

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

**INTERVENOR-DEFENDANTS’
PRETRIAL BRIEF**

NOW COME Defendant-Intervenors Adrain Arnett, Carolyn Elmore, Cathy Fanslau, Connor Groce, Reginald Reid, Aubrey Woodard, and Ben York (the “Intervenor-Defendants”) and, pursuant to the Court’s February 25, 2019 Order adopting the Stipulated Proposed Case Management Order, hereby serve Intervenor-Defendants’ Pretrial Brief.

I. INTRODUCTION.

Through Plaintiffs’ lawsuit, they seek an order invalidating the legislative district maps for the North Carolina House of Representatives and North Carolina Senate, passed by the North Carolina General Assembly in 2017¹ (the “2017 Maps”) in response to *North Carolina v. Covington*,² and thereafter used in the 2018 elections.³ To prevail the Plaintiffs must persuade this

¹ H.B. 927, 2017 N.C. Sess. Laws 1498–1350 (House Redistricting Plan); S.B. 691, 2017 N.C. Sess. Laws 1483–98 (Senate Redistricting Plan).

² See *Covington v. North Carolina*, 267 F. Supp. 3d 664, 668–69 (July 31, 2017) (ordering the Legislature to redraw portions of the district plans for the North Carolina House and Senate).

³ See *North Carolina v. Covington*, 138 S. Ct. 2548 (June 28, 2018) (per curiam) (ordering that the federal district court exceeded its jurisdiction by invalidating the 2017 Maps on state constitutional grounds, and permitting the state to use those maps in the 2018 elections).

Court to read into the North Carolina Constitution an unarticulated standard banning political considerations in legislative redistricting, and then proceed to find that the 2017 Maps violate that newly created constitutional standard.

Plaintiffs contend that the North Carolina General Assembly's ("Legislature") consideration of "political affiliations and viewpoints" in drawing the legislative district lines violated three provisions of the North Carolina Constitution: (1) Article I, Section 19 ("No personal shall be denied the equal protection of the laws[.]"); (2) Article I, Section 10 ("All elections shall be free."); and (3) Article I, Sections 12 ("The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances[.]") and 14 ("Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained[.]"). Plaintiffs' legal claims will fail at trial for, *inter alia*, the following reasons:

Plaintiffs' legal claims pose nonjusticiable political questions for the Court. Partisan advantage and incumbency protection are valid and lawful for the Legislature to consider in drawing district maps. *Stephenson v. Bartlett*, 355 N.C. 354, 371, 562 S.E.2d 377, 390 (2002) (*Stephenson I*) ("The General Assembly may consider partisan advantage and incumbency protection in the application of its discretionary redistricting decisions . . . but it must do so in conformity with the State Constitution."); *see also Dickson v. Rucho*, 368 N.C. 481, 520, 781 S.E.2d 404, 432 (2015) (*Dickson II*) (acknowledging that partisan factors are valid redistricting considerations), *vacated on other grounds, Dickson v. Rucho*, 137 S. Ct. 2186 (2017) (*Dickson III*). Unlike claims involving the federal "one person one vote" requirement or claims of racial gerrymandering, partisan redistricting claims are nonjusticiable political questions. *See Rucho v. Common Cause*, 588 U.S. ___ (slip op. at *12-*13) (2019) (citing *Hunt v. Cromartie*, 526 U. S.

541, 551 (1999); *Gaffney v. Cummings*, 412 U. S. 735, 753 (1973)) (holding that whether legislatures may take partisan interests into account when drawing district lines is a nonjusticiable political question under the federal Constitution); *see also Cooper v. Berger*, 370 N.C. 392, 407–08, 809 S.E.2d 98, 107 (2018) (quoting *Bacon v. Lee*, 353 N.C. 696, 717, 549 S.E.2d 840, 854 (2001)) (“ ‘The . . . doctrine excludes from judicial review those controversies which revolve around policy choices and value determinations constitutionally committed for resolution to the’ legislative or executive branches of government.”); *Hoke County Bd. of Educ. v. State*, 358 N.C. 605, 639, 599 S.E.2d 365, 391 (2004) (citing *Baker v. Carr*, 369 U.S. 186, 210 (1962)) (adopting the federal standard that renders an issue nonjusticiable “when satisfactory and manageable criteria or standards do not exist for judicial determination of [an] issue”).

It remains unclear what evidence Plaintiffs have—or could have—that would show that the 2017 Maps somehow justify their desired reversal of precedent; what is clear, however, is that Plaintiffs have not articulated any standard by which the Court could adjudicate claims of partisan gerrymandering, much less a judicially discoverable and manageable standard. Indeed, although Plaintiffs have identified numerous purported deficiencies with the 2017 Maps, Plaintiffs and their experts have refused at all times to propose any alternative redistricting map that they would contend would be in compliance with their fanciful interpretation of the law. Furthermore, the relief that Plaintiffs seek would inflict upon the Intervenor-Defendants and other North Carolina voters who do not share Plaintiffs’ political affiliations or viewpoints the very same “constitutional” injury of which the Plaintiffs complain—specifically, legislative district maps drawn by a mapmaker in order to intentionally discriminate against Republican voters based on their “political affiliations and viewpoints.”

Even if Plaintiffs' Claims are Justiciable, Plaintiffs Cannot Show that the Legislature Used Its Limited Discretion to Create an Unconstitutional Partisan Gerrymander. It is undisputed that the Legislature did not have plenary authority to draw the 2017 Maps. The redistricting process in North Carolina is largely predetermined by federal and state constitutional standards as demonstrated by the nine factors identified by the North Carolina Supreme Court in the *Stephenson* cases. *See Stephenson v. Bartlett*, 357 N.C. 301, 305–07, 582 S.E.2d 247, 250–51 (2003) (*Stephenson II*). It was constrained, among other things, by:

- The county groupings, which no parties have challenged;
- The lines used in the 2011 Maps, which could only be changed if necessary to comply with the *Covington* decision under North Carolina's mid-decade redistricting rule, *see* N.C. Const. art. II § 5(4);
- Equal population, the whole county rule, contiguity, compactness, and a commitment to split fewer precincts than the 2011 Maps; and
- Practical considerations, including in which counties Democratic-leaning and Republican-leaning voters live.

(LDTX007 (listing criteria utilized by the Legislature in enacting the 2017 Maps)). The county groupings and mid-decade redistricting rule themselves gave the Legislature no discretion into which Senate districts to place 63.3% of the population, and into which House districts to place 46.5% of the population, in enacting the 2017 Maps. (Rebuttal Expert Report of Dr. Douglas Johnson 3–5). The remaining criteria further constrained the Legislature's discretion, as the Legislature had to draw redistricting maps for where people actually live, not for some hypothetical state where Republicans and Democrats are equally distributed among geographic districts.

In addition, the evidence will show that the 2017 Maps do not prevent the Plaintiffs from voting in elections or exercising any of their voting-related rights. Further, the 2017 Maps do not prevent the North Carolina Democratic Party from winning a majority of the seats in the Legislature. Contrary to the Complaint, and assuming that the statewide 51% margins received by Democratic Party candidates is not their ceiling, the North Carolina Democratic Party should be able to win majorities in the North Carolina House and Senate under the 2017 Maps. Democratic Party candidates, as recently as 2008, received 55% of the statewide vote for the North Carolina Senate, and in 2010 Republican Party candidates received 59% of the statewide vote for the Legislature. Plaintiffs cannot introduce evidence that winning 59% or 55% of the statewide vote is impossible, or that winning such a percentage of the statewide vote would not obtain them majorities in the Legislature. As such, under the 2017 Maps, Democratic candidates can win a majority of the seats in the Legislature.

II. FACTUAL AND PROCEDURAL BACKGROUND.

North Carolina courts have traditionally recognized that a legislature's consideration of political factors in redrawing district lines does not render the district map generated by the Legislature illegal. *Stephenson I*, 355 N.C. at 371, 562 S.E.2d at 390; *Dickson II*, 368 N.C. at 520, 781 S.E.2d at 432. For example, the legislative district maps governing the 2010 elections of the members of the North Carolina House of Representatives and North Carolina Senate were drawn and passed by legislative chambers that were comprised of Democratic Party majorities, who were not constrained from taking partisan factors into account in drawing those maps. Nonetheless, even though the lines were drawn by the Democratic majority, in the 2010 General Election the Republican Party candidates won more than a majority of seats in both the North Carolina House

of Representatives and North Carolina Senate and, in the process, won approximately 59% of the statewide vote share.

The legislative district maps at issue in this case (the 2017 Maps) were drawn by Republican majorities in the North Carolina House and Senate in response to federal court redistricting decisions holding that certain parts of the 2011 redistricting plans were unconstitutional racial gerrymanders.⁴ See *North Carolina v. Covington*, 138 S.Ct. 2548, 2550 (2018) (per curiam). The 2017 Maps were approved by the *Covington* Court prior to the 2018 election. *Id.* at 2552.

Shortly after the 2018 General Election, Plaintiffs filed this lawsuit against Rep. David Lewis, Sen. Ralph Hise, Speaker Tim Moore, President *Pro Tempore* Phil Berger, the North Carolina Board of Elections (“NCSBE”), and the members of the NCSBE, contending that the 2017 Maps were the product of an unconstitutional partisan gerrymander, and that the 2017 Maps prevented Democratic Party candidates from winning a majority of the seats in the Legislature in both the 2018 election and future elections. After removal to federal court and remand therefrom, this Court entered a Scheduling Order on February 1, 2019, which, *inter alia*, set the case for trial on July 15, 2019.

On January 29, 2019, Intervenor-Defendants filed their Motion to Intervene. After opposition from Plaintiffs, on February 26, 2019, the Court entered an Order allowing Intervenor-Defendants to intervene so long as they complied with the scheduling orders already entered in the case. During the course of discovery, Plaintiffs and Intervenor-Defendants agreed to present live

⁴ Two state house districts and two state senate districts were required to be redrawn by a Special Master appointed by the *Covington* court, which not only resulted in those district lines changing, but, obviously, those of adjoining districts as well. *North Carolina v. Covington*, 138 S. Ct. 2548, 2550–52 (2018) (per curiam). Despite the fact that their Prayer for Relief requests that the 2017 Maps be thrown out in their entirety, Plaintiffs claim they are not challenging those districts redrawn by the Special Master. (Am. Compl. ¶ 125, p.75 (Prayer for Relief)).

testimony from only Intervenor-Defendants Carolyn Elmore, Ben York, Reginald Reid, and Connor Groce at trial, with Intervenor-Defendants Cathy Fanslau, Adrain Arnett, and Aubrey Woodard submitting affidavits which would comprise their trial testimony. (*See* Intervenor-Defendants' Response in Opposition to Plaintiffs' Motion In Limine to Exclude Live Testimony from More Than One Intervenor-Defendant, at p.2). Under the agreement, Intervenor-Defendants Carolyn Elmore, Ben York, Reginald Reid, and Connor Groce were deposed prior to the close of discovery and will be prepared to testify at trial.

Intervenor-Defendants anticipate that they will provide probative testimony at trial on, *inter alia*, the following topics:

- Intervenor-Defendants' approval of their respective state house and state senate districts under the 2017 Maps;
- To the extent that the Court finds that the Legislature discriminated against Plaintiffs in drawing the 2017 Maps, the Court would have to engage in the same type of discrimination, against Intervenor-Defendants, in awarding the remedies that Plaintiffs seek;
- Information about the districts in which Intervenor-Defendants live, along with facts relating to Plaintiffs' claims and Defendants' defenses; and
- Information about Intervenor-Defendants' experience with elections conducted in their districts and the effects of the district lines on such elections.

In addition, Intervenor-Defendants anticipate that their expert witness, Dr. Michael Barber, will testify regarding the following opinions at trial:

- Since the mid-1970s, the partisan composition of the Legislature has been decidedly trending Republican, and it is difficult to argue that the redistricting plans enacted by the Legislature since 2011 have done much to affect that overall trend;

- With regard to the relationship between the statewide vote share compared to the number of legislative seats won, on seven (7) occasions since 2000 the political party which won a majority of the vote share did not win a majority of the seats of the house of the legislature for which it won a majority of the vote share. Thus, while not the most common outcome, the 2018 seats/votes relationship is far from unique in North Carolina politics; and
- The population clustering of Democratic-leaning voters in dense, urban areas, described by Dr. Jowei Chen in his 2013 article “Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures,” applies to North Carolina as well; the most densely populated parts of North Carolina tend to be those that are most supportive of Democratic candidates, with the exception of parts of northeastern North Carolina, which are more sparsely populated but heavily support Democratic candidates. (See LDTX154: Jowei Chen & Jonathan Rodden, *Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures*, 8 *Quarterly Journal of Political Science* 239 (2013)). This, combined with North Carolina’s whole county provision and traversal rule, facilitates the creation of stronger Democratic-leaning legislative districts.

III. ARGUMENT.

Redistricting is an inherently political function that the North Carolina Constitution reserves to the Legislature, subject to some of the most restrictive constitutional restraints in the Union. The Whole County Provisions, Traversal rule, and the Mid-Decade Redistricting Rule operated to prevent the Legislature from having any discretion in deciding into which Senate district to place 63.3% of the state’s population and into which House district to place 46.5% of the state’s population. In drawing district lines for the remaining population, the Legislature was also constrained by the rules regarding equal population, contiguity, and compactness.

Accordingly, the Court should find that Plaintiffs' partisan gerrymandering claims are a veiled attempt to remove the Legislature from the redistricting process, and are subject to dismissal as a nonjusticiable political question. In addition, even if Plaintiffs' claims are justiciable political questions, the 2017 Maps are not an unconstitutional partisan gerrymander given the other factors constraining the Legislature's redistricting discretion, other reasons besides district lines affecting how voters vote, and that Democrats can win majorities to the Legislature if their voters turn out at levels seen in past North Carolina legislative elections.

A. Plaintiffs' Political Gerrymandering Claims Are Nonjusticiable Political Questions Which Should Be Reserved for the Legislature.

The political question doctrine is a constitutional doctrine derived from the North Carolina Constitution's express separation of the three branches of state government. *See Cooper v. Berger*, 370 N.C. 392, 407–08, 809 S.E.2d 98, 107 (2018) (citing *Bacon v. Lee*, 353 N.C. 696, 549 S.E.2d 840 (2001)). A nonjusticiable political question exists when a question “involves a textually demonstrable constitutional commitment of the issue to a coordinate political department” or when a “satisfactory and manageable criteria or standards do not exist for judicial determination of the issue.” *Id.* at 408, 809 S.E.2d at 107 (quoting *Bacon*, 353 N.C. at 717, 549 S.E.2d at 854) (internal quotation marks omitted) (first factor); *Hoke Cty. Bd. of Educ. v. State*, 358 N.C. 605, 639, 599 S.E.2d 365, 391 (2004) (second factor). As this very Court acknowledged previously, “[p]olitical losses and partisan disadvantage are not the proper subject for judicial review[.]” *Dickson v. Rucho*, 2013 WL 3376658, at *2 (N.C. Super. July 8, 2013), *aff'd by Dickson v. Rucho*, 367 N.C. 542, 766 S.E.2d 238 (2014) (*Dickson I*), *vacated on other grounds by Dickson v. Rucho*, 135 S. Ct. 1843 (2015).

All three of Plaintiffs' legal claims are partisan redistricting claims, and thus are nonjusticiable political questions because (1) the North Carolina Constitution expressly commits

redistricting to the legislative branch,⁵ and (2) there are no judicially discernable or manageable standards for adjudicating partisan gerrymander claims. Plaintiffs expressly ask the Court to choose sides between the competing political parties. As this Court recognized before, making such political choices is not a proper role for the courts, and Plaintiffs' attempt to entice the Court into this arena must be avoided.

1. The North Carolina Constitution expressly commits redistricting to the Legislature.

Plaintiffs' claims are nonjusticiable political questions because the North Carolina Constitution expressly commits redistricting to the legislative branch. The People of North Carolina expressly commit the power to draw State House and Senate districts to the General Assembly in the text of Article II, Sections 3 and 5 of the North Carolina Constitution. N.C. Const. art. II, § 3 ("The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts . . ."); § 5 ("The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts . . ."). Notably, political or partisan considerations are **not** prohibited by Sections 3 and 5, consistent with historical norms of redistricting. *See Rucho v. Common Cause*, 588 U.S. ___, No. 18-422, slip op. at 8–11 (June 27, 2019) (outlining the history of partisan gerrymandering in the United States); *Stephenson I*, 355 N.C. at 370, 562 S.E.2d at 390. The

⁵ This is not to say that redistricting maps passed by the Legislature are not subject to Court challenge. Challenges based on, e.g., the Constitution's one person one vote requirement, the Constitution's equal protection of the law requirement with regard to racial gerrymandering, and the North Carolina Constitution's requirements for equal population, contiguous territory, whole counties, and unsupported mid-decade changes to the redistricting maps have been recognized by North Carolina and Federal courts. *See, e.g., Stephenson I*, 355 N.C. at 362–63, 562 S.E.2d at 384. Indeed, these constitutional requirements materially constrain the Legislature's discretion in drawing district lines and act as a check on the legislature's ability to have political considerations predominate over the other redistricting criteria.

Constitution unambiguously mandates that the General Assembly redraws and reapportions state legislative districts. *See* John V. Orth & Paul M. Newby, *The North Carolina State Constitution* 97–98 (2d ed. 2013). North Carolina appellate courts have consistently held that such a textual commitment precludes judicial oversight in the absence of specific constitutional authorization. *See Bacon*, 353 N.C. at 717, 549 S.E.2d at 854 (citation and internal quotation marks omitted) (providing that a nonjusticiable political question “involves a textually demonstrable constitutional commitment of the issue to a coordinate political department”); *News & Observer Publ’g Co. v. Easley*, 182 N.C. App. 14, 641 S.E.2d 698 (2007) (same); *see also Leonard v. Maxwell*, 216 N.C. 89, 99, 3 S.E.2d 316, 324 (1939) (“The [redistricting] question is a political one, and there is nothing the courts can do about it. They do not cruise in nonjusticiable waters.”).

Though Sections 3 and 5 require four conditions for appropriate State House and Senate districts, Plaintiffs do not claim any violation of those requirements here.⁶ *See* N.C. Const. art. II, §§ 3, 5; Warren Whitaker, Note, *State Redistricting Law: Stephenson v. Bartlett and the Judicial Promotion of Electoral Competition*, 91 Va. L. Rev. 203, 213 (2005) (describing the four requirements as: “(1) decennial revision; (2) one-person, one-vote; (3) contiguity of districts; and (4) the requirement that counties not be divided”). Nor do Plaintiffs allege that the 2017 maps violate any of the reasonable regulations enumerated by the Legislature or Congress. (Am. Compl. ¶¶ 197–222). Instead, Plaintiffs seek to entice the judicial branch into overreaching by ruling on a matter textually committed to the legislative branch—in direct violation of the political question doctrine and the separation of powers principles expressed in the North Carolina Constitution. *See* N.C. Const. art. I, § 6 (“The legislative, executive, and supreme judicial powers of the State

⁶ The *NAACP v. North Carolina* First Amended Complaint, Wake County Case No. 11-CVS-16940, contained stand-alone causes of action for violation of Article II, Sections 3 and 5 of the North Carolina Constitution. *See Exhibit A – First Amended Complaint* (filed on December 9, 2011). Plaintiffs did not raise claims involving violation of Sections 3 and 5 in this case.

government shall be forever separate and distinct from each other.”); *State ex rel. Wallace v. Bone*, 304 N.C. 591, 599, 286 S.E.2d 79, 83 (1982) (“North Carolina, for more than 200 years, has strictly adhered to the principle of separation of powers.”). Plaintiffs do not ask the court to decide “whether the action of that branch exceeds whatever authority” the North Carolina Constitution grants the legislature; rather, they ask the court to “interfere with an issue committed to the sole discretion of the General Assembly.” *Baker v. Carr*, 369 U.S. 186, 211 (1962); *Cooper*, 370 N.C. at 409, 809 S.E.2d at 108. Plaintiffs’ claims are thus nonjusticiable political questions which should be left to the province of the Legislature. The political question doctrine counsels courts against weighing into matters textually committed to a coordinate branch of government because, where the People have designated a function to be the sole responsibility of another branch, the People have not granted the courts the power to force themselves into that role. *See Rucho v. Common Cause*, 588 U.S. at 17 (holding in part that “federal courts are not equipped to apportion political power as a matter of fairness”).

2. There are no judicially discernible or manageable standards for adjudicating partisan gerrymandering claims in North Carolina.

In addition to separation of powers concerns, there is no judicially discernible or manageable standard for determining what an “extreme” partisan gerrymander is. Plaintiffs do not offer any sort of measurement to quantify the line past which a legislature’s map drawing activates become constitutionally impermissible partisan gerrymandering; merely declaring that maps should be “fair” does not a discernible standard make. *Rucho v. Common Cause*, 588 U.S. at 17–20 (discussing how “fairness” is not a clear or manageable standard). (See Am. Compl.¶ 6). Without a discernible standard to determine what makes a purported partisan gerrymander unconstitutional, it is up to the people of North Carolina to remedy their concerns in the next election cycle. *See Dickson v. Rucho*, 2013 WL 3376658, at *2.

This Court cannot invalidate a redistricting plan without providing guidance to the Legislature on how to remedy the defect. *See Pender County v. Bartlett*, 361 N.C. 491, 507, 649 S.E.2d 364, 374–75 (2007) (acknowledging “the General Assembly’s need to know with specificity how a defective district fails to meet constitutional statutory standards”), *aff’d sub nom. Bartlett v. Strickland*, 566 U.S.1 (2009) (plurality). If the defect is “extreme partisanship,” then this Court must provide a workable measure to allow the Legislature to determine what an extreme partisan gerrymander might be. *See* N.C. Gen. Stat. § 120-2.3 (2017). The United States Supreme Court has found partisan gerrymandering standards illusive for decades, stating:

Partisan gerrymandering claims have proved far more difficult to adjudicate. The basic reason is that, while it is illegal for a jurisdiction to depart from the one-person, one-vote rule, or to engage in racial discrimination in districting, “a jurisdiction may engage in constitutional political gerrymandering.” . . . To hold that legislators cannot take partisan interests into account when drawing district lines would essentially countermand the Framers’ decision to entrust districting to political entities.

Rucho v. Common Cause, 588 U.S. at *12–13 (citing *Hunt v. Cromartie*, 526 U. S. 541, 551 (1999)) (other citations omitted). Those principles hold true here: While the North Carolina Constitution and statutory provisions prohibit racial discriminatory redistricting in North Carolina, “[t]o hold that legislators cannot take partisan interests into account when drawing district lines would essentially countermand” North Carolina’s long-standing allocation of redistricting power to the Legislature. *See id.*; Warren, *supra*, at 203 (noting that “[f]or most of American history, there were virtually no judicially enforceable restrictions on a legislature’s power to redistrict.”) (citation omitted).

B. Even if Plaintiffs’ Claims are Justiciable, the 2017 Maps are not an unconstitutional partisan gerrymander.

Plaintiffs’ central contention in this case is that the Republicans in the Legislature instructed “the same Republican mapmaker” who drew the 2011 legislative district maps to draw

the 2017 Maps and “to use partisan data and prior election results in drawing new districts[,]” resulting in “maps [which] are impervious to the will of the voters” such that “it [is] impossible for Democrats to win a majority in either chamber of the legislature.” (Amd Compl. ¶¶ 3, 8). In summary: politicians took politics into account in performing a role that the North Carolina Constitution expressly delegated to politicians; Plaintiffs contend this was illegal because it allegedly affects their ability to win political elections.

Even if partisan gerrymandering claims are justiciable under North Carolina law, Plaintiffs’ claims will fail due to an inability to show (1) that the 2017 Maps are actually “impervious to the will of the voters”, and (2) that the maps enacted by the Legislature, utilizing only the limited discretion afforded to it under the North Carolina Constitution and the *Stephen v. Bartlett* and *Dickson v. Rucho* lines of decisions, constituted unconstitutional partisan gerrymanders. See *Dickson II*, 368 N.C. 481, 781 S.E.2d 460 (2015); *Dickson I*, 367 N.C. 542, 766 S.E.2d 238 (2014); *Stephenson II*, 357 N.C. 301, 582 S.E.2d 247 (2003); *Stephenson I*, 355 N.C. 354, 562 S.E.2d 377 (2002).

1. It is not impossible for Democrats to win a majority in the Legislature under the 2017 Maps.

At trial, Plaintiffs will undoubtedly cite to the 2018 state legislative election results as evidence that it is impossible for Democrats to win a majority of the Legislature under the 2017 Maps. These election results do not support Plaintiffs’ conclusion for a number of reasons.

The primary support that Intervenor-Defendants anticipate Plaintiffs will present for this prospect is evidence that in 2018 Democratic Party candidates won approximately 51% of the two-party statewide vote for the Legislature, but won only approximately 45% of the seats in the Legislature. (Am. Compl. ¶¶ 185–188). The 2018 election results, though, do not support the conclusion that Democrats cannot win a majority under the 2017 Maps. The 2018 election cycle

was not the first time since 2000 that the political party who has won the statewide vote for one or the other house of the Legislature did not win a majority of seats in that corresponding house. Dr. Barber will testify that the political party that won the statewide vote did not win the majority in that house of the legislature in the following elections: 2000-House (Republicans won majority of votes but not seats); 2002-Senate (Republicans won majority of votes but not seats); 2004-Senate (Republicans won majority of votes but not seats); 2004-House (Republicans won majority of votes but not seats); 2006-House (Republicans won majority of votes but not seats); 2018-Senate (Democrats won majority of votes but not seats); 2018-House (Democrats won majority of votes but not seats). (ID Exs. 5–6). Nonetheless, as Dr. Barber will testify, Republicans still were able to break the Democrats’ legislative majority in 2010 by winning approximately 59% of the statewide vote.

Furthermore, the 51% vote share reached by the Democrats in 2018 is not the recent ceiling for Democrats’ election results. For example, Dr. Barber will testify that in 2008 the statewide vote share for Democratic candidates for the North Carolina House of Representatives was 55%, and in the North Carolina Senate it was 52%. (ID Ex. 1). Accordingly, the fact that in 2018 Democratic candidates won approximately 51% of the vote share but did not win a majority of either house of the Legislature does not lead to the conclusion that Democrats can never win a majority under the 2017 Maps. In the 2020 elections, if Democratic candidates win an additional six (6) seats in the North Carolina House of Representatives they will win the majority; if they win an additional five (5) seats in the North Carolina Senate they will win a majority. The fact is that this is not the 1950s, when Democratic Party candidates won 90+% of legislative seats, or even the early 1990s when they won almost 70% of legislative seats. (ID Ex. 1). A swing of six (6) seats in either house of the Legislature is not only possible, it has happened before—the 2010 election

resulted in fifteen (15) seats changing from Democrat to Republican (and one moving from Democrat to Independent) in the North Carolina House of Representatives and eleven (11) seats changing from Democrat to Republican in the North Carolina Senate.

2. Plaintiffs cannot show that the lawful discretionary decisions made by the Legislature actually caused the 2017 Maps to be unconstitutional partisan gerrymanders.

Many factors go into whether legislative districts elect candidates of one party or another, which include, but are certainly not limited to, where the lines in that specific district have been drawn. As an initial matter, though, in 2017 the Legislature's discretion in drawing the maps was constrained by (1) the Whole County Provision and County Traversal rules which resulted in the unchallenged County Groupings, and (2) the mid-decade prohibition on redistricting. Legislative Defendants' expert will likely testify that, prior to the Legislature's ability to exercise any discretion in drawing the lines for the 2017 Maps, 63.3% of the population of the for the Senate and 46.5% of the population of the State for the House of Representatives had been locked in to place. Furthermore, even in assigning the population of the state which have not already been locked in, the Legislature's discretion is limited. For example, while the Legislature had discretion to draw district lines within Wake and Mecklenburg counties, the Legislature could not assign any of the population within Wake or Mecklenburg counties to districts outside of each of those counties due to the Whole County Provisions in the North Carolina Constitution. N.C. Const. art. II, §§ 3, 5. These additional limits on the Legislature's discretion are important because the Constitutional requirements of redistricting in North Carolina, once applied to where its population is located due to how North Carolinians have geographically sorted themselves, results in legislative district maps that naturally favor Republicans.

Dr. Barber will testify that other factors besides where district lines are located affect the makeup of North Carolina's legislative districts. Among these factors is the unmistakable trend, since the mid-1970s, of the Legislature's partisan composition towards Republicans. (ID Ex. 1). It is difficult to argue that the redistricting plans enacted by the Legislature since 2011 have done much to affect that overall trend.

Dr. Barber will also testify that the clustering of Democratic-leaning voters in higher-density urban areas and within certain northeastern North Carolina counties, when combined with the constitutional rules the Legislature has to follow in drawing the legislative district maps, leads to maps with naturally more homogenous Democratic districts. (ID Exs. 7–10). Because those districts are naturally more Democratic, the other districts—which are greater in number and have a less homogenous Republican population—cause a natural Republican bias to a district map, although with exposure to a true Democratic “wave” election.⁷

As such, the evidence will show that the Legislature properly considered political considerations and election results data in drawing the 2017 Maps, which did not result in the 2017 Maps being an unconstitutional partisan gerrymander. Rather, the constitutional limitations on the Legislature's discretion in drawing the district lines, the partisan trend of North Carolina toward Republicans, and the natural political geography of North Carolina in which Democrats cluster in homogenous districts, as well as the actual votes cast by each North Carolina voter led to the 2018 electoral outcomes.

⁷ While 2018 has been described nationally as a Democratic “wave” election, that analysis does not hold in the 2018 North Carolina legislative elections, where Democrats barely won a majority of the two-party vote.

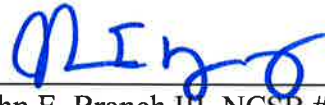
CONCLUSION

For the foregoing reasons, *inter alia*, the Court should enter judgment against Plaintiffs and dismiss their Amended Complaint in its entirety.

This the 8th day of July, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing: INTERVENOR-DEFENDANTS' PRE-TRIAL BRIEF upon all parties to this matter via email to the last addresses known to me as follows:

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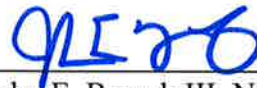
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This the 8th day of July 2019.

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EXHIBIT A

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
11 CVS 016940

FILED
2011 DEC -9 PM 2:37
WAKE COUNTY, C.S.C.

NORTH CAROLINA STATE)
CONFERENCE OF BRANCHES OF THE)
NAACP; LEAGUE OF WOMEN VOTERS)
OF NORTH CAROLINA, DEMOCRACY)
NORTH CAROLINA, NORTH CAROLINA)
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STANTON, ANNE WILSON, SHARON)
HIGHTOWER, KAY BRANDON, GOLDIE)
WELLS, GRAY NEWMAN, YVONNE)
STAFFORD, ROBERT DAWKINS,)
SARA STOHLER, HUGH STOHLER, OCTAVIA)
RAINEY, CHARLES HODGE, MARSHALL)
HARDY, MARTHA GARDENHIGHT, BEN,)
TAYLOR, KEITH RIVERS, ROMALLUS O.)
MURPHY, CARL WHITE, ROSA BRODIE,)
HERMAN LEWIS, CLARENCE ALBERT,)
EVESTER BAILEY, ALBERT BROWN,)
BENJAMIN LANIER, GILBERT VAUGHN,)
AVIE LESTER, THEODORE MUCHITENI,)
WILLIAM HOBBS, JIMMIE RAY HAWKINS,)
HORACE P. BULLOCK, ROBERTA WADDLE,)
CHRISTINA DAVIS-MCCOY, JAMES OLIVER)
WILLIAMS, MARGARET SPEED, LARRY)
LAVERNE BROOKS, CAROLYN S. ALLEN,)
WALTER ROGERS SR., SHAWN MEACHEM)
MARY GREEN BONAPARTE, SAMUEL)
LOVE, COURTNEY PATTERSON, WILLIE O.)
SINCLAIR, CARDES HENRY BROWN JR.,)
and JANE STEPHENS,)

Plaintiffs,)

vs.)

THE STATE OF NORTH CAROLINA,)
THE NORTH CAROLINA STATE BOARD OF)
ELECTIONS; THOM TILLIS, in his official)
capacity as Speaker of the North Carolina House of)
Representatives; and PHILIP E. BERGER, in his)
official capacity as President Pro Tempore of the)
North Carolina Senate.)

Defendants.)

FIRST AMENDED COMPLAINT
(Three-Judge Court pursuant to G.S.
1-267.1)
(AMND)

Pursuant to Rule 15(a) of the North Carolina Rules of Civil Procedure, Plaintiffs file this First Amended Complaint. For their first amended complaint, Plaintiffs allege and state:

PRELIMINARY STATEMENT

1. Ignoring decades of progress and the current realities of racially polarized voting in North Carolina elections, the General Assembly's Congressional, House and Senate redistricting plans enacted following the release of the 2010 Census data are an intentional and cynical use of race that exceeds what is required to ensure fairness to previously disenfranchised racial minority voters. The plans violate North Carolina voters' rights to equal protection under the law by assigning voters to districts based on their race beyond what is required by the Voting Rights Act. These race-based assignments unfairly prejudice the African-American voters who were split off from the rest of their voting precincts, divided from otherwise compact communities of interest, and packed into districts that previously elected candidates of choice of African-American voters.¹ They also harm the African Americans left in districts with fewer minority voters and the non-African-American voters who are also thereby packed in race-based districts and whose communities of interests are dismantled.

2. In addition to being excessively race-based, all three plans brazenly flout North Carolina's state constitutional requirements to draw geographically compact districts that respect county boundaries and encompass communities of interest. The plans unnecessarily and unjustifiably split hundreds of voting precincts throughout the state, the traditional markers of

¹ The data in this Complaint is based on Voting Tabulation Districts (VTDs), which are comparable to precincts. VTDs are the voting tabulation districts reported to the Census. They are based on the voting precincts in effect on January 1, 2008 and cannot be altered by the Board of Elections. In most cases, precincts correspond exactly with VTDs. However, in limited cases, local Boards of Election may have altered the precinct boundary within a VTD after January 1, 2008. Because of the similarity between precincts and VTDs, the term "precinct" in this Complaint refers to VTDs.

communities of interest. Dividing precincts and the communities of interest they represent results in non-compact districts that hinder the effective participation of voters in the democratic process.

3. The plans divide 563 precincts with two million voting-age adults (27% of the state's total) into more than 1,400 sections, with voters in the same neighborhood or same street partitioned into different political districts. The number of split precincts is unprecedented and far exceeds alternative plans that comply with federal and state law. They have the design and effect to segregate voters by race. In a majority of cases, the sections are drawn so that the black voting-age population in one section is 20 percentage points greater than in the other section sent to another district. The confusion for voters, community educators, election administrators and the elevated risks to a fair election process caused by splitting precincts on a census block basis are undeniable. More than one-third of the state's black voting-age population resides in these 563 precincts. A black adult has a 50 percent greater risk of living in a precinct split up by the plans than does a white adult. White adults are six times more likely to live in a split precinct if they reside in a precinct that is more than 25 percent black than if they live in one that is less than 10 percent black.

4. This action challenges the redistricting plans adopted by the General Assembly on the grounds that they violate the equal protection guarantees of the state and federal constitutions and that they violate state constitutional provisions designed to ensure that legislative districts are drawn in a way that promotes representative democracy. In addition, the excessive partisanship driving these plans violates the North Carolina Constitution's guarantee that the legislature should act for the "good of the whole." The Plaintiffs, nonprofit, nonpartisan organizations and individual impacted voters, seek injunctive relief to prevent the use of those plans in any future elections.

I. JURISDICTION AND VENUE

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

6. The Court has jurisdiction of the federal claims pursuant to 42 USC § 1983.

7. Pursuant to G.S. 1-81.1, the exclusive venue for this action is the Wake County Superior Court.

8. A three-judge court must convene in this matter pursuant to G.S. 1-267.1 because this action challenges the validity of redistricting plans enacted by the General Assembly.

II. PARTIES

9. Plaintiff the North Carolina State Conference of Branches of the NAACP is a nonpartisan, nonprofit organization composed of over 100 branches and 20,000 individual members throughout the state of North Carolina. The NC Conference has members who are citizens and registered voters in each of the State's 100 counties and in the 40 counties covered by the Voting Rights Act. The fundamental mission of the NAACP is the advancement and improvement of the political, educational, social, and economic status of minority groups; the elimination of racial prejudice; the publicizing of adverse effects of racial discrimination; and the initiation of lawful action to secure the elimination of racial bias. In furtherance of this mission, the NC Conference advocates to ensure that the interests of the African-American community are represented on the local, state and national legislative bodies by representatives who share the community's interests, values and beliefs and who will be accountable to the community. The NC Conference encourages and facilitates nonpartisan voter registration drives by its chapters to promote civic participation.

10. Plaintiff League of Women Voters of North Carolina (LWVNC) is a nonpartisan community-based organization, formed in 1920, immediately after the enactment of the

Nineteenth Amendment to the U.S. Constitution granting women's suffrage. The LWNVC is dedicated to encouraging its members and the people of North Carolina to exercise their right to vote as protected by the North Carolina Constitution. The mission of LWNVC is to promote political responsibility through informed and active participation in government and to act on selected governmental issues. The LWNVC impacts public policies, promotes citizen education, and makes democracy work by, among other things, removing unnecessary barriers to full participation in the electoral process. Currently LWNVC has 16 local leagues and over 972 members, each of whom, on information and belief, is a registered voter in North Carolina. With members in almost every county in the state, the LWNVC's local leagues are engaged in numerous activities, including hosting public forums and open discussions on issues of importance to the community. Individual league members invest substantial time and effort in voter training and civic engagement activities. LWNVC is affiliated with the League of Women Voters of the United States, which was also founded in 1920. LWNVC began as an organization focused on the needs of women and the training of women voters; it has evolved into an organization concerned with educating, advocating for and empowering all North Carolinians.

11. Plaintiff Democracy North Carolina (Democracy NC) is a nonpartisan, not for profit organization dedicated to research, organizing, and advocacy to increase voter participation and remove barriers to serve in public office. Democracy NC has members in every region of the state who are registered voters in North Carolina. Its members form grassroots coalitions centered in Charlotte, Greensboro, Fayetteville, Greenville, Winston-Salem, Asheville and Wilmington. Democracy NC works for pro-democracy reforms that strengthen enforcement of election laws, protect voter rights and improve government accountability and ethics. Through original research, policy advocacy, grassroots organizing, civic engagement and

leadership training, Democracy NC seeks to achieve a government that is truly of the people, for the people and by the people.

12. Plaintiff North Carolina A. Philip Randolph Institute (NC APRI) is the North Carolina division of the national A. Philip Randolph Institute, the senior constituency group of the AFL-CIO dedicated to advancing racial equality and economic justice. APRI grew out of the legacy of African-American trade unionists' advocacy for civil rights and the passage of the federal Voting Rights Act and continues to advocate for social, political and economic justice for all working Americans. NC APRI has members who are registered voters across North Carolina. Its chapters are located in Durham, Greensboro, the Piedmont, Raleigh, Roanoke Rapids and Fayetteville. NC APRI works to increase accessibility to the polls, voter registration and voter education. It distributes nonpartisan voter guides and hosts phone banks to encourage voter participation.

13. Plaintiff Reva McNair is an African-American registered voter in Cumberland County. She resides at 1514 Deanscroft Place, Fayetteville, NC 28314, which is located in Precinct G5B. Under the enacted plans, she would vote in House District 41, Senate District 21 and Congressional District 4. She is an active participant in local politics.

14. Plaintiff Matthew Davis is an African-American registered voter in Cumberland County. He resides at 6131 Sabine Drive, Fayetteville, NC 28303 which is located in Precinct CC32 . Under the enacted plans, he would vote in House District 42, Senate District 21 and Congressional District 4. He is a member of the NAACP and a leader in the organization Democracy Fayetteville.

15. Plaintiff Tressie Stanton is an African-American registered voter in Cumberland County. She resides at 218 Vass Road, Spring Lake, NC, 28390, which is located in Precinct

G11. Under the enacted plans, she would vote in House District 42, Senate District 21 and Congressional District 2. She is involved in political activities in her community.

16. Plaintiff Anne Wilson is a white registered voter in Forsyth County. She resides at 445 Marshall View Court, Winston Salem, NC 27101, which is located in Precinct 601. Under the enacted plans, she would vote in House District 71, Senate District 32 and Congressional District 5. She is an active participant in local politics.

17. Plaintiff Sharon Hightower is an African-American registered voter in Guilford County. She resides at 6 Belles Court, Greensboro, NC 27401, which is located in Precinct G71. Under the enacted plans, she would vote in House District 58, Senate District 28 and Congressional District 12. She is a leader of the Guilford County Unity Effort, and is also affiliated with the NAACP, Democracy NC, and the Greensboro Voters Alliance.

18. Plaintiff Kay Brandon is an African-American registered voter in Guilford County. She resides at 1437 Old Hickory Drive, Greensboro, NC 27405, which is located in Precinct G05. Under the enacted plans, she would vote in House District 57, Senate District 28 and Congressional District 12. She is involved in political activities in her community.

19. Plaintiff Goldie Wells is an African-American registered voter in Guilford County. She resides at 4203 Belfield Drive, Greensboro, NC 27405, which is located in Precinct G06. Under the enacted plans, she would vote in House District 57, Senate District 28 and Congressional District 12. She is an active leader in civic organizations and involved in community advocacy in Greensboro.

20. Plaintiff Gray Newman is a white registered voter in Mecklenburg County. He resides at 5038 Carden Drive, Charlotte, NC 28227, which is located in Precinct 235. Under the enacted plans, he would vote in House District 103, Senate District 40 and Congressional District

9. He is active in voter education as a leader of Democracy NC and the League of Women Voters.

21. Plaintiff Yvonne Stafford is an African-American registered voter in Mecklenburg County. She resides at 1018 Everett Place, Charlotte, NC 28205, which is located in Precinct 014. Under the enacted plans, she would vote in House District 107, Senate District 40 and Congressional District 12. She is an active participant in local politics.

22. Plaintiff Robert Dawkins is an African-American registered voter in Mecklenburg County. He resides at 11919 Misty Pine Court, Charlotte, NC 28215, which is located in Precinct 201. Under the enacted plans, he would vote in House District 103, Senate District 41 and Congressional District 8. He is an active leader in the organization Democracy NC.

23. Plaintiffs Sara Stohler and Hugh Stohler are white registered voters and residents of Wake County. They reside at 528 N. Bloodworth Street, Raleigh, NC 27604, which is located in Precinct 01-14. Under the current plan, they would vote in House District 34, Senate District 16, and Congressional District 4. They are very involved in political activities in their community.

24. Plaintiff Octavia Rainey is an African-American registered voter in Wake County. She resides in 1516 E. Lane Street, Raleigh, NC 27610, which is located in Precinct 1-34. Under the enacted plans, she would vote in House District 38, Senate District 14 and Congressional District 4. She is an officer of Southeast Raleigh Community Association and active in voter registration.

25. Plaintiff Charles Hodge is an African-American registered voter in Wake County. He resides at 2301 Old Crews Road, Raleigh, NC 27616, which is located in Precinct 17-04. Under the enacted plans, he would vote in House District 39, Senate District 18 and Congressional District 13. He is engaged in political activities in his community.

26. Plaintiff Marshall Hardy is a white registered voter in Wake County. He resides at 1020 West South Street, Raleigh, NC 27603, which is located in Precinct 01-27. Under the enacted plans, he would vote in House District 33, Senate District 16, and Congressional District 4. He is the Chair of the Boylan Heights Association, and a member of the ACLU Wake County Board and the NC Consumer Council Board.

27. Plaintiff Martha Gardenhight is an African-American registered voter in Buncombe County. She resides at 131 Wyatt Street, Asheville, NC 28803, which is located in Precinct 100.1. Under the enacted plans, she would vote in House District 114, Senate District 49 and Congressional District 10. She is an Assistant Secretary/Executive Committee member of the NAACP and an active participant in local civic affairs in her community.

28. Plaintiff Ben Taylor is an African-American registered voter in Durham County. He resides at 3816 Booker Avenue, Durham, NC, 27713, which is located in Precinct 34. Under the enacted plans, he would vote in House District 29, Senate District 20, and Congressional District 1.

29. Plaintiff Keith Rivers is an African-American registered voter in Pasquotank County. He resides at 104 Grandview Drive, Elizabeth City, NC 27909, which is located in Precinct 1-B. Under the enacted plans, he would vote in House District 5, Senate District 1, and Congressional District 1. He is the President of the Pasquotank NAACP.

30. Plaintiff Romallus O. Murphy is an African-American registered voter in Guilford County. He resides at 339 E. Montcastle Drive Unit E, Greensboro, NC 27406, which is located in Precinct FEN1. Under the enacted plans, he would vote in House District 58, Senate District 28, and Congressional District 12. He is an attorney with voting rights expertise and the former General Counsel for the North Carolina State Conference of Branches of the NAACP.

31. Plaintiff Carl White is an African-American registered voter in Hertford County. He resides at 634 NC Highway 305, Aulander, NC 27805, which is located in Precinct ML. Under the enacted plans, he would vote in House District 5, Senate District 3, and Congressional District 1. He is the President of the Hertford County NAACP and current Director of District 11 for the NAACP.

32. Plaintiff Rosa Brodie is an African-American registered voter in Nash County. She resides at 112 Patterson Drive, Rocky Mount, NC 27804, which is located in Precinct 37. Under the enacted plans, she would vote in House District 7, Senate District 11, and Congressional District 13. She is a retired educator, current Board Member and Secretary of Nash Healthcare Services, an active AARP member and volunteers at the polls.

33. Plaintiff Herman Lewis is an African-American registered voter in Wayne County. He resides at 287 Lagrange Road, Lagrange, NC 28551, which is located in Precinct 07. Under the enacted plans, he would vote in House District 4, Senate District 5 and Congressional District 1. He is a retired police officer and member of the NAACP.

34. Plaintiff Clarence Albert Jr. is an African-American registered voter in Wilson County. He resides at 2903 Concord Drive, Wilson, NC 27896, which is located in Precinct PRWM. Under the enacted plans, he would vote in House District 8, Senate District 11, and Congressional District 13. He is the chair of Veterans Affairs for the local branch of the NAACP.

35. Plaintiff Evester Bailey is an African-American registered voter in Durham County residing at 3626 Suffolk Street, Durham, NC 27707, which is located in Precinct 30. Under the enacted plans, he would vote in House District 29, Senate District 20 and Congressional District 4. He is actively involved as a volunteer in political activities in his local precinct.

36. Plaintiff Albert Brown is an African-American registered voter in Duplin County. He resides at 1370 W. Charity Road, Rose Hill, NC 28458, which is located in Precinct CHAR. Under the enacted plans, he would vote in House District 21, Senate District 10 and Congressional District 7. He was the Chairman of the Duplin County Board of Elections for ten years and is the Current Chairman of James Sprunt Community College. He is also a member of the Duplin County NAACP.

37. Plaintiff Benjamin Lanier is an African-American registered voter in Greene County. He resides at 2056 Fred Harrison Rd., Snow Hill, NC, 28580. Under the enacted plans he would vote in House District 12, Senate District 5 and Congressional District 1. He is involved in civic and political activities in his community and is President of the Greene County NAACP.

38. Plaintiff Gilbert Vaughn is an African-American registered voter in Chowan County. He resides at 114 Osprey Drive, Edenton, NC 27932, which is located in Precinct KI. Under the enacted plans, he would vote in House District 1, Senate District 1 and Congressional District 3. He is President of the Perquimans County NAACP and an active participant in local civic affairs in his community.

39. Plaintiff Avie Lester is an African-American registered voter in Person County. He resides at 7455 Virgilina Road, Roxboro, NC 27574, which is located in Precinct HLWY. Under the enacted plans, he would vote in House District 2, Senate District 22 and Congressional District 6. He is President of the Person County NAACP and an active participant in local civic affairs in his community

40. Plaintiff Dr. Theodore Muchiteni is an African-American registered voter in Pitt County. He resides at 1342 Windham Road, Greenville, NC 27834, which is located in Precinct

701. Under the enacted plans, he would vote in House District 24, Senate District 5 and Congressional District 1. He is an active life member of the NAACP.

41. Plaintiff William Hobbs is an African-American registered voter in Nash County. He resides at 2801 Coleberry Trail, Rocky Mount, NC 27804, which is located in Precinct 37. Under the enacted plans, he would vote in House District 25, Senate District 11 and Congressional District 13. He is an active participant in local civic affairs in his community.

42. Plaintiff Jimmie Ray Hawkins is an African-American registered voter in Durham County. He resides at 4415 Sun Valley Drive, Durham, NC 27707, which is located in Precinct 39. Under the enacted plans, he would vote in House District 30, Senate District 22 and Congressional District 4. He is a member of the NAACP and President of Durham Congregations in Action.

43. Plaintiff Horace Bullock is an African-American registered voter in Vance County. He resides at 129 South Bullock Street, Henderson, NC 27536, which is located in Precinct SH1. Under the enacted plans, he would vote in House District 32, Senate District 4 and Congressional District 1. He is president of the Vance County NAACP.

44. Plaintiff Roberta Waddle is a white registered voter in Cumberland County. She resides at 3941 Gainey Road, Fayetteville, NC 28306, which is located in Precinct SH77. Under the enacted plans, she would vote in House District 45, Senate District 19 and Congressional District 2. She is a member of the NAACP and active in civic affairs in her community.

45. Plaintiff Christina Davis-McCoy is an African-American registered voter in Hoke County. She resides at 243 Aggies Lane, Raeford, North Carolina, 28376, which is located in Precinct 03. Under the enacted plans, she would vote in House District 48, Senate District 21 and Congressional District 7. She is Executive Director of the Blue Springs Hoke County

Community Development Corporation and active in community voter education and voter mobilization.

46. Plaintiff James Oliver Williams is a white registered voter in Wake County. He resides at 1905 Lewis Circle, Raleigh, NC 27608, which is located in Precinct 01-03. Under the enacted plans, he would vote in House District 49, Senate District 15 and Congressional District 13. He is a former Raleigh City Council member and former Raleigh Planning Commission member.

47. Plaintiff Margaret Speed is an African-American registered voter in Harnett County. She resides at 135 Mye Lane, Cameron, NC 28326, which is located in in Precinct PR16. Under the enacted plans, she would vote in House District 51, Senate District 12 and Congressional District 2. She is an active life member of the NAACP and a volunteer at her local precinct.

48. Plaintiff Larry Laverne Brooks is an African-American registered voter in Chatham County. He resides at 2554 Meronies Church Road, Bear Creek, NC 27207, which is located in Precinct 18. Under the enacted plans, he would vote in House District 54, Senate District 23 and Congressional District 2. He is president of the West Chatham County NAACP.

49. Plaintiff Carolyn S. Allen is a white registered voter from Guilford County. She resides at 2611 David Caldwell Drive, Greensboro, NC 27408, which is located in Precinct G31. Under the enacted plans, she would vote in House District 59, Senate District 26 and Congressional District 6. She is a former mayor of Greensboro, a member of League of Women Voters and on the board of East Market Street Development.

50. Plaintiff Walter Rogers is an African-American registered voter in Scotland County. He resides at 9061 Carver School Road, Laurel Hill, NC 28351, which is located in Precinct 9. Under the enacted plans, he would vote in House District 66, Senate District 25, and

Congressional District 8. He is the Voter Education and Registration Chair of the Prince Hall Grand Lodge.

51. Plaintiff Shawn Meachem is a white voter in Mecklenburg County. She resides at 6400 Kelsey Drive, Charlotte, NC 28215, which is located in Precinct 104. Under the enacted plans, she would vote in House District 99, Senate District 40 and Congressional District 12. She is the Vice President of Hampshire Hills Neighborhood Association and a Vice President of the Plaza Eastway Neighborhood Association.

52. Plaintiff Mary Green Bonaparte is an African-American registered voter in Mecklenburg County. She resides at 201 Echodale Dr., Charlotte, NC 28217, which is located in Precinct 147. Under the enacted plans, she would vote in House District 102, Senate District 38 and Congressional District 12. She is an active participant in local politics.

53. Plaintiff Samuel Love is an African-American registered voter in Mecklenburg County. He resides at 6417 Heatherbrooke Avenue, Charlotte, NC 28213, which is located in Precinct 82. Under the enacted plans, he would vote in House District 106, Senate District 40 and Congressional District 12. He is a leader in the Hidden Valley Neighborhood Association. And is very active in community issues and political organizing.

54. Plaintiff Courtney Patterson is an African-American registered voter in Lenoir County. He resides at 1105 Patterson Rd, Kinston, NC 28501, which is located in Precinct N. Under the enacted plans, he would vote in House District 12, Senate District 7 and Congressional District 7. He is the 4th Vice President of the NC NAACP and engaged in political and civil activities in his community.

55. Plaintiff Willie O. Sinclair is an African-American registered voter in Wake County. He resides at 4810 Greenbrier Road, Raleigh, NC 27603, which located in Precinct 16-

05. Under the enacted plans, he would vote in House District 39, Senate District 18 and Congressional District 13. He is treasurer of the Raleigh/Apex NAACP.

56. Plaintiff Cardes Henry Brown, Jr. is an African-American registered voter in Guilford County. He resides at 6106 Longbranch Court, Pleasant Garden, NC 27313, which is located in Precinct PG2. Under the enacted plans, he would vote in House District 61, Senate District 27, and Congressional District 6. He is President of the Greensboro NAACP and engaged in political and civic activities in his community.

57. Plaintiff Jane Stephens is a white registered voter in Forsyth County. She resides at 525 Hedgewood Place, Winston-Salem, NC, 27104, which is located in Precinct 805. Under the enacted plans, she would vote in House District 74, Senate 31 and Congressional District 5. She is a member of the NAACP and engaged in civic activities in her community.

58. Defendant State of North Carolina is one of the 50 sovereign states in the United States.

59. Defendant State Board of Elections is a state agency of North Carolina, headquartered in Wake County, which administers the election laws of the State of North Carolina.

60. Defendant Thom Tillis is being sued in his official capacity as Speaker of the North Carolina House of Representatives.

61. Defendant Philip E. Berger is being sued in his official capacity as President Pro Tempore of the North Carolina State Senate.

III. FACTUAL ALLEGATIONS

The 2011 Legislative Redistricting

62. The 2011 Regular Session of the North Carolina General Assembly convened on January 26, 2011. Under Article II, §§ 3 and 5 of the North Carolina State Constitution, the

General Assembly must enact new redistricting plans for the Senate and House districts at its first session convened after the return of the United States Census.

63. Under 2 U.S.C. §§ 2a and 2c, the General Assembly has the authority to revise Congressional districts.

64. On March 2, 2011, the General Assembly received the population data from the 2010 Census, pursuant to P.L. 94-171, from the United States Department of Commerce.

65. On July 27, 2011, the General Assembly passed the State Senate Redistricting Plan, 2011 S.L. 404, known as the “Rucho Senate 2” Plan, and the 2011 Congressional Redistricting Plan, 2011 S.L. 403, “Rucho-Lewis Congress 3.” On July 28, 2011, the General Assembly passed the State House Redistricting Plan, 2011 S.L. 402, the “Lewis-Dollar-Dockham 4” Plan.

66. No African-American Representatives or Senators voted for any of the three enacted plans.

67. The North Carolina Attorney General submitted the 2011 House, Senate and Congressional Plans to the United States Department of Justice for preclearance under Section 5 of the Voting Rights Act on September 2, 2011.

68. On September 2, 2011, the North Carolina Attorney General also filed a complaint in the United States Court for the District of Columbia. (*North Carolina v. Holder*, No. 1:11-CV-01592 (D.D.C.)).

69. On November 1, 2011, the three plans as intended to be adopted by the General Assembly were precleared by the United States Department of Justice.

70. On November 1, 2011, the General Assembly alerted the Department of Justice that there was a technical issue with the House and Senate Plans as enacted into law. The

software code used to translate the maps in Maptitude into language for insertion into a bill draft contained an error.

71. The error in the software code resulted in the omission of some Census blocks in the bill text. The error affected only Census blocks where the Census block was in a block group or tract that was wholly contained within one segment of a voting tabulation district split between two or more districts. In these blocks, some units of geography were not assigned to any district.

72. On November 7, 2011, the General Assembly passed curative legislation to assign all the areas left unassigned by the House Redistricting Plan, 2011 S.L. 402. The revised Plan was enacted into law as 2011 S.L. 416.

73. On November 7, 2011, the General Assembly passed curative legislation to assign all the areas left unassigned by the Senate Redistricting Plan, 2011 S.L. 404. The revised Plan was enacted into law as 2011 S.L. 413

74. The curative legislation was submitted to the Department of Justice for preclearance.. The Department of Justice precleared the legislation on X.

75. These plans now represent the current electoral districts for the House, Senate, and Congressional elections.

76. The 2011 State House, State Senate, and Congressional Plans unnecessarily and unjustifiably place black voters into districts based solely on their race. In doing so, the General Assembly failed to comply with the traditional redistricting principles enumerated in *Stephenson v. Bartlett*. These principles include compactness, contiguity and respect for political subdivisions.

Dismantling Communities of Interest: Split Precincts

77. A precinct is one of the most traditional forms of political subdivisions, reflecting a compact geographic neighborhood.

78. The State House and Senate Plans split an unprecedented number of precincts. The State House Plan split 395 precincts, almost twice as many as any of the alternative Plans submitted to the House Redistricting Committee. The State Senate Plan split 257 precincts, again more than any alternative Plan submitted to the Senate Redistricting Committee.

79. Splitting precincts harms voters by diminishing efficiency and efficacy in both elections and political representation.

80. Splitting precincts divides communities of interest and diminishes the community's ability to effect change through the electoral process.

81. Splitting precincts increases confusion on Election Day and makes it more difficult for voters to know who will be on their ballot when they go to vote. This confusion reduces the ability of voters to participate effectively in the electoral process.

82. Splitting precincts increases the different kinds of ballots used at the polls, increasing the likelihood that a voter will receive the wrong ballot.

83. Splitting precincts creates more administrative paperwork at the polling location, leading to longer lines that discourage voter participation.

84. Splitting precincts also makes it harder for voters to identify their elected representatives. By creating confusion about who represents what part of the neighborhood, these split precincts are stumbling blocks for voters who want to petition their elected representatives and hold them accountable.

85. By admission of North Carolina election officials, splitting precincts increases the risk of voters receiving the wrong ballots, creates suspicion when neighbors are given different ballots, requires additional training and additional paid personnel at the polls, and creates

significant risks in staff properly assigning voters to the wrong districts. One official testified in the public record, “the possibility of error when geocoding on a block by block basis at such a large scale is unavoidable.”

86. Splitting so many precincts is unnecessary, as the North Carolina Constitution allows a population deviation of plus or minus 5 percent in compliance with the Equal Protection Clause in the State House and Senate districts. *Stephenson v. Bartlett*, 355 N.C. 354, 385 (2002).

87. Moreover, these precincts were not split to minimize deviations among districts, as the overall deviation range is nearly 10 percent in the current plans.

88. The General Assembly repeatedly split precincts to place black voters in a different district than the rest of the precinct. 36.34 percent of the black voting age population in North Carolina lives in one of the 563 split precincts.

89. In contrast, 23.24 percent of the non-Hispanic white voting age population in North Carolina lives in one of the 563 split precincts.

90. Therefore, black voters are 56.37 percent more likely than white voters to live in a split precinct.

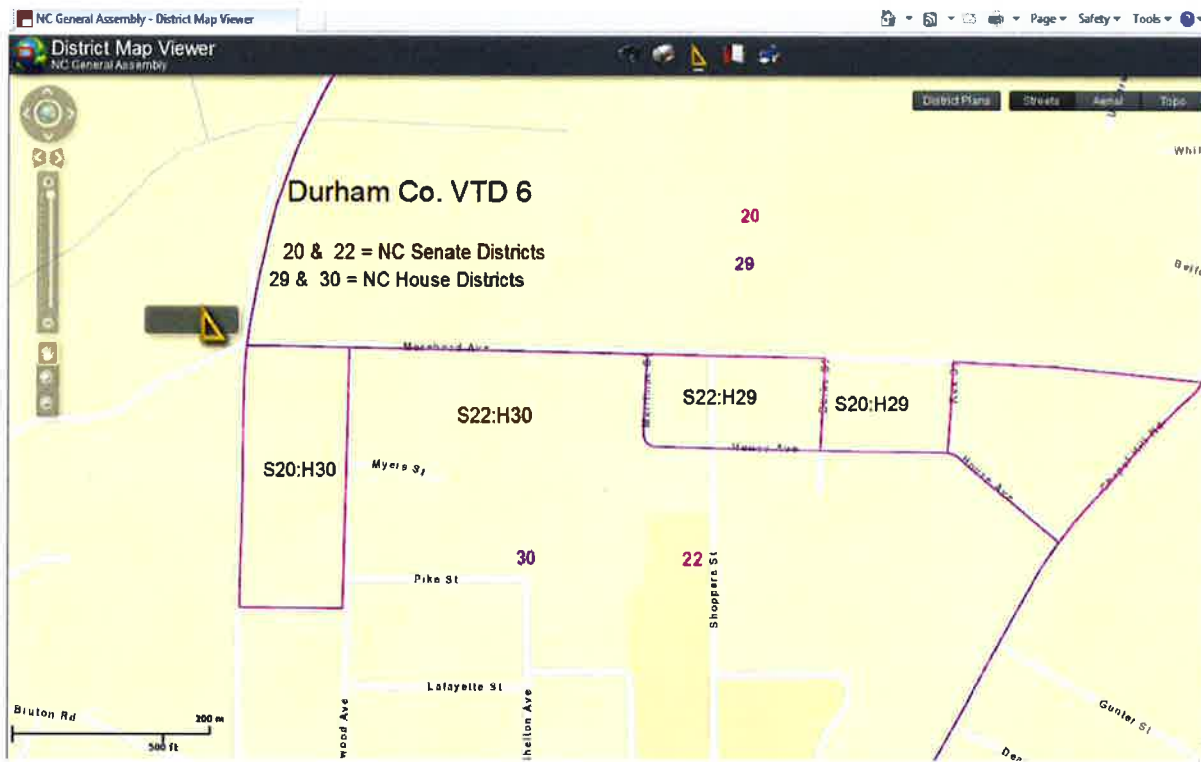
91. In 55 percent of the cases where precincts were split, the lines were drawn so that one section has a black voting age population that is at least 20 percentage points greater than in the other section.

92. The General Assembly did not have access to party affiliation data at a sub-precinct level. Race therefore predominated in the decision to split precincts containing African American voters.

93. An example of using black voters as a proxy for political affiliation can be found in Buncombe County. Precinct 100.1 is split between Districts 114 and 115 in Lewis-Dollar-Dockham 4. The majority of black voters in Precinct 100.1 belong to the piece inside District

114, which increases the Democratic majority in that district. The majority of white voters in Precinct 100.1 belong to the piece inside District 115, which is drawn as a Republican performing district.

94. Durham County provides an example of problems caused when excessive numbers of precincts are split within a county and across redistricting plans. Durham has 39 split precincts in the House and Senate enacted plans combined, 35 splits in the Senate and 21 split in the House plan. Previously Durham County had only 6 split precincts. Those splits were along major roads, readily identifiable and did not overlap. In contrast, the precinct splits in the enacted plan are complex, involve minor roads and overlap. For example, along just one street in a Durham neighborhood, there will be four different ballot styles in a six block area along one side of Morehead Street in a general election. Following is a map of the area in VTD 6 that is split between Senate Districts 20 and 22, and House Districts 29 and 30.



95. An example of the confusion and difficulties caused by splitting so many precincts is the fact that the General Assembly's computer system did not assign to any district 420 census blocks in Session law 2011-403 (Rucho-Lewis Congress 3), 5,380 census blocks in Session Law 2011-404 (Lewis-Dollar-Dockham 4) and 3,200 census blocks in Session Law 2011-402 (Rucho Senate 2).

State House Redistricting

96. On February 15, 2011, the Speaker of the House Thom Tillis appointed the officers and members of the House Redistricting Committee. Rep. David Lewis was appointed Chair of the Committee. Rep. Nelson Dollar and Rep. Jerry Dockham were appointed co-chairs.

97. The House Redistricting Committee considered a plan named "Lewis-Dollar-Dockham 4."

98. In addition to the plan created by the House Redistricting Committee, two legislators introduced alternative plans: (1) the plan proposed by Democratic Rep. Grier Martin known as "House Fair and Legal;" and (2) the plan presented by Rep. Kelly Alexander of the Legislative Black Caucus ("LBC Plan"). In addition, a plan was developed by a coalition of community-based organizations called AFRAM (Alliance for Fair Redistricting and Minority Voting Rights) and submitted at a June 23, 2011 public hearing, "AFRAM Plan."

99. All three alternative plans adhered to the traditional redistricting criteria of compactness, contiguity, and preserving communities of interest. The plans also provided appropriate and effective voting districts for minorities in compliance with Section 2 and Section 5 of the Voting Rights Act.

100. The State House Plan currently in effect is known as the "2009 Plan." The 2009 Plan is an amended version of the Plan ratified in 2003. The 2009 Amendments affected New Hanover and Pender counties, neither of which is covered by Section 5 of the Voting Rights Act.

The 2009 Plan was used in the 2009 and 2010 elections. It is the benchmark used for Section 5 analysis.

101. On July 28, 2011, the General Assembly passed the State House Redistricting Plan, 2011 S.L. 402, the “Lewis-Dollar-Dockham 4” Plan.

102. No African-American Senator or Representative voted for the Lewis-Dollar-Dockham 4 Plan.

103. On November 7, 2011, the General Assembly passed curative legislation to assign all the areas left unassigned by the House Redistricting Plan, 2011 S.L. 402. The revised Plan was enacted into law as 2011 S.L. 416.

104. No African-American Senator or Representative voted for the curative legislation.

Packed Districts

105. The Lewis-Dollar-Dockham 4 Plan carved black voters out of recognizable communities and neighborhoods, packing existing minority opportunity districts, and minimizing the influence of black voters in surrounding districts.

106. The Black Voting Age Population, “BVAP,” discussed herein, reflects data collected by the Census Bureau and includes multiracial respondents to the Census that indicate they are any part black or African American.

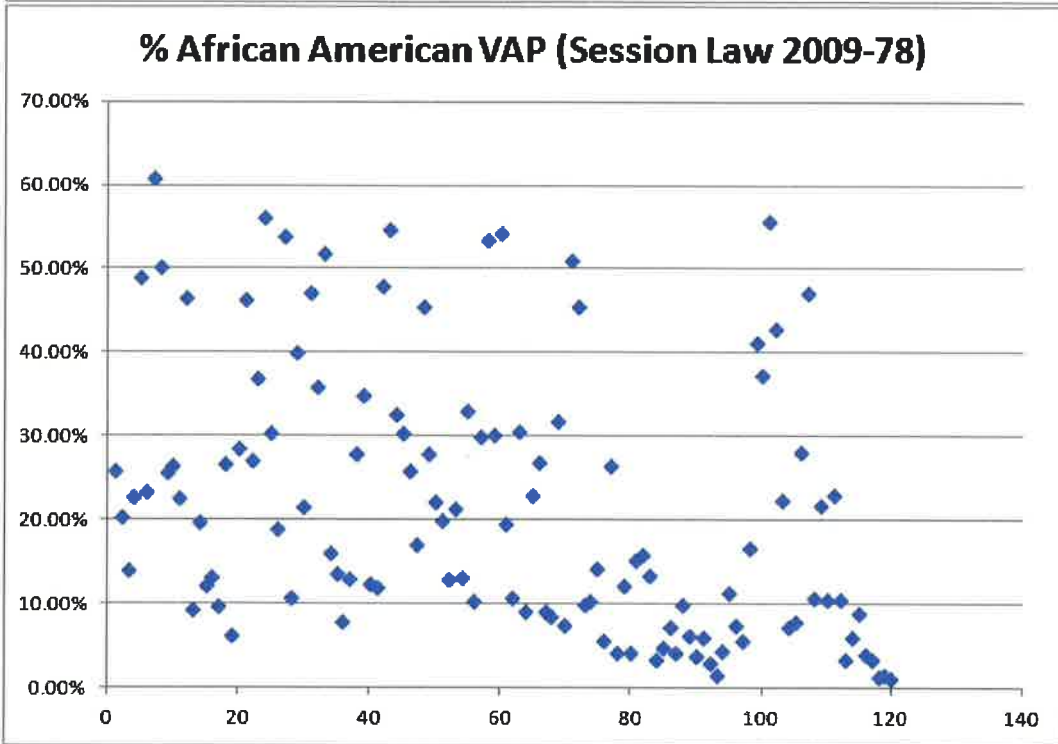
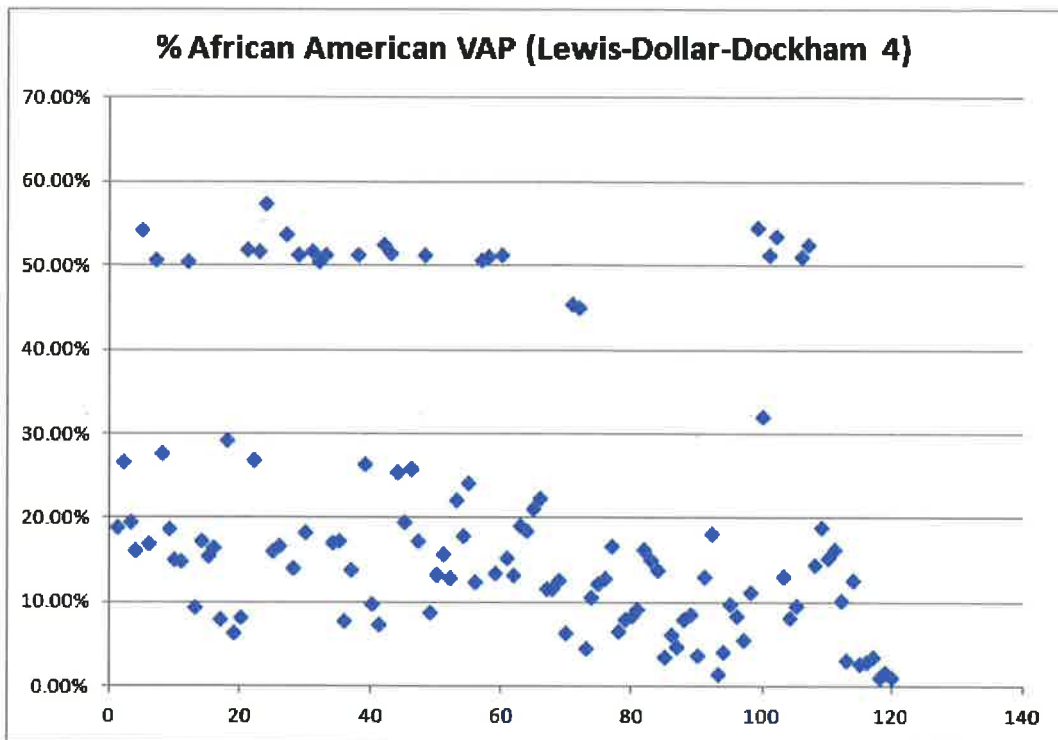
107. In the Lewis-Dollar-Dockham 4 Plan, 23 of the 120 districts in the State have a BVAP greater than 50 percent. Two districts have a BVAP between 40 percent and 50 percent. In drawing these districts, the plan’s drafters intentionally removed black voters to lower the black vote in adjacent districts

108. In comparison, the 2009 House Plan had 10 districts with a BVAP over 50 percent. Eleven districts had BVAP percentages between 39.99 percent and 50 percent.

109. The Lewis-Dollar-Dockham 4 Plan segregates black voters into districts with greater than 50 percent BVAP or less than 30 percent BVAP. In the Plan, only 3 districts have a BVAP between 30 and 50 percent.

110. In comparison, the 2009 House Plan had 22 of the 120 districts with a BVAP between 30 and 50 percent.

111. The BVAP of the Lewis-Dollar-Dockham 4 Plan and the 2009 Plan are shown in the chart below where each dot represents one of the 120 districts in the plan. The vertical axis is the percent BVAP of the district and the horizontal axis is the number of the district.



Precinct Divisions

112. The Lewis-Dollar-Dockham 4 Plan fails to comply with the traditional redistricting principles enumerated in *Stephenson v. Bartlett*. These principles include compactness, contiguity and respect for political subdivisions.

113. The Lewis-Dollar-Dockham 4 Plan disregards the importance of maintaining intact precincts, dividing 395 precincts. A voting age population of more than 1,400,000 adults, or nearly twenty percent (20%) of the State's voting age population, resides within these divided precincts. Fifty percent (50%) or more of all the precincts in the county were split in Craven County (23 of 27), Greene County (5 of 10), Lee County (3 of 5), Nash County (15 of 26) and Scotland County (5 of 10). In Mecklenburg County 49 precincts are divided; in Wake County 43 precincts are divided; and in Guilford County 37 precincts are divided. These counties and precincts contain a high percentage of African Americans.

114. The Lewis-Dollar-Dockham 4 Plan splits more precincts than any alternative plan submitted to the House Redistricting Committee. The enacted plan splits more than three times the number of precincts than the House Fair & Legal Plan, which split only 129 precincts. Additionally the enacted plan split almost twice as many precincts as the House LBC and House AFRAM plans, which split 210 precincts and 202 precincts, respectively.

115. The Lewis-Dollar-Dockham 4 Plan repeatedly split precincts based on race.

116. The plaintiffs are harmed by this excessive splitting of precincts.

Compactness and Communities of Interest

117. Many of the districts in Lewis-Dollar-Dockham 4 are drawn without regard for the traditional redistricting principles of compactness and respect for communities of interest.

118. Many of the districts have bizarre and wandering lines that can only be explained by the race-based addition of voters to or exclusion of voters from the district.

119. The Plan's lack of compactness shows its neglect of well-established communities of interest. This neglect weakens voters' ability to effect change as a community through the political process.

120. The alternative plans submitted to the House Redistricting Committee are more compact and preserve more communities of interest than Lewis-Dollar-Dockham 4.

121. In 7 out of 7 measures of overall compactness, the Lewis-Dollar-Dockham 4 Plan rated less compact than the House Fair & Legal, the AFRAM and LBC Plans.

122. The Lewis-Dollar-Dockham 4 Plan packs black voters into already effective minority districts without justification from the North Carolina Constitution or the federal Voting Rights Act.

123. This racial classification of voters is clearly demonstrated by examining various regions in the Lewis-Dollar-Dockham 4 Plan.

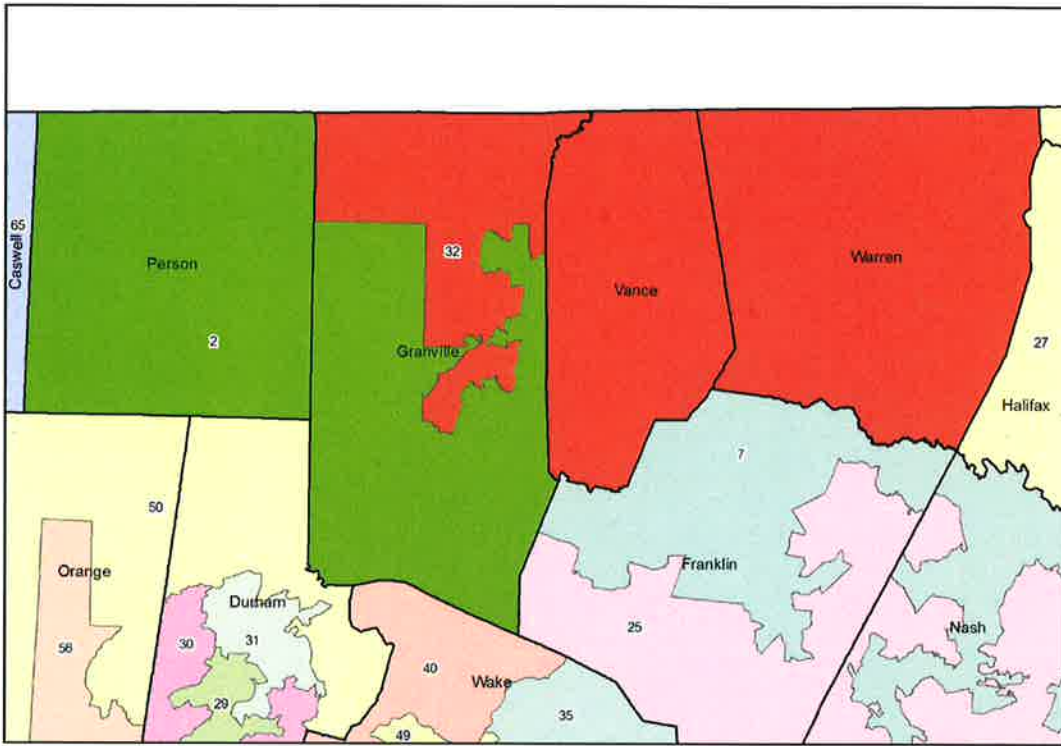
The Person-Warren-Vance-Granville Region

124. Lewis-Dollar-Dockham 4 Plan draws District 2 and District 32 as a pair of highly irregular, ragged districts to pack as many black voters as possible into District 32. In turn, the voting power of minorities remaining in District 2 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

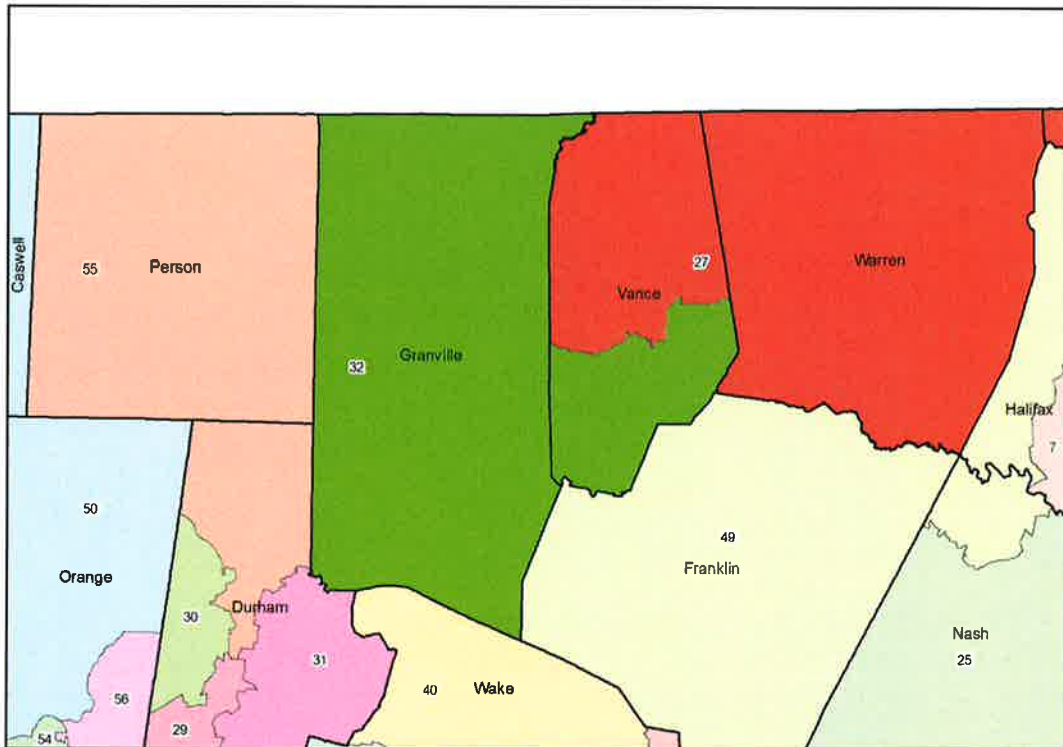
125. District 32 includes Warren and Vance counties in their entirety and then extends a southern tentacle into Granville County.

126. District 2 includes Person County in its entirety, and the remainder of Granville County unclaimed by District 32.

127. Below is a map of Lewis-Dollar-Dockham 4 Districts 2 and 32.



128. Below is a map of the equivalent area under the 2009 House Plan.



129. District 32 is a new district, drawn to have 50.45 percent BVAP.

130. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 32 and decrease the number of black voters in District 2. In turn, the number of white voters in District 2 is increased.

131. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

132. The design of these two districts does not respect traditional communities of interest such as precincts. In Districts 2 and 32, 5 precincts were split.

133. The design of these two districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 32 rated less compact than the equivalent district in the AFRAM plan on 6 out of 7 tests.

134. As a result of the inflated black population of District 32, minorities in the District 2 have less ability to elect the candidate of their choice and less influence in the electoral process.

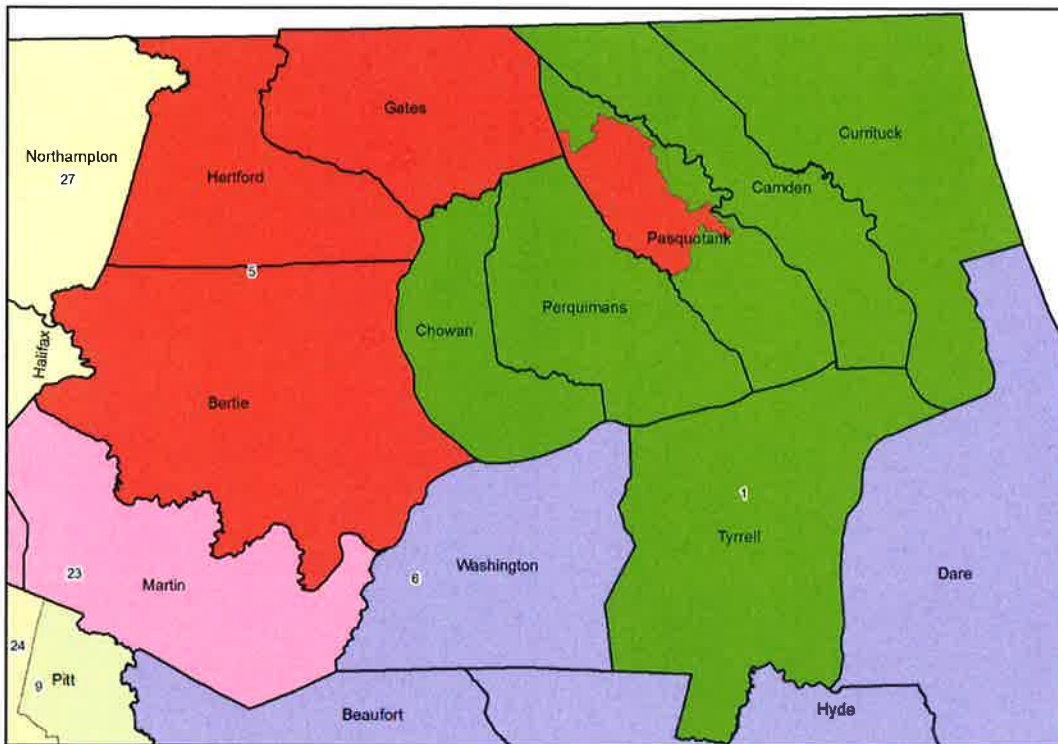
The Northeastern Corner

135. Lewis-Dollar-Dockham 4 Plan draws District 5 to pack in as many black voters as possible from District 1. In turn, the voting power of minorities remaining in District 1 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

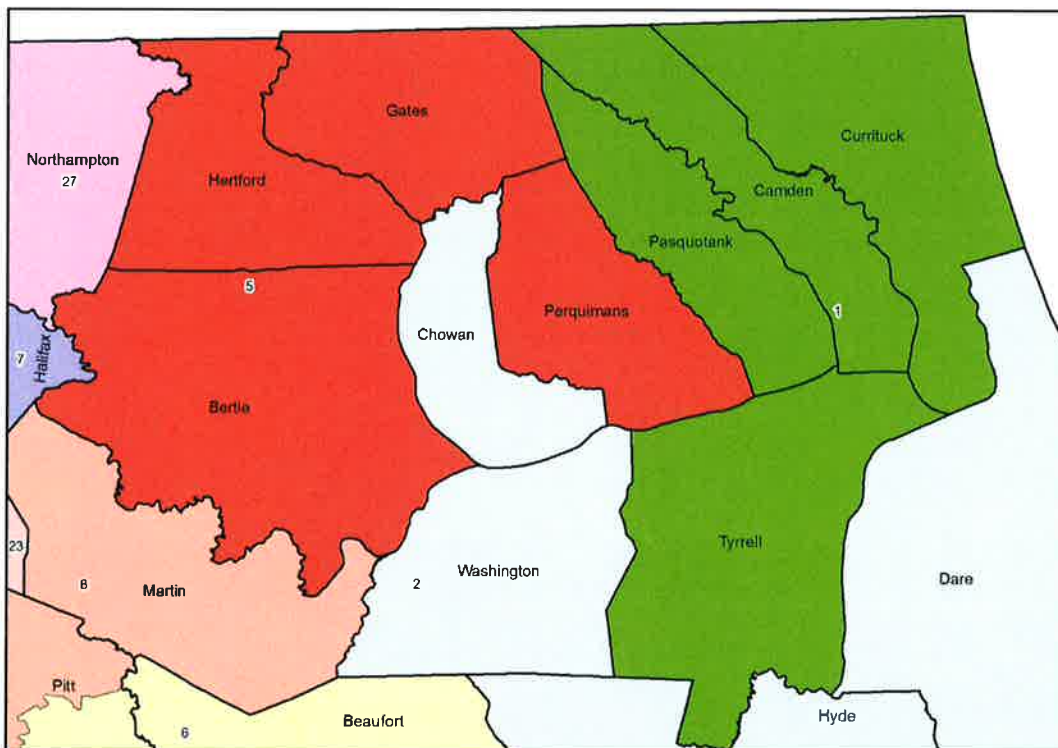
136. District 5 is subject to Section 5 preclearance. It includes Bertie, Hertford and Gates Counties in their entirety and then extends to grab the middle of Pasquotank County.

137. District 1, a majority white district, includes Currituck, Camden, Perquimans, Chowan and Tyrell Counties in their entirety, and the remainder of Pasquotank County unclaimed by District 5.

138. Below is a map of Lewis-Dollar-Dockham 4 Districts 1 and 5.



139. Below is a map of the equivalent area under the 2009 House Plan.



140. In House District 5, currently represented by an African American, Rep. Annie Mobley, the current BVAP of 48.87 percent increases to 54.17 percent under the new plan.

141. District 5 was already effectively electing the black candidate of choice and would have complied with the Voting Rights Act if the district had been drawn with a BVAP of approximately 48.87 percent.

142. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 5 and decrease the number of black voters in District 1. In turn, the number of white voters in District 1 is increased.

143. The use of race in drawing this district is not narrowly tailored to meet a compelling governmental interest.

144. The design of these two districts does not respect traditional communities of interest. In drawing black voters into District 5, 6 precincts in District 1 and 5 were split.

145. As a result of the inflated black population of District 5, minorities in District 1 have less ability to elect the candidate of their choice and less influence in the electoral process.

The Wilson-Pitt Region

146. Lewis-Dollar-Dockham 4 Plan draws District 8 and District 24 as a pair of highly irregular, ragged districts to pack as many black voters as possible into District 24. In turn, the voting power of minorities remaining in District 8 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

147. District 24 is subject to Section 5 preclearance. It takes a piece of the eastern half of Wilson County and extends west into Pitt County.

148. District 8 includes the remainder of Wilson County unclaimed by District 24 and the southwest corner of Pitt County.

151. In House District 24, represented by an African American, Rep. Jean Farmer-Butterfield, the current BVAP of 50.23 percent increases to 57.33 percent.

152. District 24 was already effectively electing the black candidate of choice and would have complied with the Voting Rights Act if the district had been drawn with a BVAP of approximately 50.23 percent.

153. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 24 and decrease the number of black voters in District 8. In turn, the number of white voters in District 8 is increased.

154. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

155. The design of these two districts does not respect traditional communities of interest such as precincts. In District 8, 9 precincts were split. In District 24, 12 precincts were split.

156. As a result of the inflated black population of District 24, minorities in District 8 have less ability to elect the candidate of their choice and less influence in the electoral process.

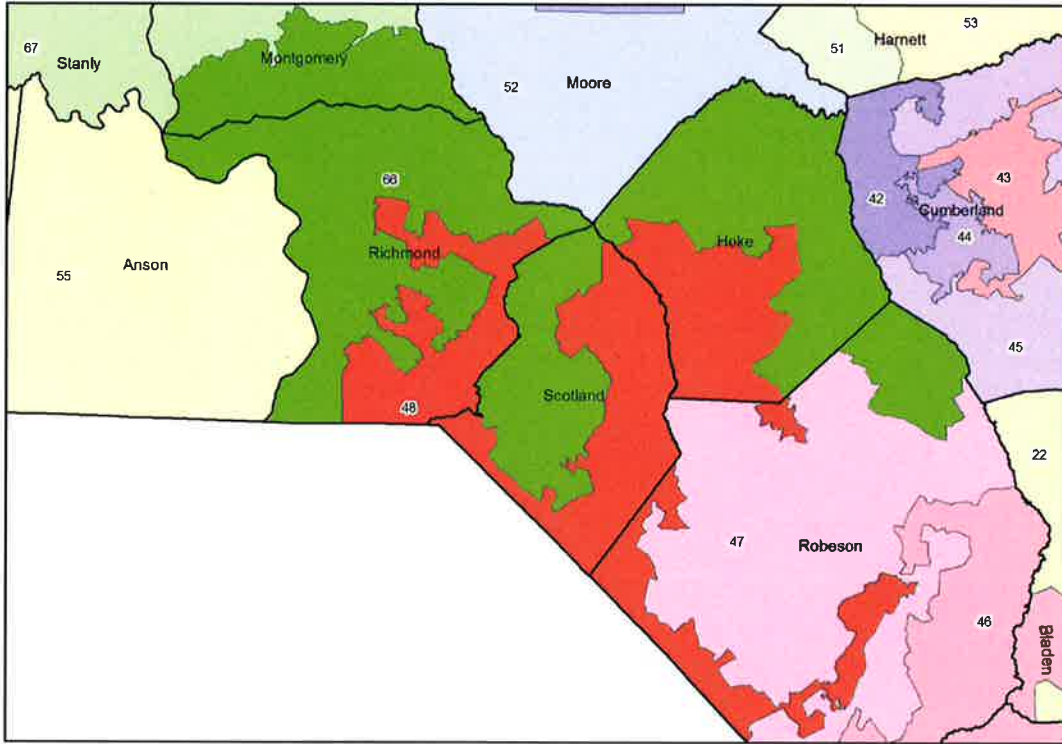
The Scotland-Richmond-Hoke Region

157. Lewis-Dollar-Dockham 4 Plan draws District 48 and District 66 as a pair of highly irregular, ragged districts to pack as many black voters as possible into District 48. In turn, the voting power of minorities remaining in District 66 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

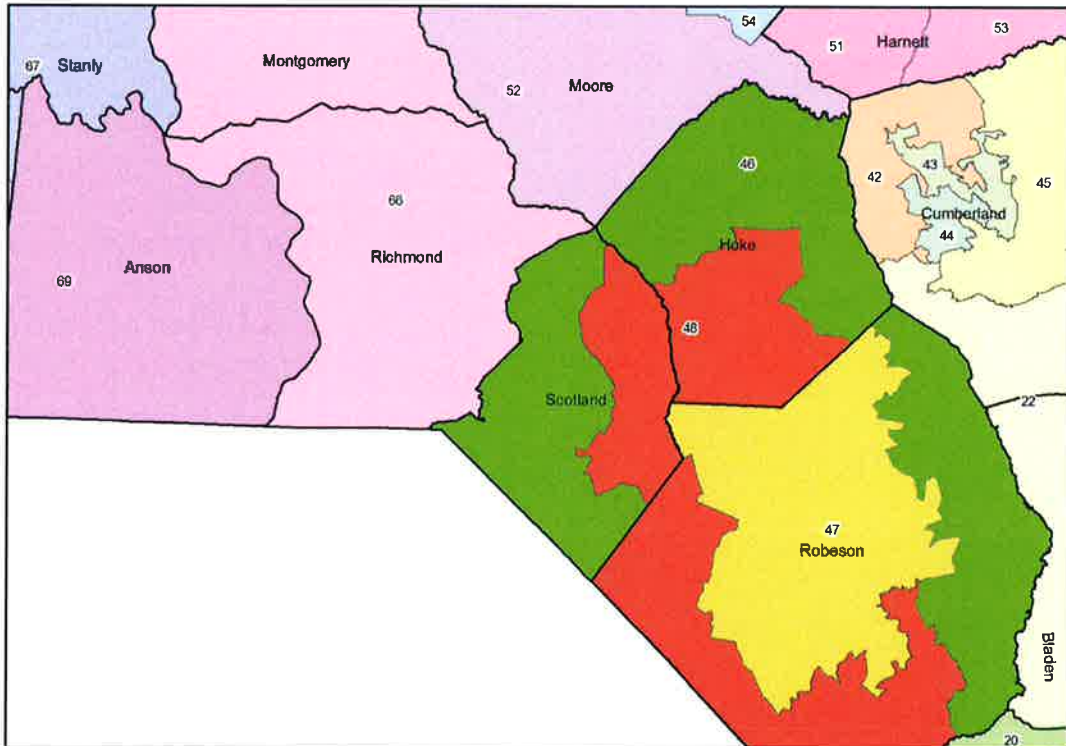
158. District 48 is subject to Section 5 preclearance. It begins in the southern half of Richmond County and spreads east through jagged portions of Scotland and Hoke, before extending an arm into Robeson County.

159. District 66 begins in Montgomery County and fills the remainder of Richmond, Scotland, and Hoke Counties unclaimed by District 48 before ending in north Robeson County.

160. Below is a map of Lewis-Dollar-Dockham 4 Districts 48 and 66.



161. Below is a map of the equivalent area under the 209 House Plan.



162. In House District 48 represented by an African American, Rep. Garland Pierce, the current BVAP of 45.56 percent increases to 51.27 percent.

163. District 5 was already effectively electing the black candidate of choice and complied with the Voting Rights Act.

164. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 48 and decrease the number of black voters in District 66. In turn, the number of white voters in District 66 is increased.

165. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

166. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 48 rated less compact than the equivalent district in the AFRAM plan on 5 out of 7 tests.

167. The design of these two districts does not respect traditional communities of interest, such as precincts.

168. In District 48, 31 precincts were split.

169. In District 66, 24 precincts were split.

170. As a result of the inflated black population of District 48, minorities in the District 66 have less ability to elect the candidate of their choice and less influence in the electoral process.

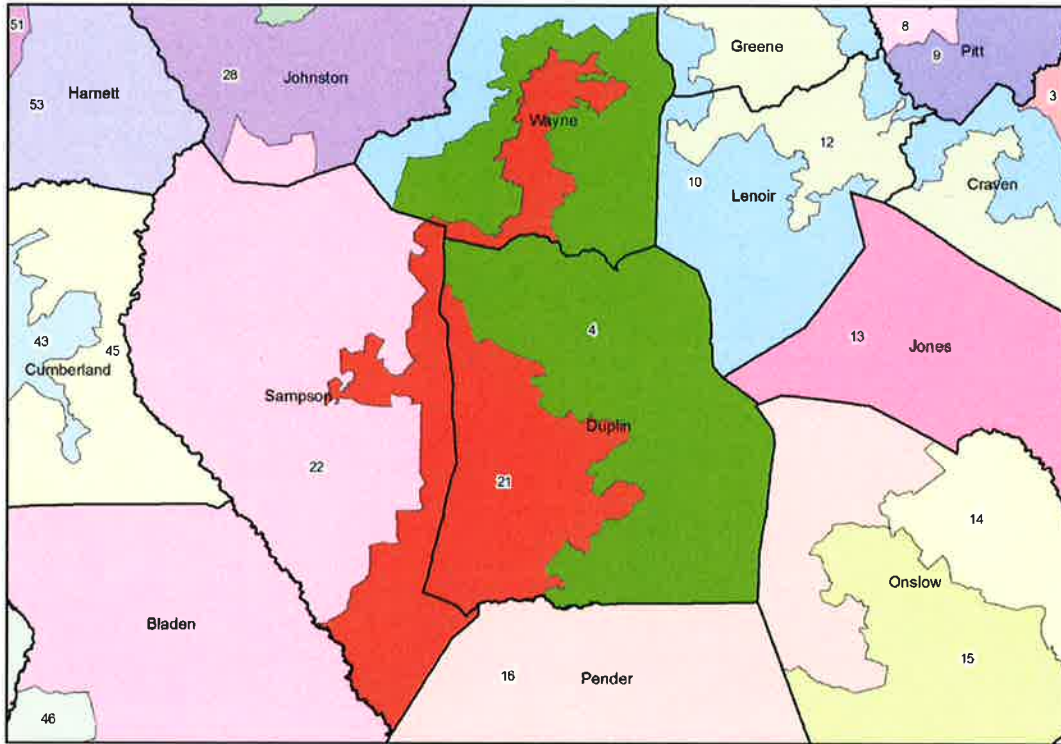
The Sampson-Duplin-Wayne Region

171. The Lewis-Dollar-Dockham 4 Plan draws District 4 and District 21 as a pair of ragged districts to pack as many black voters as possible into District 21. In turn, the voting power of minorities remaining in District 4 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

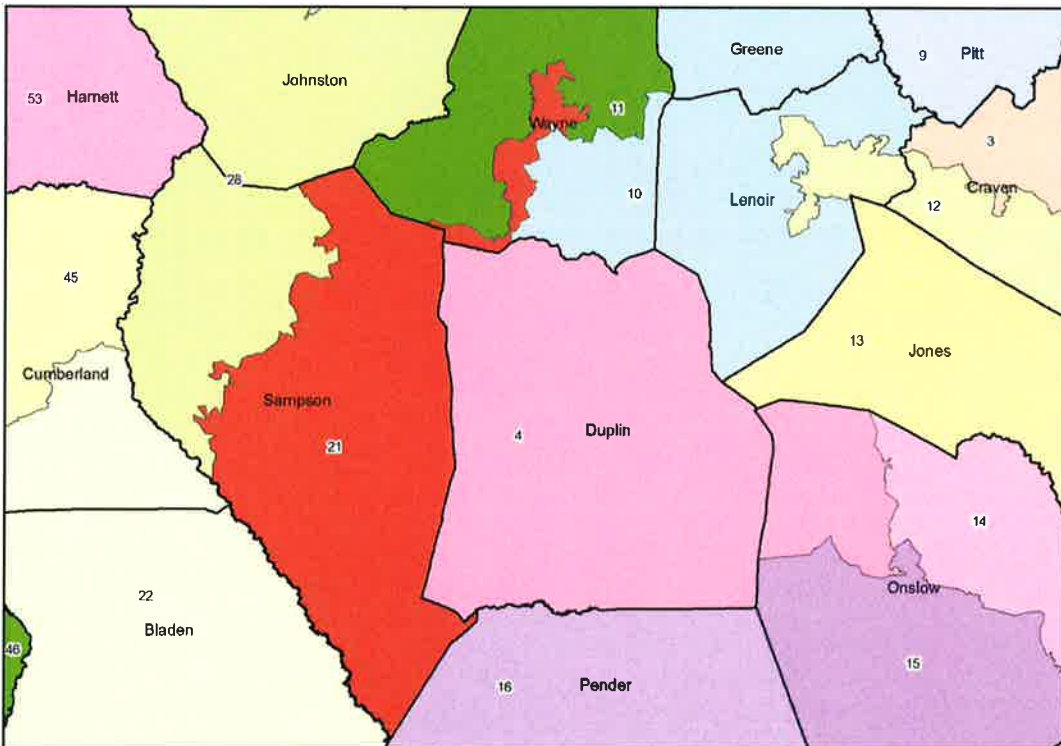
172. District 21 is subject to Section 5 preclearance. It begins in the southern half of Sampson County and spreads east through a jagged portion of Duplin County, before extending an arm north into Wayne County.

173. District 4 is comprised of the remainder of Duplin unclaimed by District 21 and reaches north into Wayne County.

174. Below is a map of Lewis-Dollar-Dockham 4 Districts 4 and 21.



175. Below is a map of the equivalent area under the 2009 House Plan.



176. In House District 21, represented by an African American, Rep. Larry Bell, the current BVAP of 46.25 percent increases to 51.9 percent

177. District 21 was already effectively electing the black candidate of choice and would have complied with the Voting Rights Act if the new BVAP remained around 46 percent.

178. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 21 and decrease the number of black voters in District 4. In turn, the number of white voters in District 4 is increased.

179. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

180. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 21 rated less compact than the equivalent district in the AFRAM plan on 7 out of 7 tests.

181. The design of these two districts does not respect traditional communities of interest such as precinct. In District 4, 17 precincts were split.

182. In District 21, 25 precincts were split.

183. As a result of the inflated black population of District 21, minorities in the District 4 have less ability to elect the candidate of their choice and less influence in the electoral process.

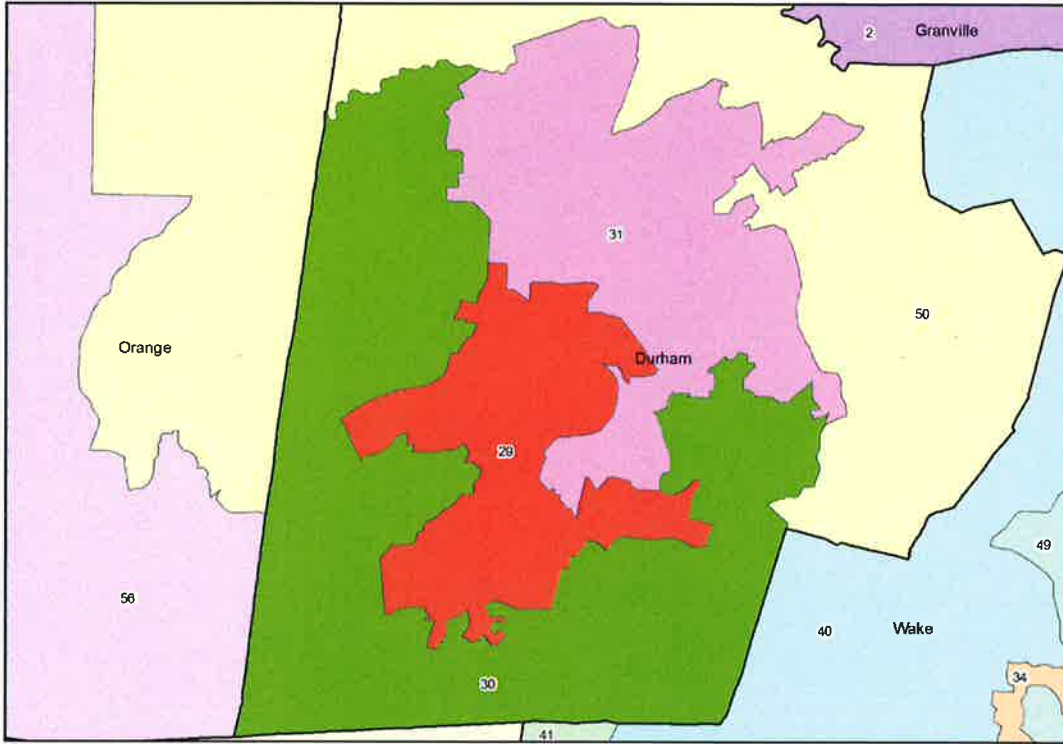
The Durham Region

184. The Lewis-Dollar-Dockham 4 Plan draws District 29 and District 30 as a pair of highly irregular, ragged districts to pack as many black voters as possible into District 29. In turn, the voting power of minorities remaining in District 30 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

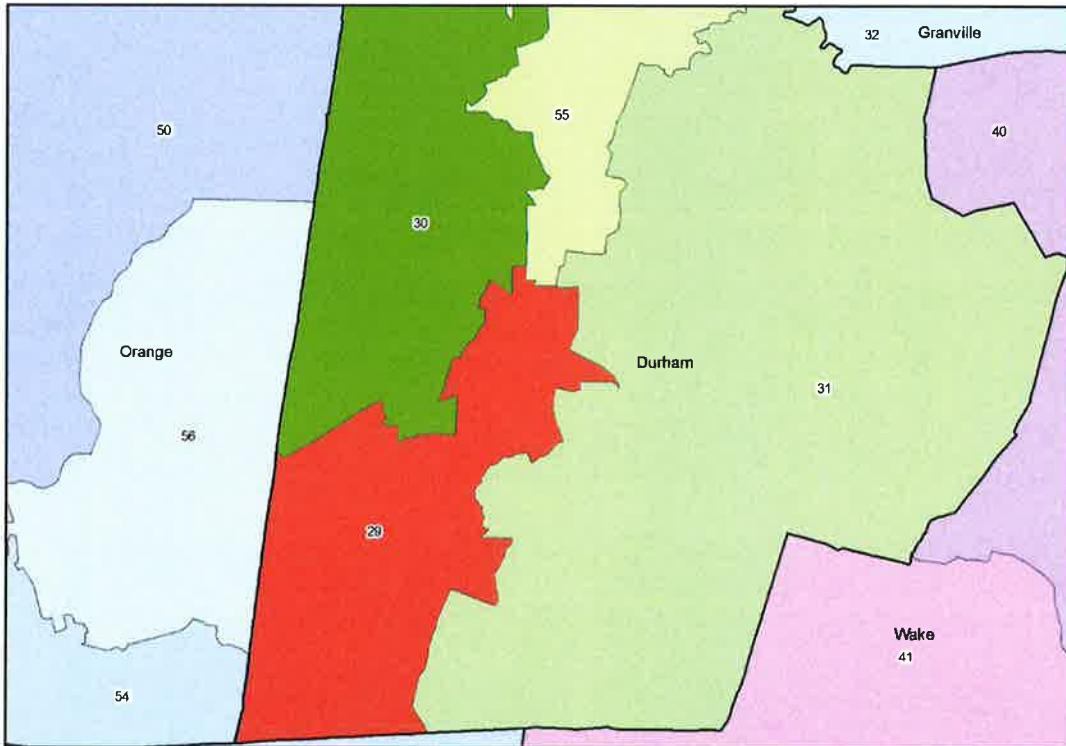
185. District 29 spreads like an ink blot over the city of Durham, a city with a large black population.

186. District 30 fills the remainder of the southern half of Durham unclaimed by District 29.

187. Below is a map of Lewis-Dollar-Dockham 4 Districts 29 and 30.



188. Below is a map of the equivalent area under the 2009 House Plan.



189. In House District 29, represented by an African American, Rep. Larry Hall, the current BVAP of 39.99 percent increases to 51.34 percent.

190. District 21 was already effectively electing the black candidate of choice and would have complied with the Voting Rights Act if the new BVAP remained around 46 percent.

191. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 29 and decrease the number of black voters in District 30. In turn, the number of white voters in District 30 is increased.

192. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

193. The design of these two districts does not respect traditional communities of interest. In District 29, 14 precincts were split.

194. In District 30, 12 precincts were split.

195. A total of 21 of Durham County's 55 precincts are split in drawing Districts 29, 30, and 31.

196. As a result of the inflated black population of District 29, minorities in the District 30 have less ability to elect the candidate of their choice and less influence in the electoral process.

The Wake Region

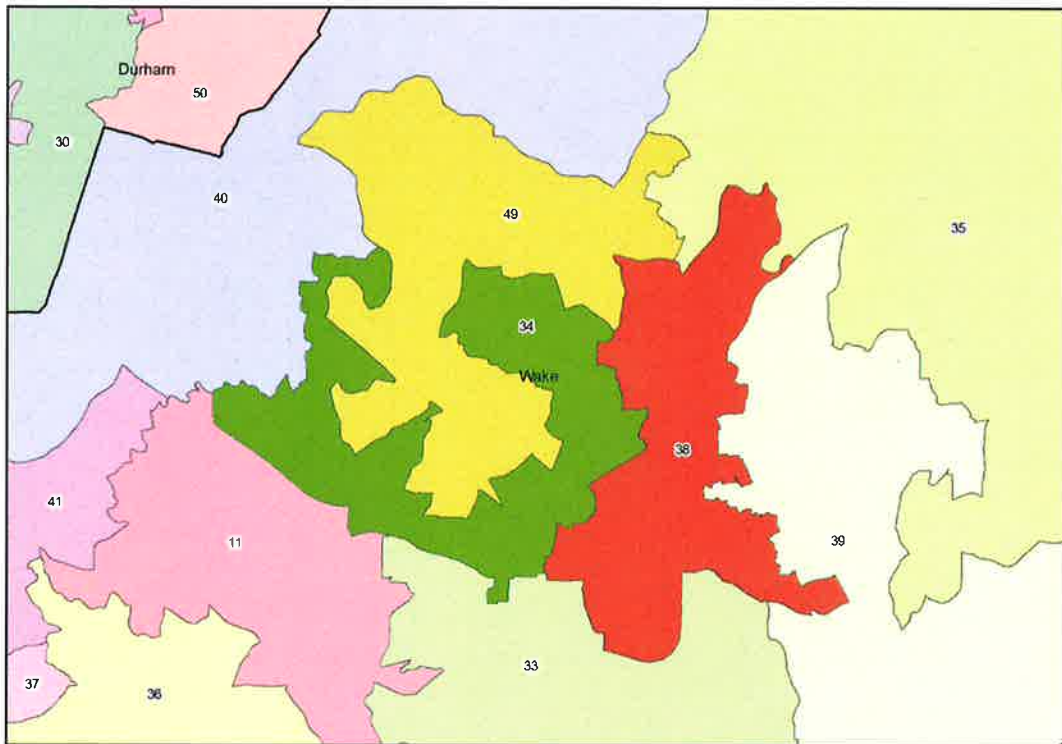
197. The Lewis-Dollar-Dockham 4 Plan draws Districts 34, 38 and 49 as a group of ragged, entwined, districts within Wake County to pack as many black voters as possible into District 38. In turn, the voting power of minorities remaining in Districts 34 and 49 is diluted. In creating this group of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

198. District 38 begins in central Wake County and extends over southeast Raleigh, into Garner and north into Knightdale and Wake Forest.

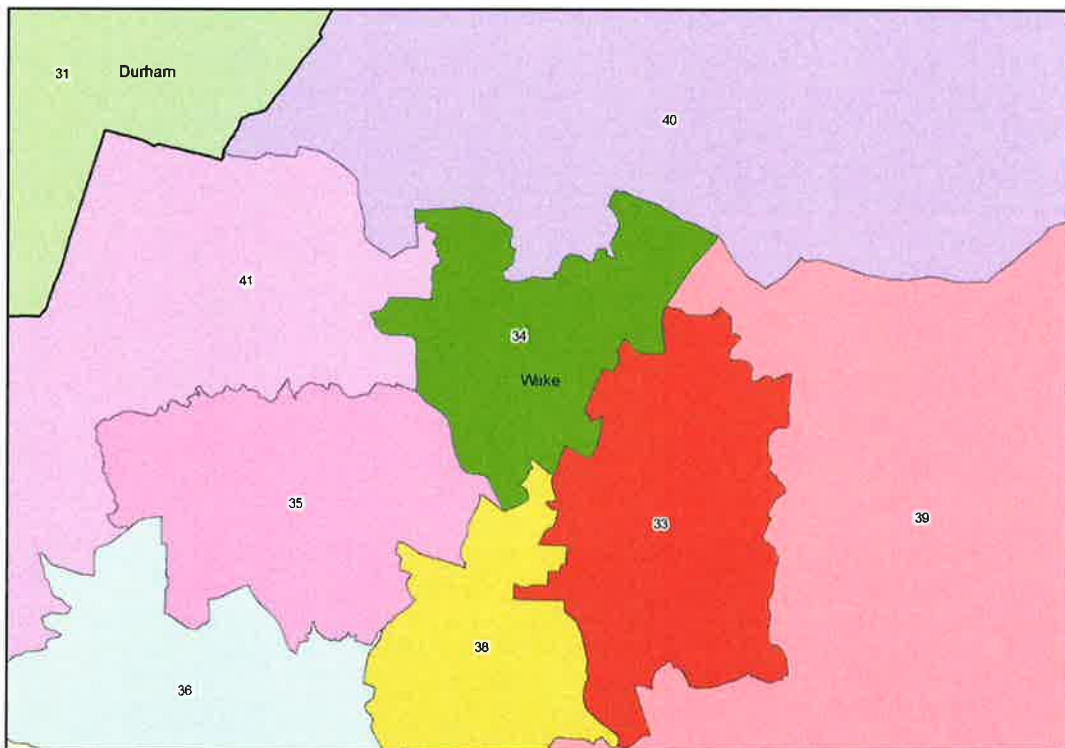
199. District 34 goes west of 38, over Cary and then and curves north around Raleigh to the edge of District 49.

200. District 49 contains central and North Raleigh.

201. Below is a map of Lewis-Dollar-Dockham 4 Districts 34, 38, and 49.



202. Below is a map of the equivalent area under the 2009 House Plan.



203. District 38 is a new majority-minority district, drawn to have 50.45 percent BVAP.

204. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 38 and decrease the number of black voters in Districts 34 and 49. In turn, the number of white voters in Districts 34 and 49 is increased.

205. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

206. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 38 rated less compact than the equivalent district in the AFRAM plan on 5 out of 7 tests.

207. The design of these two districts does not respect traditional communities of interest, such as precincts. In District 34, 14 precincts were split.

208. In District 38, 13 precincts were split.

209. In District 49, 3 precincts were split.

210. As a result of the inflated black population of District 38, minorities in the District 34 and 49 have less ability to elect the candidate of their choice and less influence in the electoral process.

The Cumberland Region

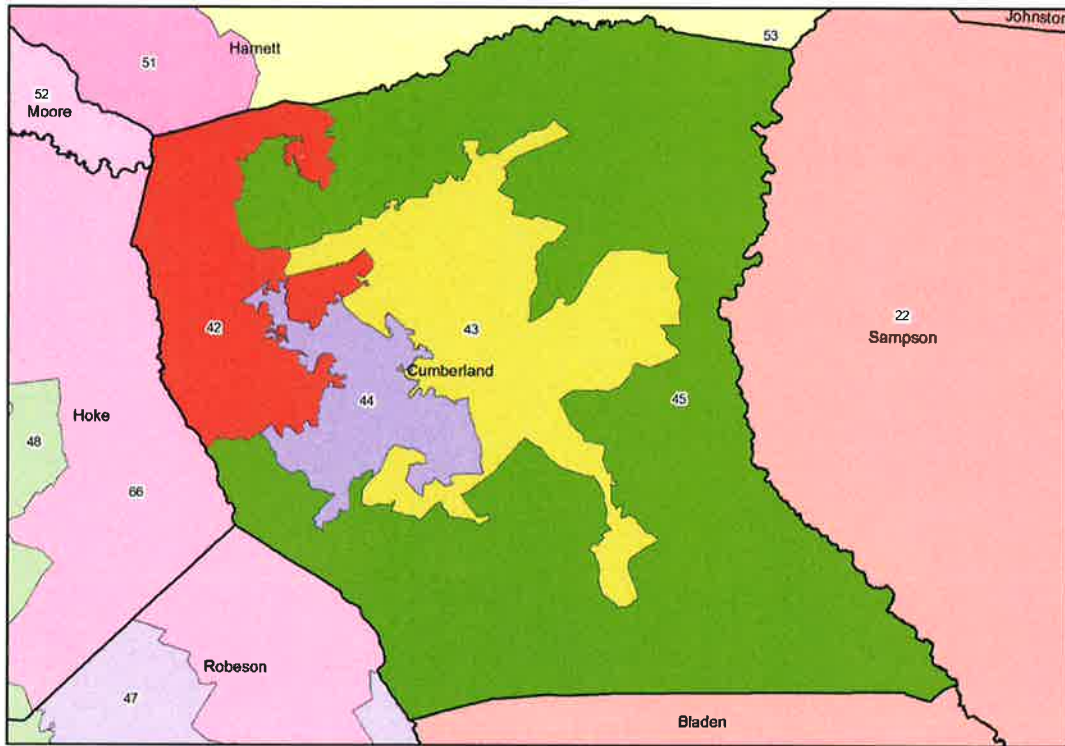
211. The Lewis-Dollar-Dockham 4 Plan draws District 42, 43, and 45 as a group of ragged districts within Cumberland County to pack as many black voters as possible into District 42. In turn, the voting power of minorities remaining in District 45 is diluted. In creating this group of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

212. District 42 is subject to Section 5 preclearance. It hugs the western edge of Cumberland County.

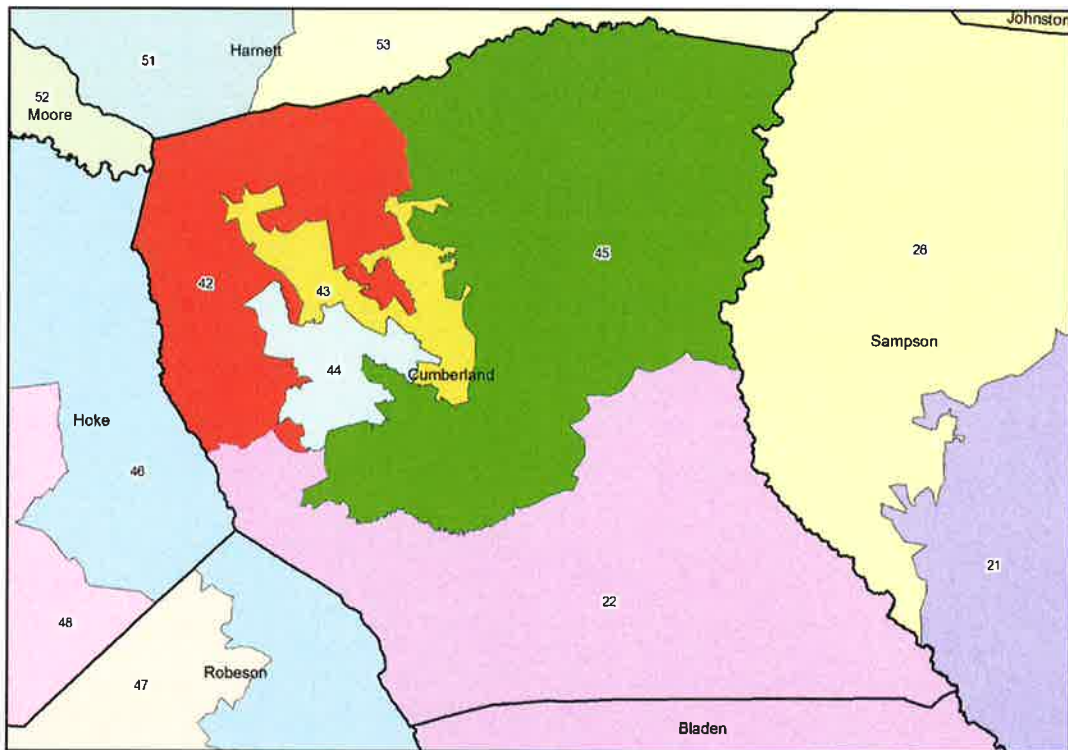
213. District 43 is subject to Section 5 preclearance. It spreads across the heart of Cumberland County, bounded by Districts 42, 44 and 45.

214. District 45 is subject to Section 5 preclearance. It fills the remainder of Cumberland County unclaimed by Districts 42, 43, and 44.

215. Below is a map of Lewis-Dollar-Dockham 4 Districts 42, 43, 44, and 45.



216. Below is a map of the equivalent area under the 2009 House Plan.



217. In House District 42, represented by an African American, Rep. Marvin Lucas, the current BVAP of 47.94 percent increases to 52.56 percent.

218. District 42 was already effectively electing the black candidate of choice and would comply with the Voting Rights Act if the new BVAP was drawn around 48 percent.

219. District 42 pulls black voters out of District 43. To apparently avoid retrogression under Section 5, District 43 extends a thin tentacle deep into District 45 to gather additional black voters. A more compact, non-retrogressive alternative was available if District 42 had not been unjustifiably packed.

220. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 42 and decrease the number of black voters in District 45. In turn, the number of white voters in District 45 is increased.

221. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

222. This district pairing does not respect traditional communities of interest, such as precincts. In District 42, 15 districts were split.

223. In District 45, 10 precincts were split.

224. A total of 27 of Cumberland County's 48 precincts are split in drawing Districts 42, 43, 44, and 45.

225. As a result of the inflated black population of District 42, minorities in District 45 have less ability to elect the candidate of their choice and less influence in the electoral process.

The Guilford Region

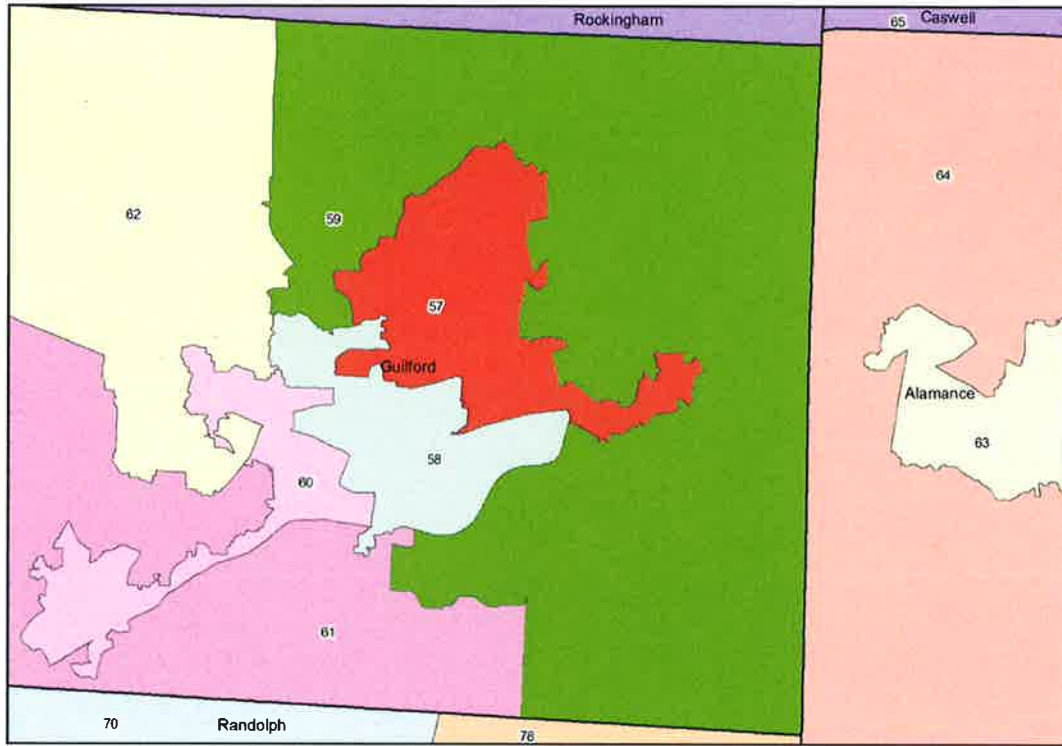
226. The Lewis-Dollar-Dockham 4 Plan draws Districts 57 and 59 as a pair of ragged districts to pack as many black voters as possible into District 57. Under the 2009 Plan, black voters in both districts exerted substantial influence. The new Plan packs as many black voters as

possible into District 57 to create a new majority-minority district not required by the Voting Rights Act.

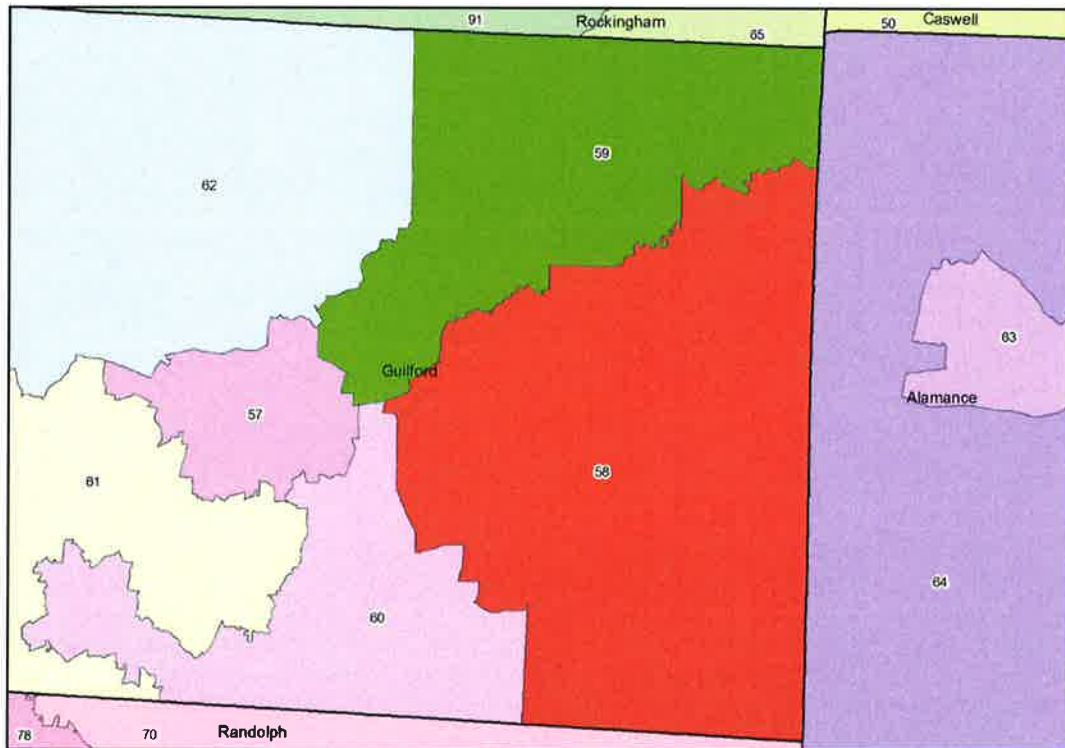
227. District 57 is subject to Section 5 preclearance. It begins in central Guilford, over Greensboro and extends a tendril into the eastern part of the county.

228. District 59 covers the majority of eastern Guilford County.

229. Below is a map of Lewis-Dollar-Dockham 4 Districts 57 and 59.



230. Below is a map of the equivalent area under the 2009 House Plan.



231. District 57 has a BVAP of 50.69 percent.

232. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 57 and decrease the number of black voters in District 59. In turn, the number of white voters in District 59 is increased.

233. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

234. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 57 rated less compact than the equivalent district in the AFRAM plan on 7 out of 7 tests.

235. The design of these two districts does not respect traditional communities of interest and political subdivisions.

236. In District 59, 11 precincts were split.

237. In District 57, 15 precincts were split.

238. As a result of the inflated black population of District 57, minorities in the District 59 have less ability to elect the candidate of their choice and less influence in the electoral process.

The Mecklenburg Region

239. The Lewis-Dollar-Dockham 4 Plan creates 5 black majority districts out of the 10 districts in Mecklenburg County.

240. These districts are not required by the Voting Rights Act.

241. In comparison, the AFRAM Plan creates only 2 majority-minority districts, in compliance with the Voting Rights Act.

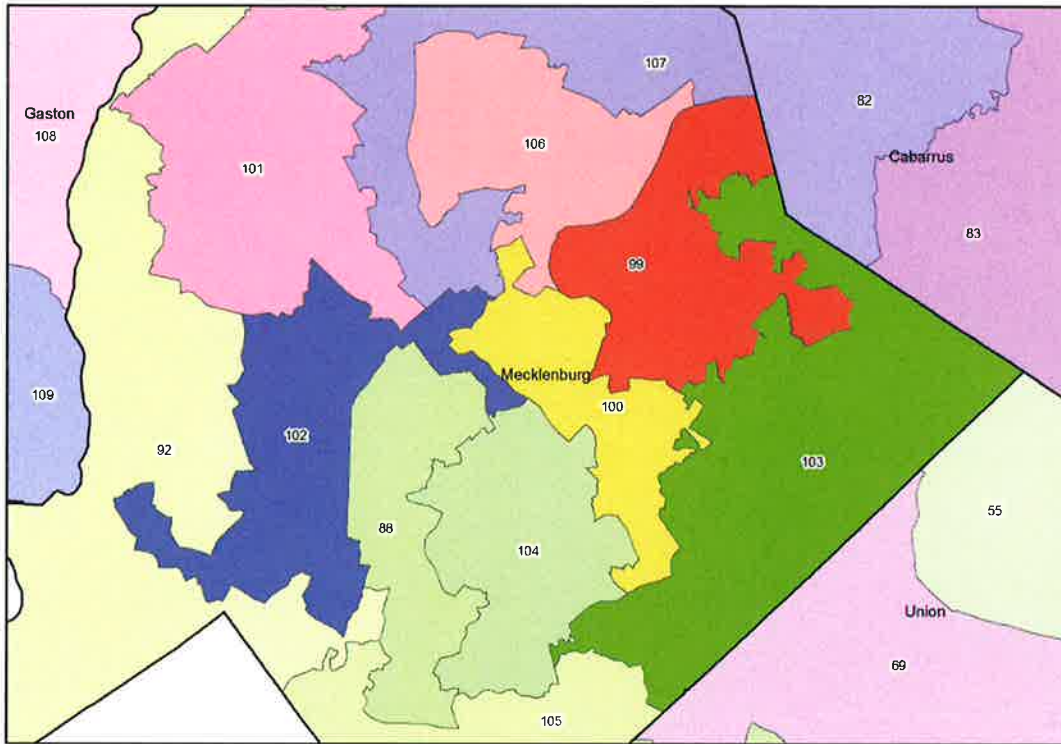
242. The Plan draws Districts 99 and 103 to pack as many black voters as possible into District 99. In turn, the voting power of minorities remaining in District 103 is diluted. In

creating this group of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

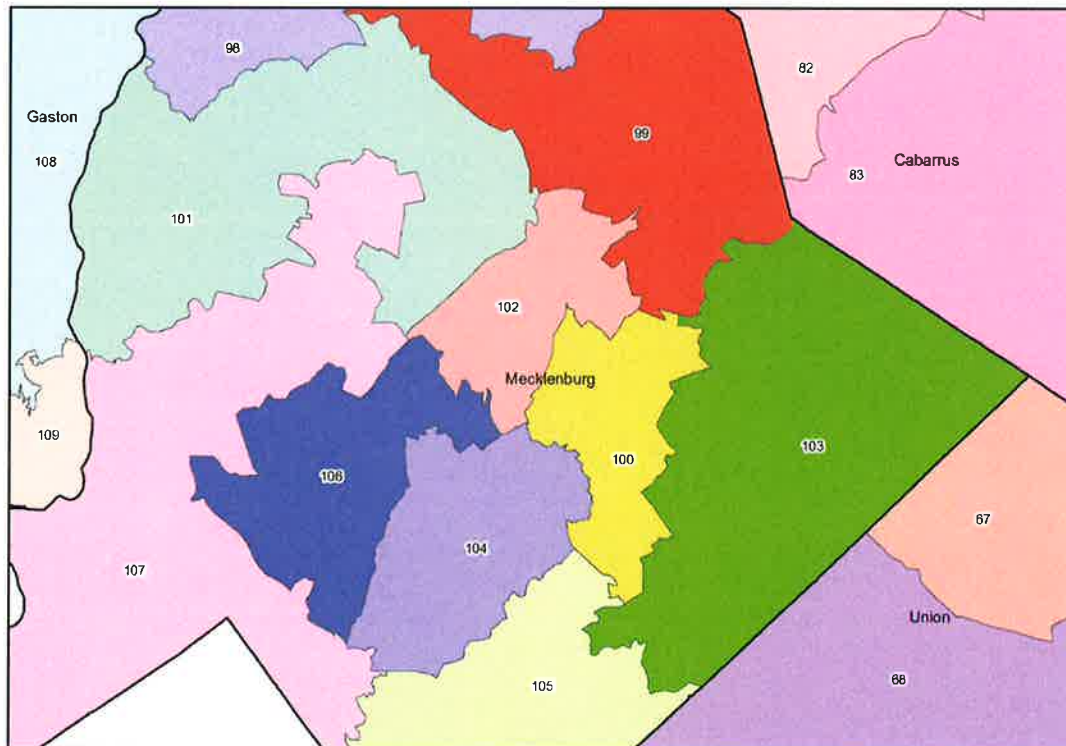
243. District 99 begins in the eastern side of Mecklenburg County and is bounded by Districts 106 and 107 in the northwest and District 100 in the southwest. It extends an arm into District 103 in the East.

244. District 103 hugs the eastern border of Mecklenburg County and is bordered by Districts 99, 100, 104, and 105.

245. Below is a map of Lewis-Dollar-Dockham 4 Districts 99, 102, 103, and 106.



246. Below is a map of the equivalent area under the 2009 House Plan.



247. In House District 99, represented by an African American, Rep. Rodney Moore, the current BVAP of 41.26 percent increases to 54.65 percent BVAP.

248. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 99 and decrease the number of black voters in District 103. In turn, the number of white voters in District 103 is increased.

249. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

250. The design of these districts also rejects the traditional redistricting principles of compactness.

251. Additionally, Lewis-Dollar-Dockham 4 draws Districts 102 and 106 to be two additional and unnecessary majority-minority districts in Mecklenburg. District 102, rises from 42.74 percent to 53.53 percent. District 106 is a new district in the county, drawn with a BVAP of 51.12 percent.

252. District 102 and 106 are racial classifications, drawn intentionally to increase the number of black voters in the district and decrease the number of black voters in adjacent districts.

253. These new majority-minority districts are not required for compliance with Section 2 of the Voting Rights Act.

254. To create these additional and unnecessary majority-minority districts, the entirety of Mecklenburg County is drawn with less consideration for compactness and communities of interest.

255. Lewis-Dollar-Dockham 4's Mecklenburg area rated less compact than the Mecklenburg area in the AFRAM Plan in 7 out of 7 measures.

256. The creation of unnecessary majority-minority districts leads to less compact adjacent districts. District 92, adjacent to District 102, is less compact than the equivalent district in the AFRAM Plan.

257. District 107, adjacent to Districts 92, 98, 99, 101 and 106 is less compact than the equivalent district in the AFRAM Plan.

258. The design of these districts does not respect traditional communities of interest. In Mecklenburg County, 49 out of the county's 195 precincts were split.

259. In District 99, 7 precincts were split.

260. In District 103, 3 precincts were split.

261. In District 102, 7 precincts were split.

262. In District 106, 3 precincts were split.

263. An egregious example of race-based precinct splits occurred in the Mecklenburg area. Precinct 235 in Mecklenburg County was split into two sub-precincts, which divided between House District 100 and 103. District 100 wrapped around one small predominantly black area, removing it from District 103. Adjacent Precinct 94 was split to pull white voters into 103.

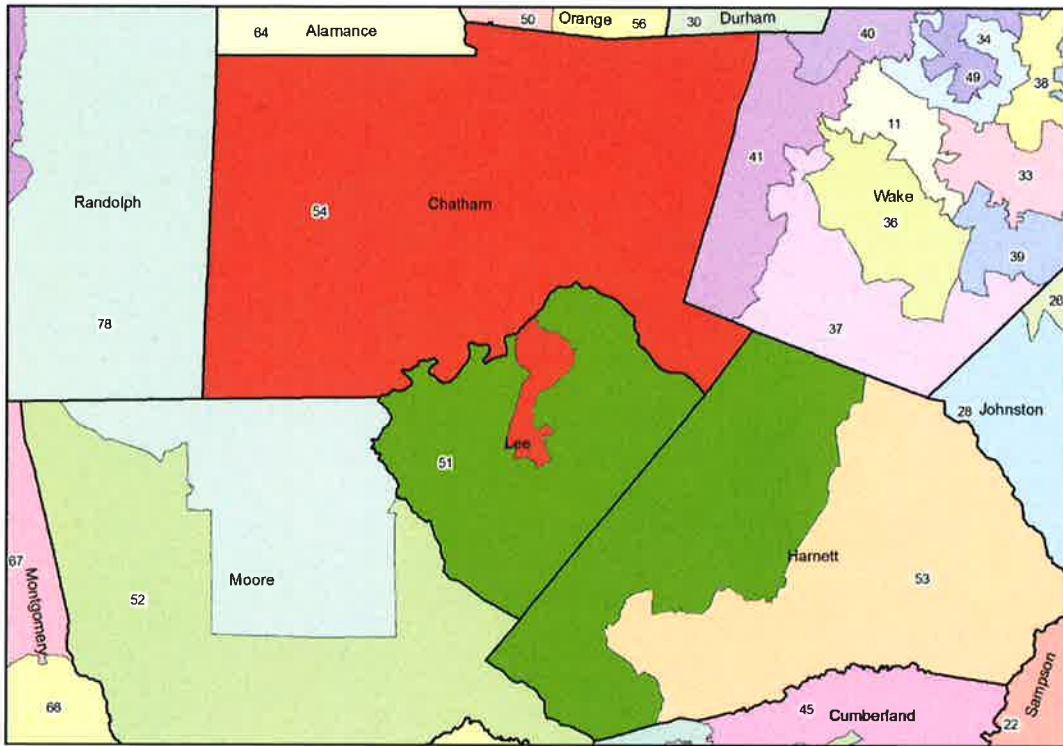
264. As a result of the inflated black population of District 99, 102, and 106, minorities in the District 103 and throughout the Mecklenburg area have less ability to elect the candidate of their choice and less influence in the electoral process.

Chatham-Lee Region

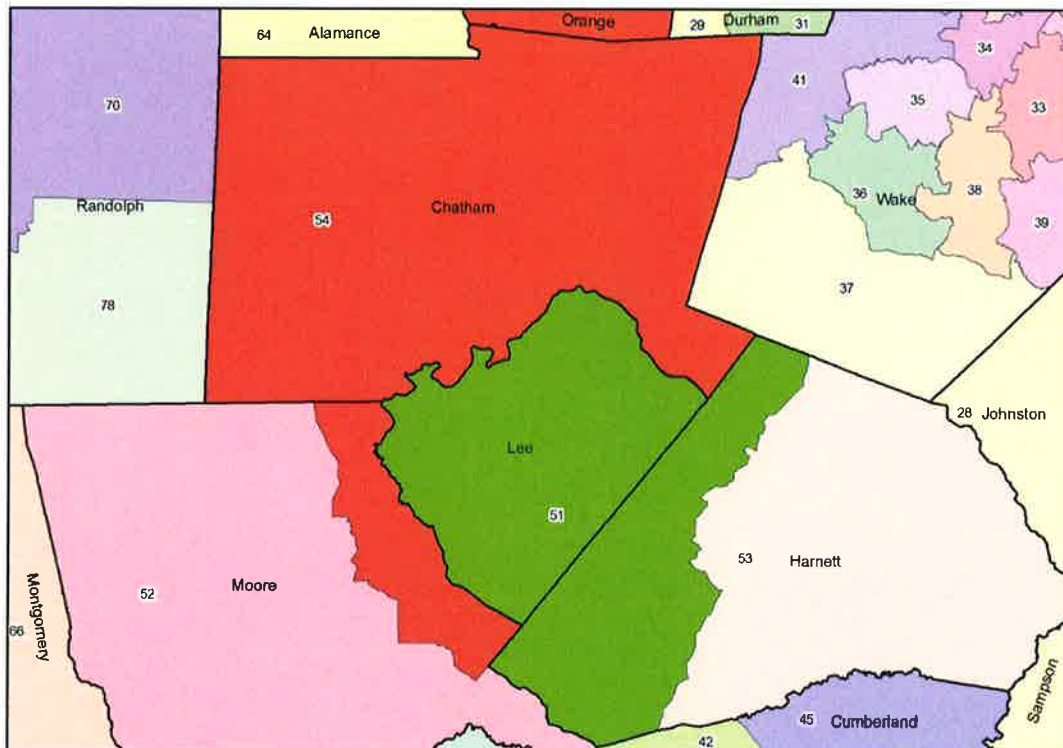
265. The Lewis-Dollar-Dockham 4 Plan draws District 54 to scoop black voters out of District 51 in Lee County. In turn, the voting power of minorities remaining in District 51 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

266. The Plan draws Districts 54 as containing Chatham County in its entirety then reaches an arm into District 51 in Lee County.

267. Below is a map of Lewis-Dollar-Dockham 4 Districts 51 and 54.



268. Below is a map of the equivalent area under the 2009 House Plan.



269. The total BVAP of District 54 is 17.98.

270. The BVAP of the Lee County piece of District 54 is 36.5 percent of the population of the Lee County piece.

271. District 54's excursion into Lee County accounts for approximately 40 percent of the entire BVAP of the district.

272. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 54 and decrease the number of black voters in District 51. In turn, the number of white voters in District 51 is increased.

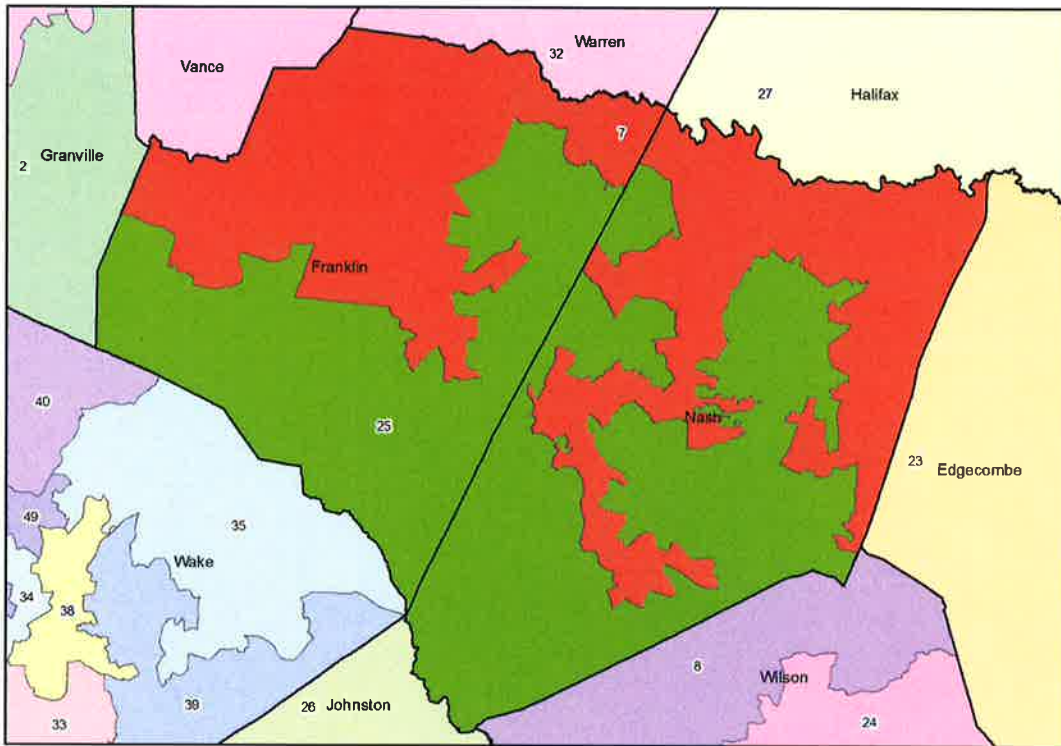
273. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

The Halifax-Nash-Franklin Region

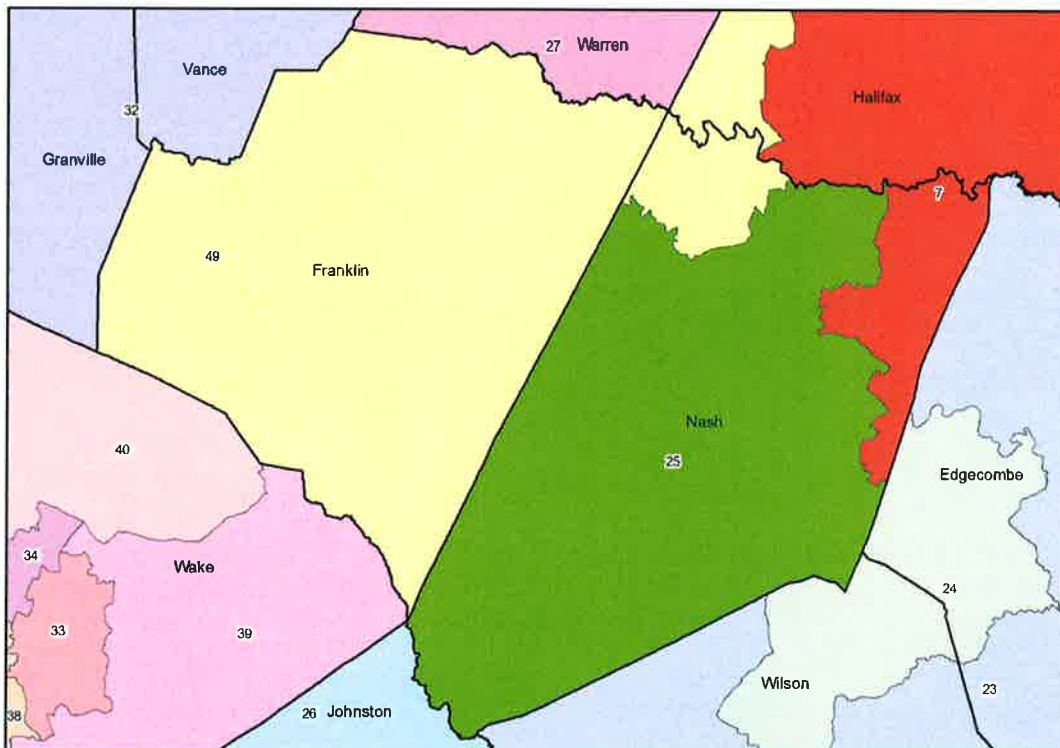
274. Lewis-Dollar-Dockham 4 Plan draws District 7 and District 25 as a pair of highly irregular, ragged districts that ignores the historic community of interest that unites Nash and Halifax Counties. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

275. District 7 winds its way through the northern portions of Franklin and Nash Counties, with arms that reach into the southern half of Nash County. District 25 includes the remainder of Franklin and Nash Counties unclaimed by District 7.

276. Below is a map of Lewis-Dollar-Dockham 4 Districts 7 and 25.



277. Below is a map of the equivalent area under the 2009 House Plan.



278. The design of these two districts does not respect traditional communities of interest, such as precincts. In Districts 7 and 25, 22 precincts were split.

279. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 7 rated less compact than the equivalent district in the AFRAM plan on 6 out of 7 tests.

State Senate Redistricting

280. On January 27, 2011, the Senate Redistricting Committee was appointed and Senator Bob Rucho was named as Chair of the Committee.

281. The Senate Redistricting Committee considered a plan named “Rucho Senate 2.”

282. In addition to Rucho Senate 2, two legislators introduced alternative plans: (1) the plan presented by Minority Leader, Senator Martin Nesbitt, called “Senate Fair and Legal;” and (2) the plan presented by Senator Floyd McKissick for the Legislative Black Caucus, the “LBC Plan.” In addition, an alternative plan was developed by a coalition of community-based organizations called AFRAM (Alliance for Fair Redistricting and Minority Voting Rights) and submitted at the June 23, 2011 public hearing, “AFRAM map.”

283. All three alternative plans adhered to the traditional redistricting criteria of compactness, contiguity, and preserving communities of interest. The plans also provided appropriate and effective voting districts for minority voters in compliance with Section 2 and Section 5 of the Voting Rights Act.

284. The State Senate plan currently in effect is known as the “2003 Senate Plan.” The 2003 Plan was ratified in 2003, and was used in the 2004 through 2010 elections. It is the benchmark used for Section 5 analysis.

285. On July 27, 2011, the General Assembly passed the State Senate Redistricting Plan, S.L. 404, known as the “Rucho Senate 2” plan.

286. No African-American Senators or Representatives voted for the Rucho Senate 2 Plan.

287. On November 7, 2011, the General Assembly passed curative legislation to assign all the areas left unassigned by the Senate Redistricting Plan, 2011 S.L. 404. The revised Plan was enacted into law as 2011 S.L. 413

288. No African-American Senators or Representatives voted for the curative legislation.

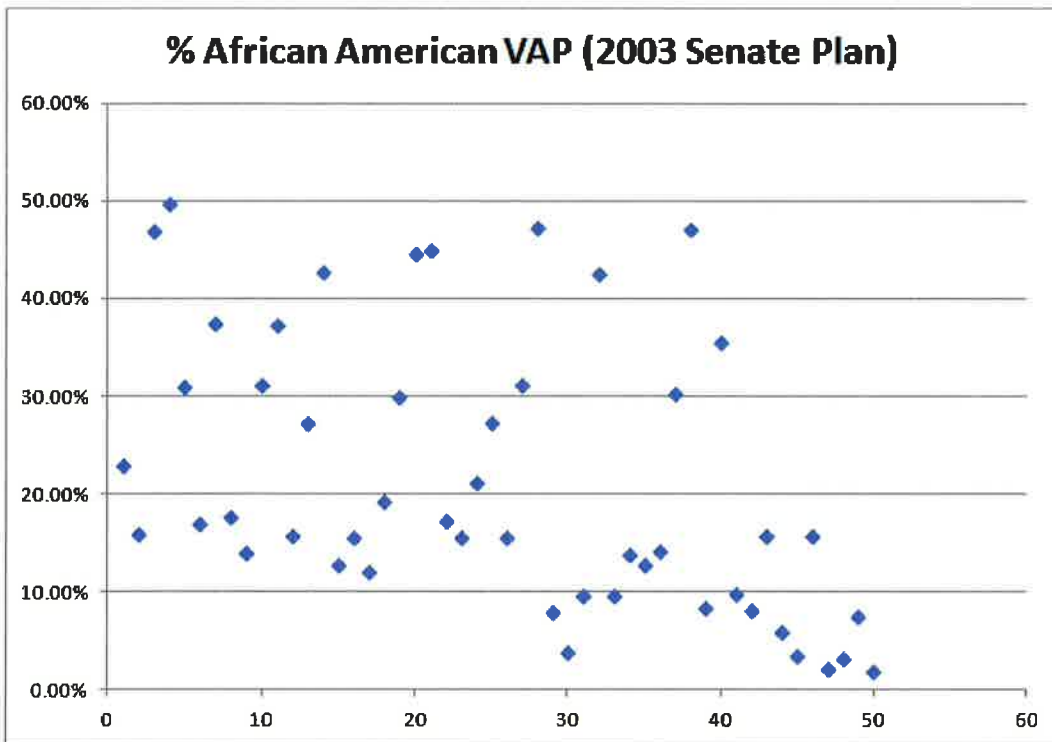
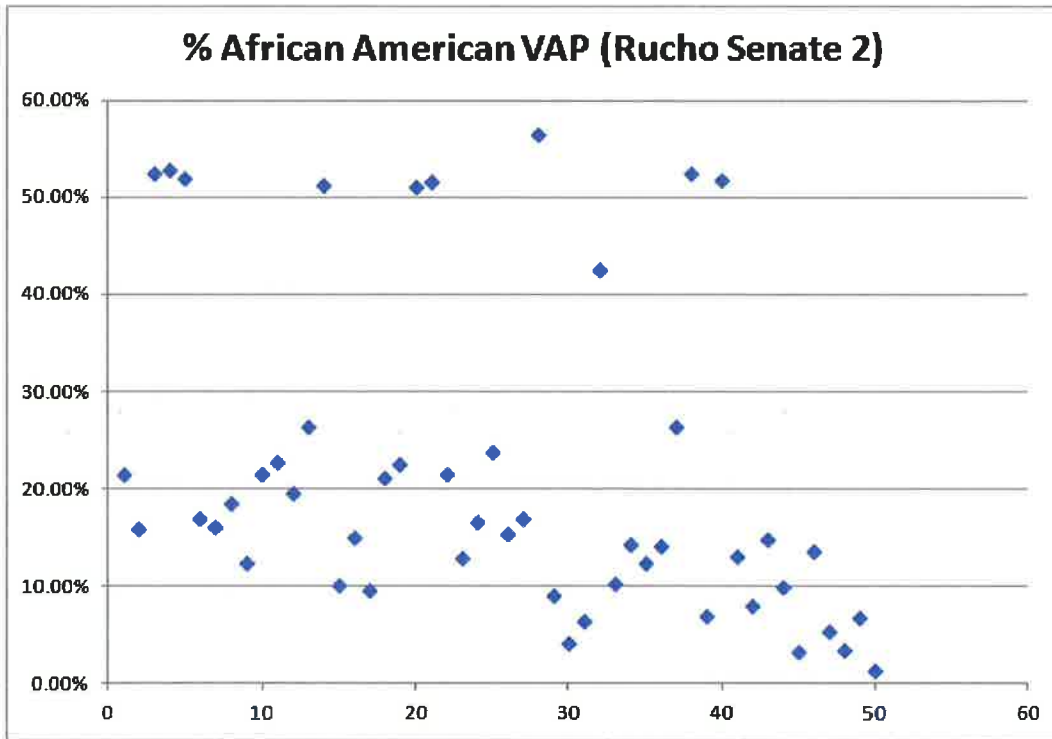
289. In the Rucho Senate 2 Plan, 10 districts have a BVAP greater than 40 percent and 9 of these districts have a BVAP over 50 percent.

290. By comparison, in the 2003 Senate Plan, no district had a BVAP greater than 50 percent. Eight districts had a BVAP greater than 40 percent, ranging from 42.52 percent to 49.7 percent. From these eight districts, seven black Senators were elected.

291. The Rucho Senate 2 Plan segregates many black voters into districts with greater than 50 percent BVAP or less than 30 percent BVAP. In the Plan, only 1 district has a BVAP between 30 and 50 percent.

292. In comparison, the 2003 Plan had 15 districts with a BVAP between 30 and 50 percent.

293. The BVAP of the Rucho Senate 2 Plan and the 2003 Plan are shown below where each dot represents one of the 50 districts in the plan. The vertical axis is the percent BVAP of the district and the horizontal axis is the number of the district.



294. In drawing these districts, the Rucho Senate 2 plan intentionally carved black voters out of existing majority-white districts to increase the BVAP of districts already providing

African-American voters an opportunity to elect their candidates of choice and to decrease the number of black voters in the remaining majority white districts. The Rucho Senate 2 Plan divided black voters from their neighborhoods and communities by splitting the precincts in which they vote and packing them in existing, performing minority districts.

295. Rucho Senate 2 divides 257 precincts in 12 counties. A voting age population of approximately 1,000,000 citizens resides within these divided precincts.

296. The Rucho Senate 2 Plan splits more precincts than any alternative plan submitted to the Senate Redistricting Committee. The enacted plan splits **43 times** the number of precincts than the Senate Fair & Legal Plan, which split only 6 precincts. Additionally the enacted plan split many more precincts than the Senate LBC and Senate AFRAM plans, which split 5 precincts and 70 precincts, respectively.

297. The Rucho Senate 2 Plan repeatedly split precincts based on race.

298. The plaintiffs are harmed by this excessive splitting of precincts.

299. The Rucho Senate 2 Plan also fails to preserve the traditional redistricting principle of compactness. In measures of compactness, the Rucho Senate 2 Plan rated less compact than the Senate Fair & Legal Plan in 6 out of 7 tests and the AFRAM and LBC Plans in 5 out of 7 tests.

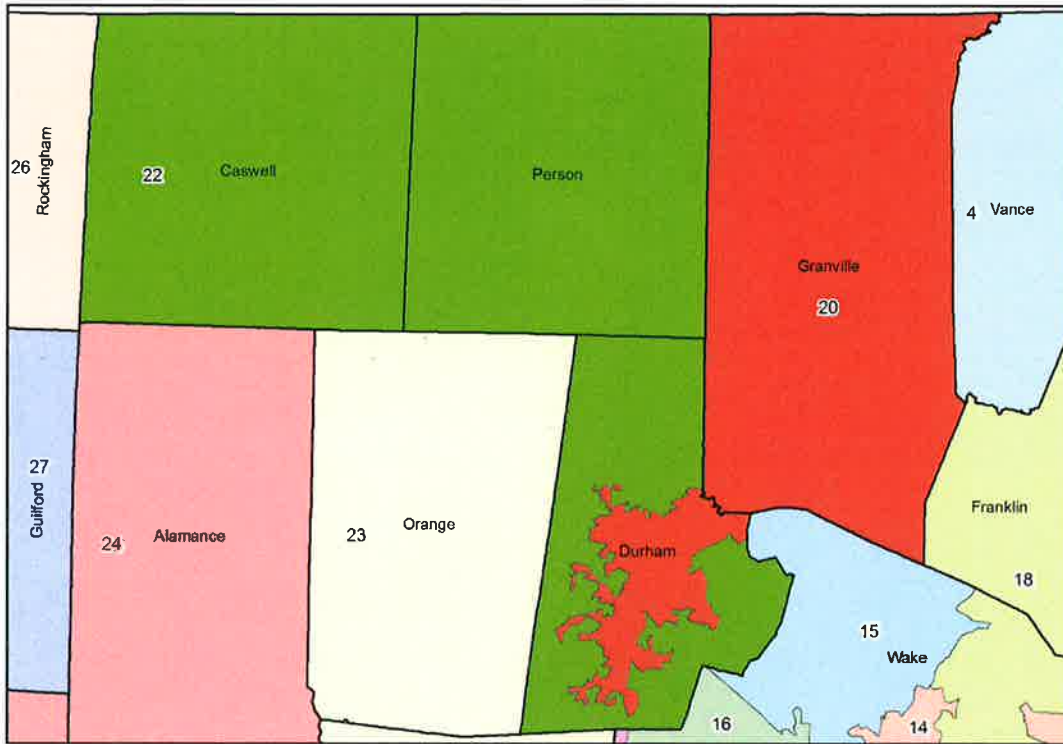
The Durham-Granville Area

300. Rucho Senate 2 draws District 20 and District 22 as a pair of highly irregular, ragged districts to pack as many black voters as possible into District 20. In turn, the voting power of minorities remaining in District 22 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

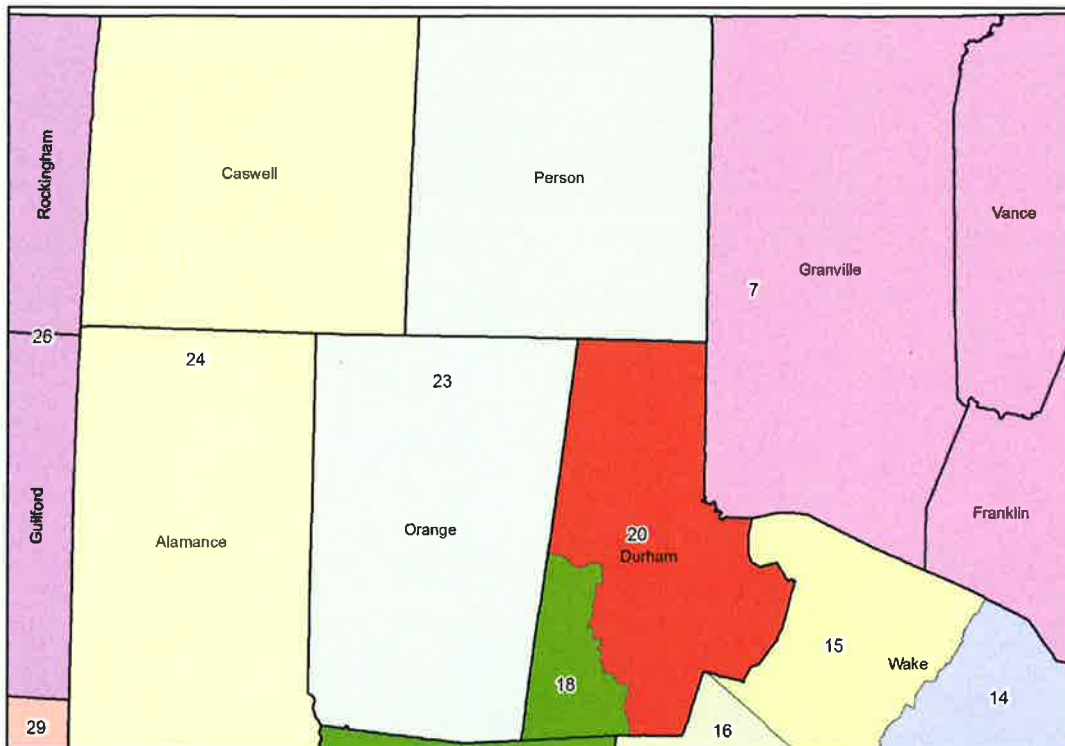
301. District 20 includes Granville County in its entirety and then extends a southern tentacle into Durham County to reach into Durham, a city with a large black population.

302. District 22 includes Caswell and Person Counties in their entirety, and the remainder of Durham County unclaimed by District 20.

303. Below is a map of Rucho Senate 2 Districts 20 and 22.



304. Below is a map of the equivalent area under the 2003 Senate Plan.



305. In Senate District 20, represented by an African-American, Sen. Floyd McKissick, the current BVAP of 44.64 percent increases to 51.04 percent under the new plan.

306. District 20 was already effectively electing the black candidate of choice and a majority BVAP district was not needed to comply with Section 2 of the Voting Rights Act.

307. District 20's reach into Durham targets black voters. In the area of District 20 in Durham County, the BVAP is 59.18 percent. In contrast, the BVAP of the rest of Durham County, located in District 22, is only 17.73 percent.

308. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 20 and decrease the number of black voters in District 22. In turn, the number of white voters in District 22 is increased.

309. The design of these two districts does not respect traditional communities of interest. In Durham County, the majority of precincts (35 out of 55) were split. Districts 20 and 22 also had 35 split precincts.

310. The design of these districts rejects the traditional redistricting principles of compactness. In measures of compactness, District 20 rated less compact than the equivalent district in the AFRAM plan on 7 out of 7 tests.

311. As a result of the inflated black population of District 20, minorities in the Durham/Granville area risk losing the ability to elect the candidate of their choice.

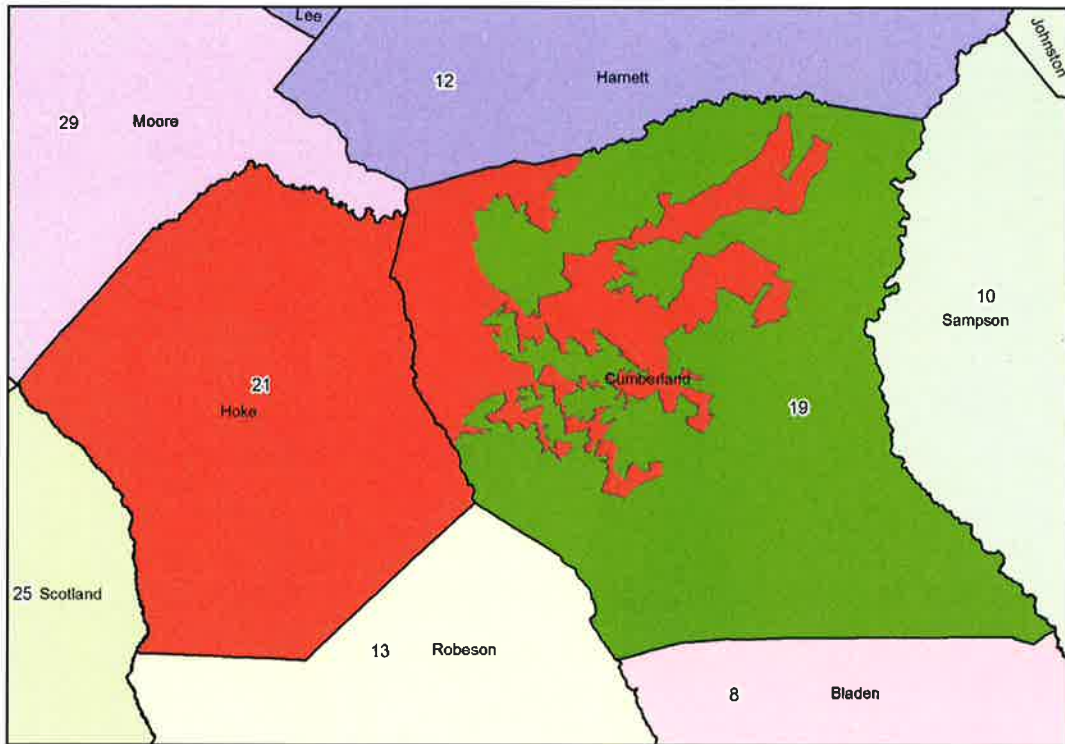
The Hoke-Cumberland Area

312. The Rucho Senate 2 Plan draws District 19 and District 21 as a pair of convoluted districts to pack as many black voters as possible into District 21. In turn, the voting power of minorities remaining in District 19 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

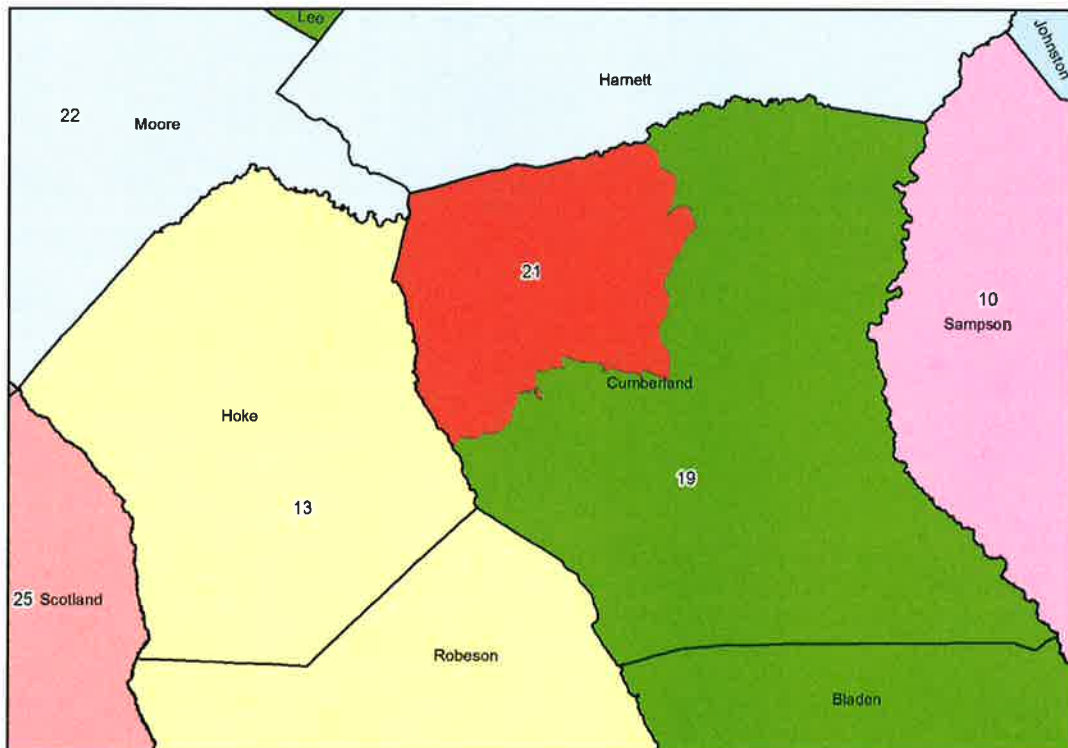
313. District 21 is subject to Section 5 preclearance. It includes Hoke County in its entirety and then extends east in five separate “fingers” into Cumberland County. These fingers stretch into Fayetteville, a city with a large black population.

314. District 19 contains the portion of Cumberland County unclaimed by District 21.

315. Below is a map of Rucho Senate 2 Districts 19 and 21.



316. Below is a map of the equivalent area under the 2003 Senate Plan.



317. In Senate District 21, represented by African-American Sen. Eric Mansfield, the current BVAP of 44.93 percent increases to 51.53 percent.

318. District 21 was already effectively electing the black candidate of choice and complied with the Voting Rights Act.

319. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 21 and decrease the number of black voters in District 19. In turn, the number of white voters in District 19 is increased.

320. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

321. The design of these two districts does not respect traditional communities of interest. Within Districts 19 and 21, 33 precincts were split in each district. More than one-half the precincts are divided by Senate districts in Cumberland County (33 of 48)

322. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 21 rated less compact than the equivalent district in the AFRAM plan on 7 out of 7 tests.

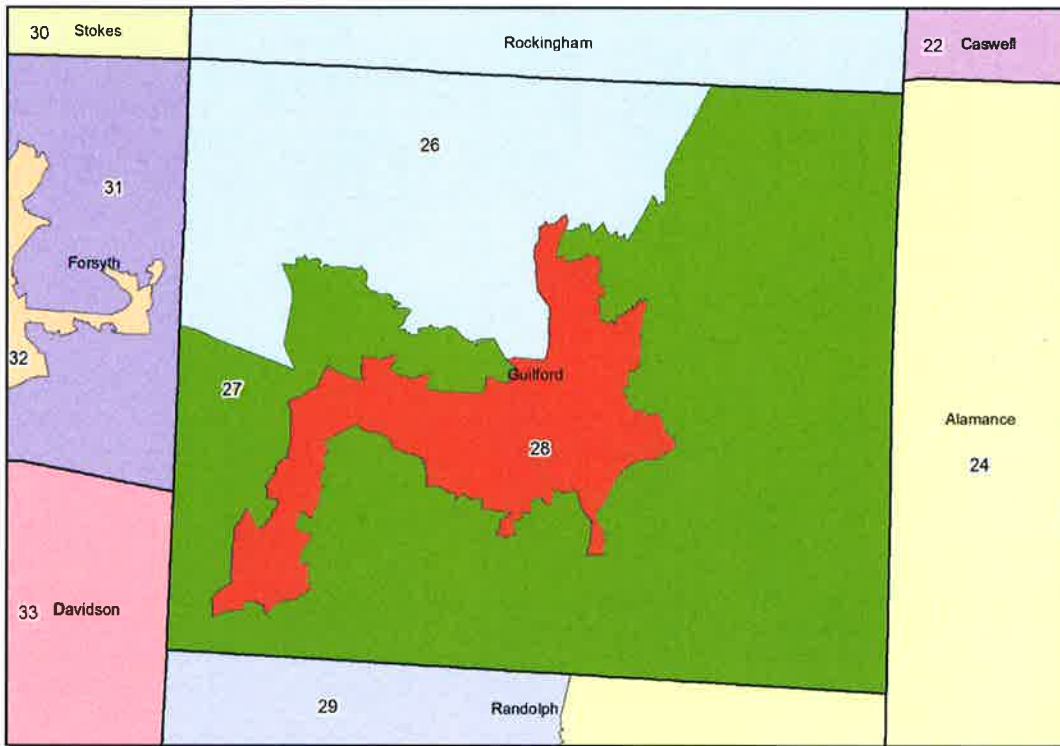
323. As a result of the inflated black population of District 21, minorities in District 19 have less ability to elect the candidate of their choice and less influence in the electoral process.

The Guilford Area

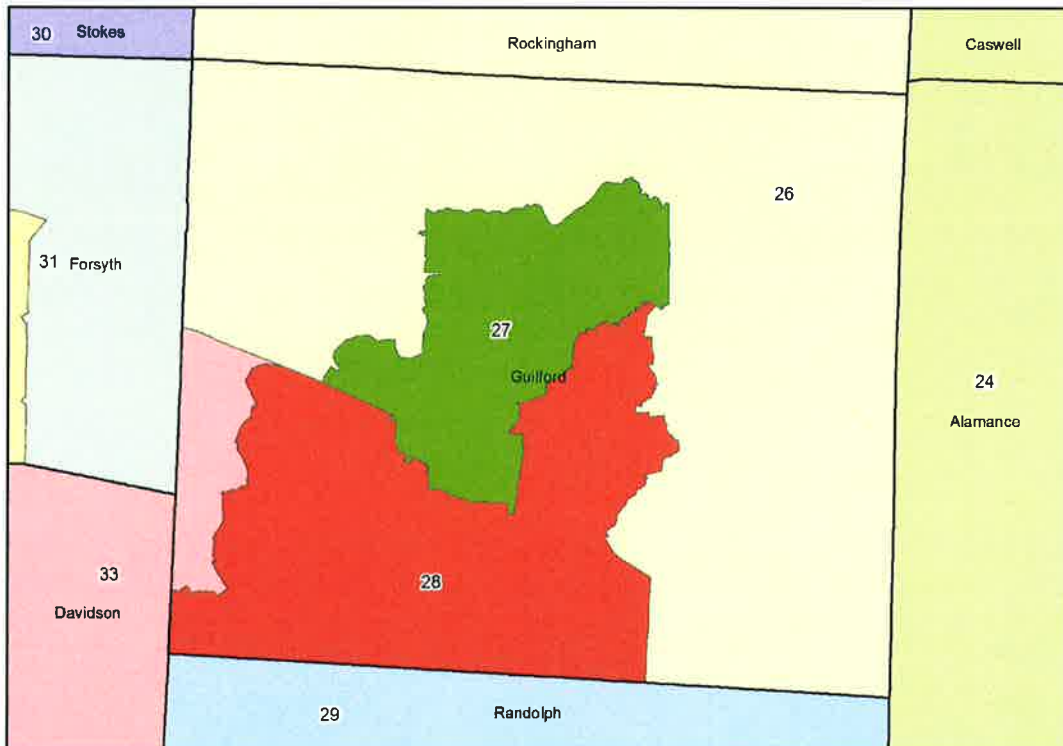
324. The Rucho Senate 2 Plan draws District 27 and District 28 as a pair of convoluted, interlocked districts to pack as many black voters as possible into District 28. In turn, the voting power of minorities remaining in District 27 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

325. District 28 is subject to Section 5. It is entirely included in Guilford County.

326. Below is a map of Rucho Senate 2 Districts 27 and 28.



327. Below is a map of the equivalent area under the 2003 Senate Plan.



328. In Senate District 28, represented by an African American, Sen. Gladys Robinson, the current BVAP of 47.20 percent increases to 56.49 percent.

329. District 28 was already effectively electing the black candidate of choice and complied with the Voting Rights Act.

330. This district is a racial classification, drawn intentionally to increase the number of black voters in the district.

331. The use of race in drawing this district is not narrowly tailored to meet a compelling governmental interest.

332. The design of these two districts does not respect traditional communities of interest. In Guilford, 16 precincts were split by Senate districts.

333. In District 28, 15 precincts were split.

334. In District 27, 14 precincts were split.

335. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 28 rated less compact than the equivalent district in the AFRAM plan on 4 out of 7 tests.

336. As a result of the inflated black population of District 28, minorities in District 27 have less ability to elect the candidate of their choice and less influence in the electoral process.

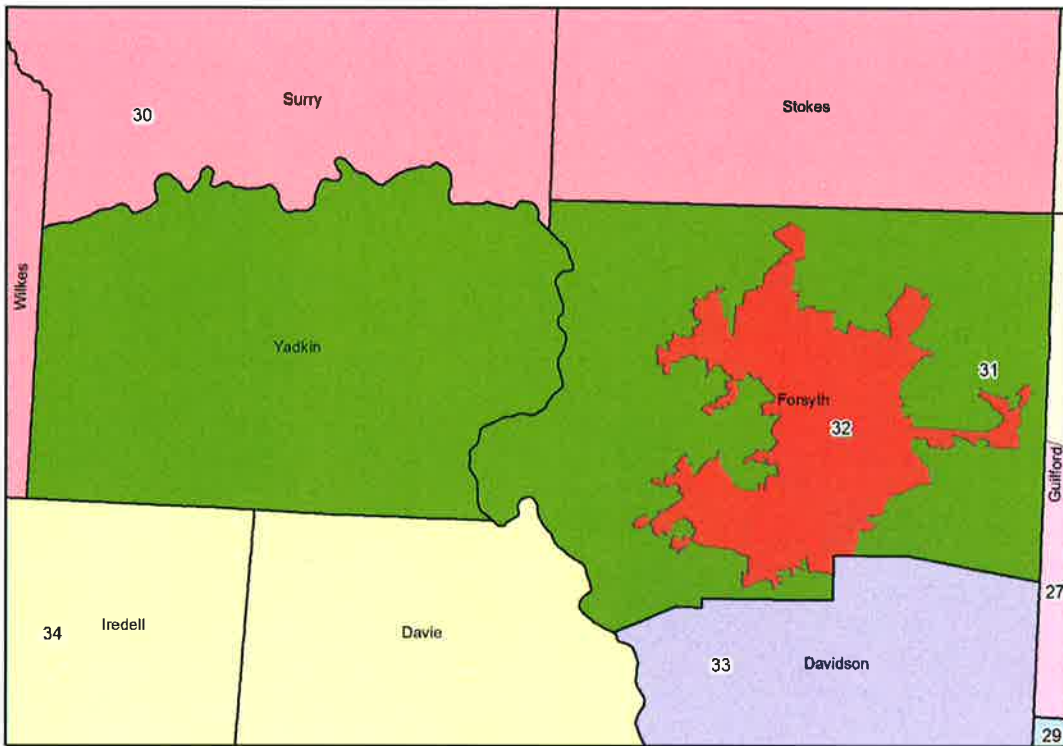
The Forsyth Area

337. The Rucho Senate 2 Plan draws District 31 and District 32 as a pair of highly irregular, unwieldy districts. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

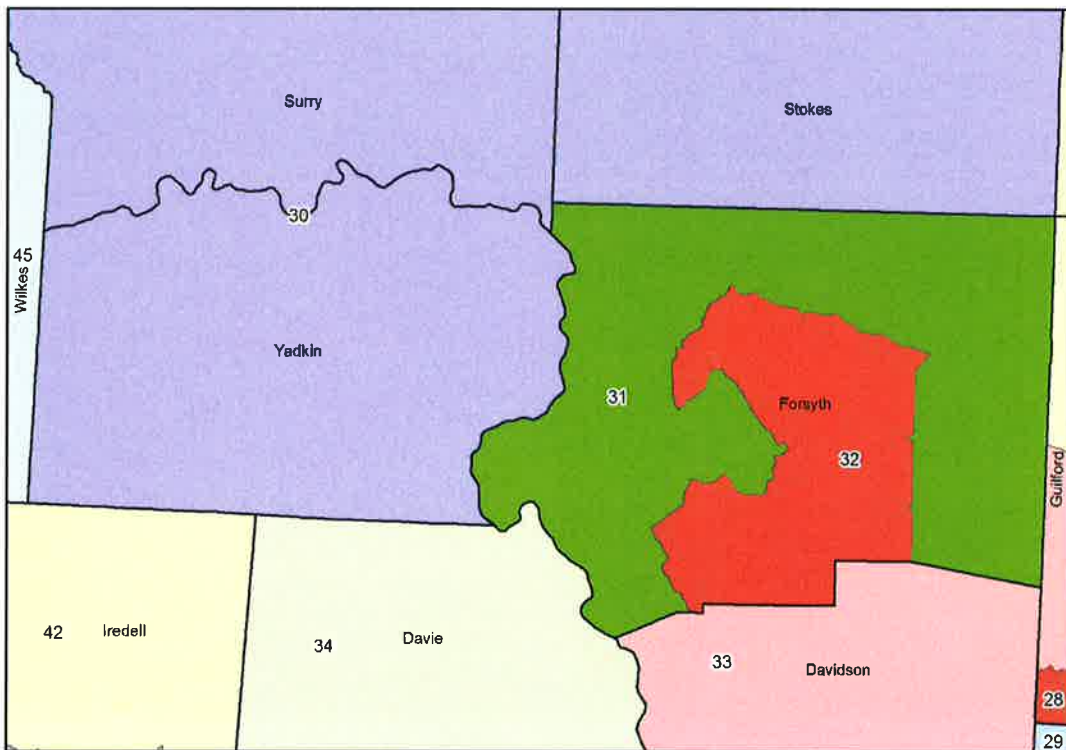
338. District 32 spreads from the center of Forsyth County, sprouting tentacles in each direction.

339. District 31 is the adjacent district, retaining the rest of Forsyth and containing Yadkin County in its entirety.

340. Below is a map of Rucho Senate 2 Districts 31 and 32.



341. Below is a map of the equivalent area under the 2003 Senate Plan.



342. District 32 is drawn to be 42.53 percent black.

343. District 31 pairs two incumbents, Republican Senator Peter Brunstetter and Democratic Senator Linda Garrou. It has a BVAP of 6.42 percent

344. Districts 31 and 32 do not respect traditional communities of interest. In Forsyth County, 43 of 101 precincts are divided.

345. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 32 rated less compact than the equivalent district in the AFRAM plan on 6 out of 7 tests.

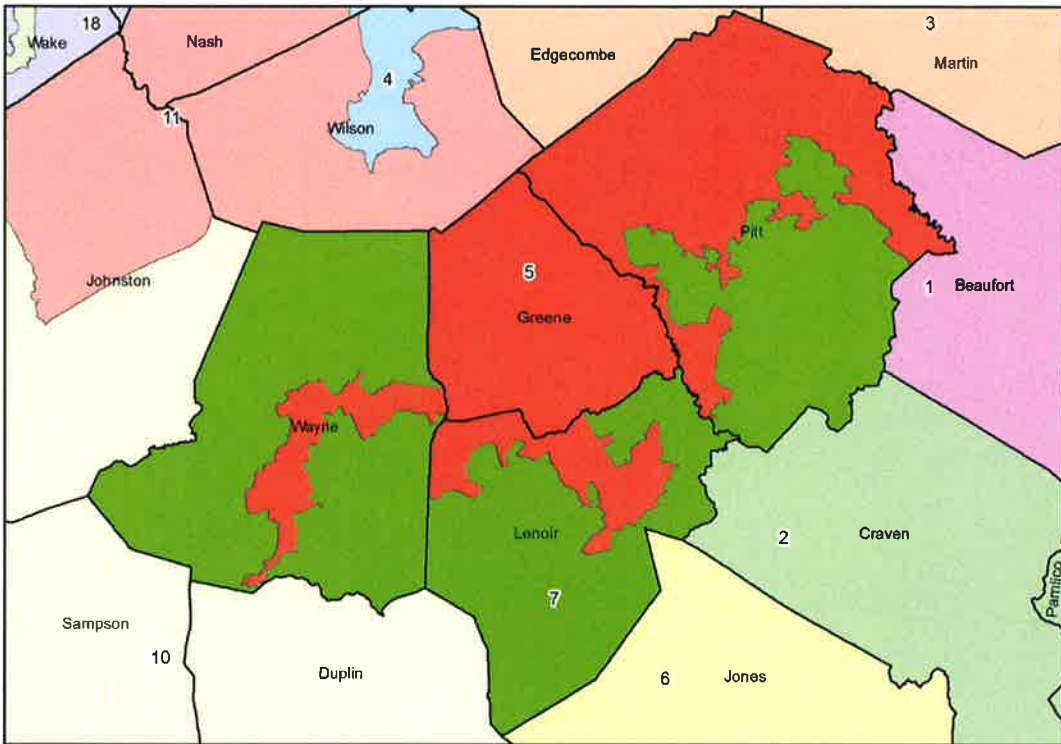
The Greene-Wayne-Lenoir-Pitt Area

346. The Rucho Senate 2 Plan draws District 5 and District 7 across four counties to create a majority-black District 5. In turn, the voting power of minorities remaining in District 7 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

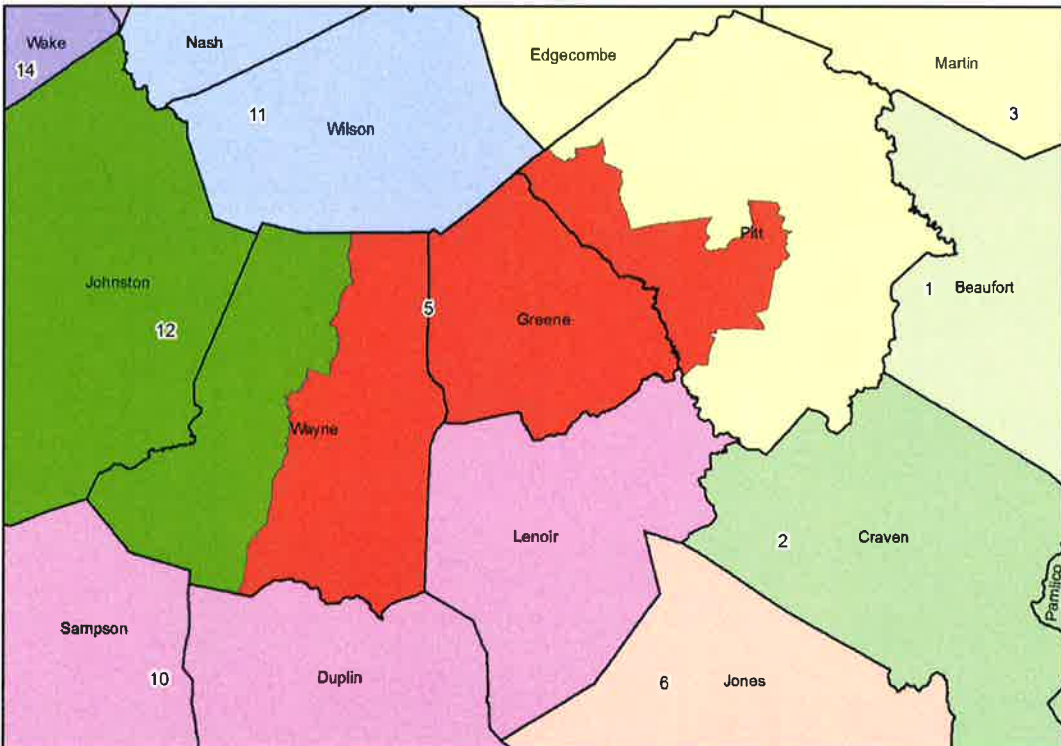
347. District 5 is subject to Section 5 preclearance. It includes Greene County in its entirety and then extends a southward tendril into Wayne and Lenoir Counties. Finally it extends northeast into Pitt County.

348. District 7 is the adjacent district, retaining the rest of Wayne, Lenoir and Pitt Counties.

349. Below is a map of Rucho Senate 2 Districts 5 and 7.



350. Below is a map of the equivalent area under the 2003 Senate Plan.



351. District 5 is a new district in the region, drawn to be a majority-minority district with a BVAP of 51.97 percent.

352. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 5 and decrease the number of black voters in District 7. In turn, the number of white voters in District 7 is increased.

353. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

354. The design of these two districts does not respect traditional communities of interest. In Districts 5 and 7, 40 precincts were split in each district.

355. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 5 rated less compact than the equivalent district in the AFRAM plan on 7 out of 7 tests.

356. As a result of the inflated black population of District 5, minorities in District 7 have less ability to elect the candidate of their choice and less influence in the electoral process.

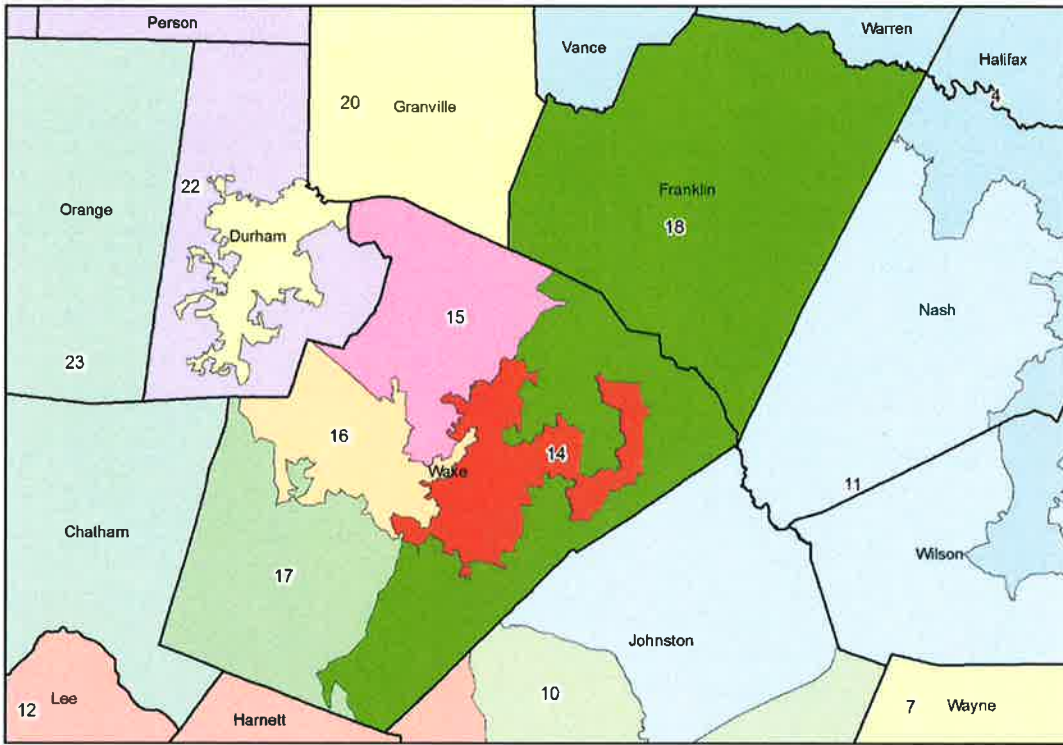
Wake County

357. The Rucho Senate 2 Plan draws District 14 and District 18 as a pair of convoluted districts within Wake and Franklin Counties to pack as many black voters as possible into District 14. In turn, the voting power of minorities remaining in District 18 is diluted. In creating this pair of districts, the Plan neglects the core redistricting principles of compactness and preserving communities of interest.

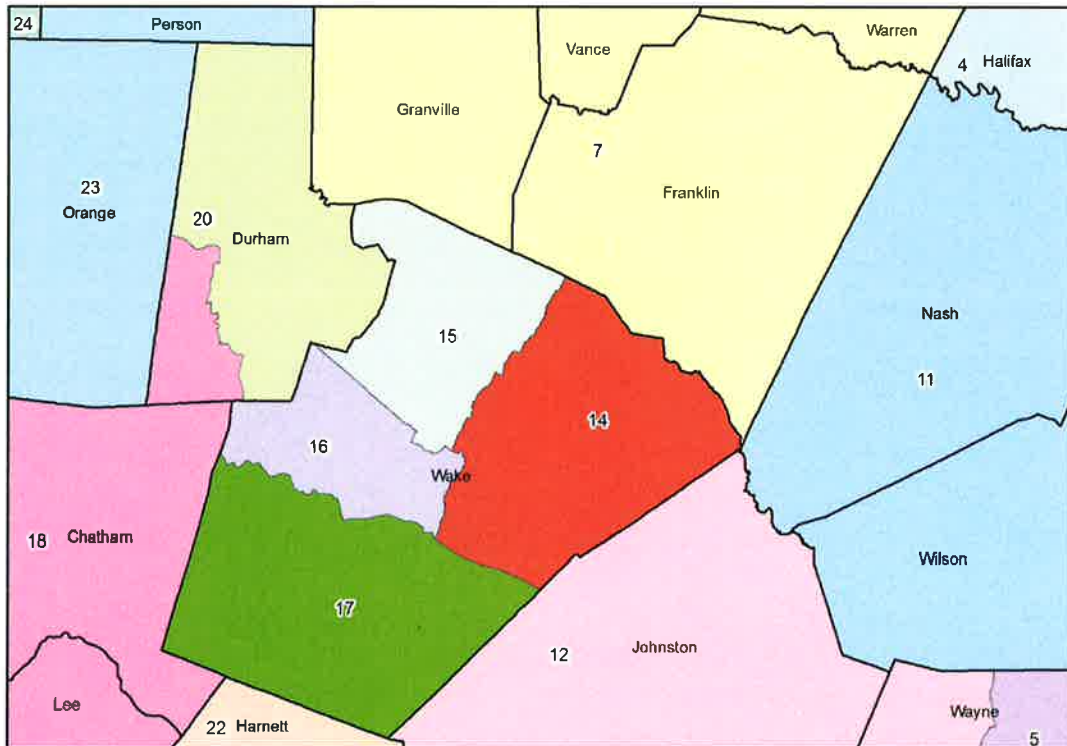
358. District 14 is entirely included in Wake County.

359. District 18 includes Franklin County in its entirety and parts of Wake County.

360. Below is a map of Rucho Senate 2 Districts 14 and 18.



361. Below is a map of the equivalent area under the 2003 Senate Plan.



362. In Senate District 14, represented by an African American, Sen. Dan Blue, the current BVAP of 42.62 percent increases to 51.28 percent.

363. District 14 was already effectively electing the black candidate of choice and complied with Section 2 of the Voting Rights Act.

364. The drawing of this pair of districts in this manner is a racial classification, designed to increase the number of black voters in District 14 and decrease the number of black voters in District 18. In turn, the number of white voters in District 18 is increased.

365. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest. The design of these two districts does not respect traditional communities of interest.

366. In District 14, 29 precincts were split. In District 18, 22 precincts were split

367. The design of these districts also rejects the traditional redistricting principles of compactness. In measures of compactness, District 14 rated less compact than the equivalent district in the AFRAM plan on 6 out of 7 tests.

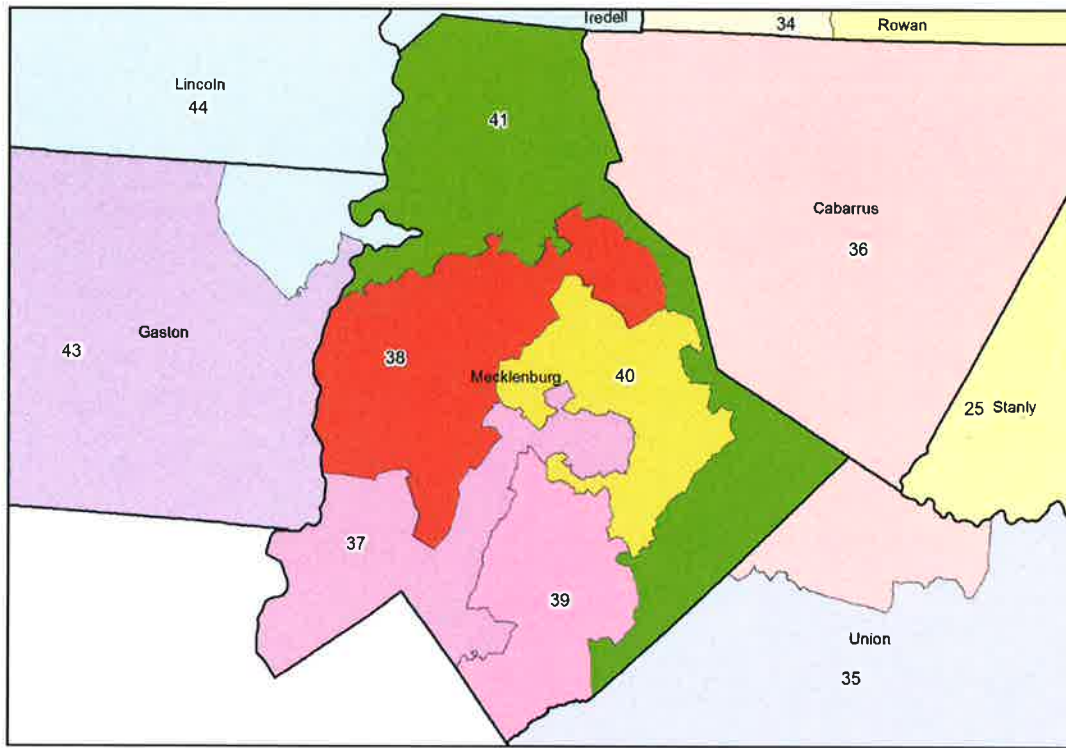
368. As a result of the inflated black population of District 14, minorities in the Wake County area of District 18 have less ability to elect the candidate of their choice and less influence in the electoral process.

The Mecklenburg Region

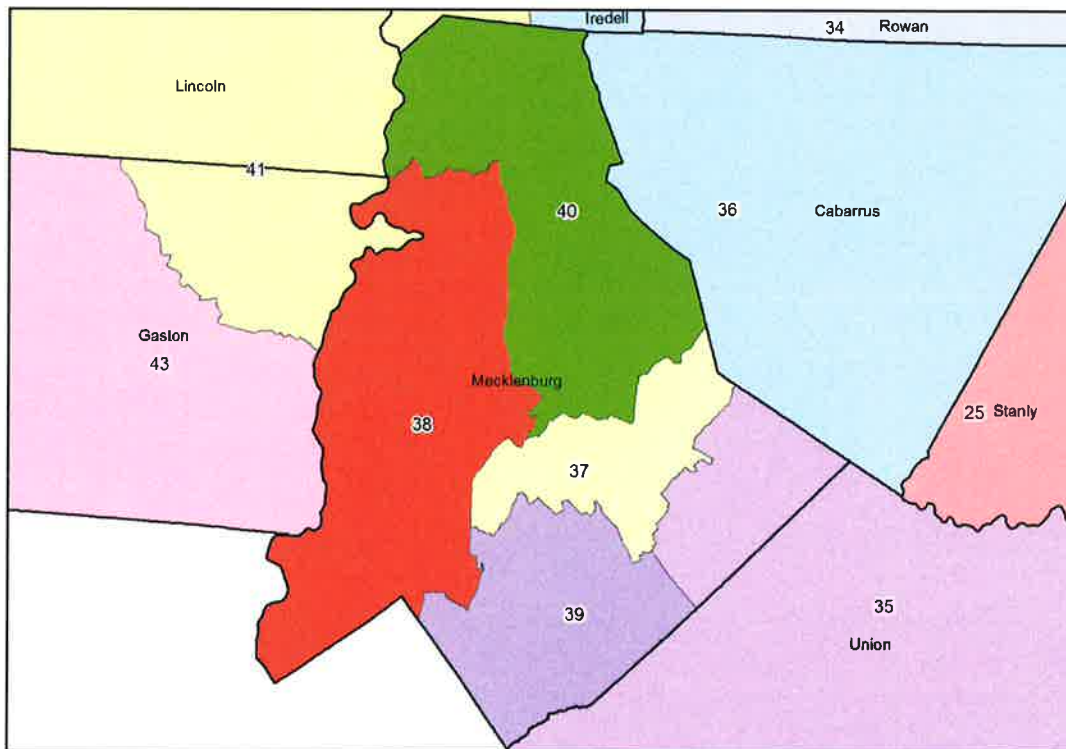
369. District 41 is a highly irregular shaped district, beginning in the north of Mecklenburg County. From there it tapers into a thin line hugging the western border of Mecklenburg, growing wide again in the southeast portion of the county.

370. Districts 38 and 40 border District 41 on the south.

371. Below is a map of Rucho Senate 2 Districts 38, 40, and 41.



372. Below is a map of the equivalent area under the 2003 Senate Plan.



373. District 41's strange shape is based on the exclusion of black voters from the District. Rucho Senate 2 draws District 41 with a remarkably low BVAP of 13.15 percent, down from 22.31 in the prior plan.

374. This BVAP is at least 7.5 percent lower than any of the alternative plans. The black voters excluded from District 41 are pushed into Districts 38 and 40.

375. The BVAP in District 38 rose from a BVAP of 46.97 to a new BVAP of 52.51 percent.

376. The BVAP of District 40 rose from 35.43 percent to 51.84 percent.

377. The drawing of this group of districts in this manner is a racial classification, designed to increase the number of black voters in Districts 38 and 40 and decrease the number of black voters in District 41. In turn, the number of white voters in District 41 is increased.

378. The use of race in drawing these districts is not narrowly tailored to meet a compelling governmental interest.

379. The design of these three districts does not respect traditional communities of interest.

380. In District 41, 16 precincts were split.

381. In District 38, 8 precincts were split.

382. In District 40, 16 precincts were split.

383. As a result of the deflated minority population in District 41, minorities in the district and greater Mecklenburg area have less ability to elect the candidate of their choice and less influence in the electoral process.

Congressional Redistricting

384. The Congressional Plan currently in effect is known as the “2001 Plan.” The 2001 Plan was ratified in 2001, and was used in the 2002 through 2010 elections.

385. Sen. Rucho, Chair of the Senate Redistricting Committee, and Sen. Lewis, Chair of the House Redistricting introduced the 2011 Congressional Plan.

386. In addition to the 2011 Congressional Plan, two legislators introduced alternative plans: 1) the plan presented by Senator Josh Stein, called “Congressional Fair and Legal;” and (2) the plan presented by Senator Dan Blue, called “Fourth, Fair, Legal, Compact” Plan. In addition, a plan was developed by a coalition of community-based organizations called AFRAM (Alliance for Fair Redistricting and Minority Voting Rights), and submitted at the May 9, 2011 public hearing, “AFRAM Plan.”

387. All three alternative plans adhered to the traditional redistricting criteria of compactness, contiguity, and preserving communities of interest. The maps also provided appropriate and effective voting districts for minority voters in compliance with Section 2 and Section 5 of the Voting Rights Act.

388. The 2011 Congressional Redistricting Plan, 2011 S.L. 403, was enacted on July 27, 2011.

389. On 7 out of 7 measures for compactness, the enacted plan scored less compact on average than the AFRAM Plan.

District 1

390. Race was the predominant factor in drawing District 1.

391. Under the benchmark plan, the BVAP of District 1 was 47.76 percent. In comparison, District 1 has a new BVAP of 52.65 percent, showing that the district was drawn to increase the percentage of black voters in the 2011 Plan.

392. As race was the predominant factor in drawing District 1, the district is a racial classification subject to strict scrutiny.

393. In District 1, 35 precincts were split.

394. District 1 fails to be narrowly tailored to serve a compelling state interest. The majority-minority district created by the plan is not required by the North Carolina State Constitution or by any federal statute, including the Voting Rights Act.

District 12

395. Race was the predominant factor in drawing District 12.

396. District 12 has a new BVAP of 50.66 percent, showing that the district was drawn to increase the percentage of black voters in the 2011 Plan.

397. As race was the predominant factor in drawing District 12, the district is a racial classification subject to strict scrutiny.

398. District 12 fails to be narrowly tailored to serve a compelling state interest. The majority-minority district created by the plan is not required by the North Carolina State Constitution or by any federal statute, including the Voting Rights Act.

District 4

399. The 2011 Congressional Plan draws District 4 to incorporate narrow segments of 7 counties: Alamance, Orange, Chatham, Durham, Wake, Harnett, and Cumberland into the District.

400. This assortment of county pieces fails to reflect existing and historic communities of interest.

401. District 4 reflects excessive partisanship that violates the North Carolina Constitution's "for the good of the whole" clause in Article I, § 2.

402. In District 4, 14 precincts were split.

403. In measures of compactness, District 4 scored less compact than the AFRAM Plan in 7 out of 7 measures.

District 10

404. The 2011 Congressional Plan irrationally excludes Asheville from the Mountain Region represented by District 11 and instead places it in District 10.

405. The Mountain Region of North Carolina is a vital community of interest with its own unique culture and economy.

406. Asheville has long been recognized as the urban center of the Mountain Region and an important part of its economic and political climate.

407. Never in the history of the State has a redistricting plan separated Asheville from the mountains.

408. In separating Asheville from the Mountain Region, the 2011 Congressional Plan places the city with communities in the Piedmont Region, such as Gastonia. These Piedmont communities have far less in common with Asheville than the communities of the Mountain Region.

409. District 10 reflects excessive partisanship that violates the North Carolina Constitution's "for the good of the whole" clause. Article I, § 2.

PLAINTIFFS' FIRST CLAIM FOR RELIEF

(Violation of the Equal Protection Clause, Article I, § 19 of the State Constitution, State House Redistricting Legislation, S.L. 416)

410. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

411. Under the Equal Protection Clause of the North Carolina State Constitution, no person shall "be denied the equal protection of the laws; nor ... be subjected to discrimination by the State because of race, color, religion, or national origin." N.C. Const. Art. I, § 19.

412. Art. I, § 19 requires the court to apply strict scrutiny of classifications based on race. To survive strict scrutiny, the State must demonstrate that the classification is narrowly tailored to advance a compelling state interest.

413. The Defendants' practice of dividing precincts based on race violates Article 1, § 19 of the North Carolina State Constitution which prohibits racial discrimination and guarantees equal protection of the laws.

414. A legislative district that amounts to a racial classification "reinforces racial stereotypes and threatens to undermine our system of representative democracy by signaling to elected officials that they represent a particular racial group rather than their constituency as a whole." *Shaw v. Reno*, 509 U.S. 630, 650 (U.S. 1993).

415. The Redistricting Committee Chairs admit moving black voters from one district to another based intentionally on the voters' race, thereby creating racial classifications.

416. House Districts 5, 21, 24, 29, 32, 38, 42, 48, 54, 57, 99, 102 and 106 are racial classifications designed to inflate the black voting age population of each district and decrease the black voting age population of adjacent districts.

417. House Districts 1,2, 4, 8, 30, 34, 45, 49, 51, 59, 66, and 103 are racial classifications designed to decrease the black voting age population of each district and increase the white voting age population.

418. The 2011 House Plan fails to meet the requirements of strict scrutiny. It is not narrowly tailored to advance a compelling state interest. The majority-minority districts created by the plan are not required by the North Carolina State Constitution or by the federal Voting Rights Act or any other federal statute.

419. The excessive number of split precincts in the enacted plan creates two large and unequal classes of citizens and voters: (1) a class of individuals who live in divided precincts –

and in counties with many divided precincts – who will experience voter-education gaps, elevated risks of election administration problems, and other harms described herein; and (2) a class of individuals living in whole precincts and counties with only whole precincts, who will experience “business as usual” in the election process. Individuals in the first class are also disproportionately African-American voters.

420. The enacted House Districts listed in paragraphs 387 and 388 above are not sufficiently compact to meet the equal protection clause’s requirement of consistently recognizing local governmental subdivisions and geographical-based communities of interest, and they create a crazy quilt of districts unrelated to a legitimate governmental interest.

421. The individual and organizational plaintiffs suffer representational harms, impediments to their missions, activities and interests, a diminution in their ability to participate equally in the political process and inherent harm to their dignity by the racial discrimination and denial of equal protection described herein.

PLAINTIFFS’ SECOND CLAIM FOR RELIEF
(Violation of Article I, § 19 of the State Constitution,
State Senate Redistricting Legislation, S.L. 413)

422. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

423. Under the Equal Protection Clause of the North Carolina State Constitution, no person shall “be denied the equal protection of the laws; nor ... be subjected to discrimination by the State because of race, color, religion, or national origin.” N.C. Const. Art. I § 19.

424. Art. I, § 19 requires the court to apply strict scrutiny of classifications based on a race. To survive strict scrutiny, the State must demonstrate that the classification is narrowly tailored to advance a compelling state interest.

425. The Defendants' practice of dividing precincts based on race violates Article 1, § 19 of the North Carolina State Constitution which prohibits racial discrimination and guarantees equal protection of the laws.

426. A legislative district that amounts to a racial classification "reinforces racial stereotypes and threatens to undermine our system of representative democracy by signaling to elected officials that they represent a particular racial group rather than their constituency as a whole." *Shaw v. Reno*, 509 U.S. 630, 650 (U.S. 1993).

427. The Redistricting Committee Chairs admit moving black voters from one district to another based on the voters' race, thereby creating racial classifications.

428. Senate Districts 5, 14, 20, 21, 28, 32, 38 and 40 are racial classifications designed to inflate the black voting age population of each district and decrease the black voting age population of adjacent districts.

429. Senate Districts 7, 18, 19, 22, 27, 31, and 41 are racial classifications designed to decrease the black voting age population of each district and increase the white voting age population.

430. The 2011 Senate Plan fails to meet the requirements of strict scrutiny. It is not narrowly tailored to advance a compelling state interest. The majority-minority districts created by the plan are not required by the North Carolina State Constitution or by the federal Voting Rights Act or any other federal statute.

431. As a result of this racial gerrymander, the 2011 Senate Plan fails to comply with the traditional redistricting principles in *Stephenson v. Bartlett*, 355 NC 357 (2002). Following *Stephenson*, the legislature must strive for compactness, contiguity, and respect for political subdivisions. *Id.*

432. The excessive number of split precincts in the enacted plan creates two large and unequal classes of citizens and voters: (1) a class of individuals who live in divided precincts – and in counties with many divided precincts – who will experience voter-education gaps, elevated risks of election administration problems, and other harms described herein; and (2) a class of individuals living in whole precincts and counties with only whole precincts, who will experience “business as usual” in the election process. Individuals in the first class are also disproportionately African-American voters.

433. The enacted Senate Districts listed in paragraphs 399 and 400 above are not sufficiently compact to meet the equal protection clause’s requirement of consistently recognizing local governmental subdivisions and geographical-based communities of interest, and they create a crazy quilt of districts unrelated to a legitimate governmental interest.

434. The individual and organizational plaintiffs suffer representational harms, impediments to their missions, activities and interests, a diminution in their ability to participate equally in the political process and inherent harm to their dignity by the racial discrimination and denial of equal protection described herein.

PLAINTIFFS’ THIRD CLAIM FOR RELIEF

(Violation of Article I, § 19 of the State Constitution, Congressional Redistricting Legislation, S.L. 403)

435. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

436. Under the Equal Protection Clause of the North Carolina State Constitution, no person shall “be denied the equal protection of the laws; nor ... be subjected to discrimination by the State because of race, color, religion, or national origin.” N.C. Const. Art. I, § 19.

437. Art. I, § 19 requires the court to apply strict scrutiny of classifications based on a race. To survive strict scrutiny, the State must demonstrate that the classification is narrowly tailored to advance a compelling state interest.

438. A legislative district that amounts to a racial classification “reinforces racial stereotypes and threatens to undermine our system of representative democracy by signaling to elected officials that they represent a particular racial group rather than their constituency as a whole.” *Shaw v. Reno*, 509 U.S. 630, 650 (U.S. 1993).

439. The Redistricting Committee Chairs admit moving black voters from one district to another based on the voters’ race, thereby creating racial classifications.

440. The 2011 Congressional Plan fails to meet the requirements of strict scrutiny. It is not narrowly tailored to advance a compelling state interest. The racially-based Districts 1 and 12 created by the plan are not required by the North Carolina State Constitution or by any federal statute, including the Voting Rights Act.

441. Districts 4 and 10 in the 2011 Congressional Plan are not sufficiently compact to meet the equal protection clause’s requirement of consistently recognizing local governmental subdivisions and geographical-based communities of interest, and they create a crazy quilt of districts unrelated to a legitimate governmental interest.

442. The individual and organizational plaintiffs suffer representational harms, impediments to their missions, activities and interests, a diminution in their ability to participate equally in the political process and inherent harm to their dignity by the racial discrimination and denial of equal protection described herein.

PLAINTIFFS’ FOURTH CLAIM FOR RELIEF
(Violation of Article II, § 3 of the State Constitution, Senate Redistricting Plan
(Traditional Redistricting Principles))

443. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

444. Article II, § 3 of the North Carolina State Constitution provides: “No county shall be divided in the formation of a senate district,” a provision that requires the General Assembly

to respect the traditional redistricting principles of compactness and respect for political subdivisions and communities of interest. *Stephenson v. Bartlett*, 355 NC 357 (2002).

445. Defendants divided an unprecedented number of precincts and communities of interest in addition to drawing non-compact districts in the 2011 Senate Plan without justification under the Constitution or federal statute.

446. The 2011 Senate Plan fails to comply with the traditional redistricting principles required by *Stephenson v. Bartlett*, 355 NC 357 (2002).

PLAINTIFFS' FIFTH CLAIM FOR RELIEF
(Violation of Article II, § 5 of the State Constitution,
House Redistricting Plan)

447. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

448. Article II, § 5 of the North Carolina State Constitution reads: "No county shall be divided in the formation of a representative district," a provision that requires the General Assembly to respect the traditional redistricting principles of compactness and respect for political subdivisions and communities of interest. *Stephenson v. Bartlett*, 355 NC 357 (2002).

449. Defendants violated Plaintiffs' rights under Article II, § 5 of the Constitution in dividing an unprecedented number of precincts and communities of interest, in addition to drawing non-compact districts in the 2011 House Plan.

450. The Lewis-Dollar-Dockham 4 Plan fails to comply with the traditional redistricting principles required by *Stephenson v. Bartlett*, 355 NC 357 (2002).

PLAINTIFFS' SIXTH CLAIM FOR RELIEF
(Violation of Article I, § 2 of the State Constitution, House Plan)

451. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

452. Article II, § 5 of the Constitution mandates that Defendants redistrict the 120 seats in the House of Representatives following the 2010 census.

453. Article I § 2 of the North Carolina Constitution mandates that the General Assembly legislate “for the good of the whole.”

454. The excessive partisanship exercised by Defendants in drawing the 2011 House Plan created non-compact districts and split precincts and communities of interest without justification.

455. Defendants have failed to act “for the good of the whole” in drawing the 2011 House Plan.

PLAINTIFFS’ SEVENTH CLAIM FOR RELIEF
(Violation of Article I, § 2 of the State Constitution, Senate Plan)

456. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

457. Article II, § 3 of the Constitution imposed on Defendants the duty to redistrict the 50 seats in the State Senate following the 2010 census.

458. Article I, § 2 of the North Carolina Constitution mandates that the General Assembly legislate “for the good of the whole.” The excessive partisanship exercised by Defendants in drawing the 2011 Senate Plan created non-compact districts and split precincts and communities of interest without justification. Defendants have failed to act “for the good of the whole” in drawing the 2011 Senate Plan.

PLAINTIFFS’ EIGHTH CLAIM FOR RELIEF
(Violation of Article I, § 2 of the State Constitution, Congressional Plan)

459. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

460. Federal statute (2 U.S.C. §§ 22a and 2c) grants authority to the General Assembly to redistrict the 13 seats held by North Carolina in the United States House of Representatives.

461. Article I § 2 of the North Carolina Constitution mandates that the General Assembly legislate “for the good of the whole.”

462. The excessive partisanship exercised by Defendants in drawing the 2011 Congressional Plan created non-compact districts and split precincts and communities of interest without justification.

463. Defendants have failed to act “for the good of the whole” in drawing Districts 4 and 10.

PLAINTIFFS’ NINTH CLAIM FOR RELIEF
(Violation of the Equal Protection Clause of the 14th Amendment of the U.S.
Constitution, House Plan)

464. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

465. The 14th Amendment to the United States Constitution forbids racial classifications unless narrowly tailored to serve a compelling interest.

466. The Defendants’ practice of dividing precincts based on race violates the Equal Protection Clause of the 14th Amendment to the U.S. Constitution which prohibits racial discrimination and guarantees equal protection of the laws.

467. House Districts 5, 21, 24, 29, 32, 38, 42, 48, 54, 57, 99, 102 and 106 are racial classifications designed to create majority-black districts despite no requirement by the Voting Rights Act to do so.

468. House Districts 1,2, 4, 8, 30, 34, 45, 49, 51, 59, 66, and 103 are racial classifications designed to decrease the black voting age population of each district and increase the white voting age population.

469. Defendants failed to narrowly tailor these districts to meet any compelling interest, including any compelling interest in meeting the requirements of the federal Voting Rights Act.

470. Defendants’ failure violated Plaintiffs’ rights under the 14th Amendment and 42 U.S.C. 1983.

471. The individual and organizational plaintiffs suffer representational harms, impediments to their missions, activities and interests, a diminution in their ability to participate equally in the political process and inherent harm to their dignity by the racial discrimination and denial of equal protection described herein.

PLAINTIFFS' TENTH CLAIM FOR RELIEF

(Violation of the Equal Protection Clause of 14th Amendment of the U.S. Constitution,
Senate Plan)

472. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

473. The 14th Amendment to the United States Constitution forbids racial classifications unless narrowly tailored to serve a compelling interest.

474. The Defendants' practice of dividing precincts based on race violates the Equal Protection Clause of the 14th Amendment to the U.S. Constitution which prohibits racial discrimination and guarantees equal protection of the laws.

475. Defendants drew district lines in Senate Districts 5, 14, 20, 21, 28, 32, 38 and 40 to increase the number of black voters in the district, despite no requirement by the Voting Rights Act to draw increased minority districts.

476. Senate Districts 7, 18, 19, 22, 27, 31, and 41 are racial classifications designed to decrease the black voting age population of each district and increase the white voting age population.

477. Defendants failed to narrowly draw these districts to meet any compelling interest including any compelling interest in meeting the requirements of the federal Voting Rights Act.

478. The Senate Districts drawn in this way constitute an unjustified use of racial classifications that violates Plaintiffs' rights under the 14th Amendment and 42 U.S.C. 1983.

479. The individual and organizational plaintiffs suffer representational harms, impediments to their missions, activities and interests, a diminution in their ability to participate

equally in the political process and inherent harm to their dignity by the racial discrimination and denial of equal protection described herein.

PLAINTIFFS' ELEVENTH CLAIM FOR RELIEF

(Violation of the Equal Protection Clause of the 14th Amendment of the U.S. Constitution, Congressional Plan)

480. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

481. The 14th Amendment to the United States Constitution forbids racial classifications unless narrowly tailored to serve a compelling interest.

482. Defendants drew district lines in Districts 1 and 12 to increase the number of black voters in the district despite no requirement by the Voting Rights Act to do so.

483. Districts 1 and 12 are racial classifications subject to strict scrutiny.

484. Defendants failed to narrowly draw these districts to meet any compelling interest including any compelling interest in meeting the requirements of the federal Voting Rights Act.

485. The excessive use of race in drawing Congressional Districts 1 and 12 violate Plaintiffs' rights under the 14th Amendment and 42 U.S.C. 1983.

486. The individual and organizational plaintiffs suffer representational harms, impediments to their missions, activities and interests, a diminution in their ability to participate equally in the political process and inherent harm to their dignity by the racial discrimination and denial of equal protection described herein.

PLAINTIFFS' TWELFTH CLAIM FOR RELIEF

(Violation of N.C. Gen. Stat. § 120-2.2, State House and State Senate)

487. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

488. The General Assembly may not divide any precincts in redistricting the House and Senate unless and until the United States Department of Justice fails to preclear the House plan or Senate plan following N.C. Gen. Stat. § 120-2.2. In the event that the plans fail

preclearance, the General Assembly may only divide the minimum number of precincts necessary to obtain preclearance.

489. The 2011 Senate Redistricting Plan divides 164 precincts in six counties not covered by Section 5 of the Voting Rights Act. Those six counties are: Durham, Forsyth, Johnston, Mecklenburg, New Hanover and Wake. The 2011 House Redistricting Plan divides 171 precincts in 16 counties not covered by Section 5 of the Voting Rights Act. Those counties are: Alamance, Brunswick, Buncombe, Duplin, Durham, Forsyth, Haywood, Johnston, Mecklenburg, Montgomery, Moore, New Hanover, Richmond, Sampson and Wake.

490. As the United States Department of Justice failed to preclear N.C. Gen. Stat. § 120-2.2, the statute does not govern the 40 counties covered by Section 5 of the Voting Rights Act. The statute, however, remains effective in the 60 counties not covered by Section 5.

491. In dividing precincts in counties not covered by Section 5 of the Voting Rights Act in both the 2011 House and Senate Redistricting Plans, Defendants violated N.C. Gen. Stat. § 120-2.2.

PLAINTIFFS' THIRTEENTH CLAIM FOR RELIEF

(Violation of N.C. Gen. Stat. § 163-261.2, Congressional Redistricting Plan)

492. Plaintiffs rely herein upon all of the paragraphs of this Complaint.

493. General Assembly may not divide any precincts in redistricting North Carolina's seats in the United States House of Representatives unless and until the United States fails to preclear that plan, following N.C. Gen. Stat. § 163-261.2.

494. In the event that the Plans fail preclearance, the General Assembly may only divide the minimum number of precincts necessary to obtain preclearance.

495. As the United States Department of Justice failed to preclear N.C. Gen. Stat. § 163-261.2 so the statute does not govern the 40 counties covered by Section 5 of the Voting Rights Act. The statute however, remains in effect for the 60 counties not covered by Section 5.

496. The 2011 Congressional Redistricting Plan divided 17 precincts in 8 counties not covered by Section 5. Those counties are: Alamance, Buncombe, Catawba, Davidson, Iredell, New Hanover, Randolph and Wake.

497. In dividing precincts in counties not covered by Section 5 of the Voting Rights Act, Defendants violated N.C. Gen. Stat. § 163-261.2.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully move the court:

1. Declare that the State Senate Redistricting Plan (2011 S.L. 413), the State House Redistricting Plan (2011 S.L. 416), and the Congressional Redistricting Plan (2011 S.L. 403) establish racial classifications in violation of the equal protection provisions of Article I, Section 19 of the North Carolina Constitution.

2. Declare that the State Senate Redistricting Plan, the State House Redistricting Plan, and the Congressional Redistricting Plan establish racial classifications in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution and 42 U.S.C 1983.

3. Declare that the State Senate Redistricting Plan, the State House Redistricting Plan, and the Congressional Redistricting Plan were not enacted for the "good of the whole," in violation of Article I, Section 2 of the North Carolina Constitution.

4. Declare that the State Senate Redistricting Plan and the State House Redistricting Plan split precincts in violation of N.C. Gen. Stat. § 120-2.2.

5. Declare that the Congressional Redistricting Plan split precincts in violation of N.C. Gen. Stat. § 163-261.2.

6. Enter a temporary restraining order, preliminary injunction, and a permanent injunction enjoining the Defendants, their agents, officers, and employees, from enforcing or giving any effect to the State Senate Redistricting Plan, the State House Redistricting Plan, and the Congressional Redistricting Plan, including enjoining the Defendants, their agents, officers, and employees from opening any filing period or conducting any primary election or general election based on the State Senate Redistricting Plan, the State House Redistricting Plan, or the Congressional Redistricting Plan.

7. Enter a preliminary and permanent injunction setting a place and time for the court to receive proposed redistricting plans for the Senate, House, and Congress from the parties that comply with the requirements of the United States and North Carolina Constitutions.

8. Enter a permanent injunction adopting redistricting plans for the Senate, House, and Congress for the 2012 primary elections that comply with the United States and North Carolina Constitution as an interim remedy, and that the General Assembly be ordered to enact re-districting plans for the Senate, House, and Congress that comply with the requirements of the United States and North Carolina Constitutions to be used in the General Election of 2014 and all subsequent elections until the Census Bureau issues its 2020 Decennial Census.

9. In the alternative, enter a preliminary and permanent injunction directing the General Assembly to enact re-districting plans for the Senate, House, and Congress that comply with the requirements of the United States and North Carolina Constitutions to be used in the General Election of 2012, provided such plans are enacted and precleared by the United States Attorney General no later than a specific time set by the court. If the General Assembly fails to do so, the Court will adopt its own plans that meet constitutional requirements.

10. Make all further orders as are just, necessary, and proper including orders providing for an expedited and shortened period of discovery and an expedited trial.

11. Require Defendants to pay Plaintiffs' costs and expenses.
12. Require Defendants to pay Plaintiffs' reasonable attorneys fees pursuant to 42

U.S.C. § 1988.

13. Grant Plaintiffs such other and further relief the Court deems just and proper.

This the 9th day of December, 2011.



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CERTIFICATE OF SERVICE

This is to certify that the undersigned has served a redlined draft copy of the foregoing *Amended Complaint* in the above titled action upon all other parties to this cause by email on December 5, 2011. A file-stamped copy of the foregoing *Amended Complaint* in the above titled action has been served by the undersigned today by:

- Hand delivering a copy hereof to Alexander McC. Peters and Susan K. Nichols;
- Transmitting a copy hereof to each said party via facsimile transmittal;
- By email transmittal;
- Depositing a copy hereof, first class postage pre-paid in the United States mail, properly addressed to:

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COUNSEL FOR ALL DEFENDANTS

- Hand delivering a copy hereof to each said party or to the attorney thereof;
- Transmitting a copy hereof to each said party via facsimile transmittal;
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- Depositing a copy hereof, first class postage pre-paid in the United States mail, properly addressed to:

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I further certify I have served this day a courtesy copy of the foregoing *Amended Complaint* on counsel for Plaintiffs in *Dickson v. Rucho* by email to the following persons at the following address:

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A handwritten signature in cursive script, reading "Anita S. Earls", is written over a horizontal line.

Anita S. Earls