STATE OF NORTH CAROLINA WAKE COUNTY	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 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.*	ORDER SUPPLEMENTING COURT ORDER OF OCTOBER 28, 2019 WITH FINDINGS AND CONCLUSIONS REGARDING COMPLIANCE OF REMEDIAL MAPS WITH FEDERAL VOTING RIGHTS ACT

THIS MATTER is before the Court following the Court's September 3, 2019, entry of Judgment wherein the Court declared the 2017 House and Senate plans unconstitutional and permanently enjoined Legislative Defendants and State Defendants, and their respective agents, officers, and employees, from preparing for or administering the 2020 primary and general elections for House and Senate districts in certain county groupings. The Court concluded its review of the General Assembly's enacted Remedial Maps for the House and Senate legislative districts for the 2020 election, and approved the enacted Remedial Maps by Order entered on October 28, 2019.[1]

As detailed in this Court's September 3, 2019, Judgment, the enacted Remedial Maps were required to comply with the Voting Rights Act ("VRA") and other federal requirements concerning the racial composition of districts. In the Court's October 28, 2019, Order approving the Remedial Maps, the Court addressed the Remedial Maps' compliance with the VRA as follows:

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[1] On November 1, 2019, Plaintiffs filed a notice of appeal of the Court's Order approving the Remedial Maps. Plaintiffs sought appellate review of the portions of that Order approving the remedial House districts in Forsyth and Yadkin Counties and Pender, Columbus, and Robeson Counties. On November 15, 2019, Plaintiffs withdrew their appeal, returning jurisdiction over the matter to this Court.

> The Court further finds and concludes that the Remedial Maps comply with criterion (g) above, namely that the Remedial Maps comply with the Voting Rights Act and other federal requirements concerning the racial composition of districts. In the Court's Judgment of September 3, 2019, the Court stated that any parties "may submit briefing, which may attach expert analysis, on whether the *Gingles* factors are met in particular counties and county groupings and/or the minimum BVAP needed in particular counties and county groupings for African Americans to be able to elect candidates of their choice to the General Assembly." Plaintiffs submitted such a brief, including expert analysis of Jowei Chen, Ph.D. (report dated September 17, 2019) and Lisa Handley, Ph.D. (report dated September 17, 2019). No other parties submitted briefs or expert analysis on this issue within the time allowed by the Court. The Court finds the analysis performed by Dr. Chen and Dr. Handley to be credible and adopts their conclusions. A separate Order shall be issued by this Court detailing the findings of fact that support these conclusions.

Common Cause v. Lewis, 18-CVS-014001, slip. op. at 12 (N.C. Sup. Ct. Oct. 28, 2019). Plaintiffs also requested in their brief that the Court set forth written findings as to why the Remedial Maps ultimately adopted by the Court comply with the VRA with respect to some or all revised county groupings, and in particular with respect to the following groupings: Columbus-Pender-Robeson, Cumberland, Forsyth-Yadkin, Pitt-Lenoir, Guilford, and Mecklenburg in the House, and Davie-Forsyth, Franklin-Wake, and Mecklenburg in the Senate.

As forecasted in the Court's October 28, 2019, Order, and for the reasons set forth below, the Court now enters the following findings of fact and conclusions of law as to whether the enacted Remedial Maps comply with the VRA and other federal requirements concerning the racial composition of districts:

I. Legal Standards

For Section 2 of the VRA to require that a legislative district have particular racial demographics, "three threshold conditions" must be met. *Cooper v. Harris*, 137 S. Ct. 1455, 1472 (2017). "First, a 'minority group' must be 'sufficiently large and geographically

compact to constitute a majority' in some reasonably configured legislative district." *Id.* (quoting *Thornburg v. Gingles*, 478 U.S. 30, 50 (1986)). "Second, the minority group must be 'politically cohesive.'" *Id.* (quoting *Gingles*, 478 U.S. at 51). "And third, a district's white majority must vote sufficiently as a bloc to usually defeat the minority's preferred candidate." *Id.* (internal quotation marks omitted). Each of these conditions is a "prerequisite[]" to Section 2's application to any given district. *Id.* Where racial considerations predominate in the drawing of a district and the VRA is invoked as a justification for doing so, there must be a "strong basis in evidence" for believing that the three *Gingles* factors were present. *Covington v. North Carolina*, 316 F.R.D. 117, 167 (M.D.N.C. 2016), *aff'd*, 137 S. Ct. 2211 (2017) (internal quotation marks omitted).

The first and third *Gingles* factors are of particular significance for present purposes. As relevant here, the first factor requires that the minority group "could" comprise a numerical majority of the voting-age population in a "reasonably compact district[]" in the relevant county grouping. *Bartlett v. Strickland*, 556 U.S. 1, 7-8 (2009) (plurality op.); *Abrams v. Johnson*, 521 U.S. 74, 91 (1997). It is not the case that "whenever a legislature *can* draw a majority-minority district, it *must* do so" under the VRA, as a "majority-minority district would not be required" in "areas with substantial crossover voting." *Cooper*, 137 S. Ct. at 1472 (internal quotation marks and citation omitted). But for purposes of the first *Gingles* factor, it must be numerically possible that the minority group could theoretically constitute a majority of a reasonably compact district in the relevant geographic area. *See id.*

To assess whether the first *Gingles* factor is met in specific county groupings, Plaintiffs' expert Dr. Jowei Chen investigated whether it is possible to create a district (or in some cases, two or three districts) in the relevant county grouping that is majority-

minority while adhering to equal population requirements. Dr. Chen did not apply the county traversal restriction in conducting this analysis. Instead, he tested whether it would be possible to create a majority-minority district within the grouping while adhering to equal population requirements, but without regard to county traversals or splitting municipalities or VTDs. Dr. Chen also confirmed that, with one exception in the Franklin-Nash grouping in the House, his findings are the same regardless of whether he uses Citizen Voting Age Population (CVAP) data from the most recent American Community Survey or total Voting Age Population (VAP) statistics from the 2010 Decennial Census. *Id.* at 3; *see Pope v. Cty. of Albany*, 687 F.3d 565, 574 n.6 (2d Cir. 2012).

With respect to the third *Gingles* factor, the test is not whether there is some level of racially polarized voting, but rather whether there is "'legally significant racially polarized voting,' which occurs when the 'majority group votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate.'" *Covington*, 316 F.R.D. at 170 (quoting *Gingles*, 478 U.S. at 51, 55-56); *see also Gingles*, 478 U.S. at 56 ("[I]n general, a white bloc vote that normally will defeat the combined strength of minority support plus white "crossover" votes rises to the level of legally significant white bloc voting."). Because the existence and degree of racially polarized voting will "vary" from county to county, this factor requires a localized, "district-specific assessment" of whether whites vote sufficiently as a bloc "usually to defeat the minority's preferred candidate." *Covington*, 316 F.R.D. at 170-74 (internal quotation marks omitted). The need for such localized analysis is particularly acute in North Carolina because, as demonstrated below and in the accompanying expert report of Dr. Lisa Handley, the existence and extent of white bloc voting varies widely across different county groupings.

There is no bright-line rule for the level of white bloc voting that is necessary for the third *Gingles* fact to be met, but prior cases provide guidance. In particular, two recent North Carolina cases—*Cooper v. Harris*, 137 S. Ct. 1455 (2017), and *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016), *aff'd*, 137 S. Ct. 2211 (2017)—offer guidance on circumstances where the third *Gingles* factor is not met:

- In *Cooper*, the U.S. Supreme Court held that there was not legally significant racially polarized voting in North Carolina's former Congressional District 1. The Court explained that, in the 20 years prior to the relevant plan's adoption, "the district's BVAP usually hovered between 46% and 48%," and yet "[i]n the closest election during that period, African–Americans' candidate of choice received 59% of the total vote; in other years, the share of the vote garnered by those candidates rose to as much as 70%." 137 S. Ct. at 1470.

- In *Covington*, the district court held that the defendants had not presented "conclusive evidence of the third *Gingles* factor" given that, in most of the elections that the defendants' expert analyzed, "a majority of non-African-American voters preferred the African-American voters' candidate of choice." 316 F.R.D. at 170. The *Covington* case involved state legislative districts in many of the same counties at issue in the remedial process of the instant case, including districts in Cumberland, Forsyth, Guilford, Wake, and Mecklenburg Counties.

In contrast, the following are examples of cases where courts have found that the third *Gingles* factor is met:

- In *Old Person v. Cooney*, 230 F.3d 1113, 1127 (9th Cir. 2000), the Ninth Circuit held that the third *Gingles* factor was satisfied where white candidates defeated Indian candidates "in 86% of the contests in the four districts challenged on appeal."

- In *United States v. Blaine County, Montana*, 363 F.3d 897, 911 (9th Cir. 2004), the Ninth Circuit affirmed the trial court's finding of legally significant racially polarized voting where, "[i]n five out of seven county-wide elections between an American Indian candidate and white candidate, the American Indian candidate lost despite receiving strong American Indian support."

- In *Rodriguez v. Pataki*, 308 F. Supp. 2d 346, 425-26 (S.D.N.Y.), *aff'd*, 543 U.S. 997 (2004), the district court found that the third *Gingles* factor was met where "the Hispanic-preferred candidate received between (an estimated) 27.1% and 39.7% of the white vote in each [endogenous] election; and each Hispanic-preferred candidate lost to the white-preferred candidate."

- In *Flores v. Town of Islip*, 382 F. Supp. 3d 197, 231-32 (E.D.N.Y. 2019), the district court held that there was legally significant polarized voting where white crossover voting ranged from 23.8% to 39% across relevant elections.

As relevant to the third *Gingles* factor, Plaintiffs' expert Dr. Handley analyzed the extent of racially polarized voting in specific county groupings using Ecological Inference (EI) modeling. Specifically, Dr. Handley ran EI analysis on state legislative and statewide elections that had an African American candidate and occurred within one or more of the counties in the relevant grouping.

II. House County Groupings

a. Alamance

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 12. Dr. Chen finds that the maximum African American CVAP possible for a non-contiguous district in this county while adhering to equal population requirements is 35.83%. *Id.*

While the first *Gingles* factor is not met, it does appear that there is racial bloc voting in this grouping. For Alamance County, Dr. Handley finds that over 96% of African Americans have supported the same candidate in all general elections studied, and white crossover voting has been between 31.2% and 38.2% in these general elections. Handley Report at 14 (Table 3).

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Alamance					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 64	18.5%	Lynch	Lost	42.2%
2016	Lt. Governor	18.8%	Coleman	Lost	41.8%
2016	Treasurer	18.8%	Blue III	Lost	43.2%
2012	House District 64	18.5%	McAdoo	Lost	41.0%
2012	President	18.8%	Obama	Lost	43.1%
2012	Lt. Governor	18.8%	Coleman	Lost	43.3%
Primary Elections					
2018	House District 64	18.5%	Lynch	Lost	46.8%
2016	Lt. Governor	18.8%	Coleman	Won	52.3%*
2016	Treasurer	18.8%	Blue III	Won	57.4%
2016	Attorney General	18.8%	Williams	Won	51.1%
2016	Commissioner of Labor	18.8%	Ferguson	Won	50.3%
2012	Commissioner of Labor	18.8%	Foster	Lost	33.5%*

*Asterisks indicate that the relevant Democratic primary had more than two candidates.

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges from 31.7% to 37.6%. Handley Report at 14 (Table 3). Across the general elections she studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in this grouping is 34.4%. *Id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

b. Anson-Union

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which

African Americans could constitute a majority. Chen Report at 13. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 37.63%. *Id.*

While the first *Gingles* factor is not met, there is racial bloc voting in this grouping. Dr. Handley finds that over 98% of African Americans have supported the same candidates in all general elections studied, and white crossover voting has been between just 23.1% and 32.0% in these general elections. Handley Report at 14 (Table 4).

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Anson-Union					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2016	Lt. Governor	16.5%	Coleman	Lost	33.1%
2016	Treasurer	16.5%	Blue III	Lost	34.6%
2012	President	16.5%	Obama	Lost	37.7%
2012	Lt. Governor	16.5%	Coleman	Lost	37.8%
Primary Elections					
2016	Lt. Governor	16.5%	Coleman	Won	40.8%*
2016	Treasurer	16.5%	Blue III	Won	56.5%
2016	Attorney General	16.5%	Williams	Won	58.3%
2016	Commissioner of Labor	16.5%	Ferguson	Won	55.3%
2012	Commissioner of Labor	16.5%	Richardson	Lost	37.2%*

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges from 38.1% to 45.7%. Handley Report at 14 (Table 4). Across the general elections she

studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in this grouping is 42.2%. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

c. Cabarrus-Davie-Montgomery-Richmond-Rowan-Stanly Grouping

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 16. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 43.85%. *Id.*

While the first *Gingles* factor is not met, there is racial bloc voting in this grouping. Dr. Handley finds that over 97% of African Americans have supported the same candidate in all general elections studied, and white crossover voting has been between 28.1% and 38.9% in these general elections. Handley Report at 16 (Table 5).

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Cabarrus-Davie-Montgomery-Richmond-Rowan-Stanly					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 82	14.1%	Steele	Lost	47.3%
2016	Lt. Governor	15.5%	Coleman	Lost	33.8%
2016	Treasurer	15.5%	Blue III	Lost	36.1%
2012	House District 83	15.2%	Fleming	Lost	37%
2012	President	15.5%	Obama	Lost	37.8%
2012	Lt. Governor	15.5%	Coleman	Lost	39.1%
Primary Elections					
2016	Lt. Governor	15.5%	Coleman	Won	45.2%*
2016	Treasurer	15.5%	Blue III	Won	53.6%
2016	Attorney General	15.5%	Williams	Won	55.5%
2016	Commissioner of Labor	15.5%	Ferguson	Won	53.6%
2012	Commissioner of Labor	15.5%	Foster	Lost	24%*

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges from 29.1% to 47.6%. Handley Report at 16 (Table 5). Across the general elections she studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in this grouping is 36.6%. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

d. Cleveland-Gaston Grouping

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 17. He finds that the maximum African American CVAP that African Americans could comprise in a non-

contiguous district in this grouping while adhering to equal population requirements is 43.63%. *Id.*

While the first *Gingles* factor is not met, there is racial bloc voting in this grouping. Dr. Handley finds that over 95% of African Americans have supported the same candidate in all general elections studied, and white crossover voting has been between just 23.1% and 30.0% in these general elections. Handley Report at 17 (Table 6).

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Cleveland-Gaston					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 110	15.3%	McCleary	Lost	32.2%
2018	Senate District 43	14.8%	Price	Lost	34.8%
2016	Lt. Governor	16.2%	Coleman	Lost	33.0%
2016	Treasurer	16.2%	Blue III	Lost	36.0%
2012	House District 110	15.3%	McKoy	Lost	34.1%
2012	President	16.2%	Obama	Lost	37.1%
2012	Lt. Governor	16.2%	Coleman	Lost	39.1%
Primary Elections					
2016	Lt. Governor	16.2%	Coleman	Won	42.7%*
2016	Treasurer	16.2%	Blue III	Won	52.6%
2016	Attorney General	16.2%	Williams	Won	57.5%
2016	Commissioner of Labor	16.2%	Ferguson	Won	53.8%
2012	Commissioner of Labor	16.2%	Foster	Lost	25.8%*

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges

from 34.6% to 48.3%. Handley Report at 17 (Table 6). Across the general elections she studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in this grouping is 41.6%. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

e. Columbus-Pender-Robeson Grouping

1. Native Americans

Robeson County contains a large Native American population. It is possible to create a majority Native American district in Robeson County, as the current version of House District 47 has a Native American VAP close to 50% and the prior 2011 version of the district did have a Native American VAP above 50%.

With respect to the second and third *Gingles* factors, Dr. Handley analyzed elections solely within Robeson County. Regarding the second factor, in the seven general elections that Dr. Handley analyzed in Robeson County, less than 60% of Native Americans supported the same candidate in 5 of 7 elections. Handley Report at 41 (Table 22A). Similar voting patterns exist in the primaries that Dr. Handley evaluated. *Id.* at 42 (Table 22B).

Based on the elections that Dr. Handley analyzed, the Court finds the third *Gingles* factor is not met with respect to Native Americans in Robeson County. Dr. Handley finds that a majority of non-Native Americans supported the same candidate as a majority of Native Americans in 5 of the 7 general elections she evaluated, and similar voting patterns exist in the primaries. Handley Report at 40-41 (Tables 22A & 22B). More importantly, the candidate of choice of Native Americans won every general election that Dr. Handley analyzed—all 7 of 7—and almost all of the primary elections as well. *Id.* Thus, non-Native

Americans have not voted "as a bloc usually to defeat [Native Americans'] preferred candidates." *Gingles*, 478 U.S. at 56.

2. African Americans

Dr. Chen and Dr. Handley also evaluated the African American community across all three counties in this grouping.

With respect to African Americans, Dr. Chen finds that it is not possible to create even a non-contiguous district that would have an African-American CVAP above 50%. Chen Report at 18. Dr. Chen finds that it may be possible to create a non-contiguous majority-African American district using total VAP from the Decennial Census rather than CVAP, but in any event, he finds that it is not possible to create a contiguous majority-African American district using total VAP. *Id.*

Dr. Handley finds that there is bloc voting in this grouping with respect to African Americans. Dr. Handley finds that over 82% of African Americans supported the same candidate in all general elections she studied. Handley Report at 18 (Table 7). And Dr. Handley calculates that between 26.3% and 46.0% of non-African Americans supported the black-preferred candidate in the general elections she studied. *Id.*

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Columbus-Pender-Robeson					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	Senate District 13	26.4%	Campbell	Lost	37.5%
2018	House District 46	24.7%	Yates-Lockamy	Lost	36.7%
2016	Lt. Governor	24.5%	Coleman	Lost	43.7%
2016	Treasurer	24.5%	Blue III	Lost	47.0%
2012	President	24.5%	Obama	Won	50.3%
2012	Lt. Governor	24.5%	Coleman	Won	57.4%
Primary Election					
2018	Senate District 13	26.4%	Campbell	Won	69.2%
2016	Lt. Governor	24.5%	Coleman	Won	41.6%*
2016	Treasurer	24.5%	Blue III	Won	64.8%
2016	Attorney General	24.5%	Williams	Won	60.1%
2016	Commissioner of Labor	24.5%	Ferguson	Lost	38.5%
2014	Senate District 13	26.4%	Williams	Lost	27.3%*
2012	Commissioner of Labor	24.5%	Richardson	Lost	27.9%

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges from 5.5% to 49.7%. Handley Report at 18 (Table 7). Across the general elections she studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice is 30.1%. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

f. Cumberland

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is not possible to create three non-contiguous districts that are majority-African American in Cumberland County. Chen Report at 19.

Regarding the second *Gingles* factor, Dr. Handley finds that over 83% of African Americans have supported the same candidate in all general elections studied in this county. Handley Report at 19 (Table 8A).

There is far less white bloc voting under the third *Gingles* factor, however. In 2 of the 7 general elections and 4 of the 7 Democratic primaries that Dr. Handley analyzed, a majority or plurality of white voters supported the African American-preferred candidate (in the 2018 general elections in House Districts 42 and 43, the 2018 Democratic primary in House District 43, the 2016 Lieutenant Governor primary, and the 2012 Lieutenant Governor and Commission of Labor primaries). Handley Report at 19-20 (Tables 8A & 8B). In the remaining general elections studied, white crossover voting ranged from 29.4% to 42.4%, with similar figures for the remaining Democratic primaries.

Election results since 2012 indicate that whites have not voted "as a bloc usually to defeat the minority's preferred candidates" in Cumberland County. *Gingles*, 478 U.S. at 56. As depicted in the table below, of the state legislative and statewide general elections in Cumberland County since 2012 that had an African American candidate, the African American candidate won 9 of the 10 elections. Like in *Cooper*, of those races that African American candidates won, the "closest election" saw an African American candidate win 57% of the vote, and African American candidates won much higher margins in most of the other elections. *Id.* at 1470. The BVAP in these elections ranged from 37.1% to 52.6%. *See id.* Similar results have occurred in Democratic primaries this decade.

Cumberland					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African American Candidate	Result for African American Candidate in District or Counties	Share of Two-Party Vote for African American Candidate
General Elections					
2018	House District 42	42.2%	Lucas, Jr.	Won	76.1%
2018	House District 43	50.0%	Floyd	Won	74.1%
2016	Senate District 19	22.5%	Morris	Lost	43.6%
2016	Lt. Governor	37.1%	Coleman	Won	57.3%
2016	Treasurer	37.1%	Blue III	Won	57.6%
2012	House District 42	52.6%	Lucas, Jr.	Won	77.5%
2012	House District 43	51.5%	Floyd	Won	69.6%
2012	President	37.1%	Obama	Won	59.9%
2012	Lt. Governor	37.1%	Coleman	Won	61.6%
Primary Elections					
2018	House District 43	50.0%	Floyd	Won	79.2%
2016	Lt. Governor	37.1%	Coleman	Won	59.1%*
2016	Treasurer	37.1%	Blue III	Won	52.3%
2016	Attorney General	37.1%	Williams	Won	66.7%
2016	Commissioner of Labor	37.1%	Ferguson	Lost	46.0%
2012	Commissioner of Labor	37.1%	Richardson	Won	42.8%*

Across the general elections that Dr. Handley studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in Cumberland County is 18.3%.[2] *See* Handley Report at 19-20 (Tables 8A & 8B).

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

[2] For purposes of calculating averages, elections in which a majority of white voters supported the African-American-preferred candidate are considered to require 0% BVAP for the African-American-preferred candidate to have won.

g. Duplin-Onslow Grouping

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 20. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 37.61%. *Id.*

While the first *Gingles* factor is not met, there is racial bloc voting in this grouping. Dr. Handley finds that over 97% of African Americans have supported the same candidate in all general elections studied, and white crossover voting has been between just 15.1% and 28.0% in these general elections. Handley Report at 21 (Table 9).

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Duplin-Onslow					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 4	22.6%	Love	Lost	35.7%
2016	Lt. Governor	18.5%	Coleman	Lost	34.7%
2016	Treasurer	18.5%	Blue III	Lost	35.7%
2012	President	18.5%	Obama	Lost	38.7
2012	Lt. Governor	18.5%	Coleman	Lost	41.9%
Primary Elections					
2018	House District 4	22.6	Love	Won	57.5%
2016	Lt. Governor	18.5%	Coleman	Won	46.7%*
2016	Treasurer	18.5%	Blue III	Won	54.9%
2016	Attorney General	18.5%	Williams	Won	64.6%
2016	Commissioner of Labor	18.5%	Ferguson	Won	51%
2012	Commissioner of Labor	18.5%	Richardson	Lost	29.1%*

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges from 31.2% to 51.7%. Handley Report at 21 (Table 9). Across the general elections she studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in this grouping is 42.3%. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

h. Forsyth-Yadkin

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is not possible to create two contiguous districts in this grouping that are majority-African American. Chen Report at 21. Regarding the second *Gingles* factor, Dr. Handley finds that over 98% of African Americans have supported the same candidate in all general elections studied in these counties. Handley Report at 22 (Table 10).

However, with respect to the third *Gingles* factor, the Court finds there is insufficient evidence of legally significant white bloc voting in this county grouping. In 4 of 8 of general elections and 4 of 6 Democratic primaries that Dr. Handley analyzed, a majority of whites supported the African-American-preferred candidate (in the 2018 general elections in House District 71, House District 72, and Senate District 32, in the 2014 general election in House District 71, in the 2016 Democratic primaries for Lieutenant Governor, Commissioner of Labor, and Treasurer, and in the 2012 Democratic primary for Lieutenant Governor). Handley Report at 22 (Table 10); *see Covington*, 316 F.R.D. at 170.

Election results since 2012 further demonstrate that whites have not voted "as a bloc usually to defeat the minority's preferred candidates." *Gingles*, 478 U.S. at 56. As depicted in the table below, African American candidates won 9 of 11 general elections and

7 of 9 Democratic primaries across these counties since 2012. In the most probative elections for present purposes—endogenous state House and state Senate races—African American candidates have won over 70% of the two-party vote in all seven general elections, even though the BVAPs of the districts involved were between just 36.6% and 47.5%. *See Cooper*, 137 S. Ct. at 1470.

Forsyth-Yadkin					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African American Candidate
General Elections					
2018	House District 71	36.6%	Terry	Won	72.7%
2018	House District 72	47.5%	Montgomery	Won	79.1%
2018	Senate District 32	39.2%	Lowe	Won	72.9%
2016	Lt. Governor	23.6%	Coleman	Lost	49.1%
2016	Treasurer	23.6%	Blue III	Lost	47.7%
2014	House District 71	45.5%	Terry	Won	76.6%
2012	House District 71	45.5%	Terry	Won	77.9%
2012	House District 72	45.0%	Hanes, Jr.	Won	74.4%
2012	Senate District 32	42.5%	Parmon	Won	73.0%
2012	President	23.6%	Obama	Won	51.0%
2012	Lt. Governor	23.6%	Coleman	Won	50.9%
Primary Elections					
2016	Lt. Governor	23.6%	Coleman	Won	55.6%*
2016	Treasurer	23.6%	Blue III	Won	59.1%
2016	Attorney General	23.6%	Williams	Lost	45.1%
2016	Commissioner of Labor	23.6%	Ferguson	Won	60.5%
2012	House District 71	45.5%	Terry	Won	51.3%
2012	House District 72	45.0%	Hanes, Jr.	Won	43.6%*
2012	House District 74	10.7%	Gladman	Lost	44.1%
2012	Senate District 32	42.5%	Parmon	Won	60.0%*
2012	Commissioner of Labor	23.6%	Foster	Won	38.9%*

Across the general elections that Dr. Handley studied across these counties, the average minimum BVAP necessary for African Americans to elect candidates of their choice in this grouping is 16.9%. Handley report at 22 (Table 10). Dr. Handley also

performed her analysis for elections solely within Forsyth County and found less polarized voting when focusing just on this county. *Id.* at 38 (Table 20). Accordingly, the average minimum BVAPs necessary for the African American-preferred candidate to have won the general elections in Forsyth County is lower than that across the full county grouping. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

i. Nash-Franklin

At trial, Dr. Chen presented an analysis showing that, while it is possible to create a majority African American district in this grouping using voting-age population data from the Decennial Census, any such district would have a Polsby-Popper scores below 0.05. PX123 at 145-47 (Chen Rebuttal Report). But Dr. Chen concludes in his newest report that it is possible to create a majority-African American district with a Polsby-Popper score above 0.05 if using CVAP statistics rather than all VAP. Chen Report at 22.

With respect to the second and third *Gingles* factors, Dr. Handley finds that over 84% of African Americans have supported the same candidate in all general elections she studied, and white crossover voting has been between 20.8% and 44.8% in these general elections. Handley Report at 23 (Table 11).

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Nash-Franklin					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 25	40.73%	Gailliard	Won	53.3%
2016	Lt. Governor	33.0%	Coleman	Lost	47.3%
2016	Treasurer	33.0%	Blue III	Lost	48.7%
2016	House District 7	50.7%	Richardson	Won	67.8%
2016	House District 25	16.1%	Gailliard	Lost	31.9%
2012	President	33.0%	Obama	Lost	49.5%
2012	Lt. Governor	33.0%	Coleman	Won	51.2%
Primary Elections					
2016	Lt. Governor	33.0%	Coleman	Won	66.5%*
2016	Treasurer	33.0%	Blue III	Won	65.1%
2016	Attorney General	33.0%	Williams	Lost	39.5%
2016	Commissioner of Labor	33.0%	Ferguson	Lost	25.2%
2012	House District 7	50.7%	Bryant	Won	83.5%
2012	Commissioner of Labor	33.0%	Foster	Won	36.2%*

Dr. Handley finds that the BVAP necessary for the African American-preferred Candidate to have won the general elections she analyzed in these counties ranges from 11.9% to 49.6%. Handley Report at 23 (Handley Report). Across the general elections she studied, the average BVAP necessary for African Americans to elect candidates of their choice in this grouping is 35.2%.

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

j. Guilford

The Court finds the first *Gingles* factor is clearly met, at least as to the creation of a single district, given the racial demographics of Guilford County. Regarding the second *Gingles* factor, Dr. Handley finds that over 98% of African Americans have supported the same candidate in all general elections studied in this county. Handley Report at 24 (Table 12A).

However, with respect to the third *Gingles* factor, the Court finds there is insufficient evidence of legally significant white bloc voting in Guilford County. In 4 of the 9 general elections that Dr. Handley analyzed, a majority of white voters supported the African-American-preferred candidate (in the 2018 general elections in House District 58, House District 60, and Senate District 28, and in the 2016 general election in Senate District 28). *Id.*; *see Covington*, 316 F.R.D. at 170. And in the remaining general elections that Dr. Handley analyzed, white crossover voting exceeded 40% in all but one of the elections. Handley Report at 24 (Table 12A). Similar voting patterns occurred in Democratic primaries. *Id.* at 25 (Table 12B).

Election results since 2012 further demonstrate that whites have not voted "as a bloc usually to defeat the minority's preferred candidates" in Guilford County. *Gingles*, 478 U.S. at 56. As depicted in the table below, African American candidates won all 12 relevant Democratic primaries since 2012 and 9 of 11 general elections. In the seven state House and state Senate general elections that African American candidates have won, the African American candidate won over 68% of the vote, including in three districts where the BVAP was between 40%-43%. *See Cooper*, 137 S. Ct. at 1470.

Guilford					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 58	42.7%	Quick	Won	76.8%
2018	House District 60	40.1%	Brockman	Won	69.0%
2018	Senate District 28	43.6%	Robinson	Won	75.3%
2016	Senate District 28	56.5%	Robinson	Won	83.9%
2016	Lt. Governor	32.1%	Coleman	Won	58.2%
2016	Treasurer	32.1%	Blue III	Won	57.6%
2014	House District 61	15.3%	Weatherford	Lost	32.8%
2012	House District 58	51.1%	Adams	Won	79.9%
2012	House District 61	15.3%	Weatherford	Lost	36.2%
2012	President	32.1%	Obama	Won	58.3%
2012	Lt. Governor	32.1%	Coleman	Won	58.0%
Primary Elections					
2018	House District 58	42.7%	Quick	Won	80.2%
2016	House District 58	51.1%	Quick	Won	71.5%
2016	Lt. Governor	32.1%	Coleman	Won	57.9%*
2016	Treasurer	32.1%	Blue III	Won	54.3%
2016	Attorney General	32.1%	Williams	Won	54.6%
2016	Commissioner of Labor	32.1%	Ferguson	Won	61.3%
2014	House District 58	51.1%	Johnson	Won	42.6%*
2014	House District 60	51.4%	Brockman	Won	54.2%*
2014	Senate District 28	56.5%	Robinson	Won	59.4%
2012	House District 60	51.4%	Brandon	Won	66.2%
2012	Senate District 28	56.5%	Robinson	Won	72.0%
2012	Commissioner of Labor	32.1%	Foster	Won	39.2%*

Across the general elections that Dr. Handley studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in Guilford County is 12.8%. *See* Handley Report at 24 (Table 12A).

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

k. Pitt-Lenoir

With respect to the first *Gingles* factor, Dr. Chen finds that it is possible to create a majority-African American district with a Reock score exceeding 0.15 and a Polsby-Popper score exceeding 0.05. Chen Report at 23.

Regarding the second *Gingles* factor, Dr. Handley finds that over 86% of African Americans supported the same candidate in all general elections she analyzed in this grouping. Dr. Handley also finds evidence of white bloc voting in this grouping. Handley Report at 26 (Table 13). Dr. Handley calculates white crossover voting of between 24.9% and 46.8% in the general elections she analyzed. *Id.*

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

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Pitt-Lenoir					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 8	44.9%	Smith	Won	39.7%
2018	House District 9	20.5%	Rixon	Lost	49.9%
2018	House District 12	37.4%	Graham	Lost	40.0%
2016	Lt. Governor	34.2%	Coleman	Won	51.4%
2016	Treasurer	34.2%	Blue III	Won	52.6%
2012	President	34.2%	Obama	Won	52.6%
2012	Lt. Governor	34.2%	Coleman	Won	54.7%
Primary Elections					
2018	House District 8	44.9%	Smith	Won	50.0%
2016	Lt. Governor	34.2%	Coleman	Won	53.6%
2016	Treasurer	34.2%	Blue III	Won	54.6%
2016	Attorney General	34.2%	Williams	Won	61.1%
2016	Commissioner of Labor	34.2%	Ferguson	Lost	46.5%
2012	Commissioner of Labor	34.2%	Richardson	Lost	30.2%*

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges from 12.2% to 57.3%. Handley Report at 26 (Table 13). Across the general elections she studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice in this grouping is 30.4%. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

l. Mecklenburg

The Court finds the first *Gingles* factor is clearly met, at least as to the creation of a single district, given the racial demographics of Mecklenburg County. Regarding the second *Gingles* factor, Dr. Handley finds that over 89% of African Americans have supported the same candidate in all general elections studied in this county. Handley Report at 27 (Table 14A).

However, the Court finds there is insufficient evidence of legally significant white bloc voting in Mecklenburg County for purposes of the third *Gingles* factor. In 14 of 19 of the general elections that Dr. Handley analyzed, a majority of white voters supported the African-American-preferred candidate. Handley Report at 27 (Table 14A); *see Covington*, 316 F.R.D. at 170.

Election results since 2012 further demonstrate that whites have not voted "as a bloc usually to defeat the minority's preferred candidates." *Gingles*, 478 U.S. at 56. As depicted in the table below, African American candidates won 15 of 16 relevant Democratic primaries since 2012 and 18 of 22 general elections in that time period. In 2018, African American candidates won state House races in Mecklenburg County in districts with BVAPs as low as 6.2% and 18.2%, and other African American candidates won landslide victories in districts with BVAPs between 30% and 40%. *See Cooper*, 137 S. Ct. at 1470.

Mecklenburg					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 92	30.2%	Beasley	Won	70.0%
2018	House District 99	49.5%	Majeed	Won	82.4%
2018	House District 101	50.8%	Logan	Won	78.7%
2018	House District 104	6.2%	Lofton	Won	51.8%
2018	House District 106	38.0%	Cunningham	Won	80.6%
2018	Senate District 40	38.9%	Waddell	Won	75.6%
2016	House District 92	18.2%	Beasley	Won	54.4%
2016	House District 101	51.3%	Earle	Won	76.0%
2016	House District 105	9.5%	Green-Johnson	Lost	44.7%
2016	Senate District 38	52.5%	Ford	Won	79.1%
2016	Senate District 40	51.8%	Waddell	Won	82.5%
2016	Lt. Governor	30.2%	Coleman	Won	59.6%
2016	Treasurer	30.2%	Blue III	Won	58.4%
2014	House District 92	18.2%	Bradford	Lost	47.5%
2014	House District 106	51.1%	Cunningham	Won	86.6%
2014	Senate District 38	52.5%	Ford	Won	79.7%
2014	Senate District 41	13.2%	McRae	Lost	39.5%
2012	House District 92	18.2%	Bradford	Lost	48.6%
2012	Senate District 38	52.5%	Ford	Won	80.2%
2012	Senate District 40	51.8%	Graham	Won	84.1%
2012	President	30.2%	Obama	Won	61.3%
2012	Lt. Governor	30.2%	Coleman	Won	59.8%
Primary Elections					
2018	House District 99	49.5%	Majeed	Won	57.3%*
2018	House District 101	50.8%	Logan	Won	50.0%*
2018	House District 106	38.0%	Cunningham	Won	88.9%
2018	Senate District 38	48.5%	Ford	Lost**	40.7%
2016	House District 101	51.3%	Earle	Won	78.6%
2016	House District 107	52.5%	Alexander, Jr.	Won	90.1%
2016	Senate District 38	52.5%	Ford	Won	52.1%
2016	Senate District 40	51.8%	Waddell	Won	64.7%

2016	Lt. Governor	30.2%	Coleman	Won	55.2%*
2016	Treasurer	30.2%	Blue III	Won	52.7%
2016	Attorney General	30.2%	Williams	Won	55.7%
2016	Commissioner of Labor	30.2%	Ferguson	Won	57.0%
2014	Senate District 40	51.8%	Waddell	Won	41.9%*
2012	House District 101	51.3%	Earle	Won	84.9*
2012	Senate District 38	52.5%	Ford	Won	52.2%
2012	Commissioner of Labor	30.2%	Richardson	Won	40.7%*

**In the 2016 Democratic primary in Senate District 38, Dr. Handley finds that the candidate of choice of African Americans was not the African American candidate, but rather another candidate who won the election.

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

m. Buncombe

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 15. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 16.81%. *Id.* Dr. Handley did not analyze this grouping given the relatively low number of African Americans who live in this county.

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley and, finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

n. Brunswick-New Hanover

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which

African Americans could constitute a majority. Chen Report at 14. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 35.70%. *Id.* Dr. Handley did not analyze this grouping given the relatively low number of African Americans who live in these counties.

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

III. Senate County Groupings

a. Alamance-Guilford-Randolph

The Court finds the first *Gingles* factor is not met in this grouping. After removing Senate Districts 24 and 28 (which cannot be altered under the Court's order), the remainder of this county grouping does not contain enough African Americans to constitute a majority in one of the two remedial districts to be created. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 7. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in the remaining territory in this grouping while adhering to equal population requirements is 34.06%. *Id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and finds and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

b. Davie-Forsyth

The Court finds the first *Gingles* factor is not met in this grouping. At trial, Dr. Chen established in unrebutted testimony that it is not "mathematically possible" to create a majority-minority district in the Davie-Forsyth county grouping. Tr. 518:4-15. Dr. Chen found that, even if creating a non-contiguous district, the maximum BVAP possible for a district in this grouping while adhering to equal population requirements is just 81%. PX123 at 148-49 (Chen Rebuttal Report). Dr. Chen has confirmed in his most recent report that it would not be possible to create a majority African American district in this grouping if using CVAP rather than total VAP. Chen Report at 8. Dr. Chen finds that the maximum percent CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 45.55%. *Id.*

Dr. Handley's analysis indicates that the third *Gingles* factor also is not met in this grouping. Just as was the case with the Forsyth-Yadkin grouping in the House, the Court finds there is insufficient evidence of legally significant white bloc voting in the Davie-Forsyth grouping. In 4 of 8 of the general elections and 4 of 6 primaries that Dr. Handley analyzed, a majority of white supported the African-American-preferred candidate (in the 2018 general elections in House District 71, House District 72, and Senate District 32, in the 2014 general election in House District 71, and in the 2016 Democratic primaries for Commissioner of Labor and Treasurer). Handley Report at 33 (Table 17); *see Covington*, Election results since 2012 confirm that whites have not voted "as a bloc usually to defeat the minority's preferred candidates." *Gingles*, 478 U.S. at 56. As depicted in the table below, African American candidates won 9 of 11 general elections and 7 of 9 Democratic primaries across these counties since 2012. In the most probative elections for present purposes—endogenous state House and state Senate races—African American candidates have won over 70% of the two-party vote in all seven general elections, even though the BVAPs of the

districts involved were between just 36.6% and 47.5%. *See Cooper*, 137 S. Ct. at 1470, 316 F.R.D. at 170.

Davie-Forsyth					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 71	36.6%	Terry	Won	72.7%
2018	House District 72	47.5%	Montgomery	Won	79.1%
2018	Senate District 32	39.2%	Lowe	Won	72.9%
2016	Lt. Governor	23.8%	Coleman	Lost	49.2%
2016	Treasurer	23.8%	Blue III	Lost	47.6%
2014	House District 71	45.5%	Terry	Won	76.6%
2012	House District 71	45.5%	Terry	Won	77.9%
2012	House District 72	45.0%	Hanes, Jr.	Won	74.4%
2012	Senate District 32	42.5%	Parmon	Won	73.0%
2012	President	23.8%	Obama	Won	50.9%
2012	Lt. Governor	23.8%	Coleman	Won	50.7%
Primary Elections					
2016	Lt. Governor	23.8%	Coleman	Won	55.6%*
2016	Treasurer	23.8%	Blue III	Won	59.2%
2016	Attorney General	23.8%	Williams	Lost	45.0%
2016	Commissioner of Labor	23.8%	Ferguson	Won	60.2%
2012	House District 71	45.5%	Terry	Won	51.3%
2012	House District 72	45.0%	Hanes, Jr.	Won	43.6%*
2012	House District 74	10.7%	Gladman	Lost	44.1%
2012	Senate District 32	42.5%	Parmon	Won	60.0%*
2012	Commissioner of Labor	23.8%	Foster	Won	39.3%*

Across the general elections that Dr. Handley studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice is 15.5%. *See* Handley Report at 33 (Table 17). Dr. Handley also performed her analysis for elections solely within Forsyth County and found less polarized voting when focusing just on this county. *Id.* at 38 (Table 20). Accordingly, the average minimum BVAPs necessary for the African American-preferred candidate to have won the general elections in Forsyth County is lower than that across the full county grouping. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

c. Duplin-Harnett-Johnston-Lee-Nash-Sampson

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 11. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 47.48%. *Id.*

While the first *Gingles* factor is not met, it does appear that there is racial bloc voting in this grouping. Dr. Handley finds that over 84% of African Americans have supported the same candidate in all general elections studied, and white crossover voting has been between 15.1% and 44.8% in these general elections. Handley Report at 34 (Table 18A).

The below table summarizes the results of each state legislative and statewide election in this grouping since 2012 that had an African-American Democratic candidate.

Johnston-Sampson-Nash-Harnett-Duplin					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 4	22.6%	Love	Lost	35.7%
2018	House District 25	40.73%	Gailliard	Won	53.3%
2018	Senate District 10	24.1%	Moore	Lost	37.5%
2016	Lt. Governor	23.6%	Coleman	Lost	38.9%
2016	Treasurer	23.6%	Blue III	Lost	40.6%
2012	President	23.6%	Obama	Lost	42.0%
2012	Lt. Governor	23.6%	Coleman	Lost	44.4%
Primary Elections					
2018	House District 4	22.6	Love	Won	57.5%
2016	Lt. Governor	23.6%	Coleman	Won	58.6%
2016	Treasurer	23.6%	Blue III	Won	59.2%
2016	Attorney General	23.6%	Williams	Won	50.5%
2016	Commissioner of Labor	23.6%	Ferguson	Lost	32.6%
2012	Commissioner of Labor	23.6%	Richardson	Lost	30.8%*

Dr. Handley finds that the minimum BVAP necessary for the African American-preferred candidate to have won the general elections she analyzed in these counties ranges from 11.9% to 45.0%. Handley Report at 34 (Table 18A). Across the general elections she studied, the average minimum BVAP necessary for African Americans to elect candidates of their choice is 36.1%. *See id.*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

d. Franklin-Wake

The Court finds the first *Gingles* factor is met, as least to the creation of a single district, given the racial demographics of these counties. The Court also finds the second *Gingles* factor is met. Regarding the second *Gingles* factor, Dr. Handley finds that over 99% of African Americans have supported the same candidate in all general elections studied in this county grouping. Handley Report at 36 (Table 19A).

However, with respect to the third *Gingles* factor, the Court finds there is insufficient evidence of legally significant white bloc voting in this grouping. In 12 of 20 primary and general elections that Dr. Handley analyzed, a majority of whites voted for the African American-preferred candidate. *Id.* at 36-37 (Tables 19A & 19B); *see Covington*, 316 F.R.D. at 170. And with respect to state legislative elections in particular, a majority of whites supported the African American-preferred candidate in 6 of 8 general elections and 2 of 2 Democratic primaries. *Id.* In the few primary and general elections that Dr. Handley analyzed in this grouping where a majority of whites did not support the African American-preferred candidate, white crossover voting exceeded 40% in all but two of these elections. *Id.*

Dr. Handley also performed her analysis for elections solely within Wake County and found less polarized voting when focusing just on this county: she found that a majority of white voters supported the African American-preferred candidate in 9 of the 13 general elections she analyzed in Wake County. Handley Report at 29 (Table 15A).

Election results since 2012 confirm that whites have not voted "as a bloc usually to defeat the minority's preferred candidates" in this grouping. *Gingles*, 478 U.S. at 56. As depicted in the table below, African American candidates won all 12 relevant general elections and 7 of 10 primaries since 2012. In 2018, an African American candidate won a

state House race in Wake County in a district with a BVAP of just 14.3%, and other African American candidates won landslide victories in districts with BVAPs between 38% and 49%. *See id.* at 1470.

Franklin-Wake					
Year	Election	BVAP of District or Counties (for Statewide Elections)	African-American Candidate	Result for African-American Candidate in District or Counties	Share of Two-Party Vote for African-American Candidate
General Elections					
2018	House District 33	44.2%	Gill	Won	78.7%
2018	House District 37	14.3%	Batch	Won	51.1%
2018	House District 38	48.3%	Holley	Won	84.1%
2018	Senate District 14	38.9%	Blue Jr.	Won	71.4%
2016	House District 38	51.4%	Holley	Won	84.8%
2016	Lt. Governor	21.1%	Coleman	Won	55.7%
2016	Treasurer	21.1%	Blue III	Won	55.4%
2014	House District 33	51.4%	Gill	Won	87.3%
2014	House District 38	51.4%	Holley	Won	79.9%
2012	House District 38	51.4%	Holley	Won	87.7%
2012	President	21.1%	Obama	Won	55.4%
2012	Lt. Governor	21.1%	Coleman	Won	54.9%
Primary Elections					
2018	House District 33	44.2%	Gill	Won	60.2%
2016	House District 33	51.4%	Gill	Won	64.1%
2016	Lt. Governor	21.1%	Coleman	Won	60.7%*
2016	Treasurer	21.1%	Blue III	Won	63.4%
2016	Attorney General	21.1%	Williams	Lost	35.4%
2016	Commissioner of Labor	21.1%	Ferguson	Lost	27.8%
2012	House District 33	51.4%	Gill	Won	78.7%
2012	House District 38	51.4%	Holley	Won	60.8%*
2012	House District 39	26.5%	Mial	Lost	29.5%
2012	Commissioner of Labor	21.1%	Foster	Won	37.7%*

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

e. Mecklenburg

The analysis for the Mecklenburg Senate county grouping is identical to that for the Mecklenburg grouping in the House. Thus, the Court finds and concludes there is insufficient evidence of legally significant white bloc voting in this Senate grouping under the third *Gingles* factor, and that this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

f. New Hanover-Bladen-Pender-Brunswick

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 9. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 28.11%. *Id.* Dr. Handley did not analyze this grouping given the relatively low number of African Americans who live in these counties.

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

g. Buncombe-Henderson-Transylvania

The Court finds the first *Gingles* factor is not met in this grouping. Dr. Chen finds that it is impossible to create even a non-contiguous district in this grouping in which African Americans could constitute a majority. Chen Report at 10. He finds that the maximum African American CVAP that African Americans could comprise in a non-contiguous district in this grouping while adhering to equal population requirements is 10.47%. *Id.* Dr. Handley did not analyze this grouping given the relatively low number of African Americans who live in these counties.

The Court finds credible and persuasive the foregoing analysis and conclusions of Dr. Chen and Dr. Handley, and concludes this grouping complies with the VRA and other federal requirements concerning the racial composition of districts.

BASED UPON THE FOREGOING findings and conclusions, the Court finds and concludes that the House redistricting plan, N.C. Sess. Laws 2019-220 (House Bill 1020) enacted into law on September 17, 2019, and the Senate redistricting plan, N.C. Sess. Laws 2019-219 (Senate Bill 692) enacted into law on September 17, 2019, comply with the VRA and other federal requirements regarding the racial composition of districts.

SO ORDERED, this the 22nd day of January, 2020.

/s/ Paul C. Ridgeway

Paul C. Ridgeway, Superior Court Judge

/s/ Joseph N. Crosswhite

Joseph N. Crosswhite, Superior Court Judge

/s/ Alma L. Hinton

Alma L. Hinton, Superior Court Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the persons indicated below by emailing a copy thereof to the address below, in accordance with the March 13, 2019 Case Management Order:

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This the 22nd day of January 2020.

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