

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 21 CVS 015426

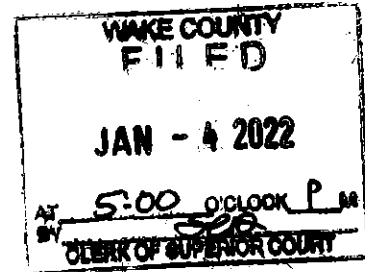
NORTH CAROLINA LEAGUE, OF
CONSERVATION VOTERS, INC., *et al.*,
Plaintiffs

and

COMMON CAUSE,
Plaintiff-Intervenor,

v.

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



STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 21 CVS 500085

REBECCA HARPER, *et al.*,
Plaintiffs

v.

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

**ORDER ON PLAINTIFF COMMON CAUSE'S AND HARPER PLAINTIFFS' JOINT
MOTION TO STRIKE SEAN P. TRENDE AFFIDAVIT**

THIS MATTER came before the undersigned three-judge panel upon Plaintiff
Common Cause's and Harper Plaintiffs' Joint Motion to Strike filed on December 29, 2021,
pursuant to Rules 26(b)(4)(f) and 37 of the North Carolina Rules of Civil Procedure and
Rules 702, 703, and 705 of the North Carolina Rules of Evidence.

Procedural and Factual Background

In this litigation, Plaintiffs seek a declaration that the North Carolina Congressional, North Carolina Senate, and North Carolina House of Representatives districts established by an act of the General Assembly in 2021, N.C. Sess. Laws 2021-174 (Senate Bill 750), 2021-173 (Senate Bill 739), and 2021-175 (House Bill 976) (collectively the “Enacted Plans”), violate the rights of Plaintiffs under the North Carolina Constitution. Plaintiffs seek to enjoin the future use of the 2021 congressional and state legislative districts.

On December 13, 2021, after receiving an order from the Supreme Court of North Carolina directing this Court to resolve all Plaintiffs’ claims on the merits by January 11, 2022, this Court entered a Case Scheduling Order giving the parties until December 23, 2021, to exchange expert witness reports; December 28, 2021, to exchange rebuttal evidence, including rebuttal expert reports; and December 31, 2021, for parties to conduct expert discovery depositions.

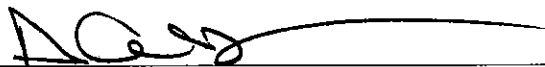
On December 29, 2021, Plaintiff Common Cause and Harper Plaintiffs filed the present Motion, alleging the affidavit submitted by Sean P. Trende (“Trende Affidavit”) on behalf of Legislative Defendants on December 28, 2021, is not an expert report or rebuttal report pursuant to North Carolina’s rules because it fails to contain Trende’s opinions or analysis, fails to offer specialized knowledge to assist the Court, and fails to rebut any evidence submitted by Plaintiffs. The Motion also contends that because the Trende Affidavit is not a rebuttal report, it was untimely submitted to Plaintiffs on December 28, 2021—the deadline for parties to exchange rebuttal evidence.

Legislative Defendants submitted a written response to the Motion on December 30, 2021, informing the Court of its position on the Motion. This Court rendered its ruling upon the Joint Motion in open court at the start of trial of these consolidated cases on January 3, 2022, and the Court’s reasoning is more fully set forth below.

The Court finds that while the Trende Affidavit largely does not necessarily present expert analysis, the Court finds that the Trende Affidavit does present some information requiring specialized knowledge that will be helpful to the Court in analyzing the issues in this litigation. The Court further finds that Plaintiff Common Cause and Harper Plaintiffs will not be prejudiced by the denial of this Motion. Accordingly, the Court concludes that the Motion should be denied.

WHEREFORE, the Court, for the reasons stated herein and in the exercise of its discretion, hereby **ORDERS** that Harper Plaintiffs' and Plaintiff Common Cause's Joint Motion to Strike the Trende Affidavit is **DENIED**.

SO ORDERED, this the 41 day of January 2022.



A. Graham Shirley, Superior Court Judge

/s/ Nathaniel J. Poovey

Nathaniel J. Poovey, Superior Court Judge

/s/ Dawn M. Layton

Dawn M. Layton, Superior Court Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the persons indicated below via e-mail transmission addressed as follows:

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Service is made upon local counsel for all attorneys who have been granted pro hac vice admission, with the same effect as if personally made on a foreign attorney within this state.

This the 5th day of January, 2022.

/s/ Kellie Z. Myers
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Trial Court Administrator
10th Judicial District
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