

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

21 CVS 015426

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, INC., et al.,

REBECCA HARPER, et al.,

COMMON CAUSE,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.

Defendants.

***COMMON CAUSE AND HARPER
PLAINTIFFS' JOINT MOTION FOR
DISCOVERY SANCTIONS***

Pursuant to North Carolina Rules of Civil Procedure 26 and 37, *Common Cause* and *Harper* Plaintiffs jointly move for discovery sanctions based on Legislative Defendants' admitted spoliation of key evidence, including "concept maps" used by Defendant Representative Hall during the map-drawing process and data regarding the creation, evaluation, and use of those maps. As this Court has acknowledged, these public records go to the heart of this matter, but Legislative Defendants have now informed Plaintiffs that all of them are destroyed, with no trace remaining. Moreover, Legislative Defendants' supplemental discovery responses served yesterday do not comply with the Court's December 29, 2021 Order requiring that they "fully respond" to the discovery requests and "identify the lost or destroyed material with specificity." Dec. 29 Order on Plaintiffs' Mot. to Compel at 6-7. Legislative Defendants failed to fully respond, yet again simply

producing other documents that are already in the public record, and refused to provide any specificity regarding the destroyed data. *Common Cause* and the *Harper* Plaintiffs therefore respectfully request that the Court (1) draw an adverse inference that the destroyed materials would have shown that Legislative Defendants considered racial and partisan data during the map-drawing process; (2) preclude Legislative Defendants from introducing testimony or evidence that Legislative Defendants did not consider partisan or racial data during the map-drawing process; (3) find that certain “designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order” under North Carolina Rules of Civil Procedure 37; and (4) order any other sanctions that the Court deems appropriate in its discretion and inherent authority to manage this litigation.

BACKGROUND

On December 21, 2021, *Harper* Plaintiffs served interrogatories and requests for production on Legislative Defendants seeking documents and information concerning the 2021 map-drawing process. After Legislative Defendants refused to formally respond to the requests, claiming that all responsive information and materials were already in the public record online, *Harper* Plaintiffs moved to compel responses to their discovery requests on December 27, 2021. That same day, the Court granted *Harper* Plaintiffs’ first motion to compel, finding that the information and documents sought “goes to the heart of the dispute in this redistricting matter,” Order on Mot. to Compel at 4, and ordered compliance by 9 a.m. December 28, 2021.

Meanwhile, Representative Hall testified in his deposition that between his map-drawing sessions at the public terminal, he repeatedly met with his then-General Counsel, Dylan Reel, and others for “strategy sessions” about the map-drawing in a private room adjacent to the public map-

drawing room. Rough Transcript of Rep. Hall Deposition (“Rep. Hall Tr.”) at 133:20-134:20.¹ In several of these strategy sessions, Representative Hall, Mr. Reel, and in some cases Speaker Moore’s Chief of Staff Neil Inman (and potentially others) reviewed “concept maps” of several county groupings for the House map. *Id.* at 118:4-7. Representative Hall would study these “concept maps” in the private room, and then rely on them to draw district lines for that particular county cluster on the public terminal. *Id.* at 122:4-123:15. In at least “a couple” of instances, Mr. Reel accompanied Representative Hall into the public map-drawing room and displayed an image of a “concept map” on his smartphone while Representative Hall drew the district lines on the public terminal. *Id.* at 212:19-213:16. Representative Hall testified that, to the best of his recollection, he relied on these concept maps for “around five” House county clusters in total, including Wake County, Pitt County, the Forsyth-Stokes cluster, and (potentially) Mecklenburg County, and possibly others. *Id.* at 125:1-129:21.

Representative Hall testified that, unlike maps drawn on the public terminals, these “concept maps” *are not publicly available*. *Id.* at 150:9-20. There is no public information—no video, no audio, no meeting notes, no list of attendees, nothing—about Representative Hall’s and Mr. Reel’s “strategy sessions” during which these “concept maps” were developed and discussed, or about the “concept maps” themselves. *Id.* at 145:25-146:8, 150:9-15, 151:19. These strategy sessions were ad hoc, not “scheduled at all.” *Id.* at 124:14-17.

On the evening of December 27—following Representative Hall’s deposition and after this Court granted Plaintiffs’ first motion to compel—counsel for *Harper* Plaintiffs emailed Legislative Defendants’ counsel to clarify that their first interrogatory includes third parties, like Mr. Reel. Dec. 28 Mot. to Compel Adequate Responses and For Other Appropriate Relief at 5. Likewise,

¹ The rough transcript of Representative Hall’s deposition was attached to *Harper* Plaintiffs Motion to Compel.

Harper Plaintiffs clarified that their second discovery requests included the “concept maps” and any related information or data. *Id.*

In their response on the morning of December 28, Legislative Defendants identified for the first time a number of individuals who participated in drawing maps whose participation was not publicly known, contradicting their previous assertion to Plaintiffs and to this Court that all the information sought by Plaintiffs was “publicly available.” *Id.* at 5. In their response to *Harper* Plaintiffs’ interrogatories, Legislative Defendants acknowledged that Representative Hall relied on “concept maps.” *Id.* at 6. They asserted that “no partisan or racial data was used or relied upon by Defendants,” but that they “cannot speak for ... the ... third parties identified above,” such as Mr. Reel and Mr. Inman. *Id.* In response to the same interrogatory, however, Legislative Defendants also asserted that “Defendant Hall and Mr. Reel did not use any racial or political data in preparing these concept maps.” *Id.* But according to Legislative Defendants, “[n]either Defendant Hall nor the other Legislative Defendants have copies of these concept maps or any information or data related to such maps.” *Id.* (emphasis added).

On December 28, *Harper* Plaintiffs then filed a second motion to compel, which the Court granted, again ordering Legislative Defendants to fully comply with the *Harper* Plaintiffs’ discovery requests. Dec. 29 Order on Mot. to Compel at 6-7. The Court found “unpersuasive” Legislative Defendants’ contention that they had no duty to disclose the concept maps and other data at issue on the theory that these materials were controlled not by them, but by Dylan Reel. *Id.* at 5. The Court referred to N.C.G.S. § 120-133(a), which establishes in relevant part that “documents prepared by legislative employees for legislators concerning redistricting the North Carolina General Assembly or the Congressional Districts are no longer confidential and become public records upon the act establishing the relevant districting plan becoming law. Present and

former legislative employees may be required to disclose information otherwise protected by N.C.G.S. § 120-132 concerning redistricting the North Carolina General Assembly or the Congressional Districts upon the act establishing the relevant district plan becoming law.” *Id.* at 5 (citing N.C.G.S. § 120-133(a)). In applying this statutory language, the Court concluded “that although Mr. Dylan Reel is no longer an employee of Representative Hall, he is plainly a legislative employee, N.C.G.S. § 120-129(2), and the documents provided by Mr. Reel for Representative Hall were no longer confidential and become public records as of November 4, 2021, when S.L. 2021-175 (House Bill 976) was enacted, N.C.G.S. § 120-133(a).” *Id.* at 6. Accordingly, the Court found that the concept maps and any and all information/documents/data relating to the concept maps were sufficiently in “Representative Hall’s control and custody” such that he could easily request them from his former staffer “on demand.” *Id.* at 6.

The Court specifically ordered that:

2. Information, documents, and data not within the physical possession of Legislative Defendants shall be obtained by Legislative Defendants from legislative employees participating in the private discussions that guided the map-drawing process, including but not limited to Representative Hall’s former legislative employee, Mr. Dylan Reel.

3. If the concept maps or any related information identified in Legislative Defendants’ response to Interrogatory No. 2 have been lost or destroyed, Legislative Defendants shall identify the lost or destroyed material with specificity and certify to that loss or destruction.

Id. at 6-7.

The next morning, Legislative Defendants served supplemental responses and objections. Exs. A, B. Legislative Defendants again did not produce the concept maps or any related data or information. Instead, Legislative Defendants’ sole reference to the concept maps came in a single sentence in the supplemental interrogatory responses: “Defendant Hall states that after the Court’s order of December 29, 2021, he called Dylan Reel and Mr. Reel stated that the concept maps that were created *were not saved, are currently lost and no longer exist.*” Ex. A at 4 (emphasis added).

Despite the Court’s December 29 order requiring “Legislative Defendants [to] identify the lost or destroyed material with specificity,” Legislative Defendants provided no further information about the missing files—not even basic facts about the devices on which these files were created or stored, or the nature of the files themselves—nothing. Nor did Legislative Defendants provide answers to important questions about the circumstances of the files’ creation, retention, and destruction, including:

- Does the device(s) on which the concept maps were created still exist? If so, what type of device(s) is it? Who currently has custody?
- Was that device(s) issued by the General Assembly?
- What software program(s) or web application(s) were used to create the concept maps? What types of data are included in that software or application, or were otherwise loaded onto the device(s) used to create the concept maps?
- What types of files were lost? (This Court’s order required the production of not just the maps themselves, but “any related information,” consistent with *Harper* Plaintiffs’ request. Order on Mot. Compel 7. Yet Legislative Defendants’ response refers only to “the concept maps.” Were there other documents, files, data, etc., used to create the concept maps? If so, what happened to that information?)
- Did Mr. Reel delete these files, or were they never saved in the first place? (The notion that draft redistricting maps were not *ever* saved is highly unusual, but if true may suggest that they were created using a web application like Dave’s Redistricting, which has partisan election data preloaded.)
- If they were deleted, why and when? If they were not saved, why not?

- Did Mr. Reel consult with Legislative Defendants before deleting (or declining to save) any of these files? Did they direct him to delete or not save them? Was Mr. Reel made aware of the retention policy for these files?
- What about Mr. Reel’s smartphone? (Even if the original files “were not saved,” there is undisputed evidence that Mr. Reel had images of the concept maps on his phone, which he at times carried into the public map-drawing room. It is common knowledge that images on phones generally do not disappear unless they are deleted.)
- Did Legislative Defendants asked Mr. Reel any of these questions yesterday, or did they simply ask whether the files existed and report “no”?

In addition to their one-sentence response regarding the loss or destruction of the concept maps, Legislative Defendants tripled down on their approach of providing only public-record materials, yet again pointing Plaintiffs to the North Carolina Redistricting website and minutes, documents and maps publicly considered by the Senate and House Standing Committees on Redistricting and Elections. They also produced documents from a previous redistricting case during the last decade, *Covington v. North Carolina*.

ARGUMENT

This is a straightforward case for discovery sanctions. First, by deleting or failing to save significant evidence of legislative intent, Legislative Defendants have engaged in quintessential spoliation. Second, Legislative Defendants’ threadbare responses defy this Court’s order directing them to identify any lost or destroyed material “with specificity”—independently prejudicing Plaintiffs and warranting sanctions. Under established law, the proper sanction here is, at minimum, an inference that the destroyed material supports that Legislative Defendants considered

election data and/or racial data in drawing the 2021 Plans, and an order precluding Legislative Defendants from introducing evidence or testimony attempting to prove the opposite.

I. Legislative Defendants Spoliated Highly Relevant Evidence, Warranting an Adverse Inference.

Spoliation is “the destruction or material alteration of evidence or . . . the failure to preserve property for another’s use as evidence in pending or reasonably foreseeable litigation.” *EEOC v. Womble Carlyle Sandridge & Rice, LLP*, No. 1:13-CV-46, 2014 U.S. Dist. LEXIS 793, at *6 (M.D.N.C. Jan. 6, 2014) (quoting *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 590 (4th Cir. 2001)). Where an individual “by his own tortious act withholds evidence by which the nature of his case would be manifested, every presumption to his disadvantage will be adopted.” *McLain v. Taco Bell Corp.*, 137 N.C. App. 179, 183, 527 S.E.2d 712, 716 (2000) (quoting *Yarborough v. Hughes*, 139 N.C. 199, 209, 51 S.E. 904, 908 (1905)). But a party need not commit a tort to engage in spoliation: “Although destruction of evidence in bad faith ‘or in anticipation of trial may strengthen the spoliation inference, such a showing is not essential to permitting the [adverse] inference.” *McLain*, 137 N.C. App. at 184, 527 S.E.2d at 716 (quoting *R.I. Hosp. Trust Nat’l Bank v. E. Gen. Contractors, Inc.*, 674 A.2d 1227, 1234 (R.I. 1996)). Rather, to establish a prima facie case of spoliation, a party must show that the spoliator (1) intentionally destroyed or failed to preserve (2) potentially relevant materials (3) while aware of the possibility of future litigation. *Arndt v. First Union Nat’l Bank*, 170 N.C. App. 518, 528, 613 S.E.2d 274, 281 (2005); *Praxair, Inc. v. Airgas, Inc.*, 2000 NCBC LEXIS 5, at *57 (N.C. Super. Ct. Aug. 14, 2000).

A. Legislative Defendants Engaged in Spoliation.

Legislative Defendants now admit that the requested concept maps and related materials “were not saved, are currently lost, and no longer exist.” Ex. A at 4. This Court has properly held that these destroyed materials are highly relevant to Plaintiffs’ claims, explaining that the “sought

after information and documentation pertaining to the Enacted Plans including the identification of all persons who took part in the drawing of the Enacted Plans in any way as well as all documents or data relied upon by those involved in the map drawing process, *goes to the heart of the dispute* in this redistricting litigation.” Dec. 27 Order on Mot. to Compel at 4 (emphasis added). Thus, the only question regarding spoliation is whether Legislative Defendants were aware of the possibility of future litigation and were therefore aware of an obligation to preserve evidence. Importantly, this obligation to preserve evidence may arise prior to the filing of a complaint where the opposing party is on notice that litigation is likely to be commenced. *McLain*, 137 N.C. App. at 187, 527 S.E.2d at 718.

Here, there can be no dispute that Legislative Defendants in general—and Representative Hall specifically—were aware of the potential for future litigation that would create an obligation to preserve evidence. First, redistricting in North Carolina has consistently been litigated in each cycle. Legislative Defendants mentioned and cited cases from the last redistricting cycle during the redistricting process (although their interpretation of the cited cases was inaccurate). Second, in one of the very first committee meetings called for the purpose of beginning the 2021 redistricting process in North Carolina, Representative Hall stated:

Members, the data – as most members of the committee know, the data will be released by the Census Bureau today at about 1:00 p.m., as best we can tell, and so it is the goal of the chairs of this committee to adopt this criteria this morning. And one of the reasons for that is as we all understand, *the redistricting process is a very litigious process, not just in North Carolina but really across the country*, and because of that, the chairs think it’s important to get criteria adopted before the data comes out so that no one can reasonably say that the chairs somehow took the data and then drew the criteria to meet the desires of the chairs.

Ex. C (8/12/2021 Joint Committee Meeting, Tr. 6:3-23) (emphasis added). Much of the committee debate regarding the approved redistricting criteria and then the county clustering options designated by the committee chairs focused on whether they complied with North Carolina

redistricting law. Moreover, on August 10, 2021, shortly after the Chairs' proposed redistricting criteria were made public, public comment from counsel Allison J. Riggs, of the Southern Coalition for Social Justice, raised issues about the lawfulness of the purported "race-blind" map-drawing process and the county groupings dictated by the committee chairs. *Common Cause* Compl. in Intervention ¶ 47. Given the history of redistricting litigation in North Carolina, Representative Hall's own acknowledgement of that history, and the nature of the committee and public discourse surrounding the redistricting process *prior to any maps being drawn*, the Legislative Defendants were plainly on notice of the potential for litigation with regard to the 2021 maps as early as August 12, 2021.

Independent from the threat of litigation, Legislative Defendants had a separate statutory obligation to preserve these records. As the Court noted in its December 29 Order, redistricting communications² under N.C.G.S. § 120-133 "become public records upon the act establishing the relevant district plan becoming law." Public records, under state law, are prohibited from being destroyed without the consent of the Department of Natural and Cultural Resources. *See* N.C.G.S. § 121-5 (prohibiting any "person" from destroying public records"); N.C.G.S. § 132-3 (prohibiting a "public official" from destroying public records). Violating these laws is a misdemeanor offense. *Id.* This Court has found Mr. Dylan Reel to be a legislative employee under N.C.G.S. § 120-129(2) and deemed Representative Hall to have control and custody over his former staffer's information, documents, and data. Dec. 29 Order at 6. Both individuals had a duty and obligation, subject to criminal penalty, to maintain redistricting records that would ultimately become public

² "Redistricting communications" are defined as "all drafting and information requests to legislative employees and documents prepared by legislative employees for legislators concerning redistricting the North Carolina General Assembly or the Congressional Districts." N.C.G.S. § 120-133

records. Representative Hall especially, as the custodian of those public records, *see* N.C.G.S. § 132-2, was obligated to ensure they were preserved. Yet, the records were destroyed.

Here, spoliation is established because the record is clear that Legislative Defendants were aware of circumstances that were likely to give rise to future litigation (and independent state law grounds for preservation), but failed to prevent the destruction of highly relevant evidence in its possession.

B. Legislative Defendants’ Destruction of Key Evidence Justifies an Adverse Inference.

With spoliation established, the Court has discretion to pursue a wide range of actions both for the purpose of leveling the evidentiary playing field and for sanctioning the improper conduct. Here, at a minimum, the Court should impose an adverse inference—*i.e.*, infer that the destroyed material would support that Legislative Defendants considered partisan information when drafting the 2021 Plans.

When imposing sanctions, “the trial court has discretion to pursue a wide range of actions both for the purpose of leveling the evidentiary playing field and for sanctioning the improper conduct.” *Vodusek v. Bayliner Marine Corp.*, 71 F.3d 148, 156 (4th Cir. 1995) (cited by Judge Tennille in *Praxair*, *supra*). One available sanction is a so-called “adverse inference”—an inference that the destroyed evidence would have been unfavorable to the party that destroyed it. *McLain v. Taco Bell Corp.*, 137 N.C. App. 179, 182-192, 527 S.E.2d 712, 715 - 721 (N.C. App. 2000). “[T]o qualify for the adverse inference, the party requesting it must ordinarily show that the spoliator was on notice of the claim or potential claim at the time of the destruction.” *McLain*, 137 N.C. App. at 187, 527 S.E.2d at 718 (quotation omitted). The evidence lost must be “pertinent” and “potentially supportive of plaintiff’s allegations.” *Id.* at 188, 527 S.E.2d at 718.

That standard is amply met here. As discussed above, Legislative Defendants were on notice of potential redistricting claims at the time that the concept maps were destroyed. Although Legislative Defendants offer no specificity regarding when or how the documents were destroyed, it is clear based on his deposition testimony that Representative Hall used the concept maps during the map-drawing process. *See* Rep. Hall Tr. at 133:20-134:20 (met for private “strategy sessions” with Mr. Reel), 118:4-7 (reviewed the concept maps during the strategy sessions), 122:4-123:15 (relied on the concept maps to draw district lines on the public terminal). The maps therefore could not have been destroyed until after Representative Hall was finished with his map-drawing, at which point the Legislative Defendants had been on notice not just of potential litigation generally, but of litigation likely to focus squarely on the intent of map-makers as they drew the 2021 Plans—as is true of all redistricting litigation.

Moreover, because Representative Hall admitted to reviewing and relying on the concept maps while drawing district lines, they are at the center of Plaintiffs’ allegations that Legislative Defendants privately utilized race and partisan data when drawing the enacted plans while publicly stating otherwise. That is true not just of the House plan—where pre-drawn concept maps directly support claims that the map-maker considered impermissible outside information—but of the Senate and Congressional plans—as Representative Hall’s reliance on such maps created by partisan staffers for the House is circumstantial evidence that other legislators used a similar process for the other maps.

Finally, the overwhelming evidence demonstrates that Legislative Defendants intentionally destroyed the evidence and sought to cover up that those concept maps existed. To be sure, deliberate destruction is not a prerequisite to the imposition of an adverse inference: North Carolina courts hold that the inference is available if a party, “whether in bad faith or not,

misplaced, suppressed or destroyed” relevant evidence. *See McClain*, 137 N.C. App. at 188. “The proponent of a missing document inference need not offer direct evidence of a cover-up to set the stage for the adverse inference. Circumstantial evidence will suffice.” *Id.* at 186, 527 S.E.2d at 718; *Arndt v. First Union Nat. Bank*, 613 S.E.2d 274, 281-283 (N.C. App. 2005). But the remarkable evidence here supports a finding of bad faith, confirming the need for significant sanctions.

First, the existence of the concept maps flies in the face of Legislative Defendants’ public statements during hearings regarding the transparency of the redistricting process. Specifically, in the following exchanges between Representative Hall and his colleagues in House Redistricting Committee meetings on October 5 and November 1, Representative Hall assured members of the Committee and the public that he did not and would not participate in any map-drawing outside of the public terminals and would not use any external materials:

- October 5, 2021 House Redistricting Committee, Tr. 61:16-62:2

Rep. Hawkins: “And this is just, you know, full transparency, Mr. Chairman, so that the public can know that we’re, you know, working with all cards up. Is there, you know, any – I want to make sure that there have been no maps drawn outside of this building that any of us have been privy to. Can we say that unequivocally that that’s been the case?”

Rep. Hall: “I can’t speak for other members of this committee. What I’ll say is that I have not contributed to the drawing of any map, at all.”

- October 5, 2021 House Redistricting Committee, Tr. 64:15-65:5

Rep. Reives: “But I guess first following up on Representative Hawkins’ question, and again, it’s just the question we’ve got to ask. He asked if there have been any maps drawn outside this building. I would like to know if there have been any maps drawn inside the building?”

Rep. Hall: “No. Great lawyer question. But no.”

Rep. Reives: “Just making sure. I got to ask.”

Rep. Hall: “You know, again, I’m speaking for myself, as the gentleman understands. I can’t speak for what other members have done, on either side of the aisle, or in the Senate, but I have not participated inside or outside of the drawing of maps, for this session.”

- October 5, 2021 House Redistricting Committee, Tr. 69:11-13

Rep. Hall: “But what I can tell members of this committee, as the chair, I won’t be bringing any maps in here to draw off of.”

- October 5, 2021 House Redistricting Committee, 70:4-6

Rep. Hall: “...look folks, the map you draw has got to be the one that you do in here and nowhere else.”

- November 1, 2021 House Redistricting Committee Rep Hall, Tr. 7:13-23:

“We’ve embarked on the most transparent redistricting process in North Carolina history, and there is simply no debate that can be had about that. Every part of this map-making process was done in public, and it was recorded, it was archived for anyone who would like to see it. Not only was it the most transparent process, but for the first time in North Carolina history, the legislature adopted a process on our own, on our own volition, that did not include the use of political data.”

Ex. D (Excerpts from 10/5/21 & 11/1/21 Joint Committee Meeting Tr.).

Legislative Defendants repeatedly patted themselves on the back for conducting a fully transparent process, while Representative Hall was holding private meetings using concept maps that were never made publicly available, and then were ostensibly lost or destroyed.

Second, as described above and as this Court has already explained, Legislative Defendants had a duty to preserve and to disclose the concept maps as public records. Destroying this information not just in the face of impending litigation, but in violation of North Carolina statute, casts further doubt on the notion that this was an innocent mistake.

Third, the sequence of events during discovery establishes that Legislative Defendants tried to avoid their discovery obligations regarding the concept maps. Legislative Defendants refused

to disclose the existence of the concept maps, until Representative Hall mentioned using them in his deposition. After his admission, Legislative Defendants identified for the first time a number of third parties who participated in drawing maps and whose participation was not publicly known. This is in direct contradiction to their assertion to Plaintiffs and to this Court that all the information sought by Plaintiffs was “publicly available.” Their discovery responses were vague and contained a glaring contradiction. They asserted that “they “cannot speak for ... the ... third parties identified above,” such as Mr. Reel and Mr. Inman, but then also asserted that “Mr. Reel did not use any racial or political data in preparing these concept maps.” *Id.* When pressed to produce the concept maps, the Legislative Defendants unconvincingly argued they were not in their possession or control. And when this Court issued another Order making clear Legislative Defendants’ obligation to produce the concept maps, the Legislative Defendants submitted two sets of supplemental responses and objections to *Harper* Plaintiffs’ discovery, contending that Representative Hall only contacted Mr. Reel “*after* the Court’s order on December 29, 2021 and Mr. Reel stated that the concept maps that were created were not saved, are currently lost, and no longer exist.” Ex. A at 4 (emphasis added).

Fourth, even when compelled by this Court’s order, Legislative Defendants *still* have refused to provide even the most basic information about these relevant materials—suggesting an intent to withhold inculpatory details about the missing files. Again, this Court required Legislative Defendants to produce the files or, if missing, to describe them “with specificity.” Legislative Defendants’ single-sentence response flies in the face of that directive, failing to provide even the most basic details about the missing files or where they might have gone. *Supra* pp. 6-7. Indeed, based on their discovery responses, it appears that Legislative Defendants did not

make any effort to search for and produce the concept maps beyond simply asking Mr. Reel if he still had them.

C. Legislative Defendants Should Also Be Precluded From Introducing Evidence or Testimony to Contradict the Adverse Inference Drawn Against Them.

For much the same reasons warranting an adverse inference, Legislative Defendants should be precluded from introducing testimony or evidence at trial that they did not consider partisan or racial data during the map-drawing process. The evidence of Legislative Defendants' cover-up, demonstrates that Legislative Defendants not only made repeated misrepresentations to the public during the redistricting hearings, but also made misrepresentations to Plaintiffs and this Court that all relevant materials were publically available. They attempted to skirt their discovery obligations at every step of the way even after Plaintiffs learned about the concept maps, by stating that they did not have possession or control of the concept maps and refusing to provide any level of specificity about how they were destroyed. Given the extent of Legislative Defendants' improper actions, this evidence justifies additional sanctions by the Court to level the evidentiary playing field, to remedy the prejudice caused to Plaintiffs, and to serve as future deterrent for the improper conduct by Legislative Defendants. *See Vodusek*, 71 F.3d at 156.

Numerous cases support the imposition of evidence preclusion as a sanction in these circumstances. *See, e.g., GE Betz, Inc. v. Conrad*, 231 N.C. App. 214, 238, 752 S.E.2d 634 (2013) (affirming evidence preclusion when the “the record is rife with [defendant’s] efforts to evade [plaintiff’s] requests for evidence . . . , including contravention of three separate orders to compel”); *Deans v. Terry*, No. COA04-495, 2005 N.C. App. LEXIS 425, at *12 (N.C. Ct. App. Mar. 1, 2005) (affirming evidence preclusion when “[t]he record exhibits a longstanding pattern of disobedient conduct and numerous incidents of defendant’s failure to comply with discovery requests”); *Khaja v. Husna*, 243 N.C. App. 330, 348, 777 S.E.2d 781, 791 (2015)

(affirming trial court’s ultimate sanction which bars her from presenting certain evidence); *Rabb v. Amatex Corp.*, 769 F.2d 996, 1000 (4th Cir. 1985) (observing that “[a] trial court may preclude evidence...even if to do so is tantamount to a...dismissal” (citations omitted)).

D. Legislative Defendants’ Destruction of Key Evidence Justifies Additional Sanctions.

The sanctions Plaintiffs have requested are independently warranted under North Carolina Rule of Civil Procedure 37(b)(2). That rule provides that “if a party fails to obey an order ” compelling the production of discovery under Rule 37(a), then the Court may order that “the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.”

As explained, Legislative Defendants have failed to comply with this Court’s order, which directed them to produce this material and to identify any destroyed material “with specificity.” Legislative Defendants’ response suggests that they have failed to even search for, let alone produce, material that may still exist. In particular, Legislative Defendants’ responses entirely fail to mention images of these concept maps that undisputedly existed on Mr. Reel’s smartphone and were used during the redistricting process. *Harper* Plaintiffs specifically identified these images in their Motion to Compel that this Court granted, *see* Mot. Compel at 3, 5, 6, 8, and in an email sent to counsel following Representative Hall’s deposition, *see* Mot. Compel Ex. Legislative Defendants also refer only to the concept maps themselves, and fail to explain whether there is any additional information “related” to these maps—for example, data Mr. Reel consulted when creating them—which this Court expressly required be produced. Order on Mot. Compel 7.

As for the concept map files that apparently “were not saved,” Legislative Defendants provide no detail whatsoever, let alone the requisite “specificity.” Legislative Defendants do not

provide any information about, for example: (1) the devices on which the concept maps were created; (2) the devices on which files were stored; (3) who issued these devices; (4) their current custodian; (5) the software or web application used to create the concept maps; (6) whether election or racial data was available on that software or application; (7) whether the maps were deleted as opposed to never saved in the first place; (8) if deleted, when and why; (9) if never saved, why not. These are basic questions parties routinely answer when identifying evidence that has been lost or destroyed, which is why this Court demanded that Legislative Defendants provide it.

Plaintiffs therefore request, under Rule 37(b)(2)(a), that this Court consider the following facts established:

1. Between his multiple sessions drawing the enacted House map at an official public computer terminal in the official map-drawing room, Representative Hall met privately, in secret, with his General Counsel Dylan Reel and others for “strategy sessions” where they developed and considered “concept maps” for multiple House county groupings.
2. The creator of these concept maps considered election data and racial data in doing so.
3. All written and electronic records of these strategy sessions—including all copies of the concept maps and all data and information relating to those maps, including any election or racial data contained therein—were lost or destroyed in violation of North Carolina law explicitly deeming such materials to be official legislative records.
4. Representative Hall’s “strategy sessions” to develop and consider “concept maps” with Mr. Reel and others violated the official criteria adopted by the Redistricting Committees, and were contrary to Representative Hall’s representations to the Redistricting Committee he chaired regarding the purported transparency of the map-drawing process.

Plaintiffs also request that the Court prohibit Legislative Defendants from introducing testimony or evidence at trial that Legislative Defendants did not consider partisan or racial data during the map-drawing process. Rule 37(b)(2)(b) permits this Court to “refus[e] to allow the disobedient party to support or oppose designated claims or defenses, or to “prohibit[] the party

from introducing designated matters in evidence.” And courts frequently preclude introduction of evidence in similar circumstances. *Supra*, p. 16.

Finally, Plaintiffs request any other sanctions that the Court deems appropriate in its discretion and inherent authority to manage this litigation.

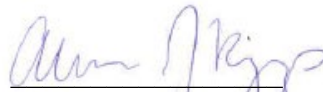
Respectfully submitted, this the 31st day of December, 2021.

Burton Craige
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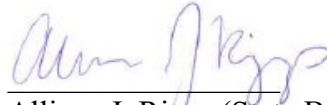
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Counsel for Plaintiffs Rebecca Harper, et al.
** Pro Hac Vice Motion pending*

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served copy of the foregoing document by email, addressed to counsel for all other parties.



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EXHIBIT A

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 015426
21 CVS 500085

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, et al.,

Plaintiffs,

vs.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House
Standing Committee on Redistricting, et al.,

Defendants.

REBECCA HARPER, et al.,

Plaintiffs,

vs.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House
Standing Committee on Redistricting, et al.,

Defendants.

**LEGISLATIVE DEFENDANTS' SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO PLAINTIFFS' SECOND SET OF INTERROGATORIES**

Defendants Representative Destin Hall, Senator Ralph E. Hise, Jr., Speaker of the North Carolina House Timothy R. Moore, and President Pro Tem of the North Carolina Senate, Philip E. Berger, Senator Warren Daniel, and Senator Paul Newton (“Defendants”), by and through undersigned counsel, serve their objections and responses to Plaintiffs’ Second Set of Interrogatories as follows:

GENERAL OBJECTIONS

Defendants make the following answers, responses, and objections to Plaintiffs' Second Set of Interrogatories ("Interrogatories"). Each of the following responses is made subject to any and all objections as to competence, relevance, or other grounds that would require exclusion of such statement if made by a witness present and testifying in court. Any and all such objections and grounds are expressly reserved and may be interposed at the time of trial.

The responses are based on Defendants' present knowledge, information, and belief, as derived from (a) the knowledge and information of present employees or agents of Defendants gained in their capacity as such and (b) a review of the documents and materials maintained by Defendants that would be likely to contain the information called for by the Interrogatories. These responses are subject to amendment and supplementation as Defendants acquire additional information and complete their review and analysis and made without prejudice to Defendants' right to use subsequently discovered or developed information. Defendants state that their responses to the Interrogatories were prepared in consultation with their attorneys and may not exactly match the words or phrases that may be used by individuals in the course of this litigation to describe events, policies, and practices discussed herein.

No incidental or implied admissions are intended by these responses. The fact that Defendants respond or object to any Interrogatory should not be taken as an admission that Defendants accept or admit the existence of any facts assumed by such Interrogatory or that such Response or objection constitutes admissible evidence as to any such assumed facts. The fact that Defendants respond to part of or all of any Interrogatory is not intended to be, and shall not be, construed as, a waiver by Defendants of any part of any objection to any Interrogatory.

Defendants will respond to Plaintiffs' Document requests in accordance with Rules 26 and 33 of the North Carolina Rules of Civil Procedure and will not provide responses or documents to the extent such responses or production would exceed the requirements of those Rules. Defendants only respond to these discovery requests with information or documents in their possession, custody or control.

Since the North Carolina Rules of Civil Procedure prohibit discovery of privileged matters, Defendants have attempted to interpret each Document Request to call for discoverable matter only. To the extent any response or produced document contains or refers to matters otherwise protected from discovery by the work product doctrine, the attorney-client privilege, or the legislative privilege, no waiver is intended; nor is any waiver intended as to any other matters that are or may be subject to such protection or otherwise privileged.

These responses are provided solely for the purpose of and in relation to this action

Supplemental Responses and Objections to Specific Interrogatories

2. Identify, by 5 p.m. pm December 23, 2021, all documents or data relied upon or otherwise considered by any Legislative Defendant or by any person identified in response to Interrogatory No. 1 above in connection with the creation of the 2021 Plans, including but not limited to draft redistricting plans (whether partial or complete), analysis of or relating to the 2021 Plans or drafts thereof, election or other partisan data, racial data, or any other data.

Supplemental Response: By way of further response, Defendants clarify that the “third parties” they reference covers only Dr. Mattingly and individuals who spoke at public hearings. “[A]ll documents or data relied upon or otherwise considered by any” of these third parties “in connection with the creation of the 2021 Plans,” as defined in the Interrogatory, clearly is not within the knowledge, custody or control of Defendants. As

a further response, Defendant Hall states that after the Court's order of December 29, 2021, he called Dylan Reel and Mr. Reel stated that the concept maps that were created were not saved, are currently lost and no longer exist.

While Defendants do not believe any further data or clarification is warranted or covered by the Court's order, out of an abundance of caution, Defendants are producing additional documents, including documents that can be found publicly on the North Carolina Redistricting Website contemporaneously with this response. Defendants refer Plaintiffs to their Amended Response to RFP 1 for a full accounting of these documents.

Submitted, this the 30th day of December, 2021.

/s/ Phillip J. Strach

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CERTIFICATE OF SERVICE

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/s/ Phillip J. Strach

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 015426
21 CVS 500085

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, et al.,

Plaintiffs,

vs.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House
Standing Committee on Redistricting, et al.,

Defendants.

REBECCA HARPER, et al.,

Plaintiffs,

vs.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House
Standing Committee on Redistricting, et al.,

Defendants.

The undersigned declares, under penalty of perjury, that he has read the foregoing Defendants' Supplemental Responses to Plaintiffs' Second Set of Interrogatories, and that he knows the contents thereof; that the answers separately and fully answer each request except to the extent Defendants have raised objection; that he is acting in his capacity as an agent for Defendants in responding to these interrogatories; that the answers were prepared with the advice and assistance of counsel, on which he relied; that the answers are limited to records and information still in existence, presently recollected and currently available; consequently, the undersigned reserves the right to supplement the answers if it appears that errors have been made or more accurate information is available; subject to the limitations set forth, the answers are true and correct to the best of the undersigned's knowledge, information and belief.

Executed on 30 December, 2021

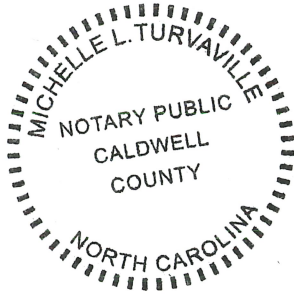


Destin Hall

Sworn or affirmed before me and subscribed in the presence the 30 day of December, 2021, in the state of NC and County of Caldwell.



Notary Public



38032865.1

EXHIBIT B

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 015426
21 CVS 500085

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, et al.,

Plaintiffs,

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REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House
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Defendants.

REBECCA HARPER, et al.,

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vs.

REPRESENTATIVE DESTIN HALL, in his
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Standing Committee on Redistricting, et al.,

Defendants.

**LEGISLATIVE DEFENDANTS' SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO PLAINTIFFS' SECOND SET OF RFP'S**

Defendants Representative Destin Hall, Senator Ralph E. Hise, Jr., Speaker of the North Carolina House Timothy R. Moore, and President Pro Tem of the North Carolina Senate, Philip E. Berger, Senator Warren Daniel, and Senator Paul Newton (“Defendants”), by and through undersigned counsel, serve their objections and responses to Plaintiffs’ Second Requests for Production of Documents as follows:

GENERAL OBJECTIONS

Defendants make the following answers, responses, and objections to Plaintiffs' Second Requests for Production of Documents ("Document Requests"). Each of the following responses is made subject to any and all objections as to competence, relevance, or other grounds that would require exclusion of such statement if made by a witness present and testifying in court. Any and all such objections and grounds are expressly reserved and may be interposed at the time of the trial.

The responses are based on Defendants' present knowledge, information, and belief, as derived from (a) the knowledge and information of present employees or agents of Defendants gained in their capacity as such and (b) a review of the documents and materials maintained by Defendants that would be likely to contain the information called for by the Document Requests. These responses are subject to amendment and supplementation as Defendants acquire additional information and completes their review and analysis and made without prejudice to Defendants' right to use subsequently discovered or developed information. Defendants state that their responses to the Document Requests were prepared in consultation with their attorneys and may not exactly match the words or phrases that may be used by individuals in the course of this litigation to describe events, policies, and practices discussed herein.

No incidental or implied admissions are intended by these responses. The fact that Defendants respond or object to any Document Request should not be taken as an admission that Defendants accept or admit the existence of any facts assumed by such Document Request or that such Response or objection constitutes admissible evidence as to any such assumed

facts. The fact that Defendants respond to part of or all of any Document Request is not intended to be, and shall not be, construed as, a waiver by Defendants of any part of any objection to any Document Request.

Defendants will respond to Plaintiffs' Document requests in accordance with Rules 26 and 34 of the North Carolina Rules of Civil Procedure and will not provide responses or documents to the extent such responses or production would exceed the requirements of those Rules. Defendants further object that under the North Carolina Rules of Civil Procedure, these requests are premature, as no discovery is permitted until a Rule 26(f) conference has been conducted. Defendants only respond to these discovery requests with information or documents in their possession, custody or control.

Since the North Carolina Rules of Civil Procedure prohibit discovery of privileged matters, Defendants have attempted to interpret each Document Request to call for discoverable matter only. To the extent any response or produced document contains or refers to matters otherwise protected from discovery by the work product doctrine, the attorney-client privilege, or the legislative privilege, no waiver is intended; nor is any waiver intended as to any other matters that are or may be subject to such protection or otherwise privileged.

These responses are provided solely for the purpose of and in relation to this action.

Supplemental Objections and Responses to Specific Requests

1. Produce, by 5 p.m. on December 23, 2021, all documents and data identified in your response to *Harper* Plaintiffs' Interrogatory No. 2 to Legislative Defendants, served on December 21, 2021.

Supplemental Response: By way of further response, Defendants state that based upon their good faith interpretation of the Court’s December 29, 2021 Order, Defendants must supplement all responses at issue in Plaintiffs’ motion. Given that Plaintiffs’ motion was primarily to compel information regarding “concept maps” Defendants refer Plaintiffs’ to supplemental interrogatory responses served with these responses. While Defendants do not believe any further data or clarification is warranted or covered by the Court’s order, out of an abundance of caution, Defendants direct Plaintiffs to files and data produced contemporaneously with this response. Specifically, Defendants are producing documents as they were kept in the ordinary course of business and as found on the North Carolina Redistricting Website as follows¹:

- All meeting minutes, documents, and member submitted maps and accompanying data of the Senate Standing Committee on Redistricting and Elections are contained in a zip folder called “Senate Standing Committee on Redistricting and Elections.”
- All meeting minutes, documents, and member submitted maps and accompanying data of the House Standing on Redistricting are contained in a zip folder called “House Redistricting Standing Committee”.
- All shapefiles, pdf maps, and accompanying reports found for the 2021 Enacted Plans are contained in a zip folder called “Final Plan Maps Reports and Shape Files”
- Dr. Persily’s Special Master Report and accompanying data in *Covington v. North Carolina*, is contained in a zip folder called “Special Master’s Report”

¹ Dr. Mattingly’s groupings are included in the respective Committee materials where they were relied upon.

Defendants are also producing the 2021 Redistricting Public Comments Reports. These can be found in a zip file called “Public Comments.”

Defendants are further producing maptitude files created while the House and Senate Redistricting committees were engaged in drawing plans following the return of the 2020 federal decennial Census for the drawing done by the House in Room 643 and the Senate in Room 544. The files are sorted by type plan and include the following:

- In the folder ‘ --- 21 Plans’ folder, you will find Maptitude plans.**
- In the ‘---21 Products’ folder, you will find the folders associated with a plan where a member requested a print out of map or reports. Reports were generated using a software developed by the General Assembly, and saved in the products folder.**
- In the ‘overlays’ folder, you will find the geographic overlays, such as colleges, State and federal lands, member residency layers.**
- In the ‘reference’ folder, you will find reminder instructions for staff on how to do a certain process, like how to create a PDF of a district plan map.**

Submitted, this the 30th day of December, 2021.

/s/ Phillip J. Strach

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EXHIBIT C

NORTH CAROLINA GENERAL ASSEMBLY

JOINT COMMITTEE MEETING

AUGUST 12, 2021

Transcribed by:

Denise Myers Byrd, CSR 8340, RPR

Discovery Court Reporters and

Legal Videographers, LLC

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1 otherwise, those -- those items are not ranked
2 at all.

3 Members, the data -- as most members of
4 the committee know, the data will be released by
5 the Census Bureau today at about 1:00 p.m., as
6 best we can tell, and so it is the goal of the
7 chairs of this committee to adopt this criteria
8 this morning. And one of the reasons for that
9 is as we all understand, the redistricting
10 process is a very litigious process, not just in
11 North Carolina but really across the country,
12 and because of that, the chairs think it's
13 important to get criteria adopted before the
14 data comes out so that no one can reasonably say
15 that the chairs somehow took the data and then
16 drew the criteria to meet the desires of the
17 chairs. It would be impossible for the chairs
18 to have done that. The chairs have, obviously,
19 put out criteria already. The committees will
20 vote on whether to amend that criteria this
21 morning or not, but it was important before that
22 criteria came out -- before the data came out to
23 get the proposed criteria out.

24 Members, I'll go ahead and tell you, I
25 expect at some point next week to have a

EXHIBIT D

TRANSCRIPTION OF AUDIO FILE
NORTH CAROLINA HOUSE COMMITTEE
ON REDISTRICTING
OCTOBER 5, 2021

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

1 sure what we can do with the technology, but we are
2 absolutely happy to look into what our options are,
3 and report that back to the chair.

4 REPRESENTATIVE HAWKINS: Okay. I also
5 heard you were Erika Churchill, and you can do all
6 things, but just putting that out there.

7 MS. CHURCHILL: Speaking French is not one
8 of those things.

9 REPRESENTATIVE HAWKINS: Okay. 10-4. Just
10 --

11 CHAIRMAN HALL: I believe she said not yet.

12 REPRESENTATIVE HAWKINS: Follow up,
13 Mr. Chairman.

14 VICE CHAIR SAINE: You're recognized for a
15 follow-up.

16 REPRESENTATIVE HAWKINS: And this is just,
17 you know, full transparency, Mr. Chairman, so that
18 the public can know that we're, you know, working
19 with all cards up. Is there, you know, any -- I
20 want to make sure that there have been no maps drawn
21 outside of this building that any of us have been
22 privy to. Can we say that unequivocally that that's
23 been the case?

24 CHAIRMAN HALL: I can't speak for other
25 members of this committee. What I'll say is that I

1 have not contributed to the drawing of any map, at
2 all.

3 REPRESENTATIVE HAWKINS: Awesome. Thank
4 you, Mr. Chair.

5 VICE CHAIR SAINE: Thank you.
6 Representative Warren.

7 REPRESENTATIVE WARREN: Thank you. I
8 propose this to the Chair, but probably going to
9 deflect it to Ms. Churchill. Can you explain what
10 the matrix is on page 2 of this stack of maps?

11 VICE CHAIR SAINE: Ms. Churchill.

12 REPRESENTATIVE WARREN: I knew it. She can
13 do anything.

14 CHAIRMAN HALL: When we're using the word
15 "matrix," generally I'm going to go ahead and
16 deflect that one on over.

17 MS. CHURCHILL: So, Representative Warren,
18 I'm not sure that it is a matrix in the form that
19 many people think of when you say that word. But it
20 was our attempt to keep up with how the group from
21 Duke was allocating the options to create the eight
22 different combinations for a fully assigned
23 statewide map.

24 So when you see the A1 option in the Duke
25 House 01 through 04, that is associated with the

1 REPRESENTATIVE REIVES: All right. Thank
2 you.

3 I wanted to make sure, and I apologize if
4 this is repeating anything, I don't know that I have
5 the answer in my head, and I know that when we walk
6 out of this room, that I'm going to get all these
7 questions, so I'm trying to kind of figure out where
8 we are.

9 So on the drawing of the maps, I think my
10 big question is -- and I've got to get my glasses
11 back on because I had to type this because I can't
12 see, and I can't read anymore. See what you guys
13 did to me in 10 months. I had 2020 vision when I
14 got here.

15 But I guess first following up on
16 Representative Hawkins' question, and again, it's
17 just the question we've got to ask. He asked if
18 there have been any maps drawn outside this
19 building. I would like to know if there have been
20 any maps drawn inside the building?

21 CHAIRMAN HALL: No. Great lawyer question.
22 But no.

23 REPRESENTATIVE REIVES: Just making sure.
24 I got to ask.

25 CHAIRMAN HALL: You know, again, I'm

1 speaking for myself, as the gentleman understands.
2 I can't speak for what other members have done, on
3 either side of the aisle, or in the Senate, but I
4 have not participated inside or outside of the
5 drawing of any maps, for this session.

6 REPRESENTATIVE REIVES: That's good. I
7 appreciate that. And going on that same issue, and
8 you really, you and I have talked, and now I want to
9 say publicly, you have been very good about keeping
10 me up to date with what we're trying to do, how
11 we're trying to do it, and I appreciate that. And
12 we had this discussions, but I want to kind of get
13 it clearer now.

14 So my concern is similar to Representative
15 Harrison's concern because here seems to be the
16 problem that you run into. So let's say somebody --
17 and I'll use somebody who would never do this. I'm
18 going to use Representative Bell. So let's say
19 Representative Bell comes in and he's gone, and he's
20 talked to, you know, non-member Billy Richardson,
21 and Billy has said, "Oh, man. This would be a great
22 map for you, John Bell, because, you know, you put
23 all the democrats over here. You put all the
24 republicans here. And then you got you all the
25 black people here and the white people here, and all

1 And you might want to bring that very map
2 back in here, that you drew in this committee, and
3 sit down and, based on the changes -- the input,
4 rather -- the input you've got from other folks, and
5 make those changes. And I don't know how we would -
6 - again, I go back to the word policing it -- how I
7 -- I can't stand over somebody's shoulder and say,
8 "Now that's not the map you drew in here. That's a
9 map -- I don't know where that came from." I just
10 don't -- I don't think it's possible to do that.

11 But what I can tell the members of this
12 committee, as the chair, I won't be brining any maps
13 in here to draw off of. But I want to be clear that
14 when members of the public that are watching these
15 live video feeds, or members who are sitting in the
16 back, they're going to see members of this committee
17 walking around with maps in their hands. Some
18 people like to have a sheet of paper in front of
19 them. You know, you're probably like me. I like to
20 read, you know, a statue printed out, rather than
21 read it on a computer screen, so that I can write on
22 it, and think about it a little easier.

23 So, because of that, I'm afraid, you know,
24 even if we tried to do that, the optics of removing
25 members from this committee, and people seeing

1 people walking around with maps that have been
2 printed out because they were drawn in here, I think
3 it ultimately results in the best path forward to
4 just say, you know, look folks, the map you draw has
5 got to be the one that you do in here and nowhere
6 else. And that's up to the members and their
7 integrity as to how they want to handle that.

8 REPRESENTATIVE REIVES: And I would say
9 then, based on that, I'm assuming we will be
10 instructing members that you are not to use racial
11 or partisan data in the drawing of the maps that you
12 do in here.

13 CHAIRMAN HALL: Absolutely.

14 REPRESENTATIVE REIVES: And I would also, I
15 guess, say that once we're down to the maps that
16 we're going to be voting on, I mean, I would think
17 that's something that we can ask members when
18 they're presenting a map. You know, if a member
19 comes up and says, "This is my map we're voting on,"
20 you could say, "Okay. You didn't use racial or
21 partisan data," and that won't be considered out of
22 line.

23 CHAIRMAN HALL: I think that's, you know, a
24 fair question for any member of this committee or
25 anyone in the House to ask those very questions.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE REDISTRICTING COMMITTEE

NOVEMBER 1, 2021

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1 Recognize the gentleman from Caldwell
2 county.

3 CHAIRMAN HALL: Thank you,
4 Mr. Chairman.

5 And, Members, now that the PCS as
6 amended is before the committee, I do want to
7 make some brief opening remarks because I think
8 that the process, as I've previously said
9 chairing this committee and in presenting, this
10 is a historic process in this body that has
11 never happened in the history of this state and
12 in the history of this General Assembly.

13 We've embarked on the most transparent
14 redistricting process in North Carolina history,
15 and there is simply no debate that can be had
16 about that. Every part of this map-making
17 process was done in public, and it was recorded,
18 it was archived for anyone who would like to see
19 it. Not only was it the most transparent
20 process, but for the first time in
21 North Carolina history, the legislature adopted
22 a process on our own, on our own volition, that
23 did not include the use of political data.

24 Further, we received an immense amount
25 of public input on the maps which has resulted