

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, et al.,

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.

Consolidated with
21 CVS 500085

AFFIDAVIT OF SEAN P. TRENDE

Now comes affiant Sean P. Trende, having been first duly cautioned and sworn, deposes and states as follows:

1. I am over the age of 18 and am competent to testify regarding the matters discussed below.
2. For the purposes of this litigation, I have been asked by counsel for Legislative Defendants to analyze relevant data and provide my expert opinions.
3. To that end, I have personally prepared the rebuttal report attached to this affidavit as Exhibit A, and swear to its authenticity and to the faithfulness of the opinions.

FURTHER THE AFFIANT SAYETH NAUGHT.



Executed on 28 December, 2021.

Sean P. Trende



Sean P. Trende

STATE OF FLORIDA

COUNTY OF PINELLAS

Sworn to and subscribed before me by online notarization this 28th day of December, 2021, by SEAN P. TRENDE, who appeared by way of two-way audio/video communication technology, and he provided his Ohio driver's license as identification.

Cynthia D. Glaros



Cynthia D. Glaros
Notary Public, State of Florida
My Commission Expires: 06/30/2022

Cynthia D. Glaros
Notary Public, State of Florida
Commission # GG228737
My Commission Expires June 30, 2022

Exhibit A

EXPERT REBUTTAL REPORT OF SEAN TRENDE

Now comes affiant Sean P. Trende, having been first duly cautioned and sworn, deposes and states as follows:

1. I am over the age of 18 and am competent to testify regarding the matters discussed below.
2. I currently reside at 1146 Elderberry Loop, Delaware, OH 43015. My e-mail is trende.3@buckeyemail.osu.edu.
3. I have been retained in this matter by the Legislative Defendants, and am being compensated at \$400.00 per hour for my work in this case.
4. My *curriculum vitae* is attached to this report as Exhibit 1.

EXPERT CREDENTIALS

5. I am currently enrolled as a doctoral candidate in political science at The Ohio State University. I have completed all of my coursework and have passed comprehensive examinations in both methods and American Politics. My coursework for my Ph.D. and M.A.S. included, among other things, classes on G.I.S. systems, spatial statistics, issues in contemporary redistricting, machine learning, non-parametric hypothesis tests and probability theory. I expect to receive my Ph.D. in May of 2021. My dissertation focuses on applications of spatial statistics to political questions.

6. I joined RealClearPolitics in January of 2009 after practicing law for eight years. I assumed a fulltime position with RealClearPolitics in March of 2010. My title is Senior Elections Analyst. RealClearPolitics is a company of around 40 employees, with offices in Washington D.C. It produces one of the most heavily trafficked political websites in the world, which serves as a one-stop shop for political analysis from all sides of the political spectrum

and is recognized as a pioneer in the field of poll aggregation. It produces original content, including both data analysis and traditional reporting. It is routinely cited by the most influential voices in politics, including David Brooks of *The New York Times*, Brit Hume of *Fox News*, Michael Barone of *The Almanac of American Politics*, Paul Gigot of *The Wall Street Journal*, and Peter Beinart of *The Atlantic*.

7. My main responsibilities with RealClearPolitics consist of tracking, analyzing, and writing about elections. I collaborate in rating the competitiveness of Presidential, Senate, House, and gubernatorial races. As a part of carrying out these responsibilities, I have studied and written extensively about demographic trends in the country, exit poll data at the state and federal level, public opinion polling, and voter turnout and voting behavior.

8. In particular, understanding the way that districts are drawn and how geography and demographics interact is crucial to predicting United States House of Representatives races, so much of my time is dedicated to that task.

9. I am currently a Visiting Scholar at the American Enterprise Institute, where my publications focus on the demographic and coalitional aspects of American Politics. My first paper focused on the efficiency gap, a metric for measuring the fairness of redistricting plans.

10. I am the author of *The Lost Majority: Why the Future of Government is up For Grabs and Who Will Take It*. In this book, I explore realignment theory. It argues that realignments are a poor concept that should be abandoned. As part of this analysis, I conducted a thorough analysis of demographic and political trends beginning in the 1920s and continuing through the modern times, noting the fluidity and fragility of the coalitions built by the major political parties and their candidates.

11. I co-authored the 2014 *Almanac of American Politics*. The Almanac is considered the foundational text for understanding congressional districts and the representatives of those districts, as well as the dynamics in play behind the elections. PBS's Judy Woodruff described the book as "the oxygen of the political world," while NBC's Chuck Todd noted that "[r]eal political junkies get two *Almanacs*: one for the home and one for the office." My focus was researching the history of and writing descriptions for many of the newly-drawn districts, including tracing the history of how and why they were drawn the way that they were drawn.

12. I have spoken on these subjects before audiences from across the political spectrum, including at the Heritage Foundation, the American Enterprise Institute, the CATO Institute, the Bipartisan Policy Center, and the Brookings Institution. In 2012, I was invited to Brussels to speak about American elections to the European External Action Service, which is the European Union's diplomatic corps. I was selected by the United States Embassy in Sweden to discuss the 2016 elections to a series of audiences there, and was selected by the United States Embassy in Spain to fulfil a similar mission in 2018. I was invited to present by the United States Embassy in Italy, but was unable to do so because of my teaching schedule.

13. In the winter of 2018, I taught American Politics and the Mass Media at Ohio Wesleyan University. I taught Introduction to American Politics at The Ohio State University for three semesters from Fall of 2018 to Fall of 2019. In the Springs of 2020 and 2021, I taught Political Participation and Voting Behavior at The Ohio State University. This course spent several weeks covering all facets of redistricting: How maps are drawn, debates over what constitutes a fair map, measures of redistricting quality, and similar topics.

14. It is my policy to appear on any major news outlet that invites me, barring scheduling conflicts. I have appeared on both Fox News and MSNBC to discuss electoral and

demographic trends. I have been cited in major news publications, including *The New York Times*, *The Washington Post*, *The Los Angeles Times*, *The Wall Street Journal*, and *USA Today*.

15. I sit on the advisory panel for the “States of Change: Demographics and Democracy” project. This project is sponsored by the Hewlett Foundation and involves three premier think tanks: The Brookings Institution, the Bipartisan Policy Center, and the Center for American Progress. The group takes a detailed look at trends among eligible voters and the overall population, both nationally and in key states, to explain the impact of these changes on American politics, and to create population projections, which the Census Bureau abandoned in 1995. In 2018, I authored one of the lead papers for the project: “In the Long Run, We’re All Wrong,” available at <https://bipartisanpolicy.org/wp-content/uploads/2018/04/BPC-Democracy-States-of-Change-Demographics-April-2018.pdf>.

16. I previously authored an expert report in *Dickson v. Rucho*, No. 11-CVS-16896 (N.C. Super Ct., Wake County), which involved North Carolina’s 2012 General Assembly and Senate maps. Although I was not called to testify, it is my understanding that my expert report was accepted without objection. I also authored an expert report in *Covington v. North Carolina*, Case No. 1:15-CV-00399 (M.D.N.C.), which involved almost identical challenges in a different forum. Due to what I understand to be a procedural quirk, where my largely identical report from *Dickson* had been inadvertently accepted by the plaintiffs into the record when they incorporated parts of the *Dickson* record into the case, I was not called to testify.

17. I authored two expert reports in *NAACP v. McCrory*, No. 1:13CV658 (M.D.N.C.), which involved challenges to multiple changes to North Carolina’s voter laws, including the elimination of a law allowing for the counting of ballots cast in the wrong precinct. I was

admitted as an expert witness and testified at trial. My testimony discussed the “effect” prong of the Voting Rights Act claim. I did not examine the issues relating to intent.

18. I authored reports in *NAACP v. Husted*, No. 2:14-cv-404 (S.D. Ohio), and *Ohio Democratic Party v. Husted*, Case 15-cv-01802 (S.D. Ohio), which dealt with challenges to various Ohio voting laws. I was admitted and testified at trial in the latter case (the former case settled). The judge in the latter case ultimately refused to consider one opinion, where I used an internet map-drawing tool to show precinct locations in the state. Though no challenge to the accuracy of the data was raised, the judge believed I should have done more work to check that the data behind the application was accurate.

19. I served as a consulting expert in *Lee v. Virginia Board of Elections*, No. 3:15-cv-357 (E.D. Va. 2016), a voter identification case. Although I would not normally disclose consulting expert work, I was asked by defense counsel to sit in the courtroom during the case and review testimony. I would therefore consider my work *de facto* disclosed.

20. I filed an expert report in *Mecinas v. Hobbs*, No. CV-19-05547-PHX-DJH (D. Ariz. 2020). That case involved a challenge to Arizona’s ballot order statute. Although the judge ultimately did not rule on a motion in limine in rendering her decision, I was allowed to testify at the hearing.

21. I authored two expert reports in *Feldman v. Arizona*, No. CV-16-1065-PHX-DLR (D. Ariz.). Plaintiffs in that case challenged an Arizona law prohibiting the collection of voted ballots by third parties that were not family members or caregivers and the practice of most of the state's counties to require voters to vote in their assigned precinct. My reports and testimony were admitted. Part of my trial testimony was struck in that case for reasons unrelated to the merits of the opinion; counsel for the state elicited it while I was on the

witness stand and it was struck after Plaintiffs were not able to provide a rebuttal to the new evidence.

22. I authored an expert report in *Smith v. Perrera*, No. 55 of 2019 (Belize). In that case I was appointed as the court's expert by the Supreme Court of Belize. In that case I was asked to identify international standards of democracy as they relate to malapportionment claims, to determine whether Belize's electoral divisions (similar to our congressional districts) conformed with those standards, and to draw alternative maps that would remedy any existing malapportionment.

23. I authored expert reports in *A. Philip Randolph Institute v. Smith*, No. 1:18-cv-00357-TSB (S.D. Ohio), *Whitford v. Nichol*, No. 15-cv-421-bbc (W.D. Wisc.), and *Common Cause v. Rucho*, NO. 1:16-CV-1026-WO-JEP (M.D.N.C.), which were efficiency gap-based redistricting cases filed in Ohio, Wisconsin and North Carolina.

24. I also authored an expert report in the cases of *Ohio Organizing Collaborative, et al v. Ohio Redistricting Commission, et al* (No. 2021-1210); *League of Women Voters of Ohio, et al v. Ohio Redistricting Commission, et al* (No. 2021-1192); *Bria Bennett, et al v. Ohio Redistricting Commission, et al* (No. 2021-1198). These cases are pending in original action before the Supreme Court of Ohio.

25. I currently serve as one of two special masters appointed by the Supreme Court of Virginia to redraw the districts that will elect the commonwealth's representatives to the House of Delegates, state Senate, and U.S. Congress.

SUMMARY OF WORK PERFORMED

26. I certify that the images attached as Exhibit 2 are true and correct copies of images that I created and that I describe below.

27. To create these images, I first examined the Complaints filed by plaintiffs in this action. I examined whether districts were challenged as either partisan gerrymanders or districts that diluted minority voting power. If I determined a district was challenged, I coded it as a “1.”

28. I then downloaded shapefiles for the enacted Congressional, State Senate and House of Representatives from the legislative redistricting website, <https://www.ncleg.gov/Redistricting>.

29. Using R, a widely utilized statistical programming tool with which I have extensive familiarity through work and coursework, I color-coded the districts by plaintiff group, based upon who challenged which districts. This produced the accompanying maps.

Exhibit 1

SEAN P. TRENDE
1146 Elderberry Loop
Delaware, OH 43015
strende@realclearpolitics.com

EDUCATION

Ph.D., The Ohio State University, Political Science, expected 2022.

M.A.S. (Master of Applied Statistics), The Ohio State University, 2019.

J.D., Duke University School of Law, *cum laude*, 2001; Duke Law Journal, Research Editor.

M.A., Duke University, *cum laude*, Political Science, 2001. Thesis titled *The Making of an Ideological Court: Application of Non-parametric Scaling Techniques to Explain Supreme Court Voting Patterns from 1900-1941*, June 2001.

B.A., Yale University, with distinction, History and Political Science, 1995.

PROFESSIONAL EXPERIENCE

Law Clerk, Hon. Deanell R. Tacha, U.S. Court of Appeals for the Tenth Circuit, 2001-02.

Associate, Kirkland & Ellis, LLP, Washington, DC, 2002-05.

Associate, Hunton & Williams, LLP, Richmond, Virginia, 2005-09.

Associate, David, Kamp & Frank, P.C., Newport News, Virginia, 2009-10.

Senior Elections Analyst, RealClearPolitics, 2009-present.

Columnist, Center for Politics Crystal Ball, 2014-17.

Gerald R. Ford Visiting Scholar, American Enterprise Institute, 2018-present.

BOOKS

Larry J. Sabato, ed., *The Blue Wave*, Ch. 14 (2019).

Larry J. Sabato, ed., *Trumped: The 2016 Election that Broke all the Rules* (2017).

Larry J. Sabato, ed., *The Surge: 2014's Big GOP Win and What It Means for the Next Presidential Election*, Ch. 12 (2015).

Larry J. Sabato, ed., *Barack Obama and the New America*, Ch. 12 (2013).

Barone, Kraushaar, McCutcheon & Trende, *The Almanac of American Politics 2014* (2013).

The Lost Majority: Why the Future of Government is up for Grabs – And Who Will Take It (2012).

PREVIOUS EXPERT TESTIMONY

Dickson v. Rucho, No. 11-CVS-16896 (N.C. Super. Ct., Wake County) (racial gerrymandering).

Covington v. North Carolina, No. 1:15-CV-00399 (M.D.N.C.) (racial gerrymandering).

NAACP v. McCrory, No. 1:13CV658 (M.D.N.C.) (early voting).

NAACP v. Husted, No. 2:14-cv-404 (S.D. Ohio) (early voting).

Ohio Democratic Party v. Husted, Case 15-cv-01802 (S.D. Ohio) (early voting).

Lee v. Virginia Bd. of Elections, No. 3:15-cv-357 (E.D. Va.) (early voting).

Feldman v. Arizona, No. CV-16-1065-PHX-DLR (D. Ariz.) (absentee voting).

A. Philip Randolph Institute v. Smith, No. 1:18-cv-00357-TSB (S.D. Ohio) (political gerrymandering).

Whitford v. Nichol, No. 15-cv-421-bbc (W.D. Wisc.) (political gerrymandering).

Common Cause v. Rucho, No. 1:16-CV-1026-WO-JEP (M.D.N.C.) (political gerrymandering).

Mecinas v. Hobbs, No. CV-19-05547-PHX-DJH (D. Ariz.) (ballot order effect).

Fair Fight Action v. Raffensperger, No. 1:18-cv-05391-SCJ (N.D. Ga.) (statistical analysis).

Pascua Yaqui Tribe v. Rodriguez, No. 4:20-CV-00432-TUC-JAS (D. Ariz.) (early voting).

COURT APPOINTMENTS

Appointed as Voting Rights Act expert by Arizona Independent Redistricting Commission

Appointed redistricting expert by the Supreme Court of Belize in *Smith v. Perrera*, No. 55 of 2019 (one-person-one-vote).

INTERNATIONAL PRESENTATIONS AND EXPERIENCE

Panel Discussion, European External Action Service, Brussels, Belgium, *Likely Outcomes of 2012 American Elections*.

Selected by U.S. Embassies in Sweden, Spain, and Italy to discuss 2016 and 2018 elections to think tanks and universities in area (declined Italy due to teaching responsibilities).

Selected by EEAS to discuss 2018 elections in private session with European Ambassadors.

TEACHING

American Democracy and Mass Media, Ohio Wesleyan University, Spring 2018.

Introduction to American Politics, The Ohio State University, Autumn 2018, 2019, 2020, Spring 2018.

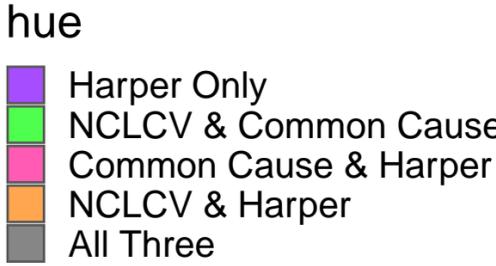
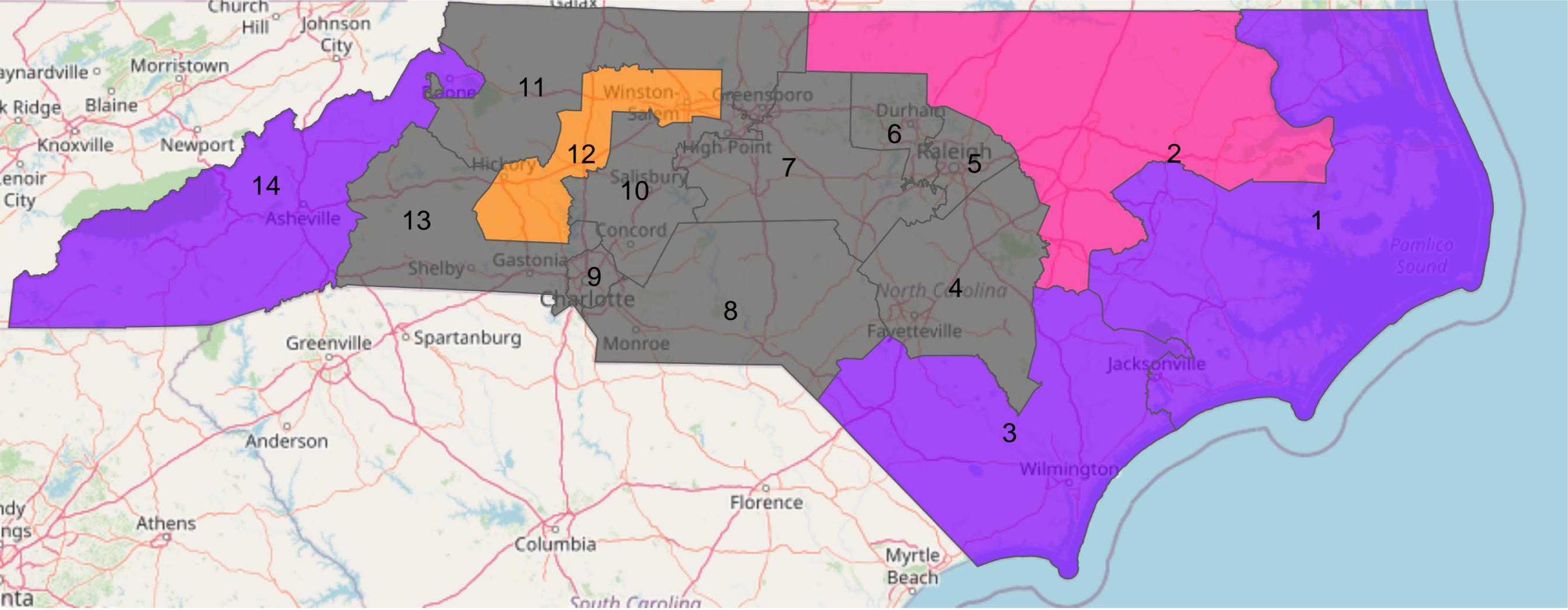
Political Participation and Voting Behavior, Spring 2020, Spring 2021.

REAL CLEAR POLITICS COLUMNS

Full archives available at http://www.realclearpolitics.com/authors/sean_trende/

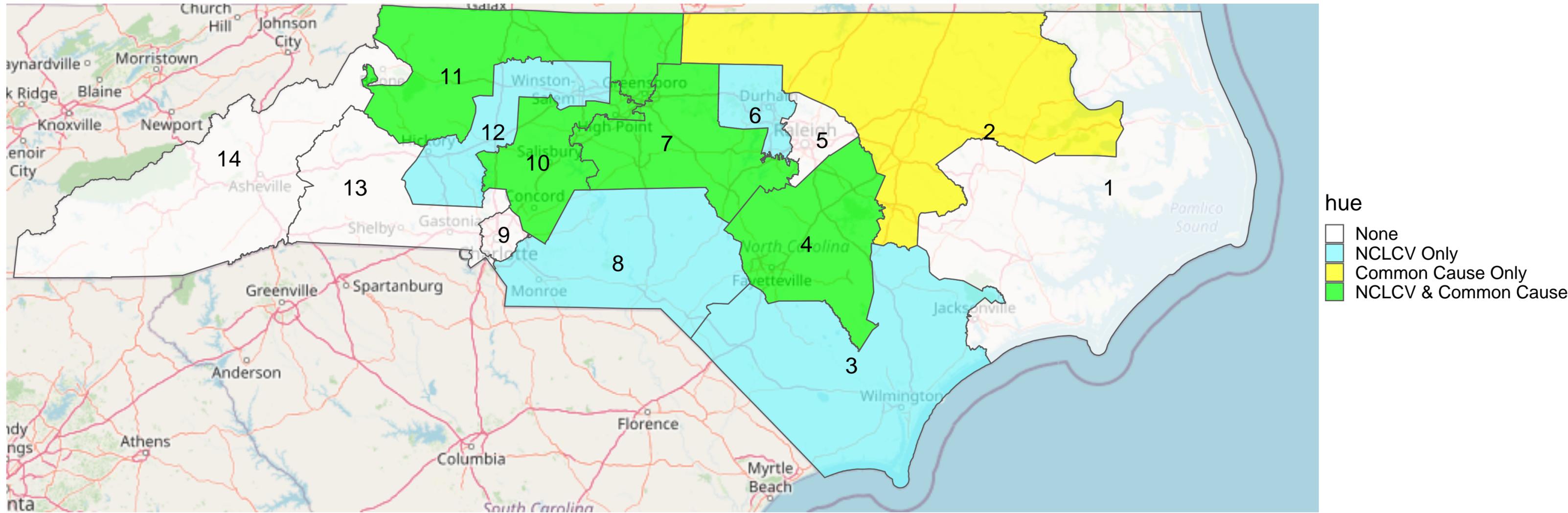
Exhibit 2

Congressional Districts Challenged As Political Gerrymanders, By Plaintiff Group



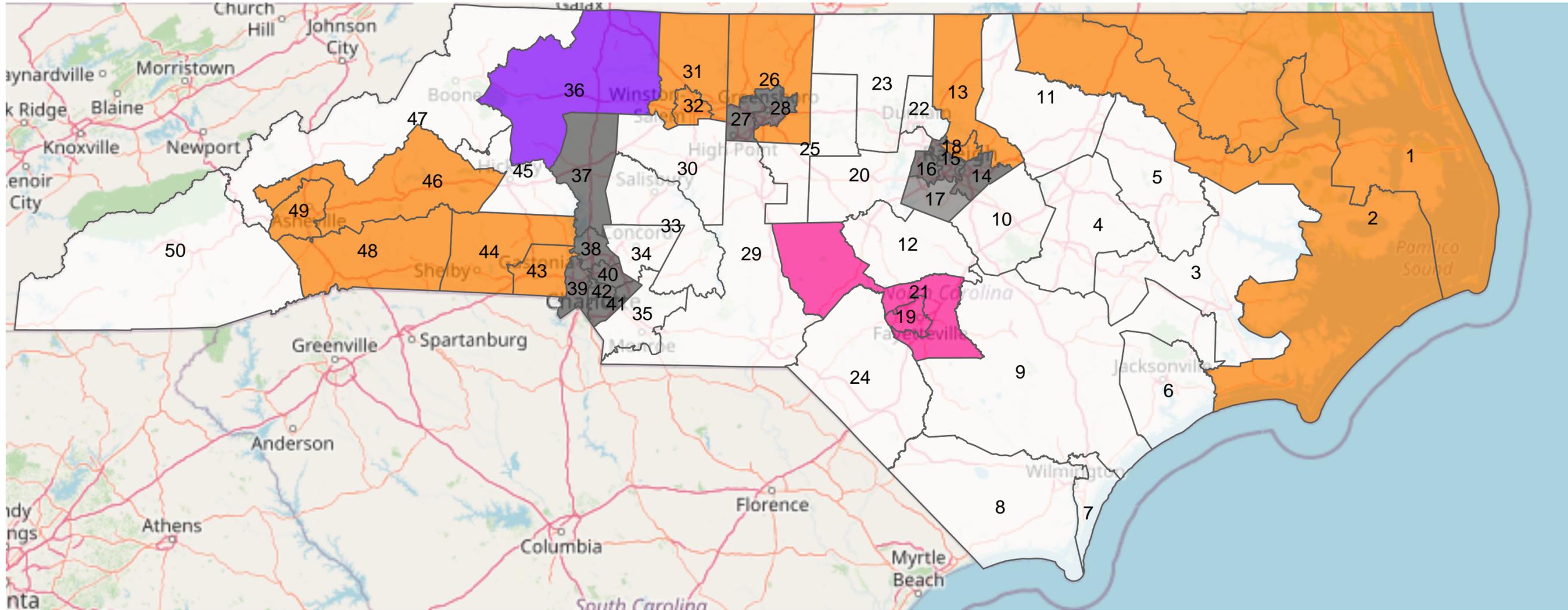
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Congressional Districts Challenged In Racial Vote Dilution Claim, By Plaintiff Group



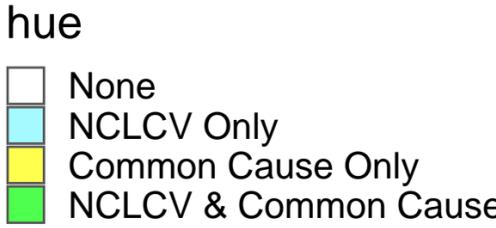
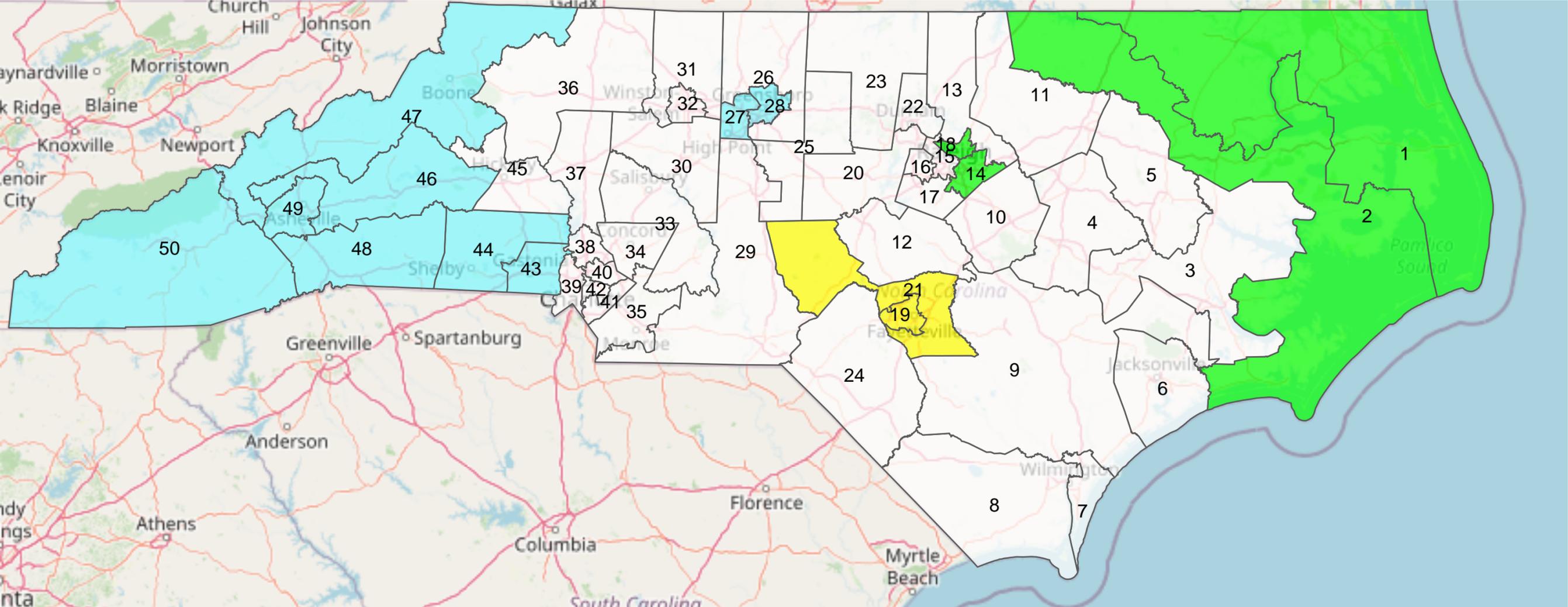
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State Senate Districts Challenged As Political Gerrymanders, By Plaintiff Group



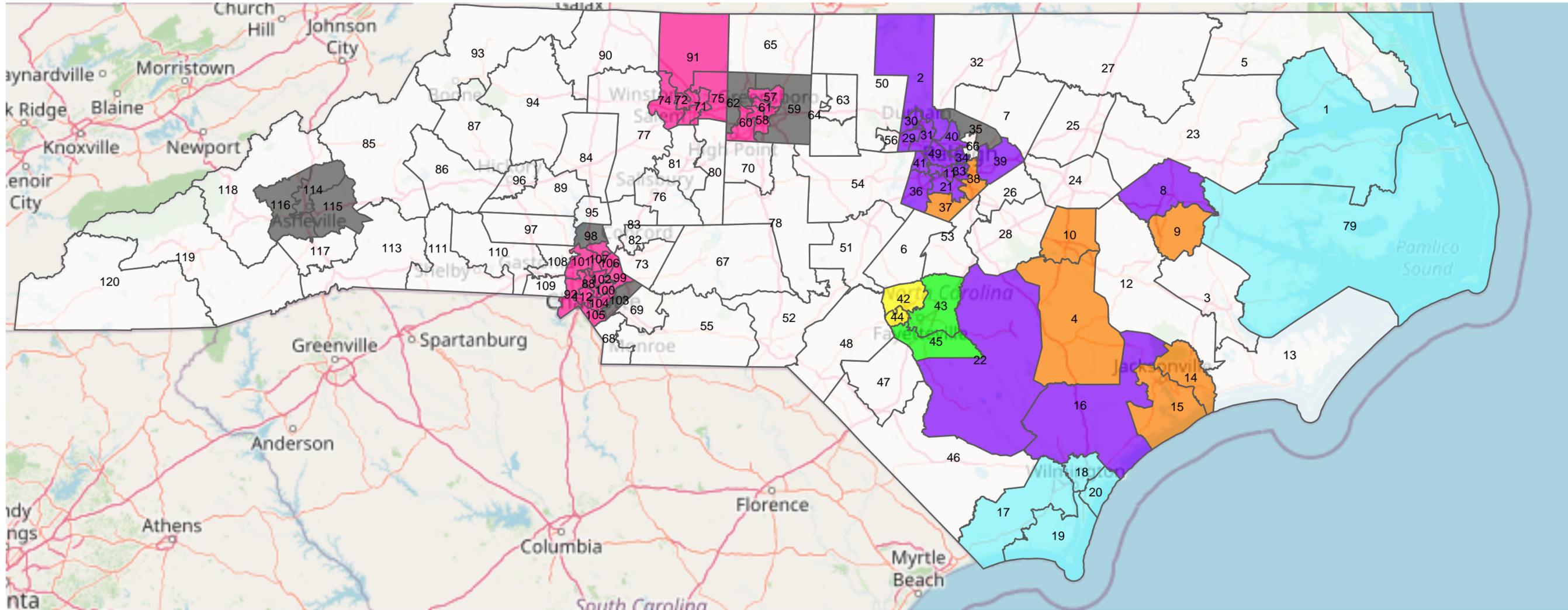
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State Senate Districts Challenged In Racial Vote Dilution Claim, By Plaintiff Group



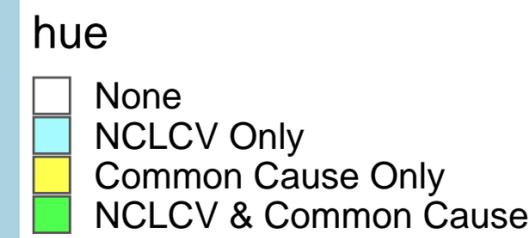
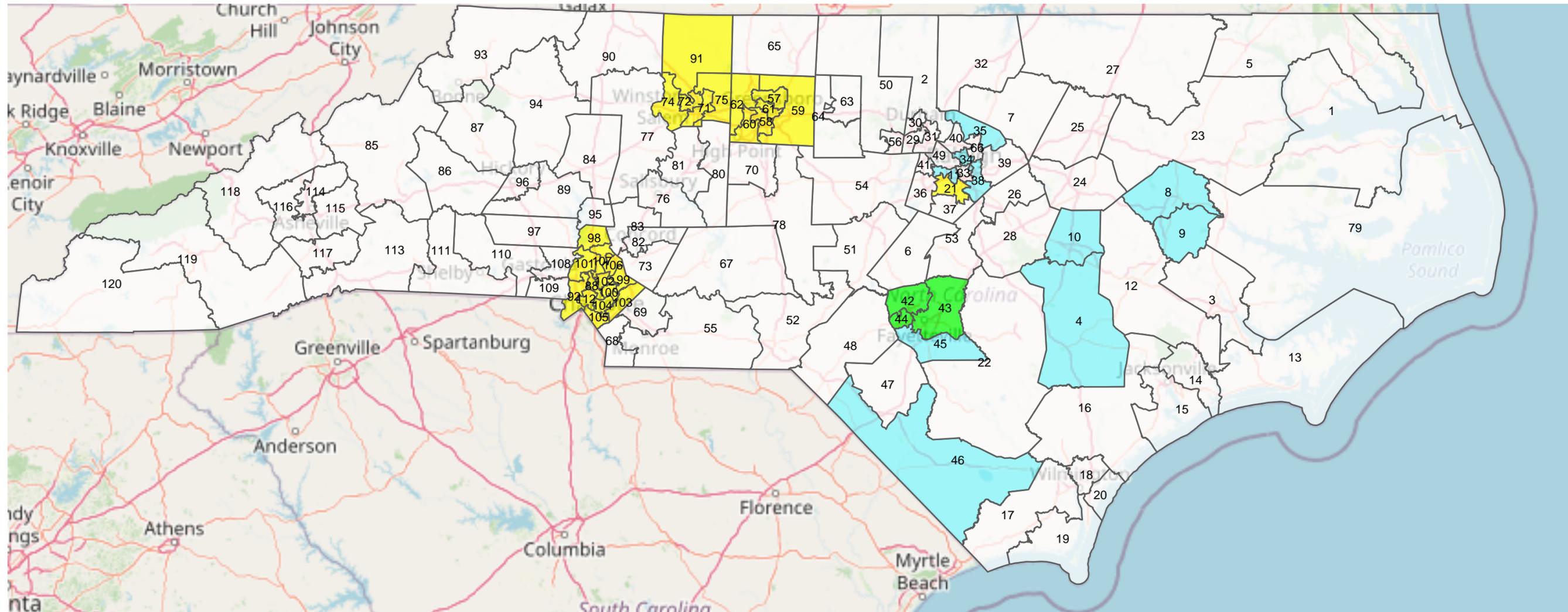
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State House Districts Challenged As Political Gerrymanders, By Plaintiff Group

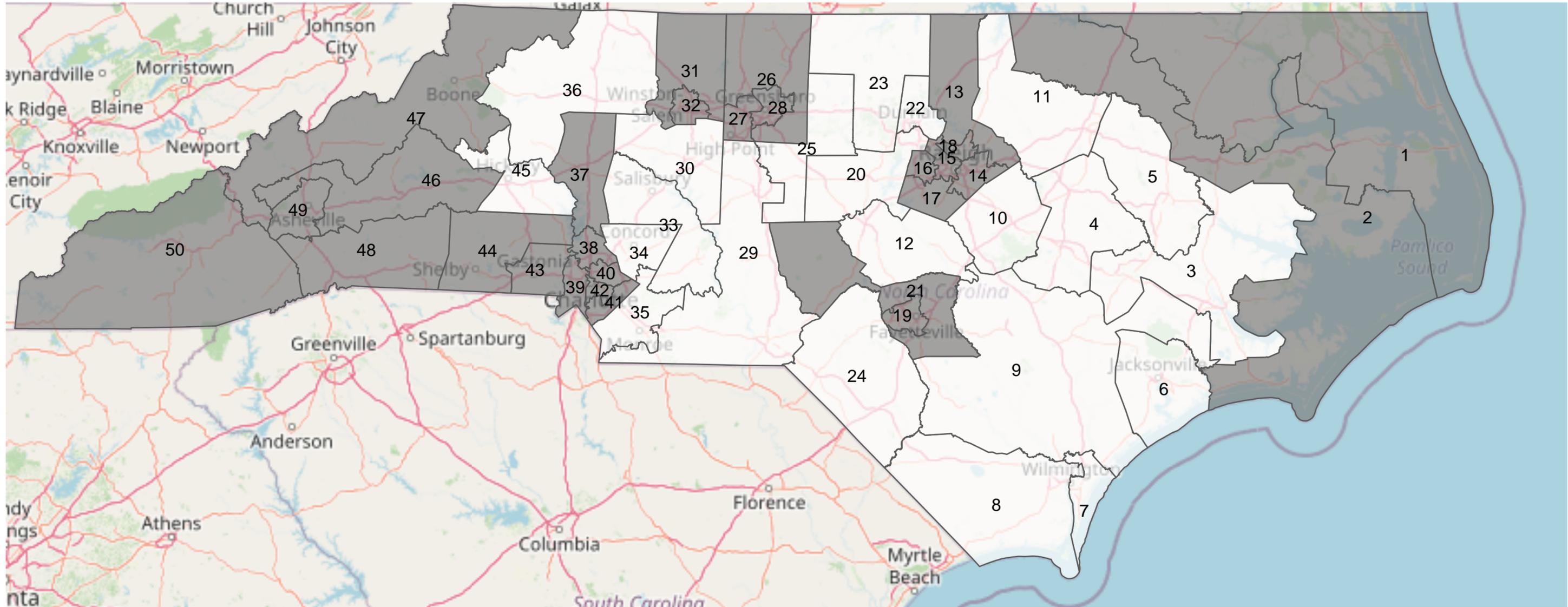


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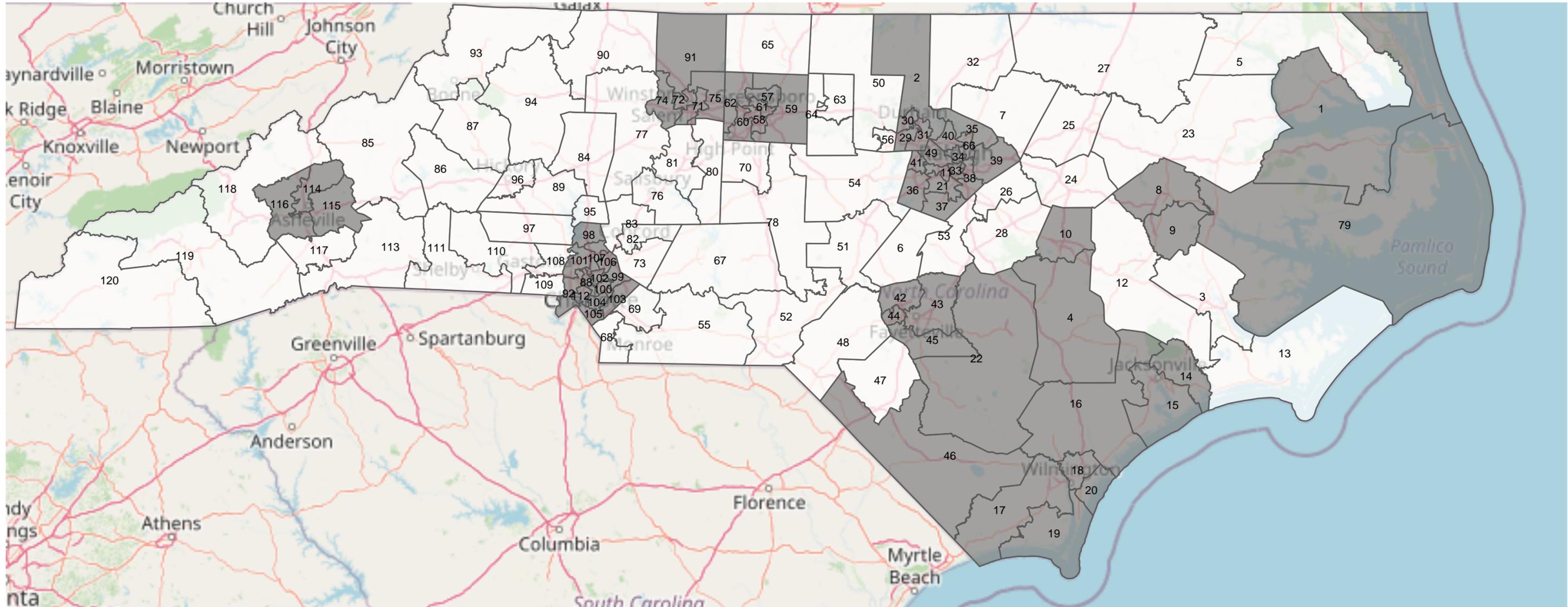
State House Districts Challenged In Racial Vote Dilution Claim, By Plaintiff Group



All State Senate Districts Challenged, By Plaintiff Group



All State House Districts Challenged, By Plaintiff Group



hue
■ Challenged
□ Unchallenged