

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, INC.;
HENRY M. MICHAUX, JR., et al.,

Plaintiffs,

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.

**NCLCV PLAINTIFFS' RESPONSE
TO FEBRUARY 8, 2022 ORDER
REGARDING APPOINTMENT OF
SPECIAL MASTER**

Pursuant to this Court's February 8, 2022 Order on Submission of Remedial Plans for Court Review, the NCLCV Plaintiffs hereby submit the names and qualifications of suggested Special Masters.

In the NCLCV Plaintiffs' view, the two most experienced redistricting special masters in the Nation—who would be extraordinarily well-qualified to assist the Court in reviewing or developing redistricting plans—are:

- **Professor Nathaniel Persily**, the James B. McClatchy Professor of Law at Stanford Law School (<https://law.stanford.edu/directory/nathaniel-persily>, [REDACTED]). Professor Persily is one of the Nation's foremost redistricting experts and has been appointed as the special master for redistricting by the Superior Court panel in *Common Cause v. Lewis*, No. 18-CVS-014001 (N.C. Super. Ct. Sept 13, 2019), and by the U.S. District Court for the Middle

District of North Carolina in *Covington v. North Carolina*, 283 F. Supp. 3d 410 (M.D.N.C. 2018), as well as by the Supreme Court of Connecticut (2021, 2012), the Supreme Court of Pennsylvania (2018), the U.S. District Court for the Eastern District of New York (2012), the U.S. District Court for the Northern District of Georgia (2004), the Maryland Court of Appeals (2002), and the U.S. District Court for the Southern District of New York (2002). He has also served as a consultant to the redistricting commissions of Maryland (2021) and Utah (2011), as well as to the Chief Justice of Puerto Rico (2022, 2011). His work has been cited in seven U.S. Supreme Court opinions.¹

- **Professor Bernard Grofman**, the Jack W. Peltason Endowed Chair and Distinguished Professor of Political Science at the University of California at Irvine (<http://www.socsci.uci.edu/~bgrofman>, [REDACTED]). Professor Grofman is also one of the Nation's foremost redistricting experts and has been appointed as a special master in numerous redistricting cases, including in Virginia (2021, 2019, 2016), Georgia (2019), and Utah (2017). His work has been cited in thirteen U.S. Supreme Court opinions.²

¹ See, e.g., *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 794, 823 (2015); see also, e.g., Nathaniel Persily, *When Judges Carve Democracies: A Primer on Court-Drawn Redistricting Plans*, 73 GEO. WASH. L. REV. 1131 (2005).

² See, e.g., *Thornburg v. Gingles*, 478 U.S. 30, 47–49, 52–53, 58, 62, 68 (1986); see also, e.g., Bernard Grofman & Gary King, *The Future of Partisan Symmetry as a Judicial Test for Partisan Gerrymandering after LULAC v. Perry*, 6 ELECTION L.J. 2 (2007); Bernard Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L. REV. 77 (1985).

In addition, the following six professors are amply qualified to assist the Court in reviewing or developing redistricting plans:

- **Professor Tyler J. Jarvis**, Professor of Mathematics at Brigham Young University, and Director of the Brigham Young University Applied and Computational Mathematics Emphasis ([http://www.math.byu.edu/~jarvis, \[REDACTED\]](http://www.math.byu.edu/~jarvis, [REDACTED])). Professor Jarvis has been retained by the Utah Independent Redistricting Commission to analyze redistricting maps (2021).
- **Professor Jonathan Cervas**, Postdoctoral Fellow at the Institute for Politics and Strategy, Carnegie Mellon University ([https://www.cmu.edu/ips/people/postdoctoral-fellows/jonathan-cervas.html, \[REDACTED\]](https://www.cmu.edu/ips/people/postdoctoral-fellows/jonathan-cervas.html, [REDACTED])). Professor Cervas was selected by the Pennsylvania General Assembly to serve as the map consultant to the Legislative Reapportionment Commission for redistricting in 2021 and has assisted special masters in drawing remedial redistricting maps in federal courts in Utah (2017), Virginia (2018–2019), and Georgia (2019–2020).³
- **Professor John F. Nagle**, Professor Emeritus of Physics and Biological Sciences at Carnegie Mellon University ([https://www.cmu.edu/physics/people/faculty/nagle.html, \[REDACTED\]](https://www.cmu.edu/physics/people/faculty/nagle.html, [REDACTED])). Professor Nagle has applied mathematics and computational-redistricting tools to analyze redistricting plans, including in Pennsylvania, and has published multiple peer-reviewed articles on redistricting and the measurement of partisan bias.⁴

³ See, e.g., Jonathan Cervas & Bernard Grofman, *Tools for Identifying Partisan Gerrymandering with an Application to Congressional Redistricting in Pennsylvania*, 76 POLITICAL GEOGRAPHY 1 (2020).

⁴ E.g., John F. Nagle & Alec Ramsay, *On Measuring Two-Party Partisan Bias in Unbalanced States*, 20 ELECTION L.J. 116 (2021); John F. Nagle, *What Criteria Should Be Used for*

- **Professor Jonathan Rodden**, Professor of Political Science at Stanford University, and Senior Fellow at the Hoover Institution and at the Stanford Institute for Economic Policy Research ([https://politicalscience.stanford.edu/people/jonathan-rodden, \[REDACTED\]](https://politicalscience.stanford.edu/people/jonathan-rodden, [REDACTED])).⁵ Professor Rodden has published extensively on the application of mathematics and computer science to redistricting and served as an expert witness in redistricting cases.⁶
- **Professor Jeanne N. Clelland**, Professor of Mathematics at the University of Colorado at Boulder ([https://www.colorado.edu/math/jeanne-clelland, \[REDACTED\]](https://www.colorado.edu/math/jeanne-clelland, [REDACTED])). Professor Clelland has published on the application of mathematics and computer science to redistricting and has conducted expert analyses of redistricting plans for the Colorado Independent Legislative Redistricting Commission (2021) and in Wisconsin (2021).⁷
- **Professor Larry M. Bartels**, the May Werthan Shayne Chair of Public Policy and Social Science at Vanderbilt University ([https://www.vanderbilt.edu/political-science/bio/larry-bartels, \[REDACTED\]](https://www.vanderbilt.edu/political-science/bio/larry-bartels, [REDACTED])). Professor

Redistricting Reform?, 18 ELECTION L.J. 63 (2019); John F. Nagle, *Measures of Partisan Bias for Legislating Fair Elections*, 14 ELECTION L.J. 346 (2015).

⁵ Counsel for the NCLCV Plaintiffs understand that in pending litigation in Ohio and Pennsylvania, Professor Jonathan Rodden submitted reports for parties represented by counsel for the *Harper* Plaintiffs. Counsel for the NCLCV Plaintiffs are not otherwise aware that the special master candidates noted herein are performing litigation-related work for any of the parties in this litigation or their counsel.

⁶ See, e.g., Daryl R. DeFord, Nicholas Eubank & Jonathan Rodden, *Partisan Dislocation: A Precinct-Level Measure of Representation and Gerrymandering*, 29 POLITICAL ANALYSIS 1 (2021).

⁷ See, e.g., *In re Colorado Indep. Legislative Redistricting Comm'n*, No. 21SA305, 2021 WL 5294962, ¶ 59 (Colo. Nov. 15, 2021).

Bartels has published on redistricting issues and served as the nonpartisan chair of the New Jersey Apportionment Commission (2001).⁸

Dated: February 9, 2022

JENNER & BLOCK LLP

Sam Hirsch*
Jessica Ring Amunson*
Kali Bracey*
Zachary C. Schauf*
Karthik P. Reddy*
Urja Mittal*
JENNER & BLOCK LLP
1099 New York Avenue NW, Suite 900
Washington, D.C. 20001
(202) 639-6000
shirsch@jenner.com
zschauf@jenner.com

David Bradford*
Benjamin J. Bradford*
JENNER & BLOCK LLP
353 North Clark Street
Chicago, IL 60654
(312) 923-2975
dbradford@jenner.com

* *Admitted pro hac vice*

Respectfully submitted,

ROBINSON, BRADSHAW & HINSON, P.A.

/s/ Stephen D. Feldman

Stephen D. Feldman
North Carolina Bar No. 34940
ROBINSON, BRADSHAW & HINSON, P.A.
434 Fayetteville Street, Suite 1600
Raleigh, NC 27601
(919) 239-2600
sfeldman@robinsonbradshaw.com

Adam K. Doerr
North Carolina Bar No. 37807
ROBINSON, BRADSHAW & HINSON, P.A.
101 North Tryon Street, Suite 1900
Charlotte, NC 28246
(704) 377-2536
adoerr@robinsonbradshaw.com

Erik R. Zimmerman
North Carolina Bar No. 50247
ROBINSON, BRADSHAW & HINSON, P.A.
1450 Raleigh Road, Suite 100
Chapel Hill, NC 27517
(919) 328-8800
ezimmerman@robinsonbradshaw.com

Counsel for NCLCV Plaintiffs

⁸ See, e.g., *Page v. Bartels*, 144 F. Supp. 2d 346 (D.N.J. 2001) (three-judge court); *Robertson v. Bartels*, 148 F. Supp. 2d 443 (D.N.J. 2001) (three-judge court), *summarily aff'd*, 534 U.S. 1110 (2002).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon each of the parties to this action by electronic mail to counsel at the e-mail addresses indicated below, in accordance with North Carolina Rule of Civil Procedure 5(b)(1)(a):

Burton Craige
Narendra K. Ghosh
Paul E. Smith
PATTERSON HARKAVY LLP
100 Europa Drive, Suite 420
Chapel Hill, NC 27517
bcraige@pathlaw.com
nghosh@pathlaw.com
psmith@pathlaw.com

Lalitha D. Madduri
Jacob D. Shelly
Graham W. White
ELIAS LAW GROUP LLP
10 G Street NE, Suite 600
Washington, DC 20002
lmadduri@elias.law
jshelly@elias.law
gwhite@elias.law

Abha Khanna
ELIAS LAW GROUP LLP
1700 Seventh Avenue, Suite 2100
Seattle, WA 98101
akhanna@elias.law

Elisabeth S. Theodore
R. Stanton Jones
John Cella
Samuel F. Callahan
ARNOLD AND PORTER KAYE SCHOLER LLP
601 Massachusetts Avenue NW
Washington, DC 20001-3743
elisabeth.theodore@arnoldporter.com
john.cella@arnoldporter.com
stanton.jones@arnoldporter.com
samuel.callahan@arnoldporter.com

Phillip J. Strach
Thomas A. Farr
Gregory P. McGuire
D. Martin Warf
John E. Branch III
Alyssa M. Riggins
Nathaniel J. Pencook
NELSON MULLINS RILEY & SCARBOROUGH LLP
4140 Parklake Avenue, Suite 200
Raleigh, NC 27612
phillip.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
greg.mcguire@nelsonmullins.com
martin.warf@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
nate.pencook@nelsonmullins.com

Mark E. Braden
Katherine McKnight
Patrick T. Lewis
Sean Sandoloski
Richard Raile
BAKER HOSTETLER LLP
1050 Connecticut Avenue NW,
Suite 1100
Washington, DC 20036
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
plewis@bakerlaw.com
ssandoloski@bakerlaw.com
rraile@bakerlaw.com

Counsel for Plaintiffs Representative Destin Hall, Senator Warren Daniel, Senator Ralph E. Hise, Jr., Senator Paul Newton, Representative Timothy K. Moore, and Senator Phillip E. Berger

*Counsel for Plaintiffs Rebecca Harper,
et al.*

Allison J. Riggs
Hilary H. Klein
Mitchell Brown
Katelin Kaiser
Jeffrey Loperfido
SOUTHERN COALITION FOR SOCIAL JUSTICE
1415 W. Highway 54, Suite 101
Durham, NC 27707
allison@southerncoalition.org
hilaryhklein@scsj.org
mitchellbrown@scsj.org
katelin@scsj.org
jeffloperfido@scsj.org

J. Tom Boer
Olivia T. Molodanof
HOGAN LOVELLS US LLP
3 Embarcadero Center, Suite 1500
San Francisco, CA 94111
tom.boer@hoganlovells.com
olivia.molodanof@hoganlovells.com

Counsel for Plaintiff Common Cause

This 9th day of February, 2022.

Terence Steed
Stephanie Brennan
Amar Majmundar
N.C. DEPARTMENT OF JUSTICE
Post Office Box 629
Raleigh, NC 27502-0629
tsteed@ncdoj.gov
sbrennan@ncdoj.gov
amajmundar@ncdoj.gov

*Counsel for Defendants the North Carolina
State Board of Elections, Damon Circosta,
Stella Anderson, Jeff Carmon III, Stacy Eggers
IV, Tommy Tucker, Karen Brinson Bell; and the
State of North Carolina*

/s/ Stephen D. Feldman
Stephen D. Feldman