

STATE OF NORTH CAROLINA

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

COUNTY OF WAKE

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

COMMON CAUSE,  
*Plaintiff-Intervenor*,

v.

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

*Defendants.*

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STATE OF NORTH CAROLINA

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

COUNTY OF WAKE

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 APPOINTING SPECIAL MASTERS

THIS MATTER is presently in the remedy phase of the litigation following the Order entered by the Supreme Court of North Carolina on February 4, 2022.

On January 11, 2022, this Court entered a Final Judgment wherein this Court made findings of fact as to the state legislative and congressional districts challenged by Plaintiffs in these consolidated cases and made conclusions of law upholding the constitutionality of

the 2021 Enacted State Legislative and Congressional redistricting plans (hereinafter “Enacted Plans”).

On February 4, 2022, upon direct appeal by Plaintiffs in these consolidated cases, the Supreme Court of North Carolina entered an Order, with opinion to follow, adopting in full this Court’s findings of fact in the January 11, 2022, Judgment but concluding that the Enacted Plans are unconstitutional under N.C. Const., art. I, §§ 10, 12, 14, and 19. The Supreme Court remanded the action to this Court for remedial proceedings.

The Supreme Court’s Order requires the submission to this Court of remedial state legislative and congressional redistricting plans that “satisfy all provisions of the North Carolina Constitution” (hereinafter referred to as “Proposed Remedial Plans”); both the General Assembly, and any parties to this action who choose to submit Proposed Remedial Plans for this Court’s consideration, must submit any such Proposed Remedial Plans on or before February 18, 2022, at 5:00 p.m. SCONC Order ¶ 9. This Court must thereafter approve or adopt constitutionally-compliant remedial plans by noon on February 23, 2022. *Id.*

On February 8, 2022, to aid the parties and this Court with meeting the timelines established by and conditions contained within the Supreme Court’s Order, this Court entered an initial Remedial Phase Order. In this Order, the Court also notified the parties of its intent to appoint a Special Master in this matter. On February 14, 2022, the Supreme Court filed its full opinion in this action. *Harper v. Hall*, 2022-NCSC-17.

The parties have since provided the Court with names and qualifications of suggested Special Masters, and the Court has reviewed the qualifications of each candidate suggested for the Court’s consideration. After a careful and thorough consideration of each proposed candidate, the Court will instead appoint three highly-qualified candidates of its own selection as Special Masters to assist the Court in this matter: Robert F. Orr, Robert H. Edmunds, Jr., and Thomas W. Ross.

Robert F. Orr was appointed as a Judge to the North Carolina Court of Appeals in 1986, elected statewide in 1988, and re-elected in 1992. Mr. Orr was elected to the Supreme Court of North Carolina in 1994 and re-elected in 2002. He retired from the Supreme Court in July of 2004. After leaving the bench, Mr. Orr became head of the North Carolina Institute for Constitutional Law for seven years before returning to private practice.

Robert H. Edmunds, Jr., began his legal career as an assistant district attorney in Guilford County and later as an assistant U.S. Attorney for the Middle District of North Carolina before being appointed U.S. Attorney for the Middle District of North Carolina in 1986. In 1998, Mr. Edmunds, Jr., was elected to the North Carolina Court of Appeals and served on that Court until his election to the Supreme Court of North Carolina in 2000. He served on the Supreme Court until 2016 and is now in private practice.

Thomas W. Ross was a superior court judge for seventeen years and Director of the North Carolina Administrative Office of the Courts from 1999-2000. Mr. Ross also was President of Davidson College from 2007-2010 and was President of the University of North Carolina system from 2011-2016. Mr. Ross most recently served as President of the Volcker Alliance, a nonpartisan organization formed to address the challenge of effective execution of public policies and to rebuild public trust in government, from 2016 until December of 2021 when he became a senior advisor. In addition to his role with the Volcker Alliance, Mr. Ross served as the first Terry Sanford Distinguished Fellow at Duke University's Sanford School of Public Policy.

The Court is satisfied that these three former jurists of our appellate and trial courts have the requisite qualifications and experience to serve as Special Masters in this matter, have no apparent conflicts of interest, and have the time available to complete the work required by their appointment as Special Masters in this matter.



In the interests of disclosure and full transparency in this action, the Court provides the following information regarding each Special Master to demonstrate that, as the Court so finds, none of the three Special Masters have a conflict of interest that would preclude him from serving as a Special Master in this redistricting action:

**Robert F. Orr and Thomas W. Ross:** Both Mr. Orr and Mr. Ross currently serve on the Board of Directors of North Carolinians for Redistricting Reform, a bi-partisan non-profit organization “working to improve North Carolina’s representative democracy through redistricting reform.”

**Robert H. Edmunds, Jr.:** Mr. Edmunds, Jr., is currently involved in a potential qui tam case which may result in the future in working with the office of the North Carolina Attorney General.

His current firm, Fox Rothschild LLP, has represented various state entities, including the State of North Carolina itself, the State Board of Education, the Secretary of State, the Office of the Treasurer, the State Property Office and the Office of State Personnel. In addition, his firm currently is adverse to the State in a number of litigation matters—including criminal law, gaming, and antitrust—but he is not involved in any of these matters.

His firm is also currently adverse to the State in transactional matters involving the State of North Carolina, the State Board of Dental Examiners, the Department of Public Safety, and the Secretary of State Security Division, and in the past has been adverse to the NC State Historic Preservation Office. In some of these matters, some of the Legislative Defendants, named in their official capacities in this redistricting action, were named defendants in their official capacities. Only one of these matters is currently active and involved only a preliminary consultation. While his firm opened this involvement as a matter, it has not billed anyone for Mr. Edmunds, Jr.’s time and the matter is considered dormant though the underlying litigation may be proceeding.

WHEREFORE, the Court, on its own motion and in its discretion, hereby **ORDERS** the following:

1. Robert F. Orr, Robert H. Edmunds, Jr., and Thomas W. Ross are appointed as Special Masters to assist the Court in this matter, for the purposes of carrying the Supreme Court’s Order into effect, by:
  - a. Assisting this Court in reviewing any Proposed Remedial Plans enacted and submitted by the General Assembly or otherwise submitted to the Court by a party in these consolidated cases; and,

- b. Assisting this Court in fulfilling the Supreme Court's directive to this Court to develop remedial plans based upon the findings in this Court's January 11, 2022, Judgment should the General Assembly fail to enact and submit Proposed Remedial Plans compliant with the Supreme Court's Order within the time allowed.
2. In addition to the information required to be submitted to the Court by the Supreme Court's Order and this Court's initial Remedial Phase Order, any party to these consolidated cases, including the General Assembly through Legislative Defendants, submitting Proposed Remedial Plans for the Court's consideration shall include, at the very least, the following data sets, files, materials, and information for the Proposed Remedial Plans submitted by that party:
  - a. Block equivalency files in .CSV format for each district and the plan as a whole;
  - b. Environmental Systems Research Institute, Inc. (ESRI) shapefiles for each district and the plans as a whole;
  - c. Color maps in .PDF format of the Proposed Remedial Plans for the plans statewide, for each redrawn county grouping in state legislative plans, and for each redrawn district in congressional plans;
  - d. Population totals and deviations for each district based on the 2020 Census P.L. 94-171 dataset;
  - e. For the General Assembly, the "stat pack" for the 2021 Enacted Plans;
  - f. For the General Assembly and any party to this action submitting a Proposed Remedial Plan for this Court's consideration, the "stat pack" or its functional equivalent for the submitted Proposed Remedial Plans;
  - g. For the General Assembly, transcripts or audio or video recordings of all Senate Committee hearings, House Committee hearings, and General Assembly floor debates involving or pertaining to efforts in this action to develop Proposed Remedial Plans—*e.g.*, hearings or debate on remedial redistricting plans, no matter whether the remedial plan under consideration or debate is the plan ultimately submitted to this Court;
  - h. The criteria applied in drawing the districts in the Proposed Remedial Plans submitted to this Court;
  - i. A description of the process followed by the mapmaker in drawing, as well as in the General Assembly's case enacting, the Proposed Remedial Plans submitted to this Court;




- j. For the General Assembly, an Excel spreadsheet reflecting the member residence address list submitted into evidence at trial as exhibit LDTX16 and a statement as to whether LDTX16 reflects the current list of incumbents and home addresses for the state legislators, including whether any of the listed legislators have a new residential address or have publicly announced they are not seeking re-election in the 2022 elections; and,
  - k. Any other information, materials, or data required by, or otherwise useful to the Court in light of, the Supreme Court's full opinion in this action that was filed on February 14, 2022.
- 3. The Special Masters are authorized to hire research and technical assistants and advisors reasonably necessary to facilitate their work, who shall be reasonably compensated in the same way as the Special Masters. The Special Masters are authorized to buy any specialized software reasonably necessary to facilitate the work performed in this action. The Special Masters will notify the Court of any assistants and advisors hired to facilitate their work and further identify those persons in their Report.
- 4. All reasonable costs and expenses of the Special Masters, including compensation of the Special Masters and the Special Masters' assistants and advisors, shall, by further order and approval by this Court, be apportioned among the parties and paid in full within thirty (30) days after Court approval. The Special Masters shall preserve all records of time and expenses incurred.
- 5. All materials submitted by the parties to the Court pertaining to any Proposed Remedial Maps shall be served upon the Special Masters contemporaneously when submitting the materials to the Court.
  - a. Parties shall serve the Special Masters with the materials by email. The Court will provide the Special Masters' preferred email addresses by later communication to the parties.
  - b. Parties and non-parties may not engage in any *ex parte* communication with the Special Masters about the subject matter of this litigation.
- 6. The Special Masters will prepare and file with the Court a Report.
  - a. The Report will provide the Special Masters' analysis of the General Assembly's Proposed Remedial Plans and the compliance of those plans with the Supreme Court's Order and full opinion. Due to the expedited nature of these proceedings and accompanying time constraints involved under the Supreme Court's Order, the Special Masters may provide an initial Report consisting of a summary of the procedures employed and the analysis derived therefrom.

- b. If necessary and feasible, the Report may include similar analyses of any Proposed Remedial Plans, in part or in whole, submitted by a party for the Court's consideration.
  - c. In light of the Supreme Court's Order not providing for rebuttal to comments submitted in response to Proposed Remedial Plans, and the Order's deadline for this Court to approve or adopt compliant Remedial Plans by noon on February 23, 2022, no exceptions or responses to the Report will be received by this Court.
7. No meetings with the parties, hearings, or other proceedings pertaining to any Proposed Remedial Plans are necessary at this time; however, the Court may, at its discretion, calendar such proceedings as may be necessary.
8. This Order is subject to supplementation through further Orders of the Court.

SO ORDERED, this the 16<sup>th</sup> day of February, 2022.

  
A. Graham Shirley, Superior Court Judge

  
Nathaniel J. Poovey, Superior Court Judge

  
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 16<sup>th</sup> day of February 2022.

  
\_\_\_\_\_  
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