Redistricting Committees would use these 2010-2016 statewide election results in drawing the new 2017 House and Senate districts; hence, I simply evaluated districts using the same election results-based data that the General Assembly claimed to have used. Second, Dr. Thomas Hofeller, the General Assembly's map-drawer for the 2017 House and Senate Plans, also used recent statewide election results in evaluating the partisanship of districts as he drew various draft plans. Third, based on my past experience studying redistricting in North Carolina, I know that it is common practice in the North Carolina General Assembly to use recent past statewide election results to evaluate the partisanship of new districting plans. Fourth, based on my past experience studying redistricting in a wide variety of states outside of North Carolina, I know that it is the standard practice among state legislators and their map-drawers across the county to use recent paste statewide election results to estimate the partisanship of new legislative districts under consideration. Finally, it is widely known that redistricting practitioners commonly use recent past statewide elections to measure district partisanship because such election results, though not perfect predictors of future election results, are nevertheless strongly reliable indicators of district partisanship.

Response to Dr. Thornton's Claims that the Computer Simulations Ignored the Adopted Criteria

In her Rebuttal Report of May 7, 2019, Dr. Janet Thornton argues that my computer simulation algorithm failed to follow the 2017 Adopted Criteria because, even though my algorithm avoided pairing incumbents (in House Simulation Set 2 and Senate Simulation Set 2), my algorithm did not help to re-elect these incumbents by intentionally creating politically favorable districts. Specifically, Dr. Thornton claims that:

"Dr. Chen ignores this piece of the 2017 enacted map criteria which was to allow for incumbents to win, not to just consider the pairing. He could have modified his criterion to weight the vote share for the political party of the incumbent, but chose not to" (Para. 44).

As I explained in my original expert report, the essential feature of my simulation algorithm is to "ignore any data regarding partisanship" while "adhering strictly to the nonpartisan portions of the 2017 Adopted Criteria" (p. 8, Chen Expert Report of April 8, 2019). The purpose of producing computer-simulated is to determine whether the 2017 House and Senate Plans followed the non-partisan portions of the 2017 Adopted Criteria, or whether partisan goals predominated over the drawing of the enacted plans. If the General Assembly's enacted plans perform far worse on the non-partisan criteria while producing extreme partisan outcomes compared to the computer-simulated plans, then this is strong evidence that the non-partisan criteria were subordinated, and partisan goals predominated in the drawing of the enacted plans.

In order to determine whether non-partisan redistricting criteria were subordinated in the drawing of the 2017 House and Senate Plans, it is thus necessary to begin with a baseline set of computer-simulated plans drawn with strict adherence to the non-partisan criteria and with complete ignorance of any partisan considerations. Thus, my computer simulation algorithm intentionally ignored all partisan considerations, including those mentioned in the 2017 Adopted Criteria.

Creating politically favorable districts to help reelect incumbents introduces significant partisan bias, particularly where the prior map (under which the existing incumbents were elected) was itself gerrymandered to favor that political party. Drawing a map to ensure that incumbents will win re-election can be just another means of partisan gerrymandering.

Dr. Hood's and Dr. Thornton's Misinterpretation of Pildes and Neimi's (1993) Reock and Polsby-Popper Score Cutoffs:

Dr. Thornton misinterprets a Pildes and Neimi (1993)¹⁵ article as prescribing a "minimum" Reock and Polsby-Popper score for legislative districts:

With respect to compactness the guidelines state, "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." The minimum dispersion or Reock score is 0.15 and the minimum perimeter or Polsby-Popper score is 0.05 according to this article (Para. 37, Thornton Report of May 7, 2019).

Dr. Thornton's claims of a 0.15 "minimum" Reock score and a 0.05 "minimum" Polsby-Popper score constitute a misreading of the Pildes and Neimi (1993) article. In his rebuttal report, Dr. Hood similarly misinterprets the Pildes and Neimi (1993) article (p. 6, Hood Rebuttal Report of April 30, 2019).

In their article, Pildes and Neimi (1993) simply use 0.15 and 0.05 as "somewhat arbitrary" cutoffs for the purpose of creating a single table in their article that lists some examples of the most "bizarre-looking" congressional districts in the country (564). Pildes and Neimi (1993) never claimed that 0.15 and 0.05 are universal cutoffs that might somehow distinguish "compact" from "non-compact" districts. Instead, Pildes and Neimi (1993) repeatedly warn the reader that 0.15 and 0.05 are merely "arbitrary" cutoffs chosen simply for the purpose of listing districts the authors believed could be legally vulnerable in the wake of *Shaw v. Reno* (1993) due to their relative non-compactness (564). In fact, the authors even warn the reader that districts above these cutoffs could still be not sufficiently compact ("In choosing the cutoff points used in Table 3, we do not imply that all districts below those points, or only those districts, are vulnerable after Shaw", 564).

¹⁵ 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).

Finally, Pildes and Neimi (1993) remind the reader that "compactness falls along a continuum," rather than being a binary quality (567). The recognition that compactness is measured along a continuum has been repeatedly emphasized in more modern political science research on district compactness (e.g., Kaufman et. al., 2019).¹⁶ Most tellingly, Pildes and Neimi's (1993) use of the 0.15 and 0.05 cutoffs is not even consistent throughout their paper. Instead, they intentionally switch to different, higher Reock and Polsby-Popper cutoffs later in their paper in order to "further illustrate our argument that congressional districts lie along a compactness continuum" (568). Hence, it is clear that Pildes and Neimi (1993) intentionally warned against blindly adopting a single, universal Reock or Polsby-Popper cutoff for declaring a district to be compact or noncompact.

Response to Dr. Johnson's Claims Regarding North Carolina's Use of VTDs in Redistricting:

In his Supplemental Report of May 6, 2019, Dr. Douglas Johnson claims that "North Carolina's emphasis on preserving VTDs when redistricting is unusual, and may be unique" (Para. 12, Johnson Supplemental report of May 6, 2019).

This claim is inaccurate. Based on my academic expertise in redistricting, as well as my experience as a redistricting expert witness, it is common for state statutes and state constitutions to require the following of VTD or precinct lines as a redistricting criterion. For example, South Carolina's state legislature has adopted redistricting criteria that require adherence to precinct boundaries:

"District boundaries should adhere, to the extent practical, to voting precinct boundary lines, as represented by the Census Bureau's Voting Tabulation District (VTD) Lines, in order to minimize voter confusion and cost of election administration. Pending precinct boundary line realignments should be considered. If precincts must be split, every effort should be made to divide precincts along recognizable and demonstrable boundaries."

> South Carolina Senate Judiciary Committee, Redistricting Subcommittee, Guidelines for Legislative and Congressional Redistricting¹⁷

¹⁶ Aaron Kaufman, Gary King, and Mayya Komisarchik, 2019. "How to Measure Legislative District Compactness If You Only Know it When You See It." Forthcoming, American Journal of Political Science.

¹⁷ https://www.scstatehouse.gov/redist/senate/criteriaguidelines042903.doc

Kansas has adopted similar redistricting guidelines requiring that:

"The "building blocks" to be used for drawing district boundaries shall be voting districts (VTDs) as described on official 2000 Redistricting U.S. Census maps." Kansas House Select Committee on Redistricting Guidelines and Criteria for 2002 Congressional and Legislative Redistricting (April 26, 2001).

Maryland's Governor's Redistricting Advisory Committee articulates a similar VTD criterion:

"To the extent possible, the plan, as recommended, should follow established 2000 Voting District (precinct) lines"

Legal Standards for Plan Development, Maryland Governor's Redistricting Advisory Committee, 2001¹⁸

Several other states, including Alabama, Colorado, Idaho, Kentucky, Montana, New Mexico, Virginia, Washington, Wisconsin, also have constitutional provisions, statutes, and other adopted criteria that similarly call for consideration of VTD or precinct boundaries when drawing legislative districts. In short, calling for adherence to VTD or precinct boundaries in redistricting is hardly unusual across the US states.

Response to Dr. Thornton's Claims Regarding Statistical Significance:

Dr. Thornton claims that for every set of computer-simulated maps analyzed in the Chen Expert Report of April 8, 2019, the difference between the Democratic seat share of the average simulated map and the 2017 enacted map is "not statistically significant." Specifically, Dr. Thornton claims that for each set of simulated maps, the difference between the average simulated map and the enacted map is less than one standard deviation (Para. 80-86, Thornton Expert Report of May 7, 2019).

Dr. Thornton's claims are erroneous because she miscalculated the standard deviation of the Democratic seat share among each set of computer-simulated plans. In connection with my April 8 report, I turned over data files reporting the number of Democratic-leaning districts under each of the 4,000 computer-simulated plans. However, Dr. Thornton did not use this data

¹⁸ https://www.senate.mn/departments/scr/REDIST/Red2010/MDprin2001.htm

regarding the *actual* computer-simulated plans to calculate the standard deviations of the Democratic seat share under each set of simulations. Instead, Dr. Thornton created a fictitious distribution for my simulated plans, and calculated the standard deviation of that fictitious distribution, which is not based on my actual results and has no grounding in reality. Dr. Thornton then erroneously used the standard deviation from her fictitious binomial distribution to analyze whether the enacted plan is an outlier relative to the computer-simulated plans. This mistake led Dr. Thornton to reach the erroneous conclusion that each of the 2017 enacted plans is not "statistically significantly different" from the average computer-simulated plan.

To illustrate how Dr. Thornton's erroneous use of her fictitious binomial distribution led to her wildly inaccurate conclusions, we need only compare the actual distribution of the computer-simulated plans to Dr. Thornton's erroneous calculations regarding the standard deviation of the simulated plans. Figures 48 to 51 present these comparisons for the four simulation sets in my original report. These Figures illustrate the actual, precise standard deviations of the number of Democratic districts in each simulation set, and then each Figure illustrates how the fictitious binomial distribution created by Dr. Thornton led her to a wildly inaccurate calculation of the standard deviation of the simulated plans.

Figure 50 compares the 2017 House Plan to the 1,000 House Simulation Set 1 plans. The upper half of this Figure shows the actual distribution of Democratic seats (measured using the 2010-2016 Statewide Election Composite) across the 1,000 House Simulation Set 1 plans, and the dashed red line represents the 2017 House Plan, which contains 42 Democratic districts. As this Figure illustrates, the actual computer-simulated plans range from 43 to 51 Democratic districts. The actual simulated plans have an average of 46.52 Democratic districts, with a standard deviation of 1.36.

But the lower half of this Figure shows Dr. Thornton's wildly inaccurate estimate of the standard deviation, based on the fictitious binomial distribution she created. Rather than use data from the actual 1,000 House Simulation Set 1 plans that I turned over with my April 8, 2019 report, Dr. Thornton created a binomial distribution by assuming that each of North Carolina's 120 districts has exactly a 38.77% probability of electing a Democrat. In other words, Dr. Thornton assumed that Democrats have the exact same 38.77% chance of winning each of the 120 House districts, and she created a binomial distribution of the possible number of Democratic seats won if one flipped a weighted coin 120 times, where each coin flip is

independent and has a 38.7% chance of landing on "Democrat" each time. This assumption is obviously contrary to reality; Democrats do not have exactly the same percentage chance of winning each of the 120 districts. Indeed, Dr. Thornton's use of a binomial distribution for estimating the range of possible outcomes under a non-partisan simulated plan leads to results that are implausible. For instance, as Figure 50 illustrates, Dr. Thornton's binomial distribution would suggest that Democrats could win as few as 30 out of 120 seats under an entirely nonpartisan, computer-simulated districting plan.

Dr. Thornton calculated an enormous standard deviation of 5.34 based on this binomial distribution. This is a substantively meaningless calculation, as it clearly bears no resemblance to the actual distribution of 1,000 computer-simulated plans shown in the upper half of the Figure. Dr. Thornton's standard deviation is approximately four times larger than the actual standard deviation of the number of Democratic districts among the 1,000 computer-simulated plans. This overestimate of the standard deviation led Dr. Thornton to reach the clearly erroneous conclusion that the difference between the 2017 House Plan (42 Democratic districts) and the average computer-simulated plan (46.52 Democratic districts) is less than one standard deviation. In reality, the 1,000 simulated plans' actual standard deviation is 1.36, and the difference between the 2017 House Plan and the average computer-simulated plan is 3.33 standard deviations. If one were to use the standard deviations would allow us to conclude, with over 99.9% statistical certainty, that the 2017 House Plan has significantly more Republican seats than the average computer-simulated plan in House Simulation Set 1.

Figure 51 compares the 2017 House Plan to the 1,000 House Simulation Set 2 plans. The upper half of this Figure shows the actual distribution of Democratic seats (measured using the 2010-2016 Statewide Election Composite) across the 1,000 House Simulation Set 2 plans, and the dashed red line represents the 2017 House Plan, which contains 42 Democratic districts. As this Figure illustrates, the actual computer-simulated plans range from 43 to 51 Democratic districts. The actual simulated plans have an average of 47.08 Democratic districts, with a standard deviation of 1.35.

But the lower half of this Figure shows Dr. Thornton's wildly inaccurate estimate of this standard deviation, based on the fictitious binomial distribution she created. Rather than use data from the actual 1,000 House Simulation Set 2 plans that I turned over with my April 8, 2019

report, Dr. Thornton created a binomial distribution by assuming that each of North Carolina's 120 districts has exactly a 39.23% probability of electing a Democrat. Dr. Thornton's binomial distribution is illustrated in the lower half of Figure 51, and Dr. Thornton calculated a standard deviation of 5.35 based on this binomial distribution. Again, this is a substantively meaningless calculation, as it clearly bears no resemblance to the actual distribution of 1,000 computersimulated plans shown in the upper half of the Figure. Dr. Thornton's standard deviation is approximately four times larger than the actual standard deviation of the number of Democratic districts among the 1,000 computer-simulated plans. This overestimate of the standard deviation led Dr. Thornton to reach the clearly erroneous conclusion that the difference between the 2017 House Plan (42 Democratic districts) and the average computer-simulated plan (47.08 Democratic districts) is less than one standard deviation. In reality, the difference between the 2017 House Plan and the average computer-simulated plan is 3.76 standard deviations, when using the 1,000 simulated plans' actual standard deviation of 1.35. If one were to use the standard deviation of the simulated plans to establish statistical significance, difference of 3.76 standard deviations would allow us to conclude, with over 99.9% statistical certainty, that the 2017 House Plan has significantly more Republican seats than the average computer-simulated plan in House Simulation Set 2.

Figure 52 compares the 2017 Senate Plan to the 1,000 Senate Simulation Set 1 plans. The upper half of this Figure shows the actual distribution of Democratic seats (measured using the 2010-2016 Statewide Election Composite) across the 1,000 Senate Simulation Set 1 plans, and the dashed red line represents the 2017 Senate Plan, which contains 18 Democratic districts. As this Figure illustrates, the actual computer-simulated plans range from 19 to 21 Democratic districts. The actual simulated plans have an average of 19.85 Democratic districts, with a standard deviation of 0.69.

But the lower half of this Figure shows Dr. Thornton's wildly inaccurate estimate of this standard deviation, based on the fictitious binomial distribution she created. Rather than use data from the actual 1,000 Senate Simulation Set 1 plans that I turned over with my April 8, 2019 report, Dr. Thornton created a binomial distribution by assuming that each of North Carolina's 50 Senate districts has exactly a 39.70% probability of electing a Democrat. Dr. Thornton's binomial distribution is illustrated in the lower half of Figure 52, and Dr. Thornton calculated a standard deviation of 3.46 based on this binomial distribution. Again, this a substantively

meaningless calculation, as it clearly bears no resemblance to the actual distribution of 1,000 computer-simulated plans shown in the upper half of the Figure. Dr. Thornton's standard deviation is approximately five times as large as the actual standard deviation of the number of Democratic districts among the 1,000 computer-simulated plans. This overestimate of the standard deviation led Dr. Thornton to reach the clearly erroneous conclusion that the difference between the 2017 Senate Plan (18 Democratic districts) and the average computer-simulated plan (19.85 Democratic districts) is less than one standard deviation. In reality, the difference between the 2017 Senate Plan and the average computer-simulated plan is 2.70 standard deviations, when using the 1,000 simulated plans to establish statistical significance, a difference of 2.70 standard deviation of the simulated plans to conclude, with over 99% statistical certainty, that the 2017 Senate Plan has significantly more Republican seats than the average computer-simulated plan in Senate Simulation Set 1.

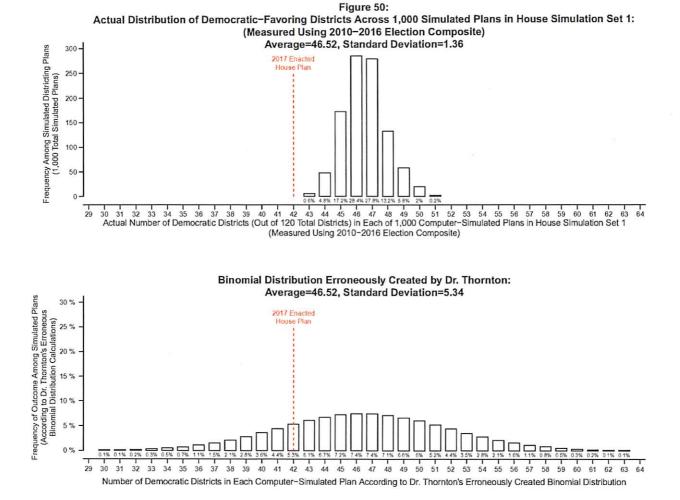
Figure 53 compares the 2017 Senate Plan to the 1,000 Senate Simulation Set 2 plans. The upper half of this Figure shows the actual distribution of Democratic seats (measured using the 2010-2016 Statewide Election Composite) across the 1,000 Senate Simulation Set 2 plans, and the dashed red line represents the 2017 Senate Plan, which contains 18 Democratic districts. As this Figure illustrates, the actual computer-simulated plans range from 19 to 22 Democratic districts. The actual simulated plans have an average of 19.86 Democratic districts, with a standard deviation of 0.59.

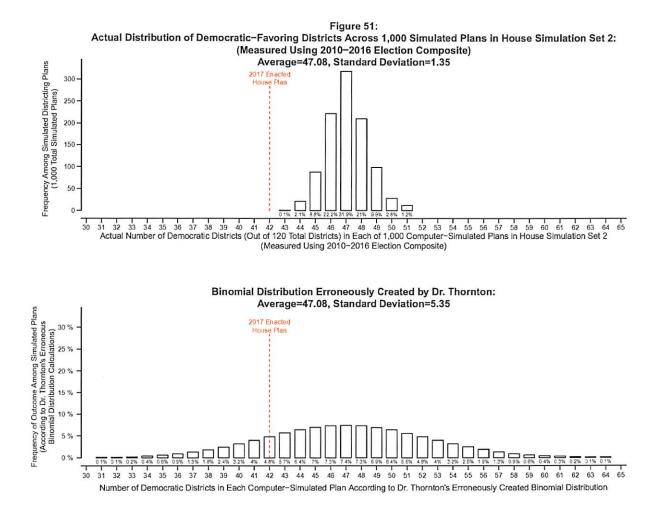
But the lower half of this Figure shows Dr. Thornton's wildly inaccurate estimate of this standard deviation, based on the fictitious binomial distribution she created. Rather than use data from the actual 1,000 Senate Simulation Set 2 plans that I turned over with my April 8, 2019 report, Dr. Thornton created a binomial distribution by assuming that each of North Carolina's 50 Senate districts has exactly a 39.72% probability of electing a Democrat. Dr. Thornton's binomial distribution is illustrated in the lower half of Figure 53, and Dr. Thornton calculated a standard deviation of 3.46 based on this binomial distribution. Again, this is a substantively meaningless calculation, as it clearly bears no resemblance to the actual distribution of 1,000 computer-simulated plans shown in the upper half of the Figure. Dr. Thornton's standard deviation is nearly six times larger than the actual standard deviation of the number of Democratic districts among the 1,000 computer-simulated plans. This overestimate of the

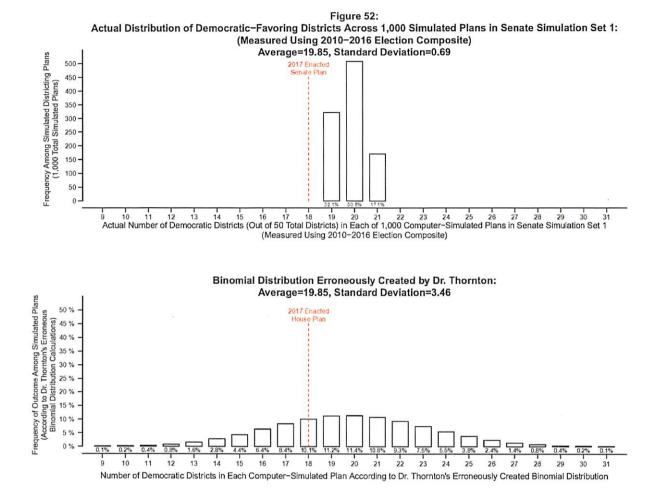
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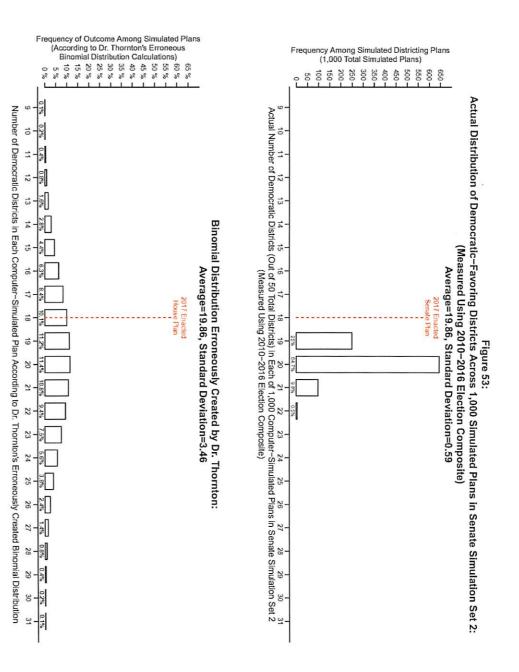
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standard deviation led Dr. Thornton to reach the clearly erroneous conclusion that the difference between the 2017 Senate Plan (18 Democratic districts) and the average computer-simulated plan (19.86 Democratic districts) is less than one standard deviation. In reality, the difference between the 2017 Senate Plan and the average computer-simulated plan is 3.15 standard deviations, when using the 1,000 simulated plans' actual standard deviation of 0.69. If one were to use the standard deviation of the simulated plans to establish statistical significance, a difference of 3.15 standard deviations would allow us to conclude, with over 99% statistical certainty, that the 2017 Senate Plan has significantly more Republican seats than the average computer-simulated plan in Senate Simulation Set 2.









In sum, the binomial distributions created by Dr. Thornton have no relation to any of the actual computer-simulated plans. Dr. Thornton's binomial distributions model North Carolina's legislative elections as if every single one of the 120 House seats were elected by independently flipping a coin that with a 61% probability of choosing a Republican and 39% probability of choosing a Democrat (Table 5, Thornton Rebuttal Report of May 7, 2019), and as if every single one of the 50 Senate seats were elected by independently flipping a coin that has a 60% probability of choosing a Republican and a 40% probability of choosing a Democrat. Dr. Thornton openly acknowledges that her binomial distribution models district-level election outcomes as independent coin flips (Para. 66-67, Thornton Rebuttal Report of May 7, 2019).

Of course, it is plainly obvious why modeling North Carolina's district-level election outcomes as 120 (or 50) independent coin flips, each with the same probability of electing a Democrat, is inappropriate. Within any enacted or computer-simulated North Carolina legislative map, districts are inevitably quite politically heterogeneous: Any House district within Randolph County, for example, will be safely Republican, while any district within the city of Durham will be safely Democratic. But Dr. Thornton's binomial distribution pretends as if all House districts have the same probability of electing a Republican. This statistical error leads Dr. Thornton to wildly overestimate the variability of partisan outcomes under the computer-simulated districting plans, which, in turn, leads Dr. Thornton to miscalculate standard deviations that are much larger than the actual standard deviations of the computer-simulated plans. Dr. Thornton's erroneously large standard deviation calculation is the basis of her inaccurate conclusion that the difference between each enacted map the average computer-simulated map is not statistically significant (Para. 80-86, Thornton Expert Report of May 7, 2019).

Response to Dr. Thornton's Claims Regarding Statistical Outliers:

In her rebuttal report, Dr. Thornton makes the following claim:

"Similarly, at page 169 of his report, Dr. Chen provides a chart that compares the enacted map using his composite of elections for his simulations to the enacted map for each named Plaintiff. In nearly every instance, the enacted map is within the range of simulated maps." (Para. 62, Thornton Rebuttal Report of May 7, 2019)

Here, Dr. Thornton is referring to my original report's comparisons of the partisanship of each plaintiffs' district under the 2017 House Plan and under each of the computer-simulated House plans. Dr. Thornton's claim that "In nearly every instance, the enacted map is within the range of simulated maps" (Para. 62, Thornton Rebuttal Report of May 7, 2019) is clearly inaccurate.

First, Figure 95 (p. 169, Chen Expert Report of April 8, 2019), which compares plaintiffs' respective districts under the 2017 House Plan to their districts under each of the House Simulation Set 1 plans, reveals that many plaintiffs reside in outlier districts under the 2017 House Plan. Figure 95 reveals, for example, that the following plaintiffs reside in 2017 House Plan districts that are clearly statistically partisan outliers when compared to the plaintiffs' respective districts under House Simulation Set 1: Vinod Thomas (HD-98), Paula Ann Chapman (HD-100), Kristin Parker (HD-103), Julie Ann Frey (HD-69), Jackson Thomas Dunn, Jr. (HD-104), Rebecca Johnson (HD-74), Lily Nicole Quick (HD-59), Joshua Perry Brown (HD-60), Dwight Jordan (HD-25), David Dwight Brown (HD-58), Electa E. Person (HD-43), Donald Allan Rumph (HD-9), Amy Clare Oseroff (HD-8), Lesley Brook Wischmann HD-15), Derrick Miller (HD-18), Carlton E. Campbell Sr. (HD-45), Mark S. Peters (HD-116), Joseph Thomas Gates (HD-115), Stephen Douglas McGrigor (HD-7), Rebecca Harper (HD-36), and Nancy Bradley (HD-35). Figure 96 (p. 170, Chen Expert Report of April 8, 2019) reveals that, in addition to the above plaintiffs, Leon Schaller (HD-64) also resides in a district that is a partisan outlier when compared to his respective district under House Simulation Set 2.

Additionally, since I first conducted the analysis of plaintiffs' districts in my original April 8, 2019 expert report, the number of plaintiffs residing in partisan outlier districts has actually increased. One of the plaintiffs, Rosalyn Sloan, has since moved to a new address located in HD-83 in the 2017 House Plan. Using her new address, I now find that Rosalyn Sloan's 2017 House Plan district (HD-83) is clearly an extreme partisan outlier when compared to her district under each of the 1,000 plans under House Simulation Set 1. This result is now illustrated in Figure 54, which is a new version of Figure 95 from the April 8 Chen Expert Report, updated to reflect plaintiff Rosalyn Sloan's new address; this Figure compares plaintiffs' districts under the 2017 House Plan and the House Simulation Set 1 plans. Similarly, Figure 55 is a new version of Figure 96 from the April 8 Chen Expert Report, updated to reflect plaintiff Rosalyn Sloan's new address; this Figure compares plaintiff Rosalyn Sloan's new address; this Figure compares plaintiff Overall, these comparisons of the partisanship of plaintiffs' districts in Figures 54 and 55 illustrates that Dr. Thornton's characterization of my analysis of plaintiffs was completely inaccurate. Her claim that "In nearly every instance, the enacted map is within the range of simulated maps" is inaccurate, as many plaintiffs currently reside in partisan outlier districts, and the number of such plaintiffs has since increased as a result of plaintiff Rosalyn Sloan's new address.

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House Simulation Set 1							
Plaintiffs:	Legend: Plaintiffs District in each of the 1,000 House Simulation Set 1 Plans Plaintiffs District in the 2017 Enacted House Plan						
Virginia Walters Brien	·		HD-102	° (54.3%, 45.5%)			
Vinod Thomas	HD-98	in 10	*	(0.6%, 99.4%)			
Paula Ann Chapman	•	0 0 0 0	<u></u>	(97.8%, 2.2%)			
Pamela Morton	000 00 00 00 00 00 00 00 00 00 00 00 00	HD_100	(1999) (1999) (1999)	(64.7%, 35.3%)			
Kristin Parker	HD-103	······		(0.7%, 99.3%)			
Julie Ann Frey	HD-69			(96.6%, 3.4%)			
Jackson Thomas Dunn, Jr.	HD-104			(0.6%, 99.4%)			
Rebecca Johnson	P2 P 14	·		(1%, 99%)			
Lily Nicole Quick	HD- 59			(0%, 100%)			
Joshua Perry Brown		HD-60		(100%, 0%)			
Dwight Jordan		HD-25		(99.9%, 0%)			
David Dwight Brown			HD-58	(100%, 0%)			
Leon Charles Schaller	······································			(31.9%, 68.1%)			
Howard Du Bose Jr.	HD-2 *			(0%, 39.2%)			
Electa E. Person		8]] 2-]3 2- 	43	(100%, 0%)			
Donald Allan Rumph	[∺] *			(0%, 100%)			
Amy Clare Oseroff		*****		(100%, 0%)			
Lesley Brook Wischmann	₩ ¹⁰			(97.9%, 2.1%)			
Karen Sue Holbrook	HD-17			(71.8%, 28.2%)			
James Mackin Nesbit	HD-19			(37.5%, 62.5%)			
George David Gauck	HD-17			(71.8%, 28.2%)			
Derrick Miller		*****		(98.6%, 1.4%)			
Carlton E. Campbell Sr.	HD-49	·····		(0%, 100%)			
Rosalyn Sloan-	HD-83			(100%, 0%)			
Mark S. Peters	HD-116			(0%, 100%)			
Joseph Thomas Gates		······		(1.1%, 98.9%)			
Deborah Anderson Smith	HO. 200 HO. 200 **** 0 (9			(72.9%, 27.1%)			
Alyce Machak	···· [] 58 (**********************************			(66%, 34%)			
William Service		··		(21.9%, 78.1%)			
Stephen Douglas McGrigor	***			(0%, 99.9%)			
Rebecca Harper	****			(1.6%, 98.4%)			
Nancy Bradley				(5.2%, 94.8%)			
John Balla	LID . 37	HD_34	0	(80.4%, 19.6%)			
Aaron Wolff	H0-37			(55.2%, 44.8%)			
0.2				0.9			
Democratic Vote Share of District in which Plaintiff Resides							

Figure 54: House Simulation Set 1

(Measured using votes summed across 2010–2016 Statewide Election Composite)

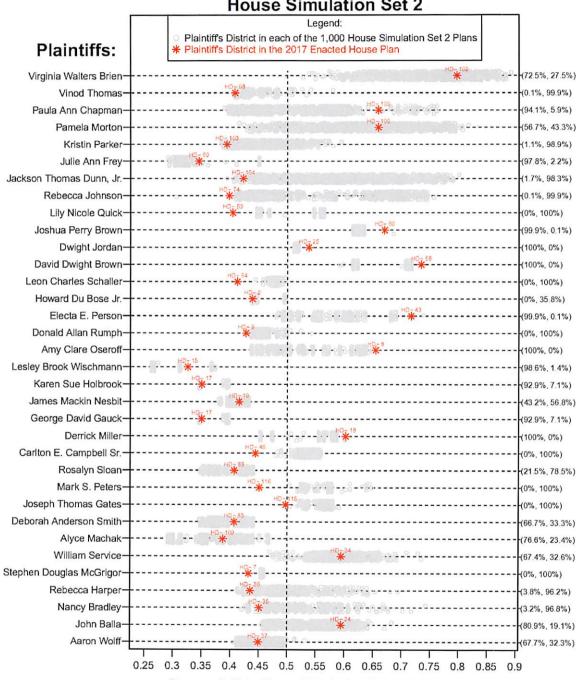


Figure 55: House Simulation Set 2

Democratic Vote Share of District in which Plaintiff Resides (Measured using votes summed across 2010–2016 Statewide Election Composite) I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

This 7th day of June, 2019.

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Jowei Chen

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EXHIBIT G

Responses to Drs. Barber, Brunell, Hood, Lewis, Johnson, and Owen

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Christopher A. Cooper

June 7, 2019

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Introduction

This report responds to the expert witness reports of Drs. Barber, Brunell, Hood, Lewis, Johnson, and Owen. I will respond to each of the above-named reports in turn, but I offer these initial observations relating to all of the expert reports at the outset:

- Six of the seven experts offered by Legislative Defendants and Intervenors do not discuss, much less challenge, my individual county cluster analysis—an analysis which occupied 78 pages (over ³/₄) of my original report. The only expert who does discuss individual clusters, Dr. Johnson, limits his analysis to just 16 House districts and 2 Senate districts in Mecklenburg, Wake, and New Hanover counties. None of the Defendants' or Intervenors' experts challenged the data I presented on packing and cracking using electoral outcomes, or the predictive data from Civitas and the North Carolina Free Enterprise Foundation about district-level competitiveness. None of the experts offered any rebuttal related to how and why the current maps split municipalities and certain communities of interest, like college campuses.
- None of the experts commissioned by Legislative Defendants and Intervenors challenge my assertion that since 2011, the composition of the North Carolina General Assembly has been consistently more Republican than other political offices where district lines are fixed or non-existent.
- Several of the Defendants' and Intervenors' experts reference the history of regional voting patterns in North Carolina. While such patterns are no doubt evident, the district lines that are the basis of Plaintiffs' challenge are drawn *within a single region*, so regional voting patterns are less than helpful for discerning the presence or absence of gerrymandering.
- Several of Legislative Defendants' and Intervenors' experts stated that mapmakers in North Carolina are constrained from drawing boundaries to maximize partisan advantage. But evidence from Dr. Thomas Hofeller's hard drive indicates not only that the mapmaker did have options but that he actively considered partisanship when drawing district lines in the North Carolina General Assembly.

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Hood, Johnson, and Brunell on Partisan Intent

Drs. Hood, Johnson, and Brunell characterize the process of mapmaking in North Carolina as a straightforward one with little room for judgment or manipulation. All three also question whether "partisan intent" can be inferred from the current maps. For example, Dr. Hood describes drawing state legislative districts in North Carolina as a "formulaic exercise," citing the state's whole county provision along with other criteria that the General Assembly purportedly applied in 2017.¹ According to Dr. Hood, there is insufficient evidence that "the General Assembly was engaged in an effort to engage in extreme partisan gerrymander."² He goes on to explain that the process of "legislative redistricting in North Carolina…is quite constrained, which greatly limits the ability of map drawers to create districts where partisan motives predominate."³ Like Dr. Hood, Dr. Johnson claims that "the 'county groupings' requirement significantly limits the legislature's ability to draw lines based exclusively on partisanship."⁴ And Dr. Brunell similarly asserts that "[d]ivining the intent of the map-maker is extraordinarily difficult because the process of redistricting is complex."⁵

As set forth in my original report, the partisan effects of the General Assembly in drawing the relevant state House and state Senate districts—within individual counties or county groupings—is clear from analyzing the district lines and historical election data. Indeed, despite claiming that partisan intent is difficult to discern or that there is insufficient evidence of such intent here, Drs. Hood, Johnson, and Brunell do not dispute any of my cluster-by-cluster analyses or my conclusion that the contours of the relevant districts have partisan effects.

There is even more evidence regarding partisan intent with respect to North Carolina's General Assembly districts. I understand that Plaintiffs' counsel obtained via subpoena the files of Dr. Thomas Hofeller, who drew the 2011 and 2017 plans. Those files reveal that partisanship was the overwhelming, if not the sole, motivation in drawing the state House and state Senate districts at issue. Below I present my analysis based on a number of Dr. Hofeller's files that I and geographic information systems specialist Blake Esselstyn (who assisted me in processing and preparing the screenshots for the maps below) received directly from Plaintiffs' forensic vendor. The maps presented below are taken directly from Dr. Hofeller's Maptitude files (Maptitude for RedistrictingTM is the software that Dr. Hofeller used to draw redistricting plans). These images reflect the exact

¹ April 30, 2019 report of Dr. M.V. Hood III (hereinafter, "Hood Report I"), p. 2.

² Hood Report I, p. 9.

³ Hood Report I, pp. 9-10.

⁴ April 30, 2019 report of Dr. Douglas Johnston (hereinafter, "Johnston Report I"), p. 13.

⁵ Report of Thomas Brunell (hereinafter, "Brunell Report"), p. 7.

maps that Dr. Hofeller viewed when he was working in each relevant file. Other than resizing the windows to fit on an 8 1/2-inch wide page and re-centering the maps, the maps' configurations have not been manipulated or altered in any way.

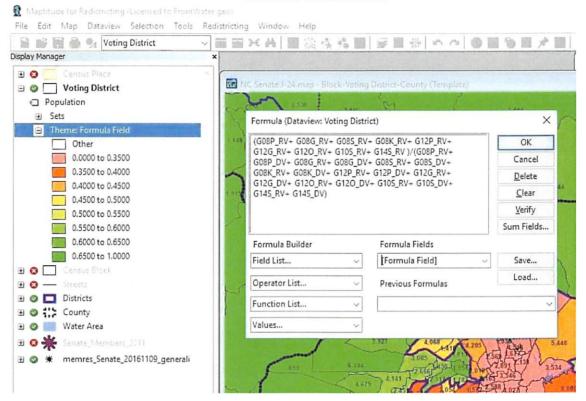
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These files reveal that partisanship data was front and center for Dr. Hofeller as he designed North Carolina's state legislative maps. For each VTD in each of these districts, Dr. Hofeller assigned a partisanship score, reflecting its expected Republican vote share. On the pages that follow, I review images of the maps Dr. Hofeller viewed when drawing the districts in county groupings that changed in the 2017 Senate plan and the 2017 House plan. I then review the districts that were created in 2011 and remain today (first in the Senate then in the House).

Partisan Intent in the Creation of 2017 Senate Maps

A screenshot of a formula used in the 2017 Senate plans appears below.⁶ This shows the formula that Dr. Hofeller constructed to measure the expected partisan outcome in each VTD.

Figure 1: Partisan Formula Field for 2017 NC Senate Redistricting from Dr. Hofeller's Hard Drive



⁶ The 2017 Senate maps depicted here are all from the "NC Senate J-24" plan saved on July 5, 2017. The file path for the (2017) NC Senate J-24 plan depicted in this section is: ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b

ea77894bb5b2\20170705_130329_toshibaInc2731\C\MPRwork\NCPlans\NC Senate J-24 Backups\NC Senate J-24003.bak.zip

Where:

GO8P= votes for that party's candidate for **President** in that geographic unit in the 2008 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

G08G= votes for that party's candidate for Governor in that geographic unit in the 2008 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

G08S= votes for that party's candidate for US Senate in that geographic unit in the 2008 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

G08K= votes for that party's candidate for **Insurance Commissioner** in that geographic unit in the 2008 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

G10S= votes for that party's candidate for US Senate in that geographic unit in the 2010 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

G12P= votes for that party's candidate for **President** in that geographic unit in the 2010 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

G12G= votes for that party's candidate for **Governor** in that geographic unit in the 2012 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

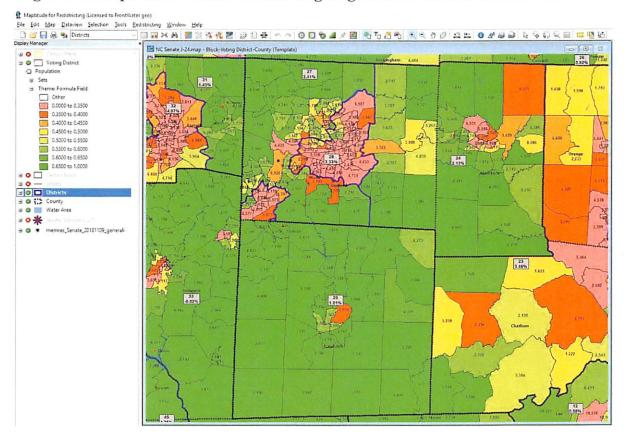
G12S= votes for that party's candidate for **Commissioner of Labor** in that geographic unit in the 2012 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

G14S= votes for that party's candidate for US Senate in that geographic unit in the 2014 general election

• (_RV=Republican candidate, _DV=Democrat candidate)

Dr. Hofeller then shaded each VTD along a color range based on the partisanship score he assigned with the aforementioned formula. Rather than color coding each VTD with the traditional red (Republican) to blue (Democrat) shading for both chambers, he opted for two different color systems—one for the Senate and one for the House. In the Senate, he employed a system where VTDs with scores of 0-.35 are shaded dark pink, indicating a VTD that leans most heavily towards the Democratic Party. His colors then shift in increments of five-hundredths (.35-.40, .40-45, .45-.50, .50-.55, .55-.60, .60-.65) until .65. Scores of .65-1.00 are shaded bright green, indicating the most Republican-leaning VTDs. These scores and shading are visible on the left-hand side of each of the following screenshots. See below for an example, featuring Forsyth and Guilford Counties.





Senate Districts 10, 11, and 12

The screenshot below shows a map depicting Senate Districts 10, 11, and 12 from Dr. Hofeller's files. Recall that this cluster, located to the south and east of Raleigh, should have at least one district that is competitive.⁷ Yet because the existing map combines Democratic voters around Rocky Mount with Republican strongholds in Johnston County, this cluster is home to three virtual locks for the Republican Party.⁸ Although Dr. Hofeller's partisanship scores were based on a more complex formula than the measure of partisanship I utilized in my original report, his scores track well with my analysis of the partisan composition of this Senate cluster. This screenshot indicates that Dr. Hofeller clearly was aware of the partisan implications of these district boundaries as he constructed them.

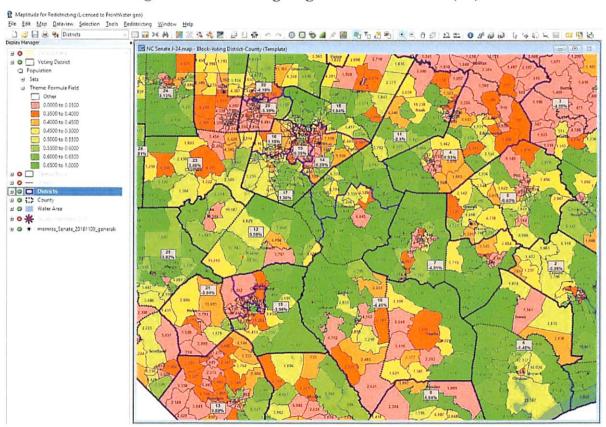


Figure 3: Partisan Targeting in Senate Districts 10, 11, and 12

⁷ April 8, 2019 report of Dr. Christopher Cooper (hereinafter, "Cooper Report"), p. 33.

⁸ Cooper Report, pp. 32-34.

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

The next map shows Senate Districts 14, 15, 16, 17, and 18. As I detailed in my original report, these district boundaries, contained within Wake and Franklin counties, pack Democrats into three districts, allowing the two remaining districts to stay competitive.⁹ The screenshot below illustrates that Dr. Hofeller was drawing these district lines with precision and with knowledge of their partisan implications. Note how all of the most Democratic VTDs are packed into Senate Districts 14, 15, and 16, with Senate Districts 17 and 18 grabbing every Republican VTD (shaded green) that is available. Moreover, a comparison between the provisional district boundaries depicted in the map below (indicated with a purple line) and the districts as enacted reveals that one VTD in western Raleigh shaded in light green (home to the Carolina Country Club) was moved into SD-18, in the northern part of Wake County, making SD-18 more competitive for Republicans.

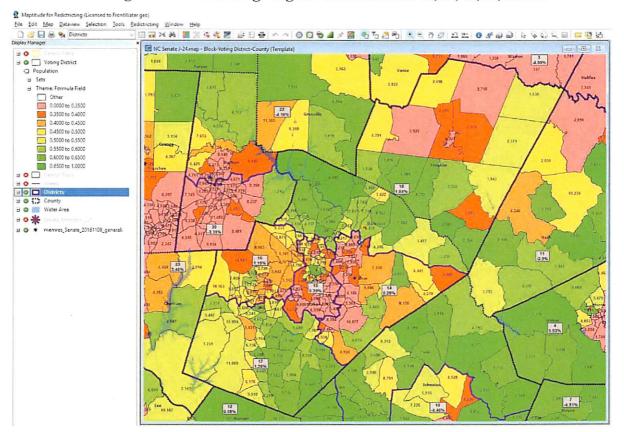


Figure 4: Partisan Targeting in Senate Districts 14, 15, 16, 17, and 18

⁹ Cooper Report, pp. 35-40.

Senate Districts 24, 26, 27, and 28

The next map presents a visual representation of Dr. Hofeller's partisan scores for Senate Districts 24, 26, 27, and 28. These districts are all located in a three-county cluster in the Piedmont that includes Randolph, Guilford, and Alamance counties.¹⁰ As the map below and its partisan scores demonstrate, Dr. Hofeller clearly knew that these lines would maximize Republican partisan advantage. Specifically, the way Dr. Hofeller drew SD-26 (labeled SD-29 in the map below) allowed it to reach into southwest Guilford County to grab High Point's heavily Democratic VTDs, separating them from SD-27.

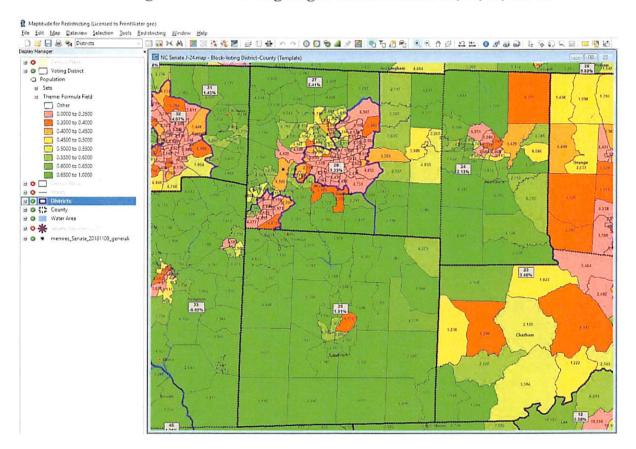
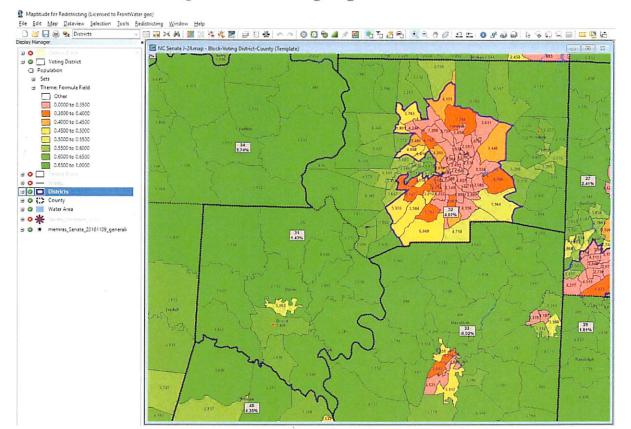


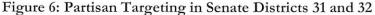
Figure 5: Partisan Targeting in Senate Districts 24, 26, 27, and 28

¹⁰ Cooper Report, pp. 41-42.

Senate District 31 and 32

Recall that SD-31 and SD-32 are located in a county cluster of Davie and Forsyth counties, in North Carolina's Piedmont. To create one reliably Republican district in this region, the current district lines placed every Republican VTD within the Winston-Salem city limits into SD-32,¹¹ as indicated by the green bitemark taken out of the western side of that city. The screenshot from Dr. Hofeller's hard drive below illustrates that Dr. Hofeller was not only aware of these partisan voting patterns, but they track directly with the final boundaries of the districts he created, with all of the most Democratic VTDs included within SD-32.





¹¹ Cooper Report, pp. 43-45.

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

As detailed in my previous report, these districts are all located within Mecklenburg County and dominated by the presence of Charlotte.¹² These district lines created one strong Republican district (SD-39) and one competitive district (SD-41) out of a geographic area that is dominated by Democratic voters and Democratic VTDs. As this screenshot taken from Dr. Hofeller's files suggests, Dr. Hofeller was aware of the partisan consequences of these boundaries. Most conspicuously, the elongated shape of SD-41 carefully avoids the most Democratic leaning VTDs on the western side of Charlotte, which are packed into SD-37 and SD-38. Moreover, the provisional boundaries of SD-40 depicted in the map below actually shifted in the final maps to better track Dr. Hofeller's partisanship scores, with the green VTDs on the southwest side of that district ultimately pushed into SD-39 to make that district safer for Republicans.

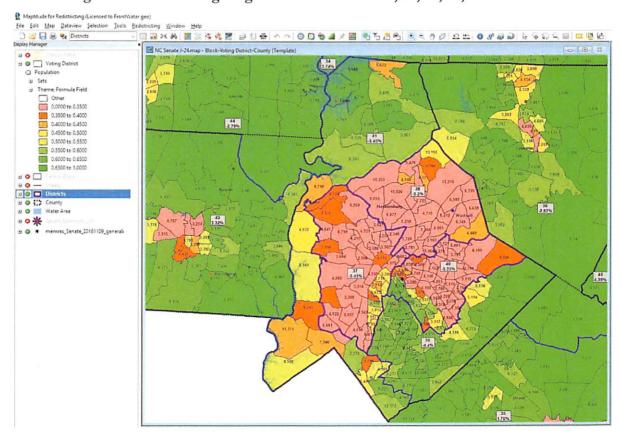


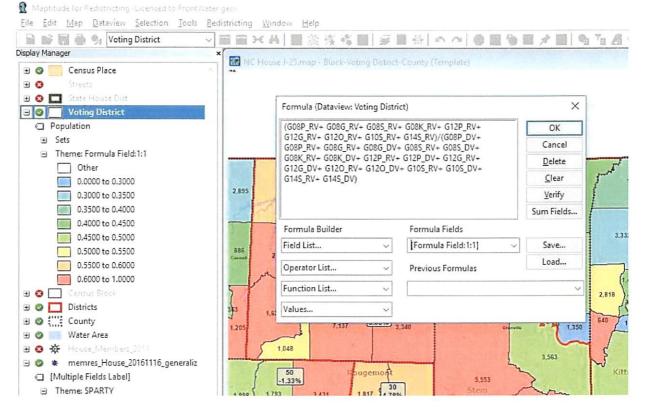
Figure 7: Partisan Targeting in Senate Districts 37, 38, 39, 40, and 41

¹² Cooper Report, pp. 46-48.

Partisan Intent in the Creation of 2017 House Maps

In the House, Dr. Hofeller employed a slightly different coloring system, although one that comports more readily with most people's notions of partisanship colors. Here VTDs with scores of 0-.30 are shaded dark blue, indicating a VTD that leans most heavily towards the Democratic Party. His color-coding then moves in increments of five-hundredths (.30-.35, .35-40, .40-45, .45-.50, .55-.55, .55-.60) until .60. Scores of .60-1.00 are shaded bright red, indicating the most Republicanleaning VTDs.¹³

Figure 8: Partisan Formula Field for 2017 House Redistricting from Dr. Hofeller's Hard Drive



¹³ The 2017 House maps depicted here are all from the "NC House J-25" plan saved on August 7, 2017. The file path for the (2017) NC House J-25 plan depicted in this section is: ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-

ea77894bb5b2\20170807_211230_toshibaInc3011\C\MPRwork\NCPlans\NC House J-25 Backups\NC House J-25003.bak.zip

House Districts 2 and 32

House Districts 2 and 32 are located on North Carolina's northern border, north and northeast of Durham. The current district lines place the Democratic areas of Granville County in HD-32, creating one heavily Democratic district and one Republican district (HD-2).¹⁴ The figure below presents a screenshot from Dr. Hofeller's files illustrating the partisan score he applied to each VTD in this cluster as he constructed this gerrymander. The light blue VTDs near the center of the figure below, in the heavily Democratic town of Oxford, are ensnared by HD-32, thereby packing those Democratic voters into a district with other Democratic voters in Vance and Warren counties.

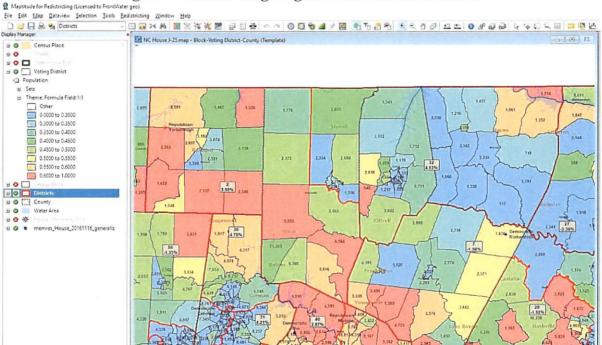


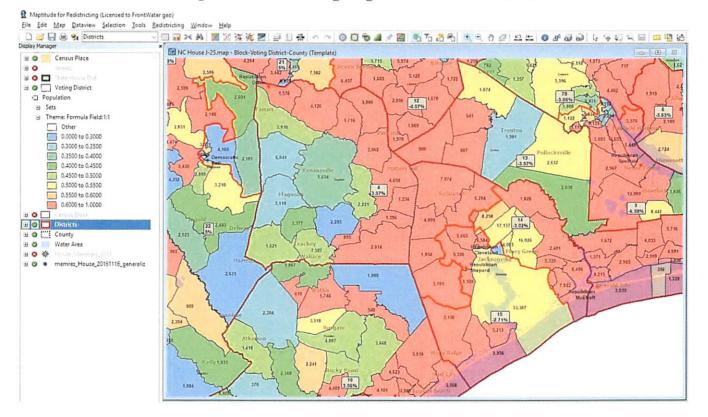
Figure 9: Partisan Targeting in House Districts 2 and 32

¹⁴ Cooper Report, pp. 52-54.

House Districts 4, 14, and 15

House Districts 4, 14, and 15 are located in eastern North Carolina and include Onslow and Duplin counties. In service of this gerrymander, the current district lines split Jacksonville, keeping part of this Democratic stronghold (the blue VTD surrounded by yellow and red) separate from Democratic voters near Warsaw and Kenansville.¹⁵ As the below screenshot from Dr. Hofeller's files demonstrates, Dr. Hofeller split Jacksonville's Democratic-leaning and moderate VTDs across House Districts14 and 15, cracking the Democratic voters between those districts. As the shading on the map indicates, Dr. Hofeller knew the partisan consequences of these map boundaries.

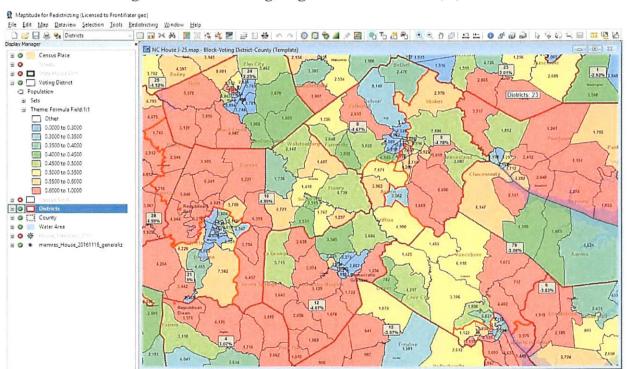
Figure 10: Partisan Targeting in House Districts 4, 14, and 15

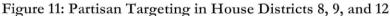


¹⁵ Cooper Report, pp. 55-57.

House Districts 8, 9, and 12

House Districts 8, 9, and 12 are located in Pitt and Lenoir counties. To create favorable conditions for the Republican Party, the current map packs Democratic areas of Pitt County into HD-8, creating a strong Democratic district there but allowing HD-9 and HD-12 to have a much greater chance of electing Republicans.¹⁶ As the map below shows, Dr. Hofeller knew the consequences of packing all of the bluest VTDs into HD-8, just inside that district's eastern boundary.



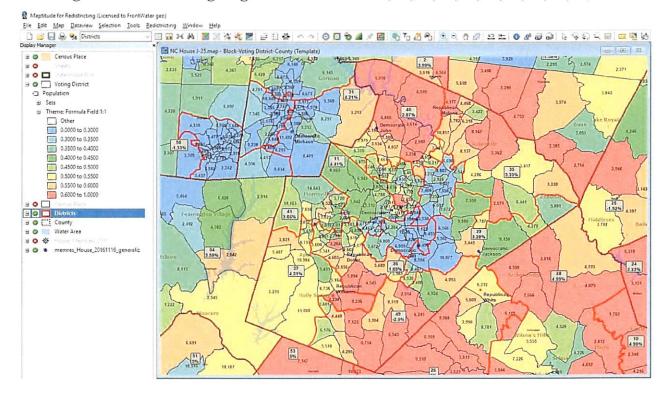


¹⁶ Cooper Report, pp. 60-63.

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

Given the number of Democratic voters spread throughout Wake County, this cluster should normally favor the Democrats in all districts. Yet by splitting the City of Raleigh into nine districts, Dr. Hofeller created district lines that allowed three districts to lean towards the Republican Party.¹⁷ As the screenshot from Dr. Hofeller's files demonstrates, the boundaries of these districts, including the Republican-leaning HD-35, HD-36, HD-37, and HD-40, correspond directly with Dr. Hofeller's partisan scoring for the VTDs in this cluster.

Figure 12: Partisan Targeting in House Districts 11, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 49



¹⁷ Cooper Report, pp. 64-68.

House Districts 16, 46, and 47

House Districts 16, 46, and 47 are located in the southeastern portion of the state within Pender, Columbus, and Robeson counties. The current lines pack Democratic voters into a single district (HD-47), creating favorable conditions for Republicans elsewhere in this cluster.¹⁸ As the map below illustrates, Dr. Hofeller had knowledge of these partisan implications, and the final boundaries of HD-47 encompass almost all of the heavily Democratic VTDs (shaded blue) in Robeson County.

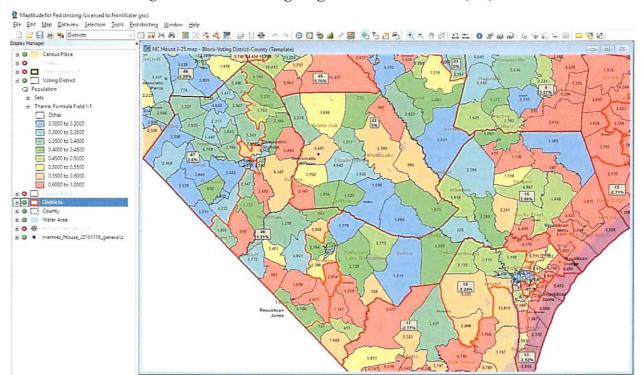
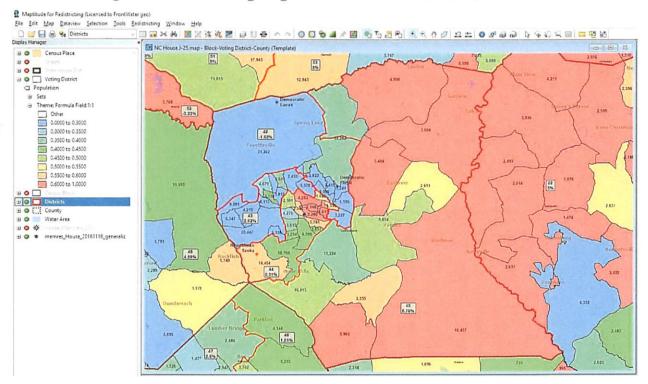


Figure 13: Partisan Targeting in House Districts 16, 46, and 47

¹⁸ Cooper Report, pp. 69-70.

House Districts 42, 43, 44, and 45

These four districts are located within Cumberland County, a predominately Democratic county located near the South Carolina border and dominated culturally and economically by Fayetteville. To create the greatest chance for Republican victory in this cluster, the current district lines split the City of Fayetteville into four separate districts.¹⁹ The screenshot from Dr. Hofeller's hard drive demonstrates that the primary mapmaker created these lines with knowledge of the geography of partisan voting patterns in this cluster. In fact, the final version of HD-45 in the enacted map was actually safer for the Republican Party than in this draft map from Dr. Hofeller's hard drive.





¹⁹ Cooper Report, pp. 75-77.

House Districts 58, 59, and 60

These three districts are all located in Guilford County. The current maps pack the Democratic areas in South Greensboro into HD-58 and the remainder of the Democratic VTDs into HD-60, leaving HD-59 to lean Republican.²⁰ Dr. Hofeller's partisan color-coded map demonstrates how the boundaries of the C-shaped district in the eastern side of Guilford County (HD-59, but labeled HD-62 in the figure below), meander along the edge of Greensboro, avoiding Democratic-leaning VTDs along the way.

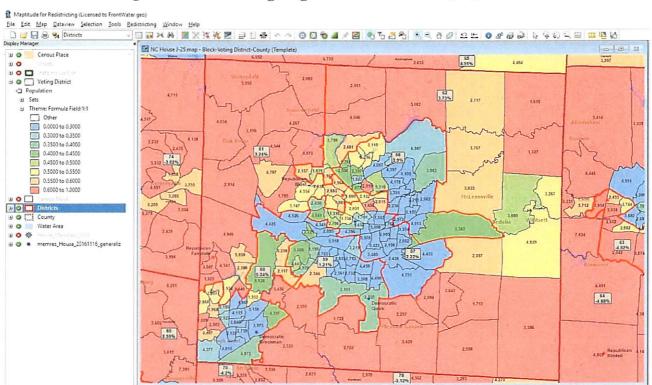


Figure 15: Partisan Targeting in House Districts 58, 59, and 60

²⁰ Cooper Report, pp 81-82.

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

These five House districts are located within a two-county cluster of Forsyth and Yadkin counties. The current maps split Winston-Salem into all five of these districts, watering down the influence of this Democratic stronghold.²¹ As the screenshot below illustrates, Dr. Hofeller carefully packed all of the most Democratic VTDs into House Districts 71 and 72 (note that HD-71 is unlabeled in the figure below, but sits directly south of HD-72).

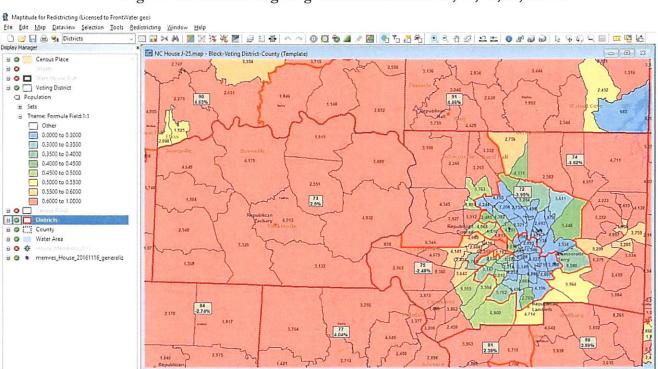


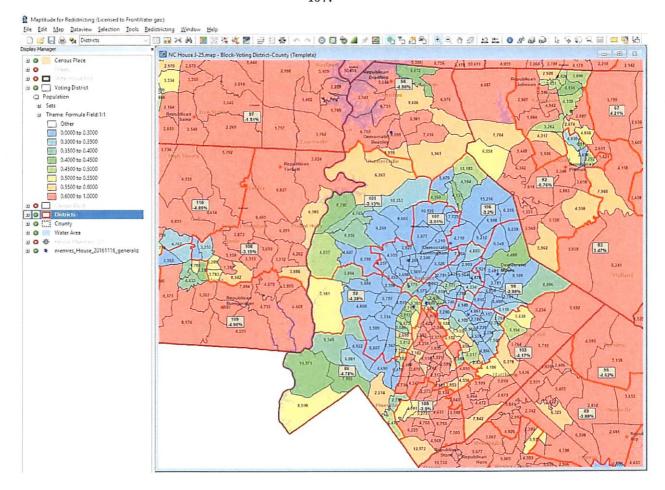
Figure 16: Partisan Targeting in House Districts 71, 72, 73, 74, and 75

²¹ Cooper Report, pp. 89-91.

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

These districts are all located within Mecklenburg County, a county dominated economically, culturally and politically by the presence of Charlotte. The current district lines carve up Charlotte with remarkable precision.²² As the screenshot from Dr. Hofeller's hard drive demonstrates, Dr. Hofeller had full knowledge of the partisan implications of these decisions. Indeed, the red and orange (indicating Republican) slice of geography that resembles a pizza slice in the southeast corner of the map is clearly visible from these maps stored on Dr. Hofeller's hard drive. This pizza slice tracks closely with the boundaries of HD-105 and HD-104 (unlabeled in the figure below, but sitting directly north of HD-105).

Figure 17: Partisan Targeting in House Districts 88, 92, 98, 99, 101, 102, 103, 104, 105, 106, and 107.



²² Cooper Report, pp. 92-95.

Partisan Intent in the Creation of 2011 Senate Maps

While many of the challenged districts were redrawn in 2017, two clusters remained constant from 2011 to 2017—SD-8 and SD-9, and SD-48 and SD-49. In 2011, Dr. Hofeller used a much simpler formula than he used in 2017. As displayed in the figure below, his partisan index was simply the Republican presidential candidate vote share over the total vote for President in a given geographic area.²³ Here VTDs with scores of 0-.25 are shaded dark blue, indicating a VTD that leans most heavily towards the Democratic Party. His color-coding then moves in increments of five-hundredths (.25-.30, .30-.35, .35-40, .40-.45, .45-.50, .50-.55) until .55. Scores of .55-1.00 are shaded bright red, indicating the most Republican-leaning VTDs.

Figure 18: Partisan Formula Field for 2011 NC Senate Redistricting from Dr. Hofeller's Hard Drive

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²³ The 2011 Senate maps depicted here are all from the "NC Senate Master July 11 0115" plan saved in July, 2011. The file path for the (2011) "NC Senate Master July 11 0115" plan depicted in this subsection is "ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-

ea77894bb5b2\20150328_151333_toshiba\C\MPRwork\NCPlans\NC Senate Master July 11 0115 Backups\NC Senate Master July 11 0115001.bak.zip"

For the 2011 Senate maps, Dr. Hofeller clearly considered partisanship, but it appears that he did not have the partisanship "layer" (the "Formula Field" on the left side of Figure 18) turned on at the time when he saved these Maptitude files. This layer was deliberately constructed and exists within his files—displaying it for visual representation involves nothing more than a click of the mouse. Nonetheless, in the 2011 Senate map figures that follow, I reproducing these maps without the partisan layer turned on so as to provide a more faithful representation of how the maps existed on Dr. Hofeller's hard drive when he saved them.

•

Senate Districts 8 and 9

The first map in this series demonstrates Dr. Hofeller's knowledge of partisan voting patterns at the time when he created Senate Districts 8 and 9 in 2011. As I detailed in my original report, these two districts are the home of the "Wilmington Notch," where SD-8 juts east to grab Democratically-leaning VTDs in Wilmington, reducing the Democratic-lean of SD-9 and diluting those Democratic votes in heavily Republican SD-8.²⁴ As you can see from the formula field on the left side of the screenshot pasted below, Dr. Hofeller had access to visual evidence of the partisan implications of this strange incision into Wilmington when drawing these maps.

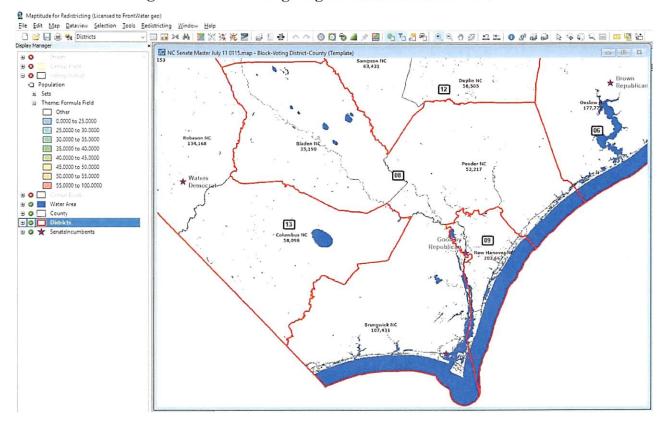
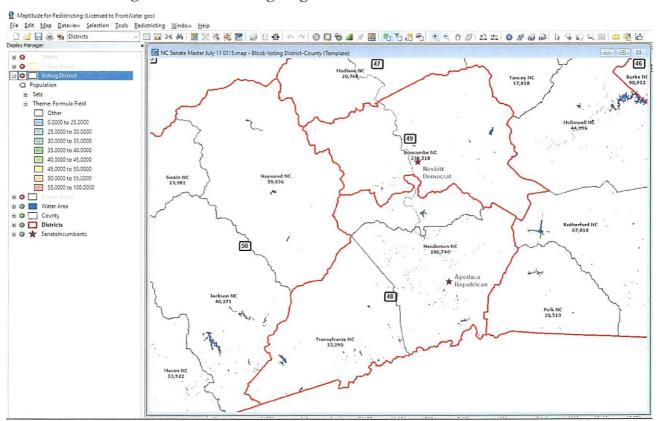


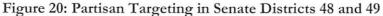
Figure 19: Partisan Targeting in Senate Districts 8 and 9

²⁴ Cooper Report, pp. 28-31.

Senate Districts 48 and 49

Senate Districts 48 and 49 are located in western North Carolina, with Asheville as the cultural, economic, and political centerpiece of this cluster. The extant lines are drawn in such a way that SD-48 remains safely in Republican hands.²⁵ As you can see on the left side of the screenshot below, Dr. Hofeller had access to data that would show this partisan impact when he drew these lines.





²⁵ Cooper Report, pp. 49-50.

Partisan Intent in the Creation of 2011 House Maps (July)

While many of the challenged districts in the House were redrawn in 2017, a few clusters remained constant from 2011 to 2017. Those clusters are presented below. Just as in his 2011 Senate maps, Dr. Hofeller used a much simpler formula in 2011 than he used in 2017 when constructing the House maps. As displayed in the figure below, his partisan index was simply the Republican presidential candidate vote share over the total vote for President in a given geographic area.²⁶ I present these results in two sections—first I present the map from HD-17, HD-18, HD-19, and HD-20 that was created in July 2011. Although he happened to save this file from July 2011 with the partisanship layer turned off, just like with the 2011 Senate maps discussed above, the partisan layer was present and could be toggled on and off with a click of the mouse.

The VTD coding here is almost identical to the colors in the 2011 Senate series. As the left side of the formula field indicates, VTDs with scores of 0-.30 are shaded dark blue, indicating a VTD that leans most heavily towards the Democratic Party. His color-coding then moves in increments of five-hundredths (.30-.35, .35-40, .40-45, .45-.50, .55-.55, .55-.60) until .60. Scores of .60-1.00 are shaded bright red, indicating the most Republican-leaning VTDs.

²⁶ The 2011 House maps depicted here are all from the "NC House Master July 18, 1200" plan saved in July, 2011. Although 2011 is not mentioned in the file name its metadata clearly indicate that this plan was created and last modified in July, 2011. The file path for the (2011) "NC House Master July 18 1200" plan depicted for these districts is ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86bea77894bb5b2\20150328_151333_toshiba\C\MPRwork\NCPlans\NC House Master July 18 1200 Backups\NC

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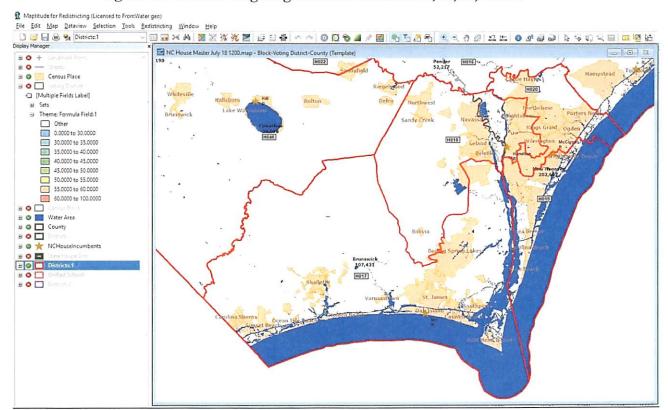
Figure 21: Partisan Formula Field for July 2011 House Redistricting

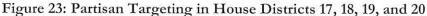
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55.0000 to 60.0000	Function List 🗸		~
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House Districts 17, 18, 19, and 20

These four districts lie in a two-county cluster that includes New Hanover and Brunswick counties. Recall that the lines in this cluster packed Wilmington's most heavily Democratic VTDs in HD-18, and placed more moderate and Republican-leaning VTDs in HD-19 and HD-20.²⁷ The presence of the partisan scoring indicates that Dr. Hofeller understood the partisan implications of these boundaries.





²⁷ Cooper Report, pp. 71-74.

Partisan Intent in the Creation of 2011 House Maps (June)

While the maps saved in July 2011 were saved with the partisan layer available, but turned off, Dr. Hofeller also saved a series of maps with the partisan layer on during June (those were all saved under the name "NC House w New Raleigh-June 28"). These maps were also considered by Dr. Hofeller and used a similar Presidential vote share formula to produce his partisanship scores.²⁸ His coding here is similar to what I described in the previous description of July 2011 House maps but with slightly different bin sizes in a few places. Here, the most Democratic VTD is colored bright blue and represents VTDs with partisanship scores of 0-30. The next bin represents scores of 30-40, followed by 40-45, 50-55, and 55-60). The orange bin is labeled 60-100, but the red label represents 73.94 to 100, meaning that scores 60-73.63 would be represented as orange and 73.94 to 100 as red. I review these June 2011 maps below.

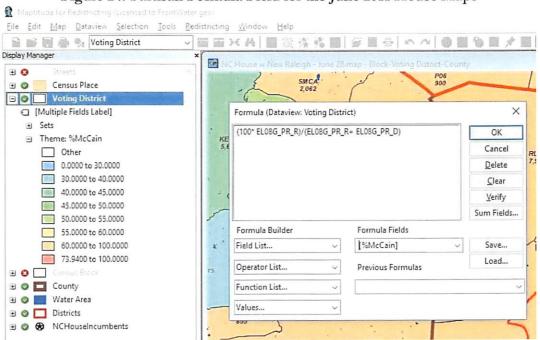


Figure 24: Partisan Formula Field for the June 2011 House Maps

²⁸ The 2011 House maps depicted here are all from the "NC House w New Raleigh-June 28" plan saved in June 2011. The file path for the (2011) "NC House w New Raleigh - June 28" plan depicted in this subsection is

ES0007C\C\Seagate Dashboard 2.0\TOSHIBA-PC\toshiba\Backup\f7bc3748-d314-4cc2-a86b-

ea77894bb5b2\20150328_151333_toshiba\C\MPRwork\NCPlans\NC House w New Raleigh - June 28 Backups\NC House w New Raleigh - June 28005.bak.zip

House Districts 55, 58, and 69

These districts are located southeast of Charlotte in a two-county cluster that includes Anson and Union counties. The current district lines crack Monroe across three districts.²⁹ The screenshot below demonstrates that Dr. Hofeller knew the voting patterns of each of these VTDs and knew that placing the lines where he did would create lines that would benefit the Republican Party and Republican candidates.

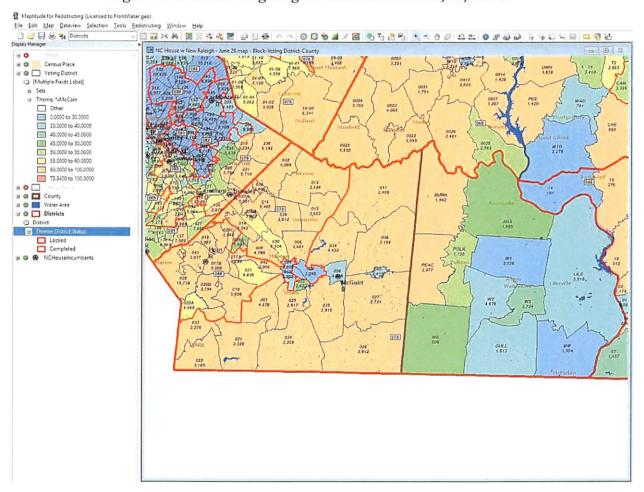


Figure 25: Partisan Targeting in House Districts 55, 68, and 69

²⁹ Cooper Report, pp. 78-80.

House Districts 63 and 64

House Districts 63 and 64 are located in Alamance County, a county east of Greensboro and west of Research Triangle Park. To create two Republican districts in this competitive county, the current map cracks the Democratic areas of Alamance across two districts.³⁰ As the screenshot from Dr. Hofeller's hard drive demonstrates, this decision was made with awareness of the partisan implications of these lines, including the odd appendance of HD-63 that reaches up and into the western half of the county. This has the effect of pairing the Democratic (dark blue) areas near Burlington towards the center of the map with the Republican (orange) areas to their north.

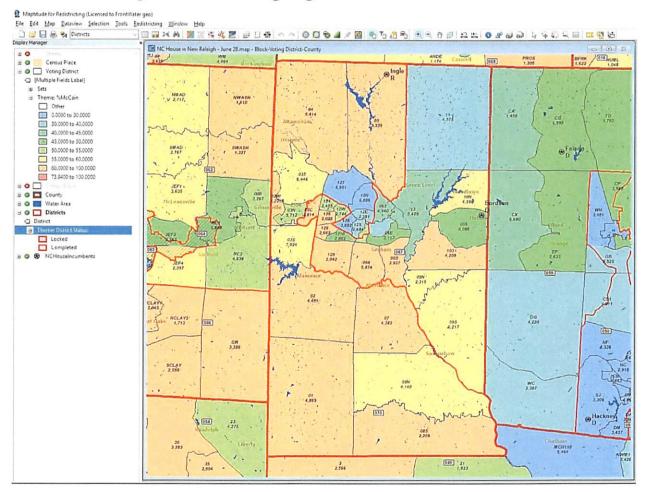


Figure 26: Partisan Targeting in House Districts 63 and 64

³⁰ Cooper Report, pp. 83-85.

House Districts 108, 109, 110, and 111

These districts are located in Gaston and Cleveland counties, just west of Charlotte. This cluster featured two city splits (Gastonia and Shelby) that reduce Democratic voting power.³¹ As the screenshot below illustrates, Dr. Hofeller was aware of the partisan implications of these district lines and the municipal splits that they entailed.

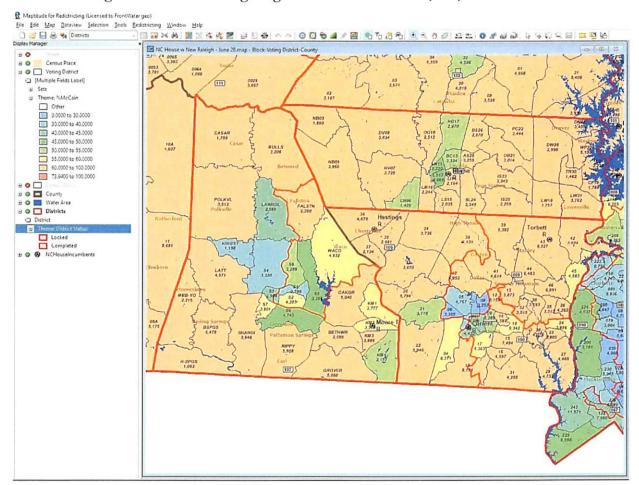


Figure 27: Partisan Targeting in House Districts 108, 109, 110 and 111

³¹ Cooper Report, pp. 97-98.

House Districts 114, 115, and 116

These three districts are located in the western part of the state and spiral around Asheville, the largest city in the region. As I illustrated in my previous report, the current lines unnecessarily split municipalities and even a college campus in order to further partisan aims.³² As the map from Dr. Hofeller's hard drive indicates, Dr. Hofeller drew these lines with full awareness of their partisan implications. Note, in particular, how the blue areas at the center of the map are all contained within HD-114.

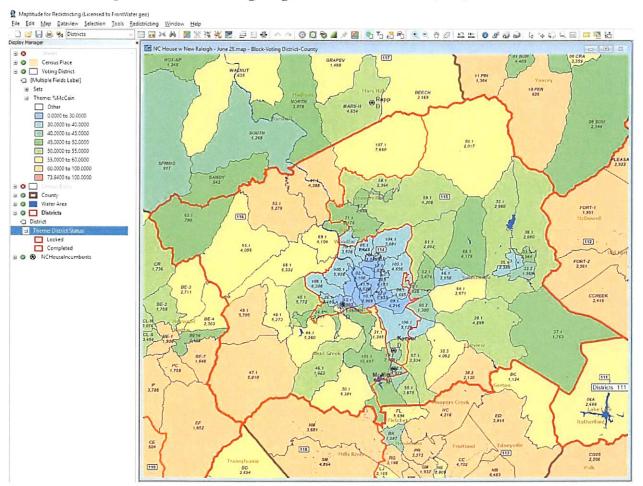


Figure 28: Partisan Targeting in House Districts 114, 115, and 116

In sum, contrary to the assertions of Drs. Hood, Johnson, and Brunell, the mapmaker (i.e., Dr. Hofeller) was not constrained or prevented from using partisanship in drawing the House and

³² Cooper Report, pp. 99-102.

Senate districts at issue. He created an index of partisan voting patterns down to the VTD level and applied this scoring to craft each district boundary. The presence of this partisan scoring system indicates that Dr. Hofeller had full knowledge of the partisan implications of his districting decisions.

Lewis' Assumptions Regarding African-American Representation

On pages 19-22 of his report, Dr. Lewis creates a model to estimate the minimum African-American percentage of the citizen-voting age population needed in particular areas of the state for candidates preferred by African-American to win general elections to the state legislature.³³ This model is ostensibly in service of Dr. Lewis' argument that some districts were drawn (or must be drawn) as they are to ensure African-American representation. But Dr. Lewis' analysis relies on three "assumptions about voting behavior"³⁴ that deviate from the reality of North Carolina politics. He assumes:

- 1. 100 percent of African Americans who are not Republicans and participate in the election will support the African American-preferred candidate,
- 2. No Republicans of any race or ethnicity and no whites who are not Democrats support the African American-preferred candidate, and
- 3. 75 percent of white (non-African American) Democrats support the African Americanpreferred candidate (who is also, by assumption, the Democrat).

Dr. Lewis presents no empirical support for these assumptions and they are contrary to what we know about North Carolina politics. For example, the second assumption requires not only that "no Republicans of any race or ethnicity" (including African-American Republicans) will vote for an African-American Democrat, it also assumes that "no white[s] who are not Democrats support the African-American candidate." That means that Dr. Lewis assumes that no white Unaffiliated voter will support an African-American Democrat. One-third of white registered voters in North Carolina, and 31 percent of whites who voted in the 2018 election, are Unaffiliated,³⁵ and Dr. Lewis' assumption that *none* of these voters would support an African-American Democrat is clearly not borne out in history. As a matter of fact, Hood and McKee find that Unaffiliated voters who were recent migrants to the state were one of the keys to African-American Democrat Barack Obama's 2008 victory in North Carolina.³⁶ While Unaffiliated voters have swung towards the Republican

³³ Report of Dr. Jeffrey B. Lewis (hereinafter, "Lewis Report"), pp. 19-22.

³⁴ Lewis Report, p. 21.

³⁵ Less than one percent of registered whites are members of the Constitution (.02%), Libertarian (.61%), or Green (.02%) parties.

³⁶ Hood, M.V. III, Seth C. McKee, "What Made Carolina Blue? In-Migration and the 2008 North Carolina Presidential Vote," *American Politics Research* 38, no. 2 (2010): 266-302.

Party in recent years, it is simply not credible to suggest that *none* of these Unaffiliated whites would choose an African-American Democrat. As for Dr. Lewis' third assumption that 75% of white Democrats in every area of the state that he analyzes would support the African-American-preferred candidate, that unfounded assumption presumes that white willingness to vote for an African-American candidate is remarkably static across space. In fact, we know that counties that had larger slave-holding populations in 1860 have higher levels of racial resentment, lower support for Affirmative Action, and a more negative affect towards African-Americans than counties with fewer slaves.³⁷ In the context of North Carolina, that means we might see more negative attitudes towards African-Americans (and presumably African-American candidates) in the predominately rural counties in Northeastern and Eastern North Carolina, but less negative attitudes in other areas of the state, including in many of the districts on which Plaintiffs have focused their challenge.

While I believe that Lewis' assumptions are unrealistic on their face, they are also problematic in that they produce systematically biased predictions about election outcomes. To demonstrate this, I downloaded the publicly available voter history file (which lists past voting history) and merged that with the publicly available voter registration file (which includes partisanship). I then applied Dr. Lewis' assumptions to the 2018 General Assembly general elections where an African-American Democrat appeared on the ballot.³⁸ The tables below present the results of this analysis. Table 1 includes results from the North Carolina state Senate—beginning with the Senate county groupings that were not included in Dr. Lewis' Table 4. Similarly, Table 2 presents the results for House county groupings that Dr. Lewis did and did not analyze.

As you can see, Dr. Lewis' assumptions systematically *understate* the level of support for African-American candidates. For the Senate county groupings included in Lewis' Table 4, that underestimation averages 17.5%. For the groupings that had African-American Senate candidates but were not included in Table 4, the average was smaller but still significant (8%). In the House, Dr. Lewis' assumptions would have underestimated support for the African-American Democratic candidate by $\sim 5\%$ in the groupings that he includes in Table 4 and $\sim 13\%$ in the county groupings with African-

³⁷ Acharya, Avidit, Matthew Blackwell, and Maya Sen, "The Political Legacy of American Slavery," *Journal of Politics* 78(3) (2016): 621-641.

³⁸ This procedure slightly over estimates voter turnout since some of the people who voted in the 2018 election did not vote in the 2018 General Assembly election (due to ballot roll-off). There are also some people who voted in this election, moved from the state (or passed away) and filed the proper paperwork to be removed from the voter file. The resulting overestimation averages less than 1% of the total turnout in the Senate (.77%) and less than 2% of the turnout in the House (1.65%) in the House

American House candidates that were not included in his table. This underestimation was more pronounced in the most urban counter clusters (Durham, Guilford, Forsyth, Wake, and Orange).

In conclusion, Dr. Lewis' model relies on three key assumptions that do not reflect the realities of North Carolina politics and partisanship. Applying his assumptions to real-world data reveals that Dr. Lewis underestimates the support for African-American candidates by substantial margins, particularly in urban areas of the state.

County Grouping	Senate District	Predicted % for African-American Democratic Candidate Using Lewis Assumptions	Actual % for African- American Democratic Candidate in 2018	Lewis Under- Estimation of Support for African- American Democratic Candidate
Senate County Groupings	Listed in	Dr. Lewis' Table 4	·	
Alamance-Guilford- Randolph	28	56%	75%	19%
Davie-Forsyth	32	57%	73%	16%
			Average	17.50%
Senate County Groupings	Not Liste	d in Dr. Lewis' Tabl	e 4	
Beaufort-Bertie-Martin-				
Northampton-Vance- Warren	3	57%	54%	-3%
Chatham-Orange	23	40%	74%	34%
Cleveland-Gaston-Lincoln	43	29%	34%	5%
Cleveland-Gaston-Lincoln	44	27%	31%	4%
Columbus-Robeson	13	55%	38%	-17%
Cumberland-Hoke	21	64%	71%	7%
Davidson-Montgomery	29	22%	28%	6%
Duplin-Harnett-Johnston- Lee-Nash-Sampson	10	38%	37%	-1%
Durham-Granville-Person	20	58%	84%	26%
Edgecombe-Halifax- Wilson	4	60%	58%	-2%
Franklin-Wake	14	53%	71%	18%

Table 1: Applying Lewis' Three Assumptions to the 2018 NC Senate Elections

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Greene-Pitt	5	47%	55%	8%
Iredell-Yadkin	34	20%	30%	10%
Mecklenburg	40	59%	76%	17%
			Average	8.00%
	Average Across All 2018 Senate Elections with African-American Democratic Candidates			9.19%

Table 2: Applying Lewis' Three Assumptions to the 2018 NC House Elections

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County Grouping	House District	Predicted % for African-American Democratic Candidate Using Lewis Assumptions	Actual % for African- American Democratic Candidate in 2018	Lewis Under- Estimation of Support for African- American Democratic Candidate
House County Grouping	s Listed in	Dr. Lewis' Table 4		
Bladen-Greene-Harnett- Johnston-Lee-Sampson- Wayne	21	52%	53%	1%
Columbus-Pender- Robeson	46	50%	37%	-13%
Cumberland	42	69%	78%	9%
Cumberland	43	66%	74%	8%
Forsyth-Yadkin	71	53%	73%	20%
Forsyth-Yadkin	72	63%	79%	16%
Franklin-Nash	7	38%	42%	4%
Franklin-Nash	25	53%	53%	0%
Granville-Person-Vance- Warren	2	43%	45%	2%
Granville-Person-Vance- Warren	32	66%	65%	-1%
Guilford	58	62%	77%	15%
Guilford	60	56%	69%	13%
Lenoir-Pitt	8	59%	65%	6%
Lenoir-Pitt	12	50%	44%	-6%
			Average	5%

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House County Groupings Not Listed in Dr. Lewis' Table 4

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		ross All 2018 Hou erican Democratic		9.97%
			Average	13%
Wake	38	61%	84%	23%
Wake	37	27%	51%	24%
Wake	33	59%	79%	20%
Mecklenburg	106	63%	81%	18%
Mecklenburg	104	22%	52%	30%
Mecklenburg	101	65%	79%	14%
Mecklenburg	99	71%	82%	11%
Mecklenburg	92	50%	70%	20%
Hoke-Scotland	48	56%	63%	7%
Gates-Hertford- Pasquotank	5	57%	60%	3%
- Edgecombe-Martin	23	65%	61%	-4%
Duplin-Onslow	14	31%	41%	10%
Duplin-Onslow	4	37%	36%	-1%
Davidson	80	18%	25%	7%
Cleveland-Gaston	110	30%	32%	2%
Chatham-Durham	54	37%	63%	26%
Chatham-Durham	31	62%	84%	22%
Chatham-Durham	29	57%	88%	31%
Washington Cabarrus-Davie- Montgomery-Richmond- Rowan-Stanly	82	31%	47%	16%
Bertie-Camden-Chowan- Perquimans-Tyrrell-	1	49%	47%	-2%
Beaufort-Craven	79	36%	39%	3%
Beaufort-Craven	3	32%	44%	12%
Anson-Union	55	32%	35%	3%
Alamance	64	32%	42%	10%

Hood on the Potential for Geographic Clustering

Much of Dr. Hood's original and supplemental reports are concerned with the potential for geographic clustering, the phenomenon whereby Democrats tend to be located in urban areas and Republicans in rural areas. Dr. Hood also describes geographic clustering by region by applying V.O. Key's four-part regional breakdown to demonstrate that certain areas of the state (such as the Coastal Plain) tend to lean toward the Democratic Party while others (such as the Mountain region) tend to lean towards the Republican Party.³⁹ I do not disagree with Dr. Hood that North Carolina (like any state) displays regional voting patterns, but such regional variation does not explain the electoral outcomes benefiting Republicans at the expense of Democrats in those districts profiled in my original report. Each one of the district clusters is contained within a single geographic area. As a result, while it may be true that certain regions historically tend towards one party, those historical tendencies do not contradict my opinion that the current state legislative district lines increase the probability of Republican victories and reduce the probability of Democratic victories within each cluster. For example, Dr. Hood's map shows a large dark blue patch around the Charlotte/Mecklenburg County region.⁴⁰ Despite the clear lean towards the Democratic Party in this region, the current maps place every Republican-leaning VTD within the Charlotte city limits into House Districts 103, 104, and 105 in order to increase the probability of Republican victory.

Brunell on Gerrymandering and Party Polarization

Dr. Brunell addresses two points from my original report. First, he cautions that "while redistricting is often mentioned as one of the usual suspects when it comes to the political polarization that we have been experiencing nationwide, it is fairly clear that redistricting has very little to do with the political extremism we have witnessed in modern American politics."⁴¹ Dr. Brunell's statement about modern political extremism has merit, but I find his inclusion of this point in his report as curious. Nowhere in my original report did I say that gerrymandering causes polarization. My point is a simple one: the current General Assembly district lines created a situation that advantages Republican candidates at the expense of Democratic candidates and voters. As a result, the North Carolina General Assembly has become more much conservative than the average North Carolinian.

³⁹ Hood Report I, Figure 1, p. 18.

⁴⁰ Hood Report I, Figure 1, p. 18.

⁴¹ Brunell Report, p. 12

Barber on Historical Trends in the North Carolina Legislature

Dr. Barber notes that "until the 1970s, the state legislature was nearly entirely dominated by the Democratic Party."⁴² According to Dr. Barber, the decline in Democratic partisanship is a longer-trend and has not been affected by gerrymandering. Of course, the North Carolina General Assembly—like the entire American South—was dominated by the Democratic Party through the 1980s. At the same time, the Democratic Party's strength was never as strong in North Carolina as it was in most other southern states. Moreover, the slope of the decline in Democratic partisanship in North Carolina was historically much slacker than it was in most other southern states. Beginning in 2010 and picking up steam in 2012, however, the Democratic decline and Republican rise in North Carolina's General Assembly became much more pronounced—particularly as compared to North Carolina's southern neighbors like Georgia, Virginia, and South Carolina.⁴³ Gerrymandering, therefore, may not have lit the fire of partisan change in North Carolina, but it certainly added the gas necessary to keep it going.

Brunell and Barber on Moderation

Drs. Brunell and Barber both take issue with my characterization of North Carolinians as "moderate." Dr. Brunell argues that just because North Carolina is moderate in the aggregate does not mean that constituent parts of the state are moderate.⁴⁴ Dr. Barber's critique is more extended and pronounced. First, he takes issue with the Berry et al. ideology measure I present on page 10 of my original report. Second, he notes that ideology measures create "artificial moderation."⁴⁵ Third, and finally, he raises "the idea that voters can be, and often are, simultaneously ideologically moderate, yet decidedly partisan."⁴⁶

It is true that every state has liberal and conservative strongholds, and North Carolina is no different. I discussed North Carolina's moderation simply to note that the sudden and dramatic rise in Republican presence in the General Assembly was not precipitated by a sudden shift towards conservatism across the state. In this sense, Dr. Barber's critique of the Berry et al. citizen ideology

⁴² Report of Dr. Michael Barber (hereinafter, "Barber Report"), p. 9.

⁴³ Cooper, Christopher A., and H. Gibbs Knotts, "Partisan Change in Southern State Legislatures, 1953-2013," *Southern Cultures* 20, no. 2 (2014): 75-89.

⁴⁴ Brunell Report, p. 13.

⁴⁵ Barber Report, p. 7

⁴⁶ Barber Report, p. 9.

measure is a bit of a red herring. As he acknowledges, a second measure discussed in my paper comes to largely the same conclusion—North Carolinians are fairly moderate in aggregate. Indeed, I am not aware of any measure of public ideology that concludes that North Carolinians are anything other than ideologically average. We North Carolinians are, on the whole, neither extremely liberal nor extremely conservative.

To be sure, aggregating policy questions in surveys may produce "artificial moderation" as Dr. Barber implies, but I am not examining these data in a vacuum. Rather, I am comparing North Carolina to other states. To completely discount my conclusions as Dr. Barber suggests, one would have to believe that there is something inherent in the North Carolina citizenry that makes citizen surveys produce more "artificial moderation" than for citizens in other states. There is no reason to believe that is the case. Similarly, Dr. Barber's final point that "voters can be, and often are, simultaneously ideologically moderate, yet decidedly partisan" might be a persuasive critique were these ideology data presented without comparisons to other states and without any analysis of partisanship in other offices. But again, the reality remains that *compared to citizens in other states*, North Carolinians appear fairly average. The expressed partisan will of North Carolina voters does not lean heavily towards one party or the other.⁴⁷ Yet the General Assembly clearly does.

Hood and Barber on Seats to Votes

Drs. Barber and Hood both analyze the seats to votes relationship in North Carolina's General Assembly, wrongly suggesting that the highly disproportionate share of seats Republicans hold in relation to the votes Republican candidates received is not relevant to an analysis of gerrymandering. Dr. Barber agrees that the seats to votes ratio advantaged the Republican party in 2018, but he discounts the importance of this finding—first using a "toy" example,⁴⁸ and then concluding that a party winning a majority of the seats in the General Assembly while only receiving a minority of the vote is not "all that rare" in North Carolina, historically.⁴⁹ While such an outcome has occurred previously in North Carolina political history and indeed, during periods of Democratic Party dominance, my analysis suggests that the Republican Party learned from the example set by the former majority party and has moved gerrymandering in North Carolina should "exactly

⁴⁷ Cooper Report, pp. 4-8.

⁴⁸ Barber Report, p. 11.

⁴⁹ Barber Report, p. 11-14.

translate to the same proportion of seats by that party in the legislature,"⁵⁰ but the *gross disproportionality* between the Republican vote margin and the seats Republicans have won in the General Assembly is certainly indicative of a partisan gerrymander.

Response to Report of Karen L. Owen⁵¹

Dr. Karen Owen's report is intended to "describe and assess concepts and practices of representation and to analyze competitive elections for both the North Carolina state House and state Senate in 2018."52 In an important respect, the story of North Carolina's partisanship according to Dr. Owen is not incompatible with the one I presented in my original report. Like me, she cites V.O. Key's seminal work from 1960 highlighting North Carolina's moderate politics near the midpoint of the 20th century.⁵³ She also cites J. Michael Bitzer and Charles Prysby's more recent analysis describing North Carolina as a "competitive partisan battlefield occupied by two ideologically hostile parties and with an uncertain outcome."54 But she does not attribute any of the gap between the state's moderate citizenry and its overwhelmingly Republican legislature to gerrymandering. This conclusion is puzzling and at odds with the sources on which she relies. Indeed, in the same chapter that Dr. Owen cites, Bitzer and Prysby note, "Republicans created significant numbers of non-competitive seats in both chambers, with Democratic-leaning districts packed into urban areas and Republican districts in suburban and rural areas."55 Bitzer and Prysby also point to the significant gap between the "division of the vote and the division of the seats."56 Dr. Owen and I agree that North Carolina is best described as a politically moderate state, as demonstrated by two-party competitiveness in statewide elections, but we disagree about whether the current North Carolina General Assembly composition reflects that two-party tradition. We also disagree about whether gerrymandering is a contributing factor to the stark difference between the party composition of the General Assembly and the expressed will of the people. The evidence I presented in my previous report, along with the conclusions of other North Carolina-based political scientists, suggests that the General Assembly represents an exception to the trend of two-party

⁵⁶ Bitzer and Prysby, p. 197.

⁵⁰ Barber Report, p. 11.

⁵¹ This section of my rebuttal report is reproduced identically from the report I submitted on June 4, 2019. I have duplicated it here for ease of review.

⁵² Expert report of Karen L. Owen (hereinafter "Owen Report"), p. 2.

⁵³ Key, V.O., Jr, Southern Politics in State and Nation (Knoxville, TN: University of Tennessee Press, 1960).

 ⁵⁴ Bitzer, J. Michael, and Charles Prysby, "North Carolina: A Growing Political Divide," in *The New Politics of the Old South: An Introduction to Southern Politics* (Washington DC: CQ Press, 2018), 186. Cited by Owen Report, p.3.
 ⁵⁵ Bitzer and Prysby, p. 192.

politics in North Carolina and that the current district lines have created uncompetitive districts and a tilted playing field that consistently advantages Republican voters over Democratic voters.

Competitiveness

In section IV.A.1 of Dr. Owen's report, she labels 25 state House seats as "competitive," defined as having elections decided by less than 10 percentage points in 2018. In Section IV.A.2 she identifies 10 state Senate seats that meet the same standard of competitiveness. She then profiles these races and concludes that Republican victors in these districts could have been defeated had the Democrats "recruited stronger candidates—higher name identification and community engagement—with moderating political views that could attract more unaffiliated and some Republican voters as well as if they fully supported that candidate with organizational infrastructure and funding."⁵⁷

There are four problems with this analysis. First, her method is to identify competitive districts and then conclude that those districts are, indeed, competitive, and therefore could have experienced different electoral outcomes if different candidates had been running. Dr. Owen does not analyze whether these districts would have been competitive *but for* the gerrymandering; it is likely that many of the currently competitive seats would be relatively safe Democratic seats had there been no gerrymandering. Moreover, Dr. Owen does not analyze other districts that are currently not competitive but that would be competitive but for the gerrymandering. To the extent that the creators of the current state House and state Senate districts sought to create "competitive" districts, they did so in an entirely one-sided fashion: they sought to create competitive districts for Republicans in regions that otherwise would produce safe Democratic seats, but in regions that otherwise would produce safe Democratic seats, but in regions that otherwise would produce safe Democratic seats, but in regions that otherwise districts or Republican-leaning districts, they ensured that those districts would *not* be competitive for Democrats. Dr. Owen's analysis therefore does not demonstrate anything about the intent of the mapmakers or the effects of the gerrymander.

Second, 4 of the 10 Senate and 7 of the 25 House districts she analyzes are not districts on which Plaintiffs are focusing in this case (these are Senate Districts 1, 3, 7, and 19 and House Districts 1, 3, 21, 24, 51, 93, and 119). As a result, it is unclear how they inform the facts of this case.

Third, much of Dr. Owen's analysis of individual races, and therefore her conclusions about candidate positioning and candidate quality, rests upon evidence that is difficult to confirm or is

⁵⁷ Owen Report, p. 17.

based on speculation. For example, many of the facts she includes in her report are taken from a news aggregation service called "Real Facts NC" (RFNC).⁵⁸ In one example, when describing Republican representative John Alexander as a "moderate," Dr. Owen relays that he "quip[ped] in one of his ads that he would vote as his Democratic wife told him."59 While the RFNC Election report Dr. Owen cites does contain that statement, there is no link or citation to the ad, itselfmaking it impossible to determine its context. Similarly, Dr. Owen posits that Democrat candidate Erica McAdoo "sens[ed] a change in the political nature of the district—new and young voters with fresh ideas," and then describes her rhetoric as "overly ambitious" but provides no evidence for this claim.⁶⁰ When describing the SD-7 race, Dr. Owen speculates that the Democratic candidate "did not take advantage of his opponent's lack of community engagement and representation,"⁶¹ with no support, and she suggests that SD-9 Senator Mike Lee "had grown rather unpopular in the New Hanover district for his handling of the drinking water issue"62 with no evidence other than a citation to a RFNC report. In certain instances, the facts Dr. Owen provides do not stand up to additional scrutiny. When discussing SD-1, she describes the race as "a closely watched, toss-up race with twice as many registered Democrats."⁶³The ratio of Democrats to Republicans in SD-1 is not, in fact, 2:1, but rather 1.57:1 (54,371 Democrats v. 34,420 Republicans). Further, about one in three (32.7%) registered voters in SD-1 are not Republicans or Democrats, but rather Unaffiliated. These Unaffiliated voters in SD-1 voted in the Republican, rather than the Democratic primary 61.56% of the time in 2018.

Fourth and finally, much of Dr. Owen's analysis of individual contests actually *supports* Plaintiffs' claims. Dr. Owen notes that the Democratic candidates in HD-19 and HD-63 vastly outraised their Republican opponents, but the Democrats still lost those races—meaning that the gerrymander of these districts held despite the Democratic advantages in spending and an enormously favorable electoral environment in 2018. Dr. Owen also notes that the Democratic candidate in HD-103 (Rachel Hunt) outraised her Republican opponent (Bill Brawley) by more than \$1.2 million, and enjoyed name recognition as the daughter of former Governor Jim Hunt. Despite these significant advantages, Rachel Hunt won the district by only 68 votes. Thus, Democrats

⁵⁸ See Owen Report, at footnotes 28, 39, 42, 53, 58, 60, and 62.

⁵⁹ Owen Report, p. 16.

⁶⁰ Owen Report, pp. 12-13.

⁶¹ Owen Report, p. 15.

⁶² Owen Report, p. 15.

⁶³ Owen Report, p. 14.

dedicated and diverted enormous resources to win this Mecklenburg County district, which would have been much safer for Democrats if not for the gerrymandering. The competitiveness of this district prevented Democrats from spending their resources elsewhere in the state.

Representation

The next section of Dr. Owen's Report (IV.B) discusses the nature of representation in the Tar Heel State and the diversity of the North Carolina General Assembly. After describing the academic literature on representation, she suggests that "North Carolina's General Assembly has become increasingly diverse over the last several election cycles"⁶⁴—implying that the current district lines have led to a state legislature that more "descriptively represent[s]" North Carolinians.⁶⁵ This assertion does not withstand scrutiny. First, compared to other states, female representation in North Carolina has actually declined over time. North Carolina ranked 20th in the country in terms of female representation in 2009 and ranks 33rd today.⁶⁶ Second, only 34% of female General Assembly members are Republicans—a partisan difference that has only improved by one legislator since 2009 (14 of the 44 female legislators in NC were Republicans in 2009, compared to 15 of 44 in 2019). Thus, not only has North Carolina's General Assembly not become "increasingly diverse over the last several elections cycles,"⁶⁷ compared to other states, North Carolina's state legislature has actually gotten *worse* in terms of female representation.

Dr. Owen then discusses the responsiveness of the General Assembly as further evidence that gerrymandering is not harming the relationship between representatives and those they represent. As evidence of responsiveness, she describes the number of casework requests received by members of the General Assembly (10-15 per week) and the process by which the legislators handle those requests. This analysis is not convincing. First, Dr. Owen provides no comparative data across states or time (is 10-15 casework requests per week "a lot"? Is it an increase over recent years?), leaving us uncertain how to treat these results. Further, she provides no evidence about how casework requests are distributed across legislators (do members in the districts at issue in this case receive more or fewer casework requests than other members?) and she provides no evidence about the content of those casework requests, or from whom they come (do they come from co-partisans

⁶⁴ Owen Report, p. 19.

⁶⁵ Owen Report, p. 19.

⁶⁶ Center for American Women and Politics (CAWP), "State Fact Sheet—North Carolina" (2019), <u>https://www.cawp.rutgers.edu/state_fact_sheets/nc</u>, accessed June 2, 2019.

⁶⁷ Owen Report p. 19.

almost exclusively?). Ultimately, she concludes that "members take their roles of representing constituents and advocating their cases for resolution seriously."⁶⁸ Even if it were true that all legislators take their role as representatives seriously, this does not mean that all constituents are treated equally, or that some interests are not advantaged over others.

To further her case about the representativeness and responsiveness of the General Assembly, Dr. Owen cites results from a North Carolina Policy Watch report, which used interviews with "influential North Carolinians, voters, and political observers to learn about pressing issues for the state."⁶⁹ Notably, these voters and political observers listed "partisan polarization and gerrymandering" as major problems affecting North Carolina.⁷⁰ Not only does Dr. Owen not challenge the idea that North Carolinians see the elimination of gerrymandering as a policy priority, her report states explicitly that it *is* an important priority.

Dr. Owen also provides a series of data points about the 2017-2018 legislative session as further evidence of a responsive legislature. Specifically, she says that 1,951 bills were introduced, 425 legislative measures were passed, and 360 bills became law, 72.5% of which were passed with bipartisan support in the House and almost 70% of which passed the Senate with both parties "strongly favoring."⁷¹ Again—without any comparative data, this is less than convincing evidence of a well-functioning or truly representative legislature. As just one example, the 2009 legislative session witnessed 2,767 bills introduced and 618 that became law—far surpassing the number introduced and passed in the entire two-year 2017-2018 session.⁷² Dr. Owen also makes no effort to disentangle substantive bills from symbolic, or local ones. For example, the 2017-2018 legislative session included House Bill 30, a bill supported by both Democrats and Republicans that "authorized the Division of Motor Vehicles to produce a Colorectal Cancer Awareness special registration plate, a Big Rock Blue Marlin Tournament special registration plate, and a Kick Cancer for Kids special registration plate."⁷³ Presumably, Dr. Owen would have counted this as evidence of bipartisan cooperation—the same as if the two parties had cooperated on health care, teacher pay, or voter ID.

⁶⁸ Owen Report, p. 23.

⁶⁹ Owen Report, p. 23.

⁷⁰ Owen Report, p. 23.

⁷¹ Owen Report, p. 24.

⁷² These data come from "Legiscan," the same source Dr. Owen uses in her analysis. *The Book of the States* provide slightly different results, but also support the conclusion that the 2017-2018 session actually had fewer bills introduced and completed than any session in the last decade. *See, e.g.*, The *Book of the States, 2010*. Lexington, KY: Council of State Governments (2010), p. 147.

⁷³ HB 30 (2017-2018 session), available at https://www.ncleg.gov/Sessions/2017/Bills/House/PDF/H30v4.pdf.

Later in that same section, Dr. Owen asserts, "There is general agreement within North Carolina on public priorities and the need to address these same policies. But we find in the details and the implementation of these policies disagreement and divisions among people, groups, and the representatives within the political parties."⁷⁴ She later adds that the difference in policy preferences between Republicans and Democrats "is in the details."⁷⁵ This statement runs contrary to both the political science literature and the lived experience of most North Carolinians. For example, Elon Poll data over the past few years has shown that Democratic and Republican citizens have meaningful differences on issues as varied as climate change,⁷⁶ whether it is a "good idea" to "allow teachers to carry guns to your school,"⁷⁷ and the relative risks of contaminated food.⁷⁸ These differences are not limited to the opinions of citizens; clearly Democratic and Republican legislators hold policy differences that are more than just "details." While Democrats and Republicans may agree on some bills, like the recent bill to make the Moravian cookie the official cookie of North Carolina (HB 394),⁷⁹ they diverge sharply on critically important issues like voter ID,⁸⁰ health care,⁸¹ and whether teachers with Master's degrees should receive additional pay.⁸²

In addition to running counter to the experiences and opinions of average North Carolinians, recent research supports the notion that the differences between Republican and Democratic policy preferences are not just "details." In fact, the impact of partisan control on policy

⁷⁸ 21% of Republicans believe contaminated food is "very unsafe" versus 34% of Democrats. The size of this partisan difference exceeds the differences in opinions by race or county population density. *See* Elon Poll at

⁷⁴ Owen Report, p. 24.

⁷⁵ Owen Report, p. 25.

⁷⁶ 67% of Democratic believed it is "very likely" that "climate change, also known as global warming [will] negatively impact the coastal communities in North Carolina within the next 50 years versus 37% of Republicans. *See* Elon Poll at <u>https://www.elon.edu/u/elon-poll/wp-content/uploads/sites/819/2019/01/Elon-Poll-Report-101118.pdf</u>.

⁷⁷ This is a survey of teachers, rather than a survey of voters. 95% of Democratic teachers believe it is a "bad idea" to carry guns to school versus 57% of Republicans who hold the same belief. This difference exceeds differences based on sex, race, region, age, or population density of the school. *See* Elon Poll at https://www.elon.edu/u/elon-poll/wp-content/uploads/sites/819/2019/02/Elon-Poll-Report-030818.pdf.

https://www.elon.edu/u/elon-poll/wp-content/uploads/sites/819/2019/04/2019_04_12-ElonPoll_Report.pdf ⁷⁹ See HB 394 Bill Summary, *available at* <u>https://dashboard.ncleg.net/api/Services/BillSummary/2019/H394-SMST-47(e3)-v-1</u>.

⁸⁰ 2 House Democrats voted for SB 824 to implement the Voter ID Constitutional Amendment, while 39 Democrats voted against it; similarly 1 Republican voted against it, while 65 Republicans voted for it. *See* House Roll Call #1324, *available at* https://www.ncleg.gov/Legislation/Votes/RollCallVoteTranscript/2017/H/1324.

⁸¹ 55 Democrats recently co-sponsored a bill to "close the Medicaid gap" (HB-5). No Republicans joined them to cosponsor this bill and the bill never made it out of committee. *See <u>https://www.ncleg.gov/BillLookUp/2019/H5.</u></sup>*

⁸² 29 Democrats co-sponsored a bill to return additional pay for teachers with Master's degrees (a policy that was revoked under the Republican-led General Assembly). This bill had no Republican co-sponsors and has not made it out of committee. *See* <u>https://www.ncleg.gov/BillLookUp/2019/H890</u>.

has actually doubled over the past few decades⁸³ and is particularly influential over polarized and substantively important issues like health care⁸⁴ and environmental regulation.⁸⁵ One of the most recent and most important of these studies for this case found that states with greater levels of gerrymandering systematically favor one party's preferences over the other, limiting representation of the out-party.⁸⁶ In the authors' words, "… partisan bias in the legislative districting process has an important effect on elections, legislative behavior, and representation."⁸⁷ Partisan gerrymandering "can degrade the disfavored party's influence on the political process, both in the short term and over the longer term as well."⁸⁸ It is important to note that their finding is not limited to examples of Republican control—when Democrats are advantaged by gerrymandering, they too pass laws that are at odds with the values of the voters. While Caughey, Tausanovitch, and Warshaw do not examine whether the effects vary based on the power of the legislature vis-à-vis the Governor, it stands to reason that the partisan make-up of the legislature is even more important in a state like North Carolina where the Governor has relatively little power over the policy process.⁸⁹

In the concluding section of her report, Dr. Owen quotes political scientist Bruce Cain as saying "even the most egregious partisan gerrymanders do not 'lock in' one party's control over the state."⁹⁰ But the quoted statement does not actually appear anywhere in the Cain article cited by Dr. Owen in footnote 111 of her report. In fact, the 1985 Cain article that Dr. Owen cites, "Assessing the Partisan Effects of Redistricting," suggests the opposite conclusion. In Cain's words, "Are the partisan effects of redistricting important? The answer would seem to be that they are."⁹¹ The three decades since the publication of this article do not seem to have changed his mind. In 2015, Cain said "political insiders aided by advances in line-drawing technology, can easily project demographic

https://static1.squarespace.com/static/5c502dfb4611a0c68bfed6d7/t/5c53b79df9619a9695f3caa6/1548990368493/Be rgquist_controlling+the+regulators+%28JMP%29.pdf.

⁸³ Caughey, Devin, Christopher Warshaw, and Yiqing Xu, "Incremental Democracy: The Policy Effects of Partisan Control of State Government," *Journal of Politics* 79, no. 4 (2017): 1342-1358.

⁸⁴ Grumbach, Jacob M, "From Backwaters to Major Policymakers: Policy Polarization in the States, 1970-2014," *Perspectives on Politics* 16, no. 2 (2018): 416-435.

⁸⁵ Bergquist, Parrish, "Controlling the Regulators: How Party Control of Government Shapes Environmental Regulation in the 21st Century," Unpublished Manuscript. *Available at*

⁸⁶ Caughey, Devin, Chris Tausanovitch, and Christopher Warshaw, Partisan Gerrymandering and the Political Process: Effects on Roll-call Voter and State Policies," *Election Law Journal* 16, no. 4 (2017): 453-469.

⁸⁷ *Id.* at 465.

⁸⁸ *Id.* at 468.

⁸⁹ North Carolina has the 49th most powerful Governor in the country, according to institutional power. *See* Ferguson, Margaret, "Governors and the Executive Branch," in Virginia Gray, Russell L. Hanson, and Thad Kousser, eds. *Politics in the American States: A Comparative Analysis, 11th Edition.* (Washington DC: CQ Press, 2018), 252.

⁹⁰ Cain, Bruce, "Assessing the Partisan Effects of Redistricting," *American Political Science Review* 79, no. 2 (1985): 326, cited by Owen Report, p. 26.

⁹¹ Cain, Bruce, "Assessing the Partisan Effects of Redistricting," American Political Science Review 79, no. 2 (1985): 331.

changes into the current districts and assess their political prospects months before any actual lines are drawn."⁹²

Suffice it to say, I am unconvinced that gerrymandering does not tilt the scales of democracy towards one party and, by extension, away from the preferences of members of the out-party. One reason for our disagreement may be that Dr. Owen is more confident than I am that legislators provide equal representation to all constituents. According to Dr. Owen, "no official is ignoring constituents because of partisanship or personal characteristics."⁹³ Dr. Owen provides no evidence to support this sweeping claim, which runs counter to much of what we know about legislative representation. For example, David Broockman and his colleagues find that constituents are less likely to contact their legislators if those legislators are of a different race,⁹⁴ or if they are of the opposing party.⁹⁵ This unequal representation does not just exist on the demand side (constituents are less likely to contact legislators who do not resemble them) but on the supply side as well (legislators are less likely to respond to certain groups). For example, Broockman and Butler find that black constituents are less likely to receive a reply from white state legislators than their white counterparts.⁹⁶ Similarly, Gell-Redman, Visalvanich, Crabtree, and Fariss find that legislators are more likely to respond to constituent requests from whites than from blacks, Hispanics, or Asians.⁹⁷ The differential response rate for Hispanics appears to exist for Republican, but not Democratic state legislators. Black legislators are, of course, not immune from the tendency to be more responsive to constituents from some races than others. Broockman finds that black legislators are more likely to respond to requests from black citizens-even when the person making the request lives out of the district.⁹⁸ In sum, while I wish that Dr. Owen's positive assessment of the nature of representation were true, extant research reinforces that representation is consistently more biased and uneven than Dr. Owen suggests.

⁹⁴ Broockman, David, "Distorted Communication, Unequal Representation: Constituents Communicate Less to Representatives Not of Their Race," *American Journal of Political Science* 58, no. 2 (2014): 307-321.

⁹² Cain, Bruce, Democracy More or Less: America's Political Reform Quandary, New York: Cambridge University Press (2015), p. 122.

⁹³ Owen Report, p. 27.

⁹⁵ Broockman, David, and Timothy J. Ryan, "Preaching to the Choir: Americans Prefer Communicating to Copartisan Elected Officials," *American Journal of Political Science* 60, no. 4 (2016): 1093-1107.

⁹⁶ Broockman, David E., and Daniel M. Butler. "Do Politicians Racially Discriminate Against Constituents? A Field Experiment on State Legislators," *American Journal of Political Science*, 55, no. 3 (2011): 463-477.

⁹⁷ Gell-Redman, Micah, Neil Visalvanich, Charles Crabtree, and Christopher J. Fariss, "It's All about Race: How State Legislators Respond to Immigrant Constituents," *Political Research Quarterly* 71, no. 3 (2018): 517-5311.

⁹⁸ Broockman, David E., "Black Politicians Are More Intrinsically Motivated to Advance Blacks' Interests: A Field Experiment Manipulating Political Incentives," *American Journal of Political Science* 57, no. 3 (2013): 521-536.

Submitted June 7, 2019.

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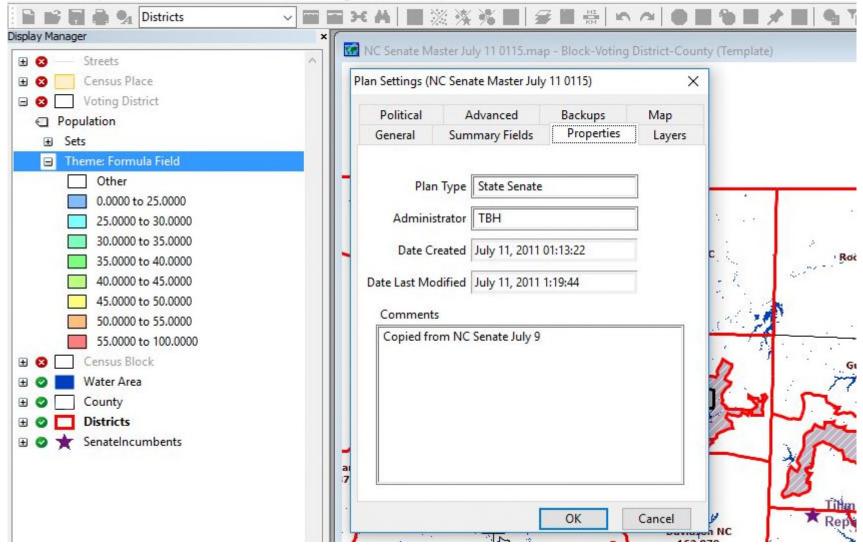
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EXHIBIT H

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EXHIBIT I



NORTH CAROLINA GENERAL ASSEMBLY

June 27, 2017

VIA HAND DELIVERY

Dr. Thomas Hofeller

Dear Dr. Hofeller:

We require your professional assistance. The General Assembly will be drawing new legislative redistricting maps to include both House and Senate districts pursuant to an order from a federal district court. Based on your knowledge and experience, we believe you are best qualified to produce such maps. Therefore, we offer to engage you to produce such maps for possible presentation to the House and Senate Redistricting Committees for their consideration and ultimate use by the General Assembly.

OUR OFFER OF ENGAGEMENT IS SUBJECT TO THE FOLLOWING TERMS:

- You will produce a map of 120 House districts and a map of 50 Senate districts in North Carolina that complies with criteria adopted by the House and Senate Redistricting Committees (the "Committees"). The maps you produce may be presented to the Committees, the General Assembly or any third party in the sole discretion of the Co-Chairs.
- As a legislative contractor and consultant, your work will be subject to legislative confidentiality as prescribed by Article 17 of Chapter 120 of the General Statutes. Your work may also be subject to the doctrine of legislative privilege as provided by the common law in North Carolina. By directive of the Committees, these protections will accrue to the benefit of the Co-Chairs of the Committees, and the Co-Chairs shall have the sole discretion to grant any request for their waiver. Finally, and notwithstanding the foregoing, all drafting and information requests to you and documents prepared by you concerning redistricting shall no longer be confidential and shall become public records upon the act establishing the relevant district plan becoming law.
- To allow us and you to better to predict the cost of this engagement, we are prepared to offer compensation to you in the form of a flat fee equal to \$50,000.00 payable upon

June 26, 2017 Letter to Dr. Thomas Hofeller Page 2 of 2

> receipt by the Legislative Services Officer of an invoice from you for work performed and upon prior approval from the President Pro Tempore of the Senate and the Speaker of the House.

Should the terms of this engagement be acceptable to you, please indicate your acceptance in the space marked below. We appreciate your willingness to serve in this manner, and we look forward to working with you pursuant to the Committees' directive.

Sincerely,

ph 2 Hr /4

Sen. Ralph Hise

Enclosures

Agreed and Accepted to by:

Dr. Thomas Hofeller

Date: June 27, 2617

Agreement Authorized and Approved:

Sen. Phil Berger President Pro Tempore

Rep. Tim Moore Speaker

INVOICE

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FINANCIAL SERVICES OFFICE	

Thomas B. Hofeller, Ph.D.

September 1, 2017

Mr. Paul Coble Legislative Services Officer Room 2129, Legislative Building 16 West Jones Street Raleigh, NC 27601



For professional services rendered in regard to design and construction of a new North Carolina State Senate and State House of representatives redistricting plans constructed during August of 2017.

Amount Due

My Tax ID is:

Thomas B. Hofeller, Ph.D.

\$50,000.00

Okay to pay. Dany-C 91711

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From: Rep. David Lewis
Sent: Friday, August 11, 2017 10:43 AM
To: 'celticheal@aol.com' <<u>celticheal@aol.com</u>>
Subject: 2017 Redistricting Criteria

Dear Dr. Hofeller,

Thank you for your service to the House and Senate Redistricting Committees.

We are writing to inform you that the committees met yesterday and adopted the attached criteria to be used for the 2017 House and Senate Plans.

This message constitutes our direction to you to utilize this set of criteria when drawing districts in the 2017 House and Senate Plans.

I look forward to meeting this afternoon.

Kind Regards,

Rep. David Lewis

Sen. Ralph Hise

2017 HOUSE AND SENATE PLANS CRITERIA

<u>Equal Population</u>. 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).

<u>Contiguity</u>. Legislative districts shall be comprised of contiguous territory. Contiguity by water is sufficient.

<u>County Groupings and Traversals</u>. 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 I*, *Dickson I*, and *Dickson II*.

<u>Compactness</u>. 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).

<u>Fewer Split Precincts</u>. 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.

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

<u>Incumbency Protection</u>. 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.

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

<u>No Consideration of Racial Data</u>. 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.

EXHIBIT J





NORTH CAROLINA GENERAL ASSEMBLY JOINT SELECT COMMITTEE ON CONGRESSIONAL REDISTRICTING

February 16, 2016

VIA HAND DELIVERY

Dr. Thomas Hofeller

Dear Dr. Hofeller:

We require your professional assistance. Earlier today, a motion prevailed in the meeting of the Joint Select Committee on Congressional Redistricting (the "Committee") authorizing the Co-Chairs to engage a map drawing expert to produce a contingent Congressional Map or Maps using the attached criteria prevailing today on individual motions in the Committee (the "Adopted Criteria"). Based on your knowledge and experience, we believe you are best qualified to produce such a map or maps. Therefore, we offer to engage you to produce such a map for possible presentation to the Committee and ultimate use by the General Assembly.

OUR OFFER OF ENGAGEMENT IS SUBJECT TO THE FOLLOWING TERMS:

- You will produce a map of 13 congressional districts in North Carolina that complies with the Adopted Criteria. The map you produce may be presented to the Committee, the General Assembly or any third party in the sole discretion of the Co-Chairs.
- As a legislative contractor and consultant, your work will be subject to legislative confidentiality as prescribed by Article 17 of Chapter 120 of the General Statutes. Your work may also be subject to the doctrine of legislative privilege as provided by the common law in North Carolina. By directive of the Committee, these protections will accrue to the benefit of the Co-Chairs of the Committee, and the Co-Chairs shall have the sole discretion to grant any request for their waiver. Finally, and notwithstanding the foregoing, all drafting and information requests to you and documents prepared by you concerning redistricting shall no longer be confidential and shall become public records upon the act establishing the relevant district plan becoming law.
- To allow us and you to better to predict the cost of this engagement, we are prepared to offer compensation to you in the form of a flat fee equal to \$25,000.00 payable upon

February 16, 2016 Letter to Dr. Thomas Hofeller Page 2 of 2

> receipt by the Legislative Services Officer of an invoice from you for work performed and upon prior approval from the President Pro Tempore of the Senate and the Speaker of the House.

Should the terms of this engagement be acceptable to you, please indicate your acceptance in the space marked below. We appreciate your willingness to serve in this manner, and we look forward to working with you pursuant to the Committee's directive.

Sincerely,

Rep. David Lewis

Enclosures

Agreed and Accepted to by:

Dr. Thomas Hofeller

Date: February 16, 2016

Agreement Authorized and Approved:

Sen. Phil Berger President Pro Tempore Rep. Tim Moore Speaker

Bro Rucho

Sen. Bob Rucho

EXHIBIT K

NORTH CAROLINA HOUSE OF REPRESENTATIVES SESSION

NORTH CAROLINA GENERAL ASSEMBLY

TRANSCRIPT OF THE PROCEEDINGS

In Raleigh, North Carolina

Monday, August 28, 2017, 1:30 p.m.

PREPARED BY: Regina Toppins

RUFFIN CONSULTING, INC.

DIRECT DIAL: 252-243-9000

WWW.RUFFINCONSULTING.COM

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Phone: 252-243-9000

Page 35

1 sponsor a couple of questions. 2 SPEAKER MOORE: Does the gentleman from 3 Harnett yield to inquiry? 4 REPRESENTATIVE LEWIS: I yield to all 5 questions. б SPEAKER MOORE: He yields. 7 REPRESENTATIVE REIVES: Thank you, Chairman 8 Lewis, and I'll try to make a couple of presumptions 9 to go ahead and try not to ask you a whole bunch of 10 questions. 11 I believe the reason we left the racial 12 statistics out of the stack pack was to secure the 13 racial gerrymander per the court's order. With that 14 being said, we still had Dr. Hoffler doing the maps 15 this time around. Was there a particular reason that 16 we were picking Dr. Hoffler again? 17 REPRESENTATIVE LEWIS: Thank you for the 18 question, Representative Reives. And to be clear, the 19 map that you have before you is just like any other 20 piece of legislation that comes up. The idea behind the map and the process that produces the map is a --21 22 is the legislative -- is the legislative process. Ι 23 feel and continue to feel that Dr. Hoffler was the 24 best person to help us quickly comply with the order 25 of the court. So, yes, I think he was the best one to

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Phone: 252-243-9000

Page 36 hire to help reproduce this map to present to you 1 2 today. 3 **REPRESENTATIVE REIVES:** And follow-up? 4 SPEAKER MOORE: Gentleman yields to additional questions? He yields. 5 6 REPRESENTATIVE REIVES: Thank you. 7 And based on that, that because of the fact that he would have been the quickest, would have been 8 9 because of the substantial amount of work and work 10 product that he would have had from 2011; would that 11 be fair to say? 12 REPRESENTATIVE LEWIS: Well, thank you for 13 the question. 14 No, I don't think the 2011 plan would have 15 had anything to do with it. I think it was more the 16 we agreed that maptitude was the sort of the industry 17 standard that's used nationwide, and he was just very fluent in being able to help legislators translate 18 19 their desires to the maptitude program. 20 REPRESENTATIVE REIVES: Follow-up. 21 SPEAKER MOORE: Does the gentleman yield to 22 additional questions? 23 REPRESENTATIVE LEWIS: Yes, sir. 24 SPEAKER MOORE: He yields. 25 REPRESENTATIVE REIVES: Based on that, is it

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your belief, then, that he would not have used 1 2 information that he had had available to him back in 3 2011 and his knowledge of the districts to kind of 4 help push this process along? 5 REPRESENTATIVE LEWIS: Thank you for the 6 question. 7 The only information that Dr. Hoffler had access to and used in preparing this map was that it 8 9 was adopted by the criteria because that was the only 10 -- was the criteria adopted by the committee because 11 that was the only information that was loaded up on 12 his computer. 13 REPRESENTATIVE REIVES: Follow-up. 14 SPEAKER MOORE: Does the gentleman yield to 15 additional questions? 16 REPRESENTATIVE LEWIS: I yield. 17 SPEAKER MOORE: He yields. 18 REPRESENTATIVE REIVES: Thank you. 19 So, did we put anything in place to make 20 sure that he wasn't using any other information, for instance, his knowledge of the racial data, 21 22 statistics, district lines, things of that sort, that 23 information that has previously been used this time 24 around so as not to violate the court's order? 25 REPRESENTATIVE LEWIS: Thank you for the

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Page 37

Page 38 question. 1 2 Part of his contract and certainly his 3 instructions from me were to only use the criteria that was adopted by the committee. 4 5 REPRESENTATIVE REIVES: All right, thank you, Mr. Chairman. Thank you, Mr. Speaker. 6 7 SPEAKER MOORE: For what purpose does the gentleman from Durham, Representative Michaux, rise? 8 9 REPRESENTATIVE MICHAUX: To see if the gentleman would respond to a question or two. 10 11 SPEAKER MOORE: Does the gentleman from 12 Harnett yield to the gentleman from Durham? 13 REPRESENTATIVE LEWIS: I do. 14 SPEAKER MOORE: He yields. 15 REPRESENTATIVE MICHAUX: Mr. Chairman, did 16 you contact any of the members of the body before 17 these maps were presented to the committee to get any individual input from them? 18 19 REPRESENTATIVE LEWIS: Representative 20 Michaux, thank you for the question. 21 I have talked to members of the body throughout this process. Prior to the release of the 22 23 first map I certainly had talked to probably 24 Representative Dollar, who is the Chair of the 25 committee with me, but I don't recall that I spoke to

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Phone: 252-243-9000

1 STATE OF NORTH CAROLINA

2 COUNTY OF DURHAM

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REPORTER'S CERTIFICATE

5 I, Regina Toppins, Shorthand Reporter and Notary Public in and for the State of North Carolina, do hereby б 7 affirm that the foregoing pages contain a verbatim 8 transcription of the above-captioned proceedings and 9 have been transcribed to the best of my ability and understanding; I further affirm that I am not related 10 to any of the parties to this action; that I am not 11 interested in the outcome of this case; that I am not of 12 13 counsel nor in the employ of any of the parties to this 14 action.

15 IN WITNESS WHEREOF, I have hereto set my hand,16 this the 28th day of August, 2017.

Regina Poppins

Regina Toppins, Notary Public Notary Number: 200626300019

EXHIBIT L

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June 5, 2019

VIA E-MAIL

Phillip J. Strach
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Re: Common Cause v. Lewis, 18 CVS 0140001 (Wake County Sup. Ct., N.C.)

Dear Mr. Strach:

On behalf of Plaintiffs in the above-captioned lawsuit, I write in response to your May 31, 2019 letter on behalf of Legislative Defendants in both this case and several other cases concerning certain electronic storage devices produced by Stephanie Hofeller to Plaintiffs in response to their February 13, 2019 subpoena to Ms. Hofeller (the "Hofeller files"). Your letter (1) purports to designate the entirety of the Hofeller files as "Highly Confidential/Outside Attorneys' Eyes Only" pursuant to the Consent Protective Order in this case, (2) asserts that Plaintiffs' counsel have "likely" reviewed "privileged materials" of Legislative Defendants contained on the devices at issue, (3) expresses concern about the manner in which Plaintiffs received the devices from Ms. Hofeller in response to their subpoena, (4) makes several specific demands, and (5) suggests, without specificity or elaboration, that Plaintiffs' counsel have been "neglecting [their] professional responsibilities."

Your letter is not only baseless in every respect, but also troubling in its own right. We are concerned that Legislative Defendants are attempting—unilaterally and without authorization—to designate evidence produced by a *third party* in discovery pursuant to a *lawful subpoena* as Highly Confidential under the Court's Consent Protective Order, apparently in an effort to conceal their own wrongdoing. Such wrongdoing appears to include false statements made by Legislative Defendants to federal courts, the Superior Court in this case, and the people of North Carolina.

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I. Legislative Defendants Have No Authority to Unilaterally Designate the Hofeller Files as Highly Confidential Under the Consent Protective Order

Your letter purports to "designate the entirety of the materials produced by Ms. Hofeller as 'Highly Confidential/Outside Attorneys' Eyes Only' pursuant to the Consent Protective Order in" this case. But the Consent Protective Order does not authorize Legislative Defendants to designate *any* of the Hofeller files as Highly Confidential, let alone *all* of them. Paragraph 1 of the Order states: "To fall within the scope of this Agreement, any such Confidential material shall be designated as 'CONFIDENTIAL' or 'HIGHLY CONFIDENTIAL/OUTSIDE ATTORNEYS' EYES ONLY,' by the Party producing the material." 4/5/19 Consent Protective Order ¶ 1 (emphasis added). Paragraphs 2 and 3 confirm that only "[*t*]*he producing Party may designate*" materials as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Id. ¶¶ 2, 3 (emphasis added). Specifically, "[t]he producing Party may designate as 'CONFIDENTIAL' any materials that it produces in the litigation" subject to meeting certain confidentiality criteria, *id.* ¶ 2, and "[t]he producing Party may designate as 'HIGHLY CONFIDENTIAL/OUTSIDE ATTORNEYS' EYES ONLY' (a) any non-public personal information, or (b) any CONFIDENTIAL material that the producing party reasonably and in good faith believes" meets certain additional criteria. Id. ¶ 3; see also id. ¶ 13 (stating that the Order applies equally to "information produced by a non-Party").

Thus, the Consent Protective Order does not authorize anyone other than the party or non-party "producing the material" to designate such material as either Confidential or Highly Confidential. Legislative Defendants are not "the producing Party" of the Hofeller files, but instead are a "receiving party" of those files. Ms. Hofeller produced the Hofeller files, and she did not designate any of them as Confidential or Highly Confidential. To the contrary, Ms. Hofeller has testified to her desire that her father's political and redistricting work be made available to serve as "a snapshot in time" and a "repository for . . . historical value" to provide "insight into the process -- the literal process." S. Hofeller Dep. at 42:10-43:16; 104:12-105:16.

Furthermore, Legislative Defendants' stated justification for attempting to designate the Hofeller files as Highly Confidential is pretextual. Your letter asserts that, in addition to the 1,001 files designated Highly Confidential pursuant to the Court's May 1, 2019 Order, the devices include additional files containing "confidential financial information." But your letter does not identify any such files, nor have you even attempted to establish that the number of such files is more than a small fraction of the total Hofeller files. If you are genuinely concerned about the privacy of files containing "confidential financial information," you should identify each such file, and Plaintiffs will consider joining in a motion asking the Court to designate such files as Confidential

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or Highly Confidential, as appropriate. But your invocation of some small, unidentified number of files containing unspecified "confidential financial information" as a basis to designate hundreds of thousands of other files as Highly Confidential is unreasonable. The pretextual nature of your purported concern for the Hofeller family's privacy is further laid bare by the fact that you attempted to designate "the entirety" of the files as Highly Confidential just one day after several of the Hofeller files—which exposed misconduct by federal government officials—were submitted to a federal district court and the United States Supreme Court in a case of national public importance.

While Plaintiffs would consider, as stated, jointly moving the Court to designate as Confidential or Highly Confidential any specific additional files containing "confidential financial information" for which a confidentiality designation would be appropriate, Legislative Defendants' attempt to unilaterally designate "the entirety" of the Hofeller files as Highly Confidential is not authorized under the Consent Protective Order and is therefore without legal effect.

II. Legislative Defendants' Privilege Claims Are Meritless

A. Plaintiffs' Counsel Have Acted Properly and Responsibly At All Times and Have Not Reviewed Any Conceivably Privileged Materials

Your letter asserts that Plaintiffs' counsel have "apparently been reviewing likely privileged materials" of Legislative Defendants. That assertion in wrong on every level.

First, while your letter asserts that there are "many" privileged materials among the Hofeller files, your letter identifies only *five* specific documents that you say are "expert witness materials created by Dr. Hofeller in connection with North Carolina legal matters." Plaintiffs' counsel have no intention of reviewing any of those five documents. Nor have Plaintiffs' counsel reviewed—or have any intention of reviewing—any other draft expert report or draft declaration prepared in connection with litigation.

Second, your letter asserts that Plaintiffs "actually filed some" "likely privileged" materials in their April 26, 2019 Supplemental Reply Brief. You do not identify which of the files included in Plaintiffs' April 26 reply brief are supposedly "likely privileged," and for good reason. Legislative Defendants' own April 29, 2019 response to Plaintiffs' reply brief precludes Legislative Defendants from claiming privilege over the files included in the reply—or, indeed, over any draft maps or analyses of draft maps in the Hofeller files that existed before July 1, 2017. In their April 29 response, Legislative Defendants and analyses of draft maps before July 1, 2017, and Legislative Defendants

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specifically denied that they "authorized or were aware of any of the maps or charts Plaintiffs highlighted." Having taken these positions that they had no knowledge of and did not authorize the creation of the material by Dr. Hofeller, Legislative Defendants cannot now contend that the materials are privileged as to them. Moreover, if Legislative Defendants had authorized Dr. Hofeller to draft these maps, they should be public records under state law and responsive to Plaintiffs' discovery requests in this case.

Additionally, in the more than one month since Plaintiffs' April 26 reply, Legislative Defendants never sought a protective order as to any materials included in the reply or asked that the reply be placed under seal.

B. Legislative Defendants Have Waived Any Privilege Claim

In any event, Legislative Defendants have waived any privilege they may have held over *any* information on the Hofeller files, several times over.

1. Legislative Defendants' Failure to Object to Plaintiffs' Subpoena or Move to Quash Waived Any Privilege Claim

As you know, we sent Legislative Defendants' counsel written notice of Plaintiffs' subpoena to Ms. Hofeller on February 13, 2019, the same day we served the subpoena. The subpoena sought "[a]ny storage device in [Ms. Hofeller's] possession, custody, or control that contains" either any documents relating to Dr. Hofeller's work on the challenged state House and state Senate Plans or any information "related to" any such documents. Legislative Defendants could have filed protective objections or a motion to quash, but they did not do so. As the Court has acknowledged: "No objection to or motion to quash the subpoena was filed by any party to this action or Ms. Hofeller." 5/1/19 Order at 1; *see also* S. Hofeller Dep. at 39:2-20.

Legislative Defendants' failure to object to the subpoena or move to quash—even though the subpoena on its face sought materials related to Dr. Hofeller's work for Legislative Defendants—constitutes a clear waiver of any privilege. A party "waive[s] its privilege by its own inaction" when it "fail[s] to act to protect any privilege when served with copies of [a third-party] subpoena." *Am. Home Assur. Co. v. Fremont Indem. Co.*, 1993 WL 426984, at *3-4 (S.D.N.Y. Oct. 18, 1993). "Where a party is aware" that a subpoenaed third party may possess the party's privileged information, "the burden falls on that party to take affirmative steps to prevent the disclosure in order [to] preserve the privilege as to itself." *Id.* at *4. "The failure to act to prevent or object to the disclosure of confidential communications when a party knows or should know that privileged documents may be disclosed by another party waives the privilege with respect to the

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party failing to act." *Id.*; *see also Ravenswood Inv. Co., L.P. v. Avalon Corr. Servs., Inc.,* 2010 WL 11443364, at *2 (W.D. Okla. May 18, 2010) ("Because Defendant did not state its claim of privilege within fourteen days of service of the subpoena on [a third party], the Court concludes Defendant has waived any such claim."); *Patterson v. Chicago Ass'n for Retarded Children*, 1997 WL 323575, at *3 (N.D. Ill. June 6, 1997) ("By failing to object" to third-party subpoena, party "essentially waived her claim to privilege, and the information gleaned via the subpoena may be used."); *Scott v. Kiker*, 59 N.C. App. 458, 461, 297 S.E.2d 142, 145 (1982) ("Defendant . . . waived his privilege because he failed to object to the testimony.").

Here, "[t]he broad scope of that subpoena" to Ms. Hofeller "should reasonably have alerted" Legislative Defendants "to the possibility that [Ms. Hofeller] might produce the [allegedly] privileged documents." *Am. Home Assur.*, 1993 WL 426984, at *4. Legislative Defendants' "failure to take any steps to prevent the disclosure of [allegedly] privileged documents waived the privilege they seek to assert." *Id.*

2. Legislative Defendants' Successful Demand That Plaintiffs Transmit Complete Copies of All of the Hofeller Files to the Other Defendants Waived Any Privilege Claim

Legislative Defendants independently waived any privilege by demanding that Plaintiffs transmit complete copies of all of the Hofeller files to State Defendants and Intervenor Defendants. Following the Court's April 30 hearing, Plaintiffs transmitted complete copies of the full contents of the storage devices—without filtering out *any* of the files—to Intervenor Defendants and State Defendants, neither of which holds any privileged relationship with Legislative Defendants. Legislative Defendants successfully requested that the Court order Plaintiffs to transmit complete copies of the devices to all Defendants even though weeks earlier, on April 9, 2019, Plaintiffs sent you a searchable index of file names and file paths that made apparent the devices contain files involving Dr. Hofeller's work for Legislative Defendants in litigation and other contexts. Legislative Defendants could have requested protective measures before these files were provided to the State Defendants and Intervenor Defendants, but they did not.

Given that "the documents were revealed to third parties without objection"—at Legislative Defendants' request, no less—Legislative Defendants have waived any claim of privilege over them. *Durham Indus. Inc. v. N. River Ins. Co.*, 1980 WL 112700, at *2 (S.D.N.Y. May 8, 1980): *see also Scott v. Glickman*, 199 F.R.D. 174, 179 (E.D.N.C. 2001) (finding waiver where no "reasonable protective measures were employed in order to safeguard claims of privilege" or "to ensure confidentiality" before documents were produced); *Parkway Gallery Furniture, Inc. v. Kittinger/Penn. House Grp., Inc.*, 116

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F.R.D. 46, 50 (M.D.N.C. 1987) ("the privilege may be lost even by inadvertent disclosure when a person fails to take affirmative action and institute reasonable precautions to ensure that confidentiality will be maintained").

Not only did Legislative Defendants demand that Plaintiffs disseminate the Hofeller files to the other Defendants, Legislative Defendants did so knowing that State Defendants have not been aligned with them in this litigation. *In re Martin Marietta Corp.*, 856 F.2d 619, 625 (4th Cir. 1988) (finding waiver where party disclosed documents to government actors who were "adverse during the proceedings at issue"); *Navajo Nation v. Peabody Holding Co.*, 255 F.R.D. 37, 48 (D.D.C. 2009) (finding waiver where a party placed allegedly privileged materials "in the hands of" a potentially adverse party).

3. Any Work-Product Protection Is Defeated by Plaintiffs' Substantial Need for Information and Inability to Obtain It Elsewhere

Any possible claim of work-product privilege over materials related to Dr. Hofeller's work during the *Covington* remedial phase and/or in drawing the 2017 Plans is also defeated by Plaintiffs' substantial need for the materials and the prejudice to Plaintiffs and the public interest that would ensue were they concealed.

"The work product doctrine" is "a qualified privilege for certain materials prepared by an attorney acting on behalf of his client in anticipation of litigation." *State v. Hardy*, 293 N.C. 105, 126, 235 S.E.2d 828, 841-42 (1977). It does not protect materials if a party shows "a 'substantial need' for the document and 'undue hardship' in obtaining its substantial equivalent by other means." *Evans v. United Servs. Auto. Ass'n*, 142 N.C. App. 18, 28, 541 S.E.2d 782, 789 (N.C. Ct. App. 2001) (quoting N.C. Gen. Stat. § 1A-1, Rule 26(b)(3)).

Even based on a limited review of non-privileged materials, it is clear that Plaintiffs have a substantial need for the Hofeller files related to Dr. Hofeller's work during the *Covington* remedial phase and/or in drawing the 2017 Plans, and that Plaintiffs—and the public—would suffer an extreme hardship if they were concealed. The files reveal evidence of false statements and material omissions to the federal district court in *Covington*, which will be highly relevant to the merits of Plaintiffs' claims as well as any remedial process.

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a. Legislative Defendants Made False Statements to the *Covington* Court to Avoid Special Elections in 2017

The Hofeller files reveal that Legislative Defendants made false statements to the *Covington* district court about when the 2017 Plans were created. As a result of those false statements, the court did not order special elections in 2017 that would have jeopardized Republican super-majority control of the state House and state Senate.¹

As you know, following the U.S. Supreme Court's decision in *Covington* on June 5, 2017, the *Covington* district court ordered briefing on whether to conduct special elections under remedial state House and state Senate plans in 2017 or instead wait until the 2018 elections to implement remedial plans. In a brief submitted to the *Covington* court on July 6, 2017, Legislative Defendants repeatedly stated that no work on remedial plans had yet begun, and that Legislative Defendants therefore needed a long period of time to draft new plans. For instance, Legislative Defendants told the court:

- The General Assembly had not "start[ed] the laborious process of redistricting earlier" than July 2017. *Covington*, ECF No. 161 at 28.
- It had not been "necessary to begin the process" of drawing new districts "until at, the earliest, the end of the current Supreme Court term" on June 30, 2017. *Id.* at 29.
- "The General Assembly could begin the process of compiling a record in July 2017 with a goal of enacting new plans by the end of the year." *Id.* at 28-29.
- In the "interim" between the Supreme Court's stay of the district court's judgment on January 10, 2017 and the end of the Supreme Court term on June 30, 2017, rather than engage in "drawing remedial legislative districts," "the North Carolina General Assembly did just what the Supreme Court allowed it to do – enact policies and legislation that benefit the State as a whole." *Id.* at 28.

¹ In their April 29, 2019 filing in the instant case, Legislative Defendants asserted that certain of the Hofeller files from before October 31, 2016 may be privileged because they may have been prepared in connection with a declaration that Dr. Hofeller submitted in *Covington* on October 31, 2016. Legislative Defendants provided no support for this claim of possible privilege, but in any event, all of the Hofeller files underlying the discussion in this section post-date October 31, 2016.

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- "This Court should not short-circuit that process [of redistricting] by forcing the General Assembly to draw new maps without first engaging in the legislative and public consultation that this inherently policy-driven task necessitates." *Id.* at 4.
- "Proceeding on [its proposed] timeline will allow the General Assembly to receive public input, engage in internal discussions about the design of remedial districts, prepare draft remedial plans, receive public responses to those draft remedial plans, and incorporate public feedback into the final plans." *Id.* at 2.
- "Investigating, drawing, debating, and legislatively enacting satisfactory redistricting plans in time to hold elections in November 2017 or January 2018 would not even begin to allow [for sufficient] input by the public and other members of the General Assembly. And if the process and evidence relied upon by the General Assembly in 2011, developed over five months, was insufficient, it would be impossible for the General Assembly to establish a proper record in just a few days or weeks." *Id.* at 13.

Similarly, at a July 27, 2017 hearing, Legislative Defendants' counsel stated: "[R]edistricting is a very arduous, difficult task. It takes a lot of time and attention." ECF No. 181 at 87:18-19.

Based on these statements by Legislative Defendants, the *Covington* court denied the plaintiffs' request to order special elections in 2017. The court credited Legislative Defendants' assertion that "Plaintiffs' proposed August 11, 2017, deadline will provide them with insufficient time to conduct public hearings and engage in the robust deliberations necessary to develop districting plans." *Covington v. North Carolina*, 267 F. Supp. 3d 664, 666 (M.D.N.C. 2017). While the court admonished Legislative Defendants for not having started the process sooner, the court agreed with Legislative Defendants that "there are many benefits to a time line that allows for the General Assembly (1) to receive public feedback on the criteria to be used in drawing the remedial districts and proposed remedial districting plans applying those criteria; (2) to revise the proposed plans based on that feedback; and (3) to engage in robust deliberation." *Id.* at 667. Thus, the court concluded, an expedited schedule for adopting remedial plans, as needed to hold special elections in 2017, "[did] not provide the General Assembly with adequate time to meet their commendable goal of obtaining and considering public input and engaging in robust debate and discussion." *Id.*

During the remedial phase through the fall of 2017, Legislative Defendants continued stating that no work had been done—including by Dr. Hofeller—to create new districts before July 2017:

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• Representative Lewis made the following statement at a July 26, 2017 hearing of the Joint Redistricting Committees (ECF 184-7 at 11-12):

REP MICHAUX: Are there any other maps that have not yet been released? For instance, anything that has been drawn by Dr. Hofeller or anybody else that you know of that have not yet been released?

REP. LEWIS: Not that I know of, sir.

• Representative Lewis made the following statements at an August 4, 2016 hearing of the Joint Redistricting Committees (ECF 184-8 at 72-73):

REP. MICHAUX: Can you assure this body right now that no redistricting maps have yet been drawn?

REP. LEWIS: I can assure this body that none has been drawn at my direction and that I have direct knowledge of. The only map I'm aware of was submitted by an independent group and presented to this committee last week.

•••

REP. MICHAUX: Just to be clear, I'm talking about anything that any chairman or members of the Republican Party or anybody. No map has yet been drawn that should be handed out here? I'm -- people are concerned about the fact -- they think you've already drawn the maps. I want to make sure, coming from you, that you have not yet drawn maps.

REP. LEWIS: Thank you for the question. *I have not yet drawn maps nor have I directed that maps be drawn, nor am I aware of any other entity operating in conjunction with the leadership that has drawn maps.*

On September 7, 2017, Legislative Defendants submitted the hearing transcripts containing these statements to the district court in connection with securing the court's approval of the 2017 Plans.

In a September 22, 2017 submission to the *Covington* court seeking approval of the 2017 Plans, Legislative Defendants further stated: "Shortly following this Court's order of July 31, 2017, the legislative leaders, Senator Ralph Hise and Representative David Lewis, met with the map drawing consultant, Dr. Hofeller. Redistricting concepts

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were discussed with Dr. Hofeller as leaders made plans to comply with the Court's Order." ECF No. 192 at 6.

Likewise, in this case, Legislative Defendants have stated to the Superior Court that no draft maps existed prior to July or August 2017. For instance:

- In response to one of Plaintiffs' interrogatories asking about any "draft or copy" of "all or parts of the 2017 Plans before August 10, 2017," Legislative Defendants responded: "To the best recollection of [Legislative] Defendants, no drafts of the 2017 Plans existed prior to August 10, 2017."
- On April 26, 2019, Legislative Defendants stated in a Superior Court filing that "no legislative redistricting was occurring prior to July 2017," and that "July 1, 2017 to August 31, 2017 represented the period of time that the legislature was actually engaged in and preparing for legislative redistricting."
- At an April 30, 2019 hearing, Plaintiffs' counsel stated that July and August 2017 were the "timeframes when the redistricting actually occurred."

The Hofeller files reveal, however, that Dr. Hofeller had not only created numerous iterations of draft maps before July 2017, but that he had substantially *completed* the 2017 Plans *by the end of June 2017*. Specifically, the files show that Dr. Hofeller had already completed *over 97%* of the new Senate plan and *over 90%* of the new House plan by June 2017.

These facts are inconsistent with Legislative Defendants' prior statements to courts and the public that they had not "start[ed] the laborious process of redistricting" before July 2017, that "no legislative redistricting was occurring prior to July 2017," that "no drafts of the 2017 Plans existed prior to August 10, 2017," that they wanted to "first engag[e] in . . . legislative and public consultation" before "draw[ing] new maps," that they needed "[]sufficient time" in July and August 2017 "to conduct public hearings and engage in the robust deliberations necessary to develop districting plans," that they only began discussing "redistricting concepts" with Dr. Hofeller in August 2017, and so on.

The inaccuracy of the above statements, and the fact that the entire public redistricting process in the fall of 2017 appears to have been a charade, are obviously relevant to Plaintiffs' claims on the merits, as well as the procedures to be used in any remedial process should Plaintiffs prevail. Plaintiffs cannot obtain this evidence from any other source, and there would be substantial hardship to Plaintiffs and the public interest were the truth concealed.

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b. Legislative Defendants Made False Statements to the *Covington* Court About the 2017 Redistricting Process and the Criteria Used to Create the Remedial Plans

In its July 31, 2017 order declining to order special elections in 2017 and allowing more time for the creation and enactment of remedial plans, the *Covington* court ordered Legislative Defendants to file, within seven days of enacting new plans, the following:

- "a description of the process the Senate Redistricting Committee, House Redistricting Committee, and General Assembly followed in enacting the new plans, including the identity of all participants involved in the process";
- "any alternative district plans considered by the Senate Redistricting Committee, House Redistricting Committee, or the General Assembly"; and
- "the criteria the Senate Redistricting Committee, House Redistricting Committee, and General Assembly applied in drawing the districts in the new plans."

Covington, 267 F. Supp. 3d at 668.

The Hofeller files reveal that statements in Legislative Defendants' September 7, 2017 submission to the *Covington* court are false or misleading. In purporting to give a "Description of the 2017 Redistricting Process," Legislative Defendants suggested that the process began "[o]n June 27, 2017," when Senate President Pro Tempore Phil Berger and House Speaker Tim Moore approved a contract with Dr. Tom Hofeller as a mapdrawing consultant for Rep. David Lewis and Sen. Ralph Hise, the forthcoming chairs of the 2017 redistricting committees in the House and the Senate." ECF No. 184 at 4. In reality, Dr. Hofeller had been drawing draft remedial maps since at least *August 2016*, and the new maps were substantially complete by June 27, 2017. In describing "Alternative Districting Plans Considered," Legislative Defendants listed various alternative maps proposed by other members of the General Assembly, but did not list the numerous iterations of alternative draft maps that Dr. Hofeller had created. *Id.* at 9-10.

In the same submission, under the heading "Criteria Applied in Drawing the 2017 House and Senate Districts," Legislative Defendants stated that the criteria "used to draw new districts in the 2017 House and Senate Redistricting plans" were those adopted by the House and Senate Redistricting Committees "[o]n August 10, 2017." *Id.* at 6, 10. Of course, Dr. Hofeller had already completed drawing many of the districts by June 2017, over a month-and-a-half before August 10, 2017. Therefore, the criteria adopted by

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House and Senate Redistricting Committees on August 10, 2017 definitively were not the actual criteria "used to draw" these districts.

Again, the fact that the "Adopted Criteria" of the General Assembly were not the real criteria used by Dr Hofeller to create the 2017 Plans is highly relevant to the merits of Plaintiffs' claims as well as any remedial process should Plaintiffs prevail, and there would be prejudice to Plaintiffs and the public interest if these facts were covered up.

c. Legislative Defendants Made False Statements About the Use of Racial Data in Creating the Remedial Plans

Legislative Defendants made additional false statements to the *Covington* court and the public concerning the use of racial data during the 2017 redistricting process. As you know, after the prior plans were invalidated as unconstitutional racial gerrymanders, *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016), Legislative Defendants adopted a formal criterion prohibiting use of racial data for the 2017 Plans: "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." ECF No. 184-37 at 2 (emphasis added).

Further, Legislative Defendants repeatedly stated to the court and the public that there was not any racial data in the map-drawing software or other databases, and that they and Dr. Hofeller accordingly did not know the racial composition of the new districts. As just a few examples, Legislative Defendants said the following:

- "[D]ata regarding the race of voters was not used in the drawing of the districts, and, in fact, *was not even loaded into the computer used by the map drawer to construct the districts.*" ECF No. 192 at 28 (court filing) (emphasis added);
- "[W]e have not had and do not have racial data on any of these districts." ECF 184-17 (8/24/17 Senate Hr'g Tr. at 66 (statement of Sen. Hise)).
- "Race was not part of the database. It could not be calculated on the system[.]" *Id.* at 102 (statement of Sen. Hise).
- "There was no racial data reviewed in the preparation of this map." ECF 184-18 (8/25/17 Hr'g Tr. at 20 (statement of Rep. Lewis)).

The Hofeller files reveal that none of the above statements were true. Dr. Hofeller did have "data on the race of voters" "loaded into the computer" he used to "construct the districts." Dr. Hofeller's computer in fact appears to have had data

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regarding the racial composition of the proposed districts for each and every iteration of his draft maps. Every Maptitude file with draft House or Senate districts from 2017 including draft maps from August 2017 *after* Legislative Defendants signed an engagement letter formally retaining Dr. Hofeller to create new maps—appears to have had racial data for the districts. Images from some of the Maptitude files even reveal that Dr. Hofeller apparently was displaying the black voting age population or "BVAP" of the new districts in some of the drafts. Dr. Hofeller also had racial data on the draft districts in Excel spreadsheets. Legislative Defendants' statements that racial data "was not even loaded into the computer used by the map drawer to construct the districts," that "[r]ace was not part of the database," and so on were not true.

The full details of all of the above false statements will be made clear at trial, but in light of their existence, any work-product protection that could conceivably apply to the files at issue is defeated by Plaintiffs' need for the materials and the inability to obtain substantially equivalent evidence elsewhere. *Hardy*, 235 S.E.2d at 841-42. Legislative Defendants' apparent attempt to cover up this evidence, including by ineffectually designating "the entirety" of the Hofeller files as Highly Confidential under the Consent Protective Order, is troubling.

Notwithstanding the above, if you believe that there are additional draft expert reports similar to the specific files identified in your letter, we are willing to meet and confer about such files. As mentioned, we have no intention of reviewing any such files and would be willing to consider an accommodation to address your concerns, notwithstanding your clear waiver of any privilege. To facilitate such a meet-and-confer process, you should identify each such file, specify the privilege that you believe applies, and provide appropriate legal and factual support for your contention that the file is privileged.

III. Plaintiffs Properly Received the Hofeller Files in Response to their Subpoena

Your letter expresses concerns about "the manner in which Plaintiffs came into possession of" the devices. But as you know, on February 13, 2019, Plaintiffs served a lawful subpoena to Ms. Hofeller, through her lawyer, seeking the entire storage devices, and Ms. Hofeller produced the devices to Plaintiffs in response to the subpoena. As you also know from Ms. Hofeller's deposition on May 17, 2019, when your co-counsel Ms. Scully questioned Ms. Hofeller about these issues for several hours, Ms. Hofeller testified that she properly obtained possession of the devices on October 11, 2018 from her parents' home in Raleigh, with her mother Kathleen Hofeller's knowledge and approval.

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S. Hofeller Dep. at 20:3-26:10; 52:6-10; 81:8-82:2; 110:17-11:24. Ms. Hofeller testified that her mother did "not object to [her] taking the devices," and when asked whether her mother said "it was okay to take the devices," Ms. Hofeller testified, "Yes. She encouraged me too." *Id.* at 21:6-11; *see id.* at 26:3-10 (when Ms. Hofeller asked "Can I take these?" her mother "said absolutely"). Ms. Hofeller testified that "[her] mother gave to [her] unconditionally" "everything on those hard drives that [her] father had left in his room"—the devices were "given to [her] by [her] deceased father's wife." *Id.* at 81:8-82:2.

Ms. Hofeller further testified that she properly produced the devices to Plaintiffs in March 2019 in response to Plaintiffs' February 13, 2019 subpoena, again with her mother's knowledge and approval. *Id.* at 39:21-41:8. When asked whether her mother had given "her permission or her okay [for Ms. Hofeller] to provide the storage devices . . . to the plaintiffs' lawyers in response to the subpoena," Ms. Hofeller testified, "Yes." *Id.* at 41:2-8.

The following responds to the specific "concerns" raised in your letter:

First, your letter asserts that there is "serious doubt on [Ms. Hofeller's] mother's ability to consent to Ms. Hofeller taking of the devices and Ms. Hofeller's providing of those devices to counsel," because a temporary guardian was appointed for Kathleen Hofeller "after" she gave the devices to her daughter. That is wrong. As described, Ms. Hofeller testified that her mother gave her the devices containing the Hofeller files on October 11, 2018. S. Hofeller Dep. at 52:6-10. It was only weeks later, on November 6, 2018, that an interim guardian ad litem was appointed for Kathleen Hofeller in a then-ex *parte* proceeding, in response to a Petition for Adjudication of Incompetence that had been filed one week earlier. On February 7, 2019, the incompetency petition with respect to Kathleen Hofeller was dismissed for failure to prosecute—without any finding of incompetency—after the parties reached a settlement. See In re The Matter of Kathleen H. Hofeller, 18 SP 2634 (N.C. Super. Feb. 7, 2019). That settlement, among other things, precludes the parties from bringing future incompetency proceedings against Kathleen Hofeller. Plaintiffs issued their subpoena to Stephanie Hofeller on February 13, 2019 after the incompetency proceeding was dismissed. The incompetency proceeding thus did not begin until after the date when Ms. Hofeller obtained possession of the devices with her mother's permission, and the incompetency proceeding concluded (with no finding of incompetency) before the date when Ms. Hofeller sent the devices to Plaintiffs in response to their subpoena again with her mother's permission,

Second, Ms. Hofeller's deposition testimony contradicts your assertion that "Ms. Hofeller had no discussions with her mother regarding if there was any business

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information contained on the drives." When asked whether she had "a specific conversation with [her] mother to tell her that [she] identified business records of [her] father's on" the devices, Ms. Hofeller testified: "All of those points were at some point mentioned. My mother was aware of the fact that . . . the subpoena for these hard drives was, in fact, for *work-related files only*. So not only was it clear to her that there were *work-related files*, but it was clear to her that the lawyers that would be looking at it on either side would not be looking at anything other than *my father's work-related files*." S. Hofeller Dep. at 56:22-57:18 (emphases added); *see id.* at 59:13-18 ("Q. At what point in time did you discuss with your mother the possibility of turning over your father's business records to Common Cause or to Arnold & Porter? A. The subpoena. That -- that would be when we specifically discussed that.").

Third, your letter's suggestion that Mr. Speas and Ms. Mackie should have "advise[d] Ms. Hofeller to seek the advice of an attorney for herself or her mother" is nonsensical. As you know, Stephanie Hofeller testified that she originally contacted Common Cause specifically to request a referral to an attorney independent of her father who could represent her mother in the incompetency proceeding. S. Hofeller Dep. at 31:7-19; 36:24-38:9. Common Cause provided such a referral, leading to Ms. Hofeller's mother retaining an attorney to represent her in the incompetency proceeding. *Id.* at 59:5-12. As to Ms. Hofeller, she is the one who proactively contacted Common Cause, raised the fact that she had the electronic storage devices, and affirmatively offered to provide the devices to Common Cause. *Id.* at 31:7-38:17. We are aware of no obligation of a lawyer to advise a non-adverse third party like Ms. Hofeller to obtain counsel in these circumstances, and your letter does not identify any such obligation. In any event, the point is moot because Plaintiffs served their subpoena on Ms. Hofeller through her attorney, Tom Sparks, who later defended her deposition in this case. Ms. Hofeller was represented in connection with Plaintiffs' subpoena.

Finally, your letter asserts that Mr. Speas and Ms. Mackie "told [Ms. Hofeller] that 'anyone,' including plaintiffs or legislative defendants, could only look at the content of items that were explicitly and obviously related to this case, and as a result, she should not be concerned about a privacy issue with her or her mother." But Plaintiffs' counsel have in fact attempted to shield sensitive personal information of the Hofeller family from disclosure, including through the designation of such materials as Highly Confidential pursuant to the Court's May 1, 2019 Order. It is Legislative Defendants who successfully insisted that personal sensitive information in the Hofeller files be shared with other parties in the case, rather than filtered out and never reviewed by anyone. Beyond that, we understand from Ms. Hofeller that she approves of Plaintiffs' review and use of the Hofeller files pertaining to Dr. Hofeller's political and redistricting work. In any event, while Ms. Hofeller testified that she and her mother "felt . . . that the

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process would most likely be centered around provably pertinent files," Ms. Hofeller also testified that she "assured her [mother] that she should be aware that once you -- and, again, this is something my father taught me. Once you let go of it, you don't have control of it anymore so you can't be guaranteed what will and won't be disclosed, so it's something you should be prepared for when you are involved with discovery." S. Hofeller Dep. at 40:1-15.

IV. Legislative Defendants' Assertions Regarding Plaintiffs' Counsel's Professional Responsibilities Are Frivolous and Improper

Your letter states that you "insist on compliance with the North Carolina Rules of Civil Procedure and Rules of Professional Responsibility," and that Legislative Defendants "are considering all options available to them to enforce their rights" "[s]hould [Plaintiffs' counsel] persist in neglecting [their] professional responsibilities." But you do not identify a single rule of professional conduct purportedly implicated by Plaintiffs' counsel's actions. Your nonspecific references to Plaintiffs' counsel's "professional responsibilities" appear to be nothing more than an attempt to intimidate. We note that frivolous claims of professional ethics violations made to obtain an advantage in a civil matter are impermissible, and we refer you to District of Columbia Rule of Professional Conduct 8.4(g) and North Carolina Rule of Professional Responsibility 3.1. Under Rule 3.1, "a threat to file disciplinary charges is . . . improper if the disciplinary charges are frivolous."²

V. Legislative Defendants' Specific Demands Are Baseless and Unreasonable

First, your letter demands that Plaintiffs "immediately cease and desist reviewing all materials produced by Ms. Hofeller and particularly all files unrelated to North Carolina." But Legislative Defendants, as leaders of the North Carolina General Assembly, have no legal interest in, and no standing to make demands regarding, files that are "unrelated to North Carolina." Moreover, while this demand is predicated on Legislative Defendants' (erroneous) understanding of Ms. Hofeller's intent in producing the devices in response to Plaintiffs' subpoena, Ms. Hofeller's attorney recently confirmed in writing—prior to the filings in the federal census case—that Ms. Hofeller consents to use of the Hofeller files in connection with matters outside North Carolina.

Second, your letter demands that we "immediately cease and desist providing any or all of these materials to third parties unrelated to this case, as [we] have apparently

² Suzanne Lever, *I'm Telling Mom! Reporting Professional Misconduct*, N.C. State Bar Journal (June 2014), https://www.ncbar.gov/for-lawyers/ethics/ethics-articles/im-telling-mom-reporting-professional-misconduct.

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recently done in a matter pending in New York." Again, Legislative Defendants have no standing to make demands regarding materials unrelated to North Carolina. Anyway, your demand is contrary to hornbook law. "The general rule . . . is that information produced in discovery in a civil case may be used in other cases." United States v. Comstock, 2012 WL 1119949, at *1 (E.D.N.C. Apr. 3, 2012). Sharing discovery with litigants in other cases is not just permissible, but courts "have overwhelmingly and decisively *endorsed* the sharing of discovery information among different plaintiffs, in different cases, in different courts." Burlington City Bd. of Educ. v. U.S. Mineral Prod. Co., 115 F.R.D. 188, 190 (M.D.N.C. 1987) (emphasis added). Absent a protective order to the contrary (and there is no such order here with respect to the files at issue), nothing "prevent[s] [a litigant] who lawfully has obtained discovery . . . from using the discovery elsewhere." In re Accent Delight Int'l Ltd., 869 F.3d 121, 135 (2d Cir. 2017); see also Parkway Gallery Furniture, Inc. v. Kittinger/Pennsylvania House Grp., Inc., 121 F.R.D. 264, 268-69 (M.D.N.C. 1988) ("[A] party needs to present good cause for prohibiting the dissemination of non-confidential discovery information or from prohibiting the utilization of such discovery in other litigation."); Ohio Valley Envtl. Coal. v. Elk Run Coal Co., 291 F.R.D. 114, 122 (S.D. W. Va. 2013) ("[T] he potential use of the fruits of discovery in other litigation is not, alone, a basis for a protective order."); FTC v. Digital Interactive Assocs., Inc., 1996 WL 912156, at *3 (D. Colo. Nov. 18, 1996) ("[D]issemination of information to litigants in other forums is often encouraged for purposes of judicial economy."); United States v. Hooker Chemicals & Plastics Corp., 90 F.R.D. 421, 426 (W.D.N.Y. 1981) ("Use of the discovery fruits disclosed in one lawsuit in connection with other litigation, and even in collaboration among plaintiffs' attorneys, comes squarely within the purposes of the Federal Rules of Civil Procedure"); Patterson v. Ford Motor Co., 85 F.R.D. 152, 153-54 (W.D. Tex. 1980) (similar).

Third, your letter demands, bizarrely, that Plaintiffs "return all of the produced materials to the Trustee for the Kathleen H. Hofeller Irrevocable Trust." You cite no legal authority, and we can think of none, for the notion that a litigant can demand that subpoenaed electronic files be returned to the "Trustee" of a financial trust of the mother of the subpoenaed individual. Even if Kathleen Hofeller rather than Stephanie Hofeller had produced the files in response to the subpoena (which she did not), Kathleen Hofeller is legally competent, and you do not explain why the materials would go to a "Trustee" rather than to her. It appears that you are making this odd request because Kathleen Hofeller herself does not want return of the materials.

Fourth, your letter asks that Plaintiffs identify all "individuals [Plaintiffs' counsel's law firms] employ" who have reviewed the "produced materials." As stated above, we can represent that no one at our law firms has any intention of reviewing any of the five specific files identified in your letter as purportedly privileged. We have no

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obligation to provide you further information regarding names of attorneys who have worked on this matter.

Fifth, your letter also asks which of the files that you characterize as "wrongfully produced materials have been shared outside [Plaintiffs' counsel's] firms." While we have no obligation no respond, we can advise you of the following: As you know, on May 6, 2019, we provided complete copies of all of the Hofeller files to all three sets of Defendants, including Legislative Defendants represented by you, Intervenor Defendants represented by separate private counsel, and State Defendants represented by the North Carolina Attorney General's Office. We provided complete copies of all of the Hofeller files to all of the Hofeller files to each set of Defendants because you demanded that we do so. We have no information about whether and to what extent Defendants may have shared files with others.

Lastly, your letter demands that Plaintiffs "attest that all copies of the materials wrongfully produced by Ms. Hofeller are no longer in []our possession and have been destroyed." Legislative Defendants have offered no legitimate basis for this demand. Moreover, given that the Hofeller files reveal wrongdoing by government officials, "destoy[ing]" the files could constitute spoliation.

Sincerely,

/s/ R. Stanton Jones R. Stanton Jones