

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Docket No. 21 CVS 500085

REBECCA HARPER; AMY CLARE
OSEROFF; DONALD RUMPH; JOHN
ANTHONY BALLA; RICHARD R. CREWS;
LILY NICOLE QUICK; GETTYS COHEN
JR.; SHAWN RUSH; MARK S. PETERS;
KATHLEEN BARNES; VIRGINIA
WALTERS BRIEN; DAVID DWIGHT
BROWN; EILEEN STEPHENS; BARBARA
PROFFITT; MARY ELIZABETH VOSS;
CHENITA BARBER JOHNSON; SARAH
TABER; JOSHUA PERRY BROWN;
LAUREEN FLOOD; DONALD M.
MACKINNON; RON OSBORNE; ANN
BUTZNER; SONDR A STEIN; BOBBY
JONES; KRISTIANN HERRING,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN
HIS OFFICIAL CAPACITY AS CHAIR
OF THE HOUSE STANDING
COMMITTEE ON REDISTRICTING;
SENATOR WARREN DANIEL, IN HIS
OFFICIAL CAPACITY AS CO-CHAIR OF
THE SENATE STANDING COMMITTEE
ON REDISTRICTING AND ELECTIONS;
SENATOR RALPH HISE, IN HIS
OFFICIAL CAPACITY AS CO-CHAIR OF
THE SENATE STANDING COMMITTEE
ON REDISTRICTING AND ELECTIONS;
SENATOR PAUL NEWTON, IN HIS
OFFICIAL CAPACITY AS CO-CHAIR OF
THE SENATE STANDING COMMITTEE
ON REDISTRICTING AND ELECTIONS;
SPEAKER OF THE NORTH CAROLINA
HOUSE OF REPRESENTATIVES

AMENDED COMPLAINT

(Three-Judge Court Pursuant to
N.C. Gen. Stat. § 1-267.1)

TIMOTHY K. MOORE; PRESIDENT PRO
TEMPORE OF THE NORTH CAROLINA
SENATE PHILIP E. BERGER; THE
NORTH CAROLINA STATE BOARD OF
ELECTIONS; DAMON CIRCOSTA, IN
HIS OFFICIAL CAPACITY AS
CHAIRMAN OF THE NORTH
CAROLINA STATE BOARD OF
ELECTIONS; STELLA ANDERSON, IN
HER OFFICIAL CAPACITY AS
SECRETARY OF THE NORTH
CAROLINA STATE BOARD OF
ELECTIONS; JEFF CARMON III, IN HIS
OFFICIAL CAPACITY AS MEMBER OF
THE NORTH CAROLINA STATE
BOARD OF ELECTIONS; STACY
EGGERS IV, IN HIS OFFICIAL
CAPACITY AS MEMBER OF THE
NORTH CAROLINA STATE BOARD OF
ELECTIONS; TOMMY TUCKER, IN HIS
OFFICIAL CAPACITY AS MEMBER OF
THE NORTH CAROLINA STATE
BOARD OF ELECTIONS,

Defendants.

Plaintiffs, complaining of Defendants, say and allege:

INTRODUCTION

1. Partisan gerrymandering, where partisan mapmakers manipulate district boundaries from behind a computer to maximize their own party's advantage and guarantee the outcome of elections before anyone casts a ballot, is incompatible with "North Carolinians' fundamental rights guaranteed by the North Carolina Constitution." Order on Inj. Relief, *Harper v. Lewis*, No. 19-CVS-012667 ("*Harper I*"), at 15. It violates the Free Elections Clause's guarantee that elections shall be "conducted freely and honestly to ascertain, fairly and truthfully, the will of the people." *Id.* at 7 (citing *Common Cause v. Lewis*, 18-CVS-014001, 2019 WL 4569584, at *110 (N.C. Super. Ct. Sep. 3, 2019)). It "runs afoul of the North Carolina Constitution's guarantee that no person shall be denied the equal protection of the laws." *Id.* at 8 (citing *Common Cause*, 2019 WL 4569584, at *113). And it is irreconcilable with the "important guarantees in the North Carolina Constitution of the freedom of speech and the right of the people in our State to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances." *Id.* at 10-11 (citing *Common Cause*, 2019 WL 4569584, at *112).

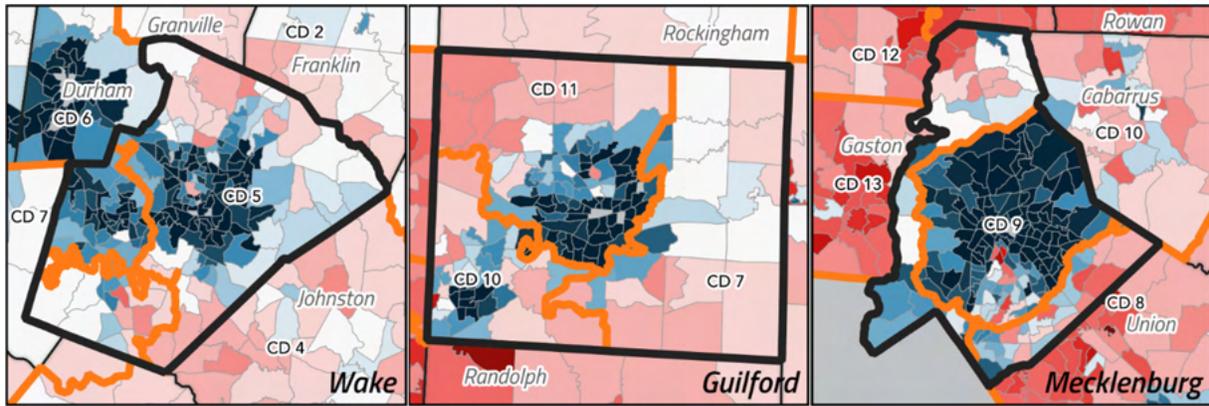
2. In 2019, two three-judge panels of this Court held that the North Carolina General Assembly unlawfully gerrymandered the state's legislative and congressional maps. First, in *Common Cause*, the Court held following a bench trial that the legislative districts enacted by the General Assembly in 2017 were unconstitutional partisan gerrymanders. The Court concluded that "the 2017 Enacted Maps, as drawn, do not permit voters to freely choose their representatives, but rather representatives are choosing voters based upon sophisticated partisan sorting." *Common Cause*, 2019 WL 4569584, at *3. The *Common Cause* Court accordingly held that the legislative maps violated the Free Elections Clause, Equal Protection Clause, and Free Speech and Assembly

Clauses of the North Carolina Constitution. *See id.*

3. Later that year, in *Harper I*, the Court held that many of the same Plaintiffs here were likely to prevail on the merits of their claims that North Carolina’s “2016 congressional districts are extreme partisan gerrymanders.” *Harper I*, slip op. at 14. Like in *Common Cause*, the *Harper I* Court held that the 2016 congressional districts violated the North Carolina Constitution’s Free Elections Clause, Equal Protection Clause, and Freedom of Speech and Assembly Clauses. *Id.* The Court enjoined the Legislative Defendants and State Board Defendants from administering the 2020 primary and general elections for Congress using these unconstitutional districts, which were intentionally designed to entrench a partisan advantage of 10 Republicans and 3 Democrats in this closely divided state. *Id.* at 13. It later directed that North Carolina’s 2020 congressional elections be conducted under a remedial map enacted just weeks before the December 2, 2019 candidate filing period. Order Lifting Inj., *Harper I*, at 1.

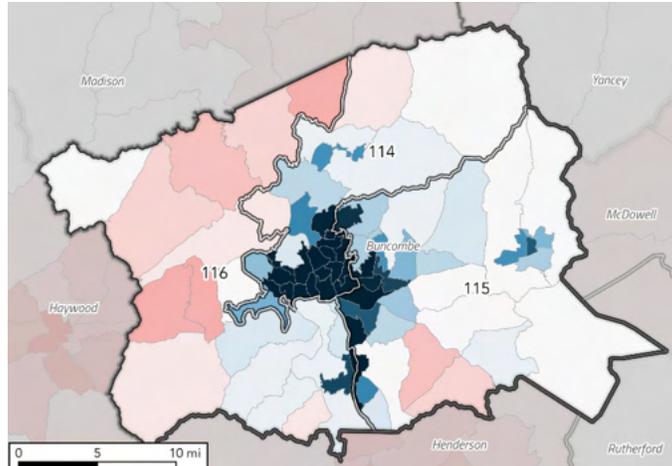
4. The General Assembly has once again abused its redistricting authority by enacting new maps for the House, Senate, and Congress (together, the “2021 Plans”) that intentionally entrench Republican majorities in virtually every plausible political environment. The 2021 Plans are intentional partisan gerrymanders that violate the North Carolina Constitution.

5. The 2021 Congressional Plan flagrantly dilutes Democratic votes in large part by trisecting each of the three most heavily Democratic counties in the state—Wake, Guilford, and Mecklenburg.



6. The 2021 Congressional Plan packs North Carolina’s Democratic strongholds in Raleigh, Durham and Cary and Apex combined, and Charlotte into three congressional districts. And it cracks the State’s remaining Democratic voters across the remaining districts to ensure an overwhelming majority of safe Republican seats. The result is as intended: A map that produces at least 10 Republican seats across nearly every plausible political environment—the same amount of seats that Legislative Defendants bragged was the most extreme gerrymander possible when they enacted the 2016 congressional map that was struck down in *Harper I*.

7. The 2021 House and Senate Plans fare no better. By meticulously packing and cracking Democratic voters in every corner of the State, including through their choice of county clusters in situations where the Whole County Rule left them with discretion, Legislative Defendants have entrenched majorities in the House and Senate in nearly every plausible political environment. Throughout both maps, the Legislative Defendants artificially create Republican districts by needlessly wasting Democratic votes, such as in the example below in which voters in heavily Democratic Buncombe County are packed into two House Districts (Districts 114 and 115) to give way to a Republican-leaning District (District 116) that would not otherwise exist. Other examples abound and are described in greater detail in this Amended Complaint.



8. As the *Harper I* and *Common Cause* Courts explained, extreme partisan gerrymandering entrenches politicians in power, evinces a fundamental distrust of voters by serving the self-interest of political parties over the public good, and dilutes and devalues the votes of some citizens compared to others. *Harper I*, slip op. at 7; *Common Cause*, 2019 WL 4569584, at *110. The 2021 Plans are intentional partisan gerrymanders that violate the fundamental rights of North Carolinians, just like their predecessors that were invalidated in *Harper I* and *Common Cause*. They should meet the same fate.

PARTIES

A. Plaintiffs

9. Plaintiff Amy Clare Oseroff is a retired teacher residing in Greenville, North Carolina. Ms. Oseroff's residence is located within Congressional District 1, Senate District 5, and House District 8 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 1 and Senate District 5, and pack Democratic voters in House District 8. Ms. Oseroff is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Oseroff intends to vote in upcoming elections for the General Assembly and Congress.

10. Plaintiff Rebecca Harper is a real estate agent residing in Cary, North Carolina. Ms. Harper's residence is located within Congressional District 6, Senate District 17, and House District 21 under the 2021 Plans. The 2021 Plans unlawfully pack Democratic voters in Congressional District 6, and crack Democratic voters in Senate District 17 and House District 21. Ms. Harper is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Harper intends to vote in upcoming elections for the General Assembly and Congress.

11. Plaintiff Donald Rumph is an Army and Air Force combat veteran and retired registered nurse residing in Greenville, North Carolina. Mr. Rumph's residence is located within Congressional District 1, Senate District 5, and House District 9 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 1, Senate District 5, and House District 9. Mr. Rumph is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Rumph intends to vote in upcoming elections for the General Assembly and Congress.

12. Plaintiff John Anthony Balla is a digital marketing strategist residing in Raleigh, North Carolina. Mr. Balla's residence is located within Congressional District 5, Senate District 18, and House District 40 under the 2021 Plans. The 2021 Plans unlawfully pack Democratic voters in Congressional District 5 and Senate District 18. Mr. Balla is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Balla intends to vote in upcoming elections for the General Assembly and Congress.

13. Plaintiff Richard R. Crews is a retired stockbroker residing in Newland, North Carolina. Mr. Crews's residence is located within Congressional District 14, Senate District 47, and House District 85 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 14. Mr. Crews is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Crews intends to vote in upcoming elections for the General Assembly and Congress.

14. Plaintiff Lily Nicole Quick is a homemaker residing in Greensboro, North Carolina. Ms. Quick's residence is located within Congressional District 7, Senate District 28, and House District 59 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 7 and House District 59, and pack Democratic voters in Senate District 28. Ms. Quick is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Quick intends to vote in upcoming elections for the General Assembly and Congress.

15. Plaintiff Gettys Cohen Jr. is a dentist residing in Smithfield, North Carolina. Dr. Cohen's residence is located within Congressional District 4, Senate District 10, and House District 28 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 4 and House District 28. Dr. Cohen is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Dr. Cohen intends to vote in upcoming elections for the General Assembly and Congress.

16. Plaintiff Shawn Rush is part owner of a marketing firm, a Meals on Wheels

organizer, and Mayor Pro Tem of East Salisbury residing in East Spencer, North Carolina. His residence is located within Congressional District 10, Senate District 33, and House District 76 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 10, Senate District 33, and House District 76. Mr. Rush is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Rush intends to vote in upcoming elections for the General Assembly and Congress.

17. Plaintiff Mark S. Peters is a retired physician assistant residing in Fletcher, North Carolina. Mr. Peters's residence is located within Congressional District 14, Senate District 46, and House District 115 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 14 and Senate District 46, and pack Democratic voters in House District 115. Mr. Peters is registered as an unaffiliated voter and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Peters intends to vote in upcoming elections for the General Assembly and Congress.

18. Plaintiff Kathleen Barnes is the owner of a small publishing company residing in Brevard, North Carolina. Ms. Barnes's residence is located within Congressional District 14, Senate District 50, and House District 119 under the 2021 Plans. The 2021 Plans crack Democratic voters in Congressional District 14. Ms. Barnes is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Barnes intends to vote in upcoming elections for the General Assembly and Congress.

19. Plaintiff Virginia Walters Brien is a sales manager residing in Charlotte, North

Carolina. Ms. Brien's residence is located within Congressional District 9, Senate District 40, and House District 102 under the 2021 Plans. The 2021 Plans unlawfully pack Democratic voters in Congressional District 9, Senate District 40, and House District 102. Ms. Brien is a registered unaffiliated voter who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Brien intends to vote in upcoming elections for the General Assembly and Congress.

20. Plaintiff David Dwight Brown is a retired computer systems analyst residing in Greensboro, North Carolina. Mr. Brown's residence is located within Congressional District 11, Senate District 27, and House District 58 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 11, and pack Democratic voters in Senate District 27 and House District 58. Mr. Brown is a registered Democrat who has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Brown intends to vote in upcoming elections for the General Assembly and Congress.

21. Plaintiff Eileen Stephens is an independent consultant residing in Wilmington, North Carolina. Her residence is located within Congressional District 3, Senate District 7, and House District 18 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 3 and Senate District 7, and pack Democratic voters in House District 18. Ms. Stephens is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Stephens intends to vote in upcoming elections for the General Assembly and Congress.

22. Plaintiff Barbara Proffitt resides in Matthews, North Carolina. Her residence is

located within Congressional District 8, Senate District 41, and House District 103 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 8, Senate District 41, and House District 103. Ms. Proffitt is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Proffitt intends to vote in upcoming elections for the General Assembly and Congress.

23. Plaintiff Mary Elizabeth Voss resides in Huntersville, North Carolina. Her residence is located within Congressional District 13, Senate District 38, and House District 101 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 13, and pack Democratic voters in Senate District 38 and House District 101. Ms. Voss is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Voss intends to vote in upcoming elections for the General Assembly and Congress.

24. Plaintiff Chenita Barber Johnson is an education advocate and co-founder of the Coalition for Equity in Public Education, and resides in Winston-Salem, North Carolina. Her residence is located within Congressional District 12, Senate District 32, and House District 72 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 12, and pack Democratic voters in Senate District 32 and House District 72. Ms. Johnson is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Johnson intends to vote in upcoming elections for the General Assembly and Congress.

25. Plaintiff Sarah Taber is an agricultural consultant and writer residing in Fayetteville, North Carolina. Her residence is located within Congressional District 4, Senate

District 19, and House District 43 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 4 and House District 43, and pack Democratic voters in Senate District 19. Ms. Taber is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Taber intends to vote in upcoming elections for the General Assembly and Congress.

26. Plaintiff Joshua Perry Brown is a student residing in High Point, North Carolina. His residence is located within Congressional District 10, Senate District 27, and House District 60 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 10, and pack Democratic voters in Senate District 27 and House District 60. Mr. Brown is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Brown intends to vote in upcoming elections for the General Assembly and Congress.

27. Plaintiff Lauren Flood is a retired customer service representative residing in Woodland, North Carolina. Her residence is located within Congressional District 2, Senate District 1, and House District 27 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 2 and Senate District 1, and pack Democratic voters in House District 27. Ms. Flood is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Flood intends to vote in upcoming elections for the General Assembly and Congress.

28. Plaintiff Donald M. MacKinnon is a retired financial professional residing in High Point, North Carolina. His residence is located within Congressional District 10, Senate District

27, and House District 62 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 10 and House District 62, and pack Democratic voters in Senate District 27. Mr. MacKinnon is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. MacKinnon intends to vote in upcoming elections for the General Assembly and Congress.

29. Plaintiff Ron Osborne is Executive Director of Residential Treatment Services of Alamance, Inc., and resides in Graham, North Carolina. His residence is located within Congressional District 7, Senate District 25, and House District 64 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 7 and House District 64. Mr. Osborne is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Osborne intends to vote in upcoming elections for the General Assembly and Congress.

30. Plaintiff Ann Butzner is a retired nurse and an advocate for senior citizens, and resides in Asheville, North Carolina. Her residence is located within Congressional District 14, Senate District 49, and House District 115 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 14, and pack Democratic voters in Senate District 49 and House District 115. Ms. Butzner is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Butzner intends to vote in upcoming elections for the General Assembly and Congress.

31. Plaintiff Sondra Stein is a retired education policymaker residing in Durham, North

Carolina. Her residence is located within Congressional District 6, Senate District 22, and House District 2 under the 2021 Plans. The 2021 Plans unlawfully pack Democratic voters in Congressional District 6 and Senate District 22, and crack Democratic voters in House District 2. Ms. Stein is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Stein intends to vote in upcoming elections for the General Assembly and Congress.

32. Plaintiff Bobby Jones is a retired state employee and community organizer residing in Goldsboro, North Carolina. His residence is located within Congressional District 2, Senate District 4, and House District 10 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 2 and House District 10. Mr. Jones is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Mr. Jones intends to vote in upcoming elections for the General Assembly and Congress.

33. Plaintiff Kristiann Herring is a social worker residing in Goldsboro, North Carolina. Her residence is located within Congressional District 2, Senate District 4, and House District 10 under the 2021 Plans. The 2021 Plans unlawfully crack Democratic voters in Congressional District 2 and House District 10. Ms. Herring is a registered Democrat and has consistently voted for Democratic candidates for the U.S. House of Representatives, North Carolina Senate, and North Carolina House of Representatives. Ms. Herring intends to vote in upcoming elections for the General Assembly and Congress.

B. Defendants

34. Defendant Destin Hall is a member of the North Carolina House of Representatives and currently serves as the Chair of the House Standing Committee on Redistricting. Mr. Hall is

sued in his official capacity only.

35. Defendant Warren Daniel is a member of the North Carolina Senate and currently serves as a co-Chair of the Senate Standing Committee on Redistricting and Elections. Mr. Daniel is sued in his official capacity only.

36. Defendant Ralph E. Hise, Jr. is a member of the North Carolina Senate and currently serves as a co-Chair of the Senate Standing Committee on Redistricting and Elections. Mr. Hise is sued in his official capacity only.

37. Defendant Paul Newton is a member of the North Carolina Senate and currently serves as a co-Chair of the Senate Standing Committee on Redistricting and Elections. Mr. Newton is sued in his official capacity only.

38. Defendant Timothy K. Moore is the Speaker of the North Carolina House of Representatives. Mr. Moore is sued in his official capacity only.

39. Defendant Philip E. Berger is the President Pro Tempore of the North Carolina Senate. Mr. Berger is sued in his official capacity only.

40. Defendant North Carolina State Board of Elections is an agency responsible for the regulation and administration of elections in North Carolina.

41. Defendant Damon Circosta is the Chair of the North Carolina State Board of Elections. Mr. Circosta is sued in his official capacity only.

42. Defendant Stella Anderson is the Secretary of the North Carolina State Board of Elections. Ms. Anderson is sued in her official capacity only.

43. Defendant Jeff Carmon III is a member of the North Carolina State Board of Elections. Mr. Carmon is sued in his official capacity only.

44. Defendant Stacy Eggers IV is a member of the North Carolina State Board of

Elections. Mr. Eggers is sued in his official capacity only.

45. Defendant Tommy Tucker is a member of the North Carolina State Board of Elections. Mr. Tucker is sued in his official capacity only.

JURISDICTION AND VENUE

46. This Court has jurisdiction of this action pursuant to Articles 26 and 26A of Chapter 1 of the General Statutes.

47. Under N.C. Gen. Stat. § 1-81.1, the exclusive venue for this action is the Wake County Superior Court.

48. Under N.C. Gen. Stat. § 1-267.1, a three-judge court must be convened because this action challenges the validity of a redistricting plan enacted by the General Assembly.

FACTUAL ALLEGATIONS

A. North Carolina voters are divided politically.

49. For more than a decade, North Carolina's voters have been closely divided between the Republican and Democratic Parties. Democrats have won three out of four gubernatorial elections since 2008 while Republican presidential and U.S. Senate candidates have each won the state three out of four times, nearly all in close races.

50. The most recent election cycle illustrates just how evenly divided this state is. In 2020, the Republican nominee for President narrowly defeated the Democratic nominee by a margin of 49.9% to 48.6%. The gubernatorial race was also close, with the Democratic nominee defeating the Republican nominee by a margin of 51.5% to 47.0%. And the race for Attorney General was closer still: the Democratic nominee defeated the Republican nominee by a margin of 50.1% to 49.9%. These razor-thin margins in statewide races reflect what everyone familiar with North Carolina knows—this is a closely divided state.

51. Nevertheless, due to consistent, systematic, and egregious gerrymandering by the

Republican-controlled General Assembly, the popular will has not been reflected in the state's congressional delegation or in the General Assembly for over a decade.

B. National Republican party officials target North Carolina for partisan gerrymandering prior to the 2010 elections.

52. In the years leading up to the 2010 decennial census, national Republican leaders undertook a sophisticated and concerted effort to gain control of state governments in 13 critical swing states such as North Carolina. The Republican State Leadership Committee (RSLC) code-named the plan “the REDistricting Majority Project” or “REDMAP.” REDMAP’s goal was to “control[] the redistricting process in . . . states [that] would have the greatest impact on determining how both state legislative and congressional district boundaries would be drawn” after the 2010 census. The RSLC’s REDMAP website explained that fixing these district lines in favor of Republicans would “solidify conservative policymaking at the state level and maintain a Republican stronghold in the U.S. House of Representatives for the next decade.”

53. North Carolina was a key REDMAP “target state.” REDMAP aimed to flip both chambers of the North Carolina General Assembly from Democratic to Republican control.

54. To spearhead its efforts in North Carolina, the RSLC enlisted the most influential conservative donor in North Carolina, Art Pope. Together, the RSLC and Pope targeted 22 races in the North Carolina House and Senate. Pope helped create a new non-profit organization called “Real Jobs NC” to finance spending on the races, and the RSLC donated \$1.25 million to this new group. Pope himself made significant contributions; in total, Pope, his family, and groups backed by him spent \$2.2 million on the 22 targeted races. This represented three-quarters of the total spending by all independent groups in North Carolina on the 2010 state legislative races.

55. The money was well spent. Republicans won 18 of the 22 races the RSLC targeted, giving Republicans control of both the House and Senate for the first time since 1870.

C. Republican mapmakers create the 2011 congressional and legislative plans from party headquarters with the intent to advantage Republicans and disadvantage Democrats.

56. Following the 2010 election, the House and Senate each established redistricting committees that were jointly responsible for preparing congressional and legislative redistricting plans (the “2011 Plans”).

57. The House and Senate Redistricting Committees engaged Dr. Thomas Hofeller, who also served on a REDMAP redistricting team, to draw both sets of plans. Dr. Hofeller and his team drew the 2011 Plans at the North Carolina Republican Party headquarters in Raleigh using mapmaking software licensed by the North Carolina Republican Party.

58. Legislative Defendants did not make Dr. Hofeller available to Democratic members of the General Assembly during the 2011 redistricting process, nor did Dr. Hofeller communicate with any Democratic members in developing the 2011 Plans.

59. Although Republicans drew their maps in secret, their intentions were clear as day. Their goal was to maximize the number of seats Republicans would win in Congress and the General Assembly through whatever means necessary. Dr. Hofeller later testified that the Committee Chairs instructed him to “create as many [congressional] districts as possible in which GOP candidates would be able to successfully compete for office.” Deposition of Thomas Hofeller (“Hofeller Dep.”) at 123:2-23 (Jan. 24, 2017). And Republican leaders similarly admitted in court filings that “political considerations played a significant role in the enacted [2011 legislative] plans,” and that the plans were “designed to ensure Republican majorities in the House and Senate.” *Dickson v. Rucho*, No. 201PA12-3, 2015 WL 4456364, at *16, 55 (N.C. July 13, 2015).

D. Federal courts strike down the 2011 congressional and legislative plans as illegal racial gerrymanders.

60. The 2011 Plans were challenged and invalidated as unlawful racial gerrymanders.

In *Covington v. North Carolina*, No. 1:15-CV-00399 (M.D.N.C.), the plaintiffs challenged 19 districts in the North Carolina House (5, 7, 12, 21, 24, 29, 31, 32, 33, 38, 42, 43, 48, 57, 58, 60, 99, 102, and 107) and 9 districts in the North Carolina Senate (4, 5, 14, 20, 21, 28, 32, 38, and 40). They alleged that race predominated in the drawing of these districts, in violation of the federal Equal Protection Clause. In August 2016, the federal district court found for the plaintiffs as to all of the challenged districts. *Covington v. North Carolina*, 316 F.R.D. 176, 176-78 (M.D.N.C. 2016), *aff'd*, 137 S. Ct. 2211 (2017). And on February 5, 2016, a three-judge federal district court struck down the 2011 congressional plan as racially gerrymandered in violation of the Fourteenth Amendment's Equal Protection Clause. *See Harris v. McCrory*, 159 F. Supp. 3d 600 (M.D.N.C. 2016).

E. The General Assembly illegally gerrymanders the remedial congressional and legislative plans.

61. The General Assembly proceeded to draw remedial congressional and legislative maps. Republicans held supermajority control of both chambers of the North Carolina General Assembly at that time and thus had the power to draw the new plans unilaterally.

62. Legislative Defendants once again engaged Dr. Hofeller to draw the remedial plans. On February 9, 2016, in a meeting at Dr. Hofeller's home, Representative Lewis and Senator Rucho gave Dr. Hofeller oral instructions regarding the criteria he should use in drawing the remedial congressional plan, directing him to use political data to create the new districts. This political data included precinct-level election results from all statewide elections, excluding presidential elections, dating back to January 1, 2008. Representative Lewis and Senator Rucho specifically instructed Dr. Hofeller to use this partisanship data to draw a map that would ensure 10 Republican seats and 3 Democratic seats. *See* Deposition of Representative David Lewis ("Lewis Dep.") at 162:24-163:7, 166:13-169:1 (Jan. 26, 2017); Hofeller Dep. at 175:19-23,

178:14-20, 188:19-190:2.

63. On February 12, 2016, after the 2016 congressional plan was already nearly finished, the Republican leadership of the General Assembly appointed Representative Lewis and Senator Rucho as co-chairs of the newly formed Joint Select Committee on Redistricting (the “Joint Committee”). The Joint Committee consisted of 25 Republicans and 12 Democrats.

64. The Joint Committee held a public hearing on February 15, 2016. But because Dr. Hofeller finished drawing the 2016 congressional plan before the hearing took place, the final plan did not reflect any public input.

65. At a meeting on February 16, 2016, the Joint Committee adopted a set of criteria (the “2016 Adopted Criteria”) to govern the creation of the 2016 congressional plan.

66. The Joint Committee adopted “Partisan Advantage” as one official criterion. This criterion required the new plan to preserve Republicans’ existing 10-3 advantage in North Carolina’s congressional delegation. The criterion read as follows:

Partisan Advantage: The partisan makeup of the congressional delegation under the enacted plan is 10 Republicans and 3 Democrats. The Committee shall make reasonable efforts to construct districts in the 2016 Contingent Congressional Plan to maintain the current partisan makeup of North Carolina’s congressional delegation.

67. In explaining this Partisan Advantage criterion, Representative Lewis proposed that the Committee “draw the maps to give a partisan advantage to 10 Republicans and 3 Democrats because I do not believe it’s possible to draw a map with 11 Republicans and 2 Democrats.” Joint Comm. Session, Feb. 16, 2016, at 50:6-10.

68. Representative Lewis “acknowledge[d] freely that this would be a political gerrymander.” *Id.* at 48:4-5.

69. The Joint Committee adopted “Political Data” as another criterion, which stated:

Political Data: The only data other than population data to be used to construct

congressional districts shall be election results in statewide contests since January 1, 2008, not including the last two presidential contests. Data identifying the race of individuals or voters shall not be used in the construction or consideration of districts in the 2016 Contingent Congressional Plan. Voting districts (“VTDs”) should be split only when necessary to comply with the zero deviation population requirements set forth above in order to ensure the integrity of political data.

70. Representative Lewis left no doubt as to how this political data would be used, telling the Joint Committee members he “want[ed] to make clear that to the extent [we] are going to use political data in drawing this map, it is to gain partisan advantage on the map. I want that criteria to be clearly stated and understood.” Joint Comm. Session, Feb. 16, 2016, at 53:24-54:4.

71. The remaining criteria adopted by the Joint Committee were to provide for equal population, to make the districts contiguous, to eliminate the then-current configuration of District 12, to improve the compactness of the existing districts, to keep more counties and VTDs whole than the existing districts, and to avoid pairing incumbents.

72. The North Carolina House and Senate approved the 2016 congressional plan on February 18 and February 19, 2016, respectively. No Democrat in either chamber voted for the 2016 congressional plan.

73. In sworn testimony, Senator Rucho confirmed that the 2016 congressional plan “satisfied” “all criteria,” including the criteria requiring a 10-3 partisan advantage for Republicans. Deposition of Senator Robert A. Rucho (“Rucho Dep.”) 193:24-194:14 (Jan. 25, 2017).

74. The 2016 congressional plan achieved precisely its intended partisan effects—a guaranteed 10-3 Republican advantage in North Carolina’s congressional delegation. In the 2016 elections, Democratic congressional candidates in North Carolina won a combined 47% of the statewide vote, and yet won only 3 of 13 seats (23%). The results were even more striking in 2018. Democrats won a majority of the statewide vote (50.9%, when adjusting for one uncontested race in which Democrats did not field a candidate) but carried only 3 of the 13 seats (23%).

75. The General Assembly gerrymandered the remedial state legislative maps the following year in strikingly similar fashion.

76. The General Assembly began developing new House and Senate plans in June 2017. At a July 26, 2017 joint meeting of the House and Senate Redistricting Committees, Representative Lewis and Senator Hise disclosed that Republican leadership would again employ Dr. Hofeller to draw the new House and Senate plans. When Democratic Senator Terry Van Duyn asked whether Hofeller would “be available to Democrats and maybe even the Black Caucus to consult,” Representative Lewis answered “no.” Joint Comm. Hr’g, July 26, 2017, at 22-23.

77. At another joint meeting on August 10, 2017, the House and Senate Redistricting Committees voted on criteria to purportedly govern the new plans.

78. Representative Lewis proposed as one criterion: “election data[:] political consideration and election results data may be used in drawing up legislative districts in the 2017 House and Senate plans.” Joint Comm. Hr’g, Aug. 10, 2017, at 132. Representative Lewis provided no further explanation or justification for this criterion in introducing it, stating only: “I believe this is pretty self-explanatory, and I would urge members to adopt the criteria.” *Id.*

79. The House and Senate Committees adopted the “election data” criterion on a party-line vote. *Id.* at 141-48. No Democrat on the Committees voted for the criterion, but all 32 Republican members of the Committees did. *Id.*

80. Senator Clark proposed an amendment that would prohibit the General Assembly from seeking to maintain or establish a partisan advantage for any party in redrawing the plans. *Id.* at 166-67. Representative Lewis opposed the amendment without explanation, stating only that he “would not advocate for [its] passage.” *Id.* at 167. The Committees rejected Senator Clark’s proposal on a straight party-line vote. *Id.* at 168-74.

81. On August 24, 2017, on a straight party-line vote, the Senate Redistricting Committee adopted the Senate map crafted by Hofeller without modification. The next day, the House Redistricting Committee adopted Hofeller’s proposed House plan without modification, also on a straight party-line vote.

82. On August 31, 2017, the General Assembly passed the House plan (designated HB 927) and the Senate plan (designated SB 691), with a few minor modifications from the versions passed by the Committees. No Democratic Senator voted in favor of either plan. The sole Democratic member of the House who voted for the plans was Representative William Brisson, who switched to become a Republican several months later.

83. The 2017 state legislative plans achieved their intended partisan effects. In the 2018 Senate elections, Democratic candidates won 50.5% of the two-party statewide vote, but only 21 of 50 seats (42%). And in the 2018 House elections, Democratic candidates won 51.2% of the two-party statewide vote, but only 55 of 120 seats (46%).

F. Three-judge panels of this Court enjoin the remedial congressional and legislative plans as unlawful partisan gerrymanders.

84. Both sets of remedial plans were challenged and invalidated as illegal partisan gerrymanders by three-judge panels of this Court.

85. On November 13, 2018, Common Cause, the North Carolina Democratic Party, and a group of North Carolina voters filed a lawsuit on November 13, 2018 alleging that the 2017 legislative plans violated the North Carolina Constitution’s Free Elections Clause, Equal Protection Clause, and Freedom of Speech and Freedom of Assembly Clauses.

86. A three-judge panel of this Court struck down the maps as unconstitutional on September 3, 2019. *Common Cause*, 2019 WL 4569584, at *2-3. The Court held that the Free Elections Clause “guarantees that all elections must be conducted freely and honestly to ascertain,

fairly and truthfully, the will of the People,” and that “this is a fundamental right of North Carolina citizens, a compelling governmental interest, and a cornerstone of our democratic form of government.” *Id.* at *2.

87. The *Common Cause* Court then held that its “understanding of the Free Elections Clause shape[d] the application of the Equal Protection Clause, Freedom of Speech Clause, and the Freedom of Assembly Clause.” *Id.* at *3 (citations omitted). The Court held that “[i]n the context of the constitutional guarantee that elections must be conducted freely and honestly to ascertain, fairly and truthfully, the will of the people, these clauses provide significant constraints against governmental conduct that disfavors certain groups of voters or creates barriers to the free ascertainment and expression of the will of the People.” *Id.*

88. The *Common Cause* Court then ordered the General Assembly to redraw the maps. On October 28, 2019, the court approved the remedial maps drawn by the General Assembly.

89. The 2016 remedial congressional plan met a similar fate. Many of the same Plaintiffs here filed a lawsuit on September 27, 2019, alleging that the 2016 congressional plan was an extreme partisan gerrymander that violated North Carolina’s Free Elections Clause, Equal Protection Clause, and Free Speech and Assembly Clauses. *See* Compl., *Harper I*, No. 19-CVS-012667. In *Harper I*, Plaintiffs alleged that the 2016 Plan “reflect[ed] an extreme and intentional effort to maximize Republican advantage.” *Id.* ¶ 2.

90. Plaintiffs moved for a preliminary injunction, arguing that they would suffer irreparable harm if they were forced to vote in the 2020 primary and general elections in egregiously gerrymandered congressional districts. The Court agreed and granted the motion for a preliminary injunction on October 28, 2019. *Harper I*, slip op. at 15.

91. The preliminary injunction ruling resolved two threshold jurisdictional questions:

First, the Court rejected Legislative Defendants' contention that Plaintiffs' claims presented non-justiciable political questions, holding that "partisan gerrymandering claims specifically present justiciable issues." *Id.* at 3. Second, the Court rejected Legislative Defendants' contention that Plaintiffs lacked standing to challenge the 2016 congressional plan. The Court held that Plaintiffs had standing to challenge the plan because they "have shown a likelihood of 'a personal stake in the outcome of the controversy' and a likelihood that the 2016 congressional districts cause them to 'suffer harm.'" *Id.* at 5 (quoting *Goldston v. State*, 361 N.C. 26, 35, 637 S.E.2d 876, 882 (2006); *Mangum v. Raleigh Bd. of Adjustment*, 362 N.C. 640, 642, 669 S.E.2d 279, 281 (2008)).

92. On the merits, the Court reaffirmed its holding in *Common Cause v. Lewis*, 18-CVS-14001, that extreme partisan gerrymandering violates multiple provisions of the North Carolina Constitution. It violates the Free Elections Clause by preventing elections from being "conducted freely and honestly to ascertain, fairly and truthfully, the will of the people." *Id.* at 7. It violates the Equal Protection Clause by "treat[ing] individuals who support candidates of one political party less favorably than individuals who support candidates of another party." *Id.* at 8. And it violates the Freedom of Speech and Freedom of Assembly Clauses by diluting the votes of "certain disfavored speakers (e.g., Democratic voters) because of disagreement with the views they express when they vote." *Id.* at 10.

93. On October 30, 2019, Speaker Moore announced the creation of a joint House and Senate Select Committee to draw a remedial plan. The full House and Senate passed the remedial plan, this one an 8-5 partisan gerrymander, on straight party-line votes on November 14 and 15, 2019.

94. Legislative Defendants moved for summary judgment in *Harper I* on November 15, arguing that the case was moot and that Plaintiffs must file a new lawsuit to challenge the 2019

congressional plan. The Court *sua sponte* proceeded to enjoin the filing period for the 2020 congressional primary elections pending review of the remedial map. Order Enjoining Filing Period, *Harper I*, at 1-2.

95. At a hearing on Legislative Defendants’ motion for summary judgment, the Court explained that it had not determined whether the 2019 Plan was constitutional and that it “d[id] not reach th[e] issue” of “whether this action is moot.” *See* Ex. A, at 6. The Court observed that “although one can certainly argue that the process” leading to the enactment of the 2019 Plan “was flawed or that the result is far from ideal,” the “net result” was that the “grievously flawed 2016 congressional map has been replaced.” *Id.* at 7. The Court accordingly determined that it would not invoke its equitable authority to further delay the election. *Id.* at 8. And it expressed “fervent hope that the past 90 days” since the filing of the original complaint in this case would become “a foundation for future redistricting in North Carolina and that future maps are crafted through a process worthy of public confidence and a process that yields elections that are conducted freely and honestly to ascertain fairly and truthfully the will of the people.” *Id.* at 9.

96. The Court subsequently lifted its injunction of the filing period, but did not conduct any further proceedings or hold that the 2019 congressional plan was constitutional.

G. Legislative Defendants create the 2021 Plans with the goal of entrenching an overwhelming Republican advantage in congressional and legislative seats.

97. In flagrant disregard of the *Harper I* Court’s directive that the General Assembly enact maps that “yield[] elections that are conducted freely and honestly to ascertain fairly and truthfully the will of the people,” Ex. A, at 9, Legislative Defendants once again abused their authority over decennial redistricting to gerrymander North Carolina’s congressional and legislative maps.

98. The U.S. Census Bureau released data for states to begin redistricting efforts on

August 12, 2021, about five months later than usual due to delays attributable to the COVID-19 pandemic. North Carolina gained a congressional seat following the 2020 census after seeing its population grow by 9.5% over the previous decade. Several of the most populous counties in the state have grown even more rapidly over the same period: Wake County grew by 22.6%, Mecklenburg County by 20.3% Durham County by 18.4%, and Guilford by 9.7%. North Carolina's new congressional map accordingly contains 14 congressional districts.

99. The General Assembly established two committees to oversee congressional and legislative redistricting: the House Committee on Redistricting and the Senate Committee on Redistricting and Elections. Each Committee was tasked with considering and proposing maps for its own chamber and for Congress.

100. Also on August 12, the House Committee on Redistricting and the Senate Committee on Redistricting and Elections adopted criteria to guide the enactment of new maps. While the adopted criteria provide that “[p]artisan considerations and election results data *shall not* be used in the drawing of districts in the 2021 Congressional, House, and Senate plans,” they freely permitted the use of “local knowledge of the character of communities and connections between communities,” as well as “[m]ember residence.”¹ Unlike the 2016 adopted criteria, which provided that “[r]easonable efforts shall be made not to divide a county into more than two districts,” the 2021 criteria did not counsel against splitting counties more than twice. The adopted criteria were otherwise materially identical to those used in drawing the 2016 congressional plan.

101. Over the next two months, Legislative Defendants undertook an opaque and constricted redistricting process that flagrantly flouted the prohibition on partisan considerations.

¹ House Committee on Redistricting & Senate Committee on Redistricting and Elections, Criteria Adopted by the Committees (Aug. 12, 2021), <https://ncleg.gov/documents/sites/committees/Senate2021-154/2021/08-12-2021/Criteria.adopted.8.12.pdf>.

102. Legislative Defendants gave little notice to North Carolinians on the schedule for public hearings to discuss the redistricting process. The House and Senate redistricting committees waited until September 1 to announce initial public hearings that would be held from September 8 through September 30. And the number of hearing sites made available was a small fraction of those held during the 2010 redistricting cycle.

103. Worse, Legislative Defendants held public hearings in smaller Republican counties while carefully avoiding Democratic strongholds, including Guilford County which the 2021 Congressional plan splits into three congressional districts. Legislative Defendants also held hearings at far fewer sites compared to the previous cycle: While the House and Senate Committees held public hearings on the redistricting process at 64 different sites in 2011, they held hearings at only 13 sites in 2021. Legislative Defendants offered no options to participate virtually.

104. Legislative Defendants also largely ignored public testimony submitted during these hearings. For example, residents in the Sandhills overwhelmingly asked that their communities be united in one congressional district centered in Cumberland County. But the 2021 Congressional plan entirely disregards this request by dividing the Sandhills communities among three different congressional districts, diluting their influence and further inhibiting the ability to coalesce around preferred candidates.

105. While the House and Senate Committees scheduled additional public hearings on October 25 and 26 regarding the proposed maps, they provided only a few days' notice and allowed only 210 North Carolinians to attend. Each attendee, moreover, was given only two minutes to speak.

106. On October 6, legislators began drawing potential maps for consideration by the House and Senate Committees. This map-drawing process, however, entirely ignored the

prohibition on partisan data.

107. The House and Senate Committees set up rooms where legislators could draw and submit maps on computers with the assistance of legislative staff. But while Legislative Defendants prohibited partisan data from being uploaded onto these computers, they did not restrict legislators from bringing maps or other instructive materials into the room that had been drawn using partisan data and copying those maps onto the computer.

108. When confronted with this obvious loophole that allowed the submission of maps using partisan data, Legislative Defendants asserted in committee meetings that they had no interest in preventing it—ensuring that the House and Senate Committees would receive maps drawn in violation of the adopted criteria.

109. Thus, although the adopted criteria nominally forbade use of partisan data, the 2021 Plan was in fact drawn based on maps that incorporated that very data.

110. The 2021 Congressional Plan was voted out of the Senate Committee as Senate Bill 740 on November 1. It was then voted out of the House Committee on November 3.

111. The full Senate and House passed the 2021 Congressional Plan on November 2 and November 4, respectively. The 2021 Congressional plan passed on strict party-line votes.

112. The 2021 House Plan was voted out of the House Committee on November 1. The General Assembly enacted the 2021 House Plan, on party-line votes, on November 4.

113. The 2021 Senate Plan was voted out of the Senate Committee on November 2. The General Assembly enacted the 2021 Senate Plan, on party-line votes, on November 4.

H. The 2021 Congressional plan packs and cracks Democratic voters in every district.

114. Unsurprisingly, this process resulted in the General Assembly intentionally enacting another extreme partisan gerrymander. Like the 2016 Congressional Plan, the 2021

Congressional Plan meticulously packs and cracks Democratic voters in every district—without exception.

115. The 2021 Congressional Plan trisects each of the three largest Democratic counties in the state—Wake, Guilford, and Mecklenburg.

116. And the 2021 Congressional Plan packs Democratic strongholds throughout the state into a handful of districts. The upshot is a map that results in 10 safe Republican seats, 3 safe Democratic seats, and 1 competitive seat—a nearly identical result to the 2016 Plan that produced a 10-3 Republican map in this evenly divided state.

117. As with the 2016 Congressional Plan, expert analysis confirms that the 2021 Congressional Plan is an intentional, extreme partisan gerrymander that dilutes Democratic votes and prevents Democratic voters from electing candidates of their choice. Dr. Jowei Chen, a professor of political science at the University of Michigan, generated hundreds of nonpartisan simulated maps respecting North Carolina’s political geography and traditional redistricting principles including equal population, contiguity and compactness, and avoiding splitting counties and VTDs. Dr. Chen found that the 2021 Congressional Plan was extraordinarily anomalous and heavily gerrymandered.

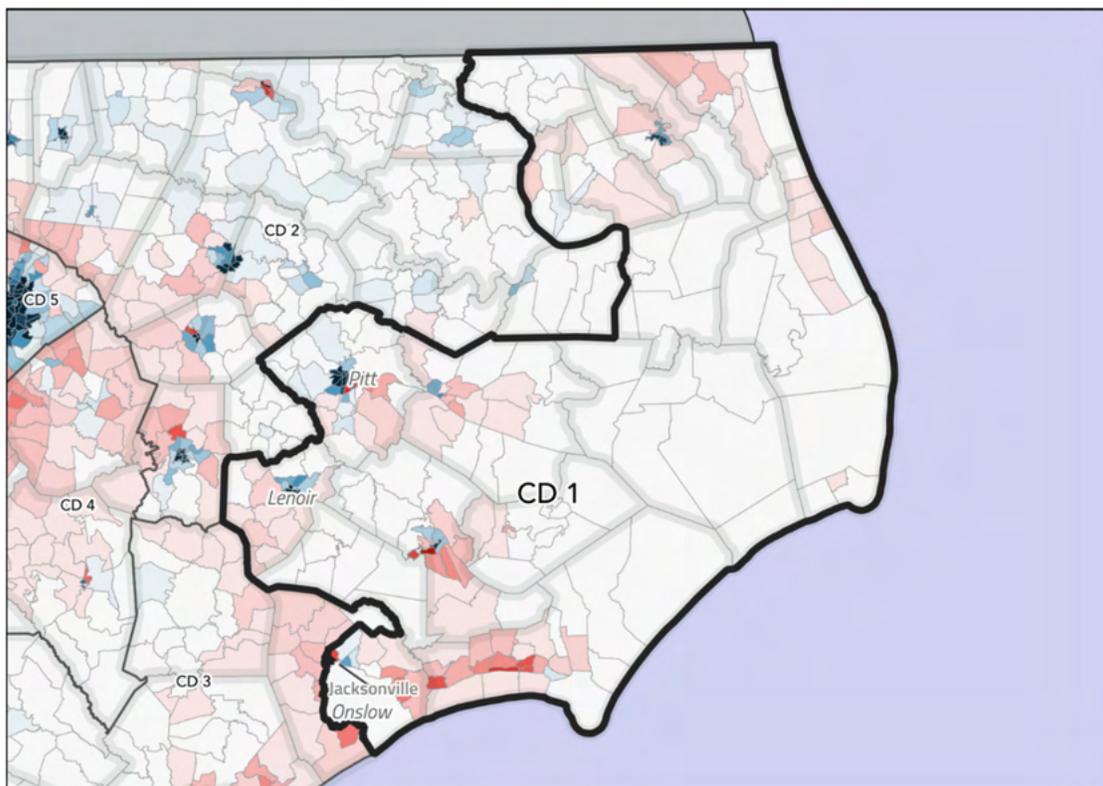
118. The sections below describe some of the most egregious examples of packing and cracking in each district.

Congressional District 1

119. Similar to District 3 in the 2016 Congressional Plan, Legislative Defendants drew District 1 to be a safe Republican seat while undermining Democratic voting strength in the neighboring District 2—the predecessor of which was a Democratic-leaning seat represented by Congressman G.K. Butterfield. District 1 receives nearly all of Pitt County’s Democratic VTDs

from Congressman Butterfield’s former district (District 1 in the 2019 Congressional Plan), including the entire city of Greenville.

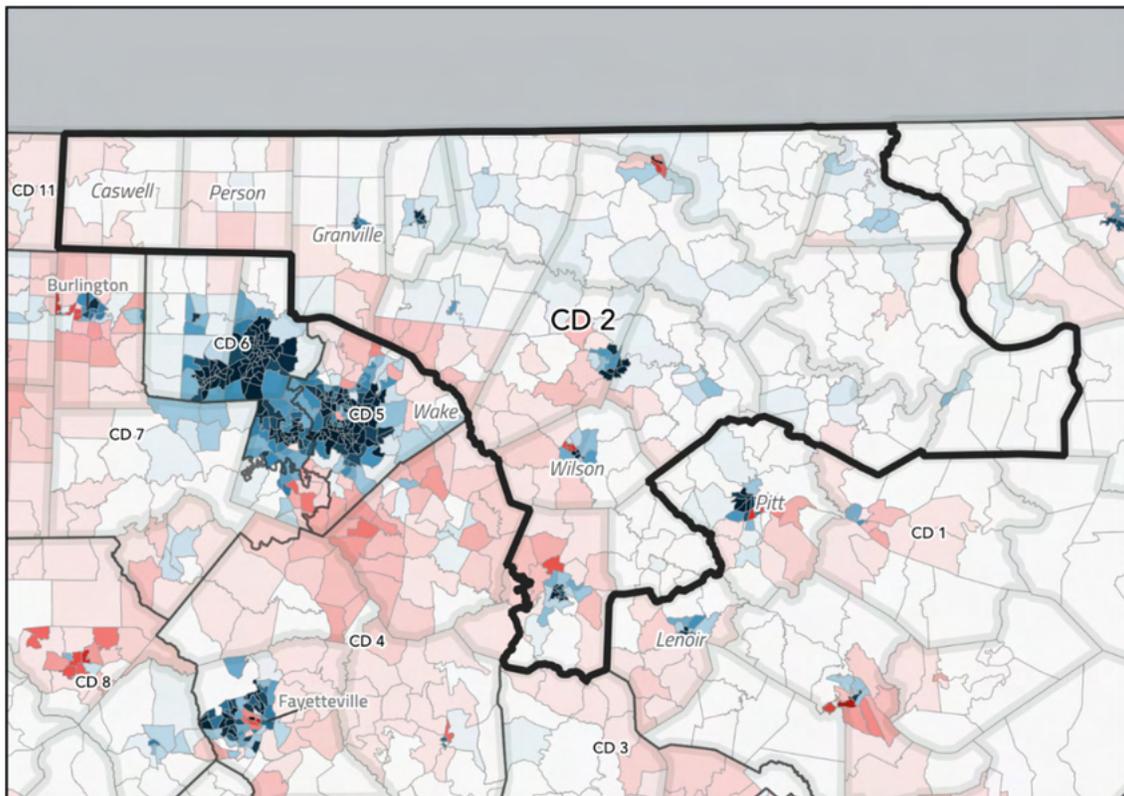
120. The following image (and others below) shows the district’s boundaries and the partisanship of its VTDs using a composite of the results of the 2020 North Carolina Attorney General and 2020 North Carolina Labor Commissioner races, with darker blue shading for the VTDs that voted more heavily Democratic, darker red for VTDs that voted more heavily Republican, and lighter shading for VTDs that were closer to a tie—with the shading adjusted for the VTD’s population.



121. The upshot of Legislative Defendants’ engineering is a safe Republican seat where Democratic voters have no meaningful chance of electing the candidate of their choice. In the 2020 presidential election, for example, Democratic candidate Joe Biden won only 43.2% of the vote in the new District 1.

Congressional District 2

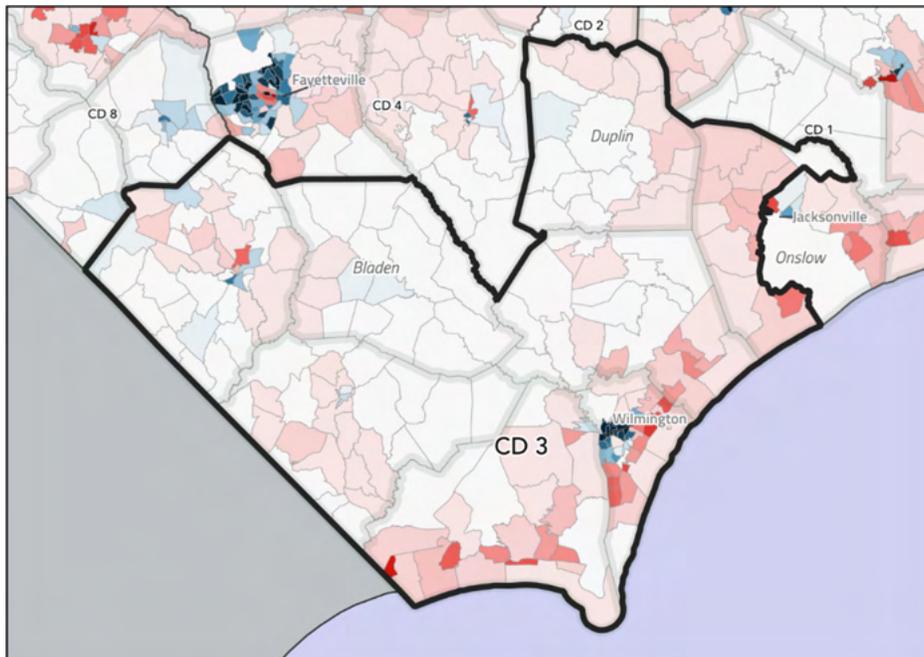
122. District 2 was a Democratic district under both the 2016 and 2019 Congressional Plans. The 2021 Congressional Plan significantly improves Republicans' voting strength in the district by removing the Democratic stronghold of Greenville from Congressman Butterfield's district and placing it into the new District 1. Legislative Defendants further undermined Democratic voting strength in this district by expanding the boundaries of its predecessor westward, stretching nearly 200 miles from the east to encompass the Republican strongholds of Caswell and Person Counties.



123. Legislative Defendants succeeded in undermining Democratic competitiveness in this district: President Biden won 51% of the vote in this new district, compared to 54% under the predecessor district in the 2019 Congressional Plan.

Congressional District 3

124. Ignoring the overwhelming calls of constituents to place the competitive Sandhills region in a single congressional district, the 2021 Congressional Plan splits it across Districts 3, 4, and 8. The plan creates a safe Republican seat in District 3 by combining the eastern part of the region with counties along the southeastern coastline. The eastern boundary hews around the relatively Democratic city of Jacksonville, which is instead placed in District 1 where its residents have no realistic prospect of electing a Democratic candidate.

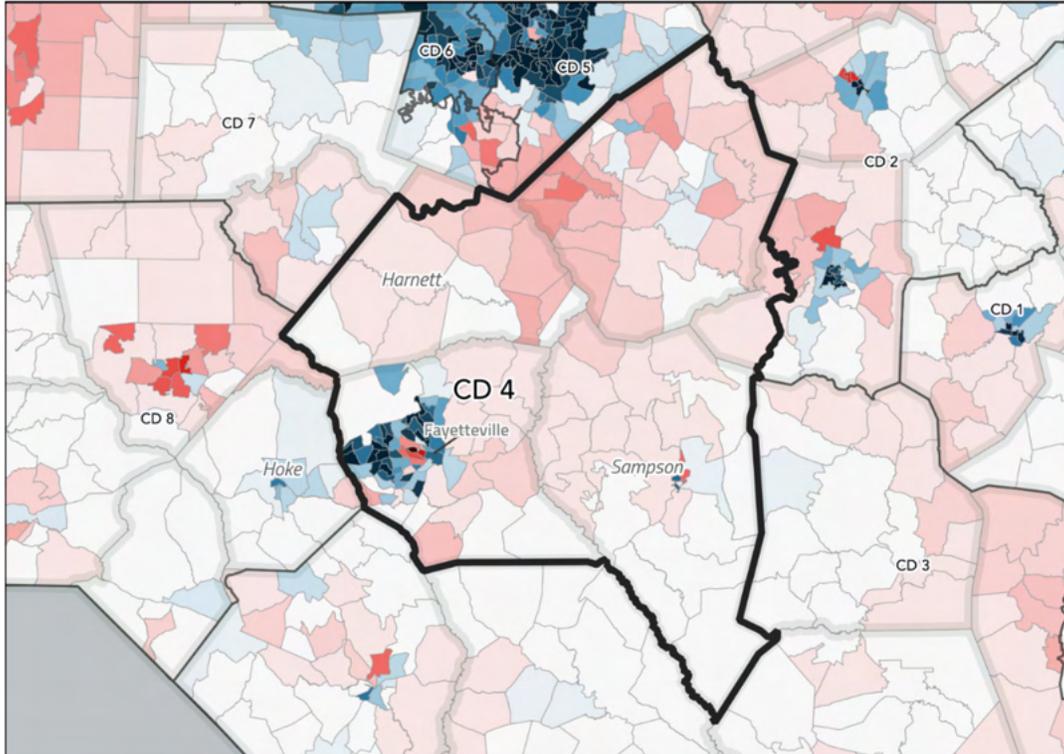


125. District 3 is indeed a safe Republican seat: President Biden won only 41.5% of the vote in this district in the 2020 election.

Congressional District 4

126. Legislative Defendants likewise engineered District 4 to be a safe Republican seat that destroys the voting power of Democrats in Cumberland County—home to Fayetteville and Fort Bragg. District 4 combines the Democratic stronghold of Cumberland County with the three overwhelmingly Republican counties of Sampson, Johnston, and Harnett. The district also picks

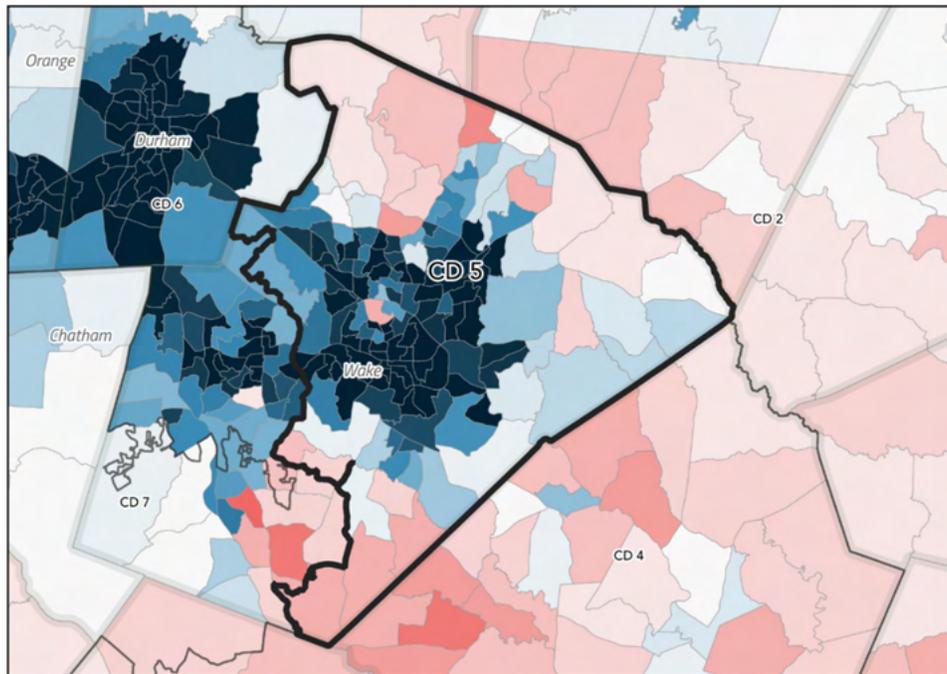
up heavily Republican VTDs in Wayne County.



127. As expected, the new District 4 performs as a Republican district. In the 2020 presidential election, President Biden received only 46.5% of the vote.

Congressional District 5

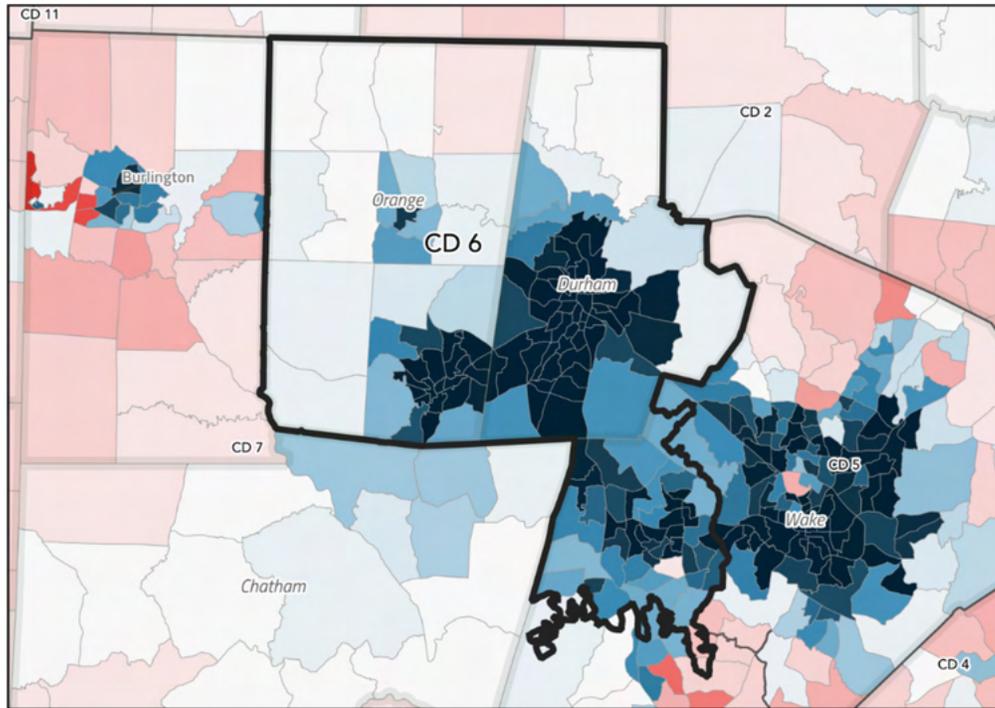
128. District 5 is the result of flagrant packing and cracking of Democratic voters in the largest Democratic stronghold in the state—Wake County. The 2021 Congressional Plan packs these voters by creating a single, safe Democratic district—District 5—out of most of Wake County, including all of its most Democratic VTDs. It then splits the remaining Wake County Democratic voters into two neighboring districts to dilute their power: Voters in Cary and Apex are packed into the safe Democratic District 6, which contains heavily Democratic Orange and Durham Counties, while the remaining population is roped into the overwhelmingly Republican District 7, which stretches west across the state to pick up heavily Republican Randolph and parts of Davidson and Guilford Counties.



129. Legislative Defendants succeeded in creating a safe Democratic district: President Biden won an overwhelming 65.5% of the vote in the new District 5 in the 2020 presidential election.

Congressional District 6

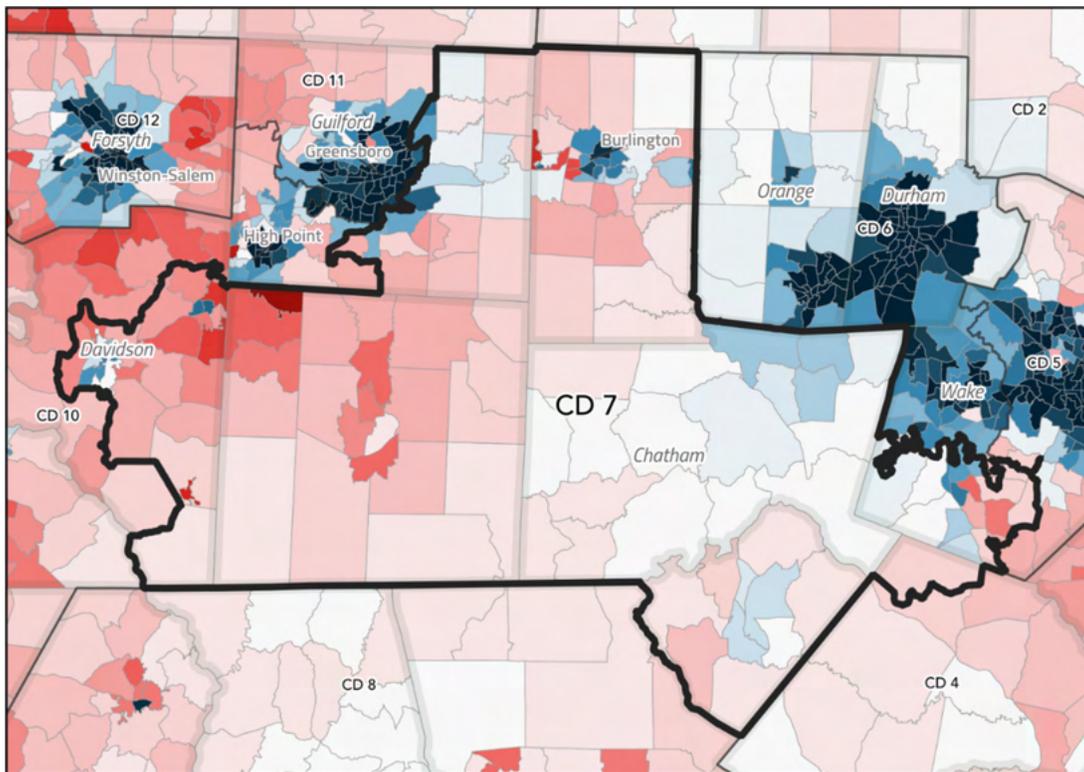
130. Legislative Defendants packed Democratic voters into District 6 to create a safe Democratic seat. They did so by combining the heavily Democratic Orange and Durham Counties into a single district. District 6 also includes a heavily Democratic swath of voters from the fractured Wake County. This pairing is comparable to the way in which these areas were packed in the 2016 Congressional Plan.



131. As expected, District 6 is an overwhelmingly Democratic district where Democrats' votes are wasted: President Biden won 73.3% of the vote in the new District 6.

Congressional District 7

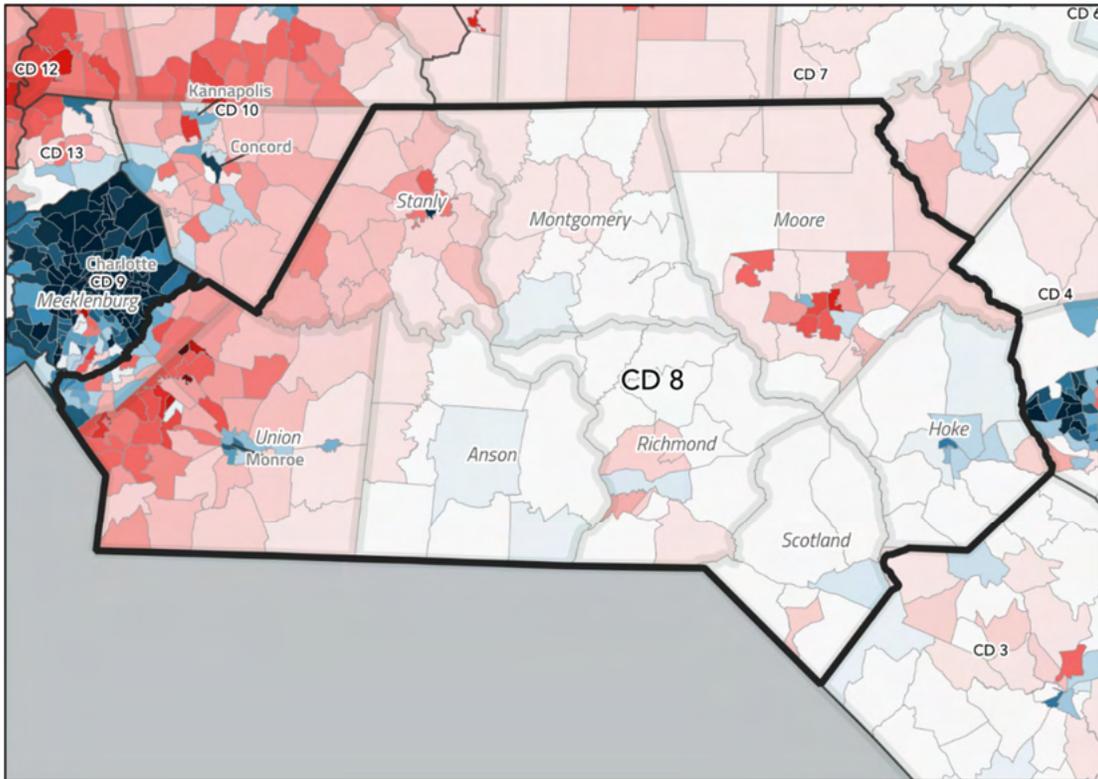
132. Legislative Defendants created a safe Republican seat in District 7 by fracturing the Democratic stronghold of Guilford County. District 7 stitches together Democratic voters from the southeastern portion of Greensboro and Guilford County, along with Democratic-leaning Chatham County and Democratic-leaning voters from the fractured Wake County, with heavily Republican Randolph, Alamance, and Lee Counties. District 7 also borrows heavily Republican VTDs from Davidson County in the western part of the district.



133. Democrats have no meaningful chance of electing a candidate of their choice in the new District 7: President Biden won only 41.1% of the vote in this district during the 2020 presidential election.

Congressional District 8

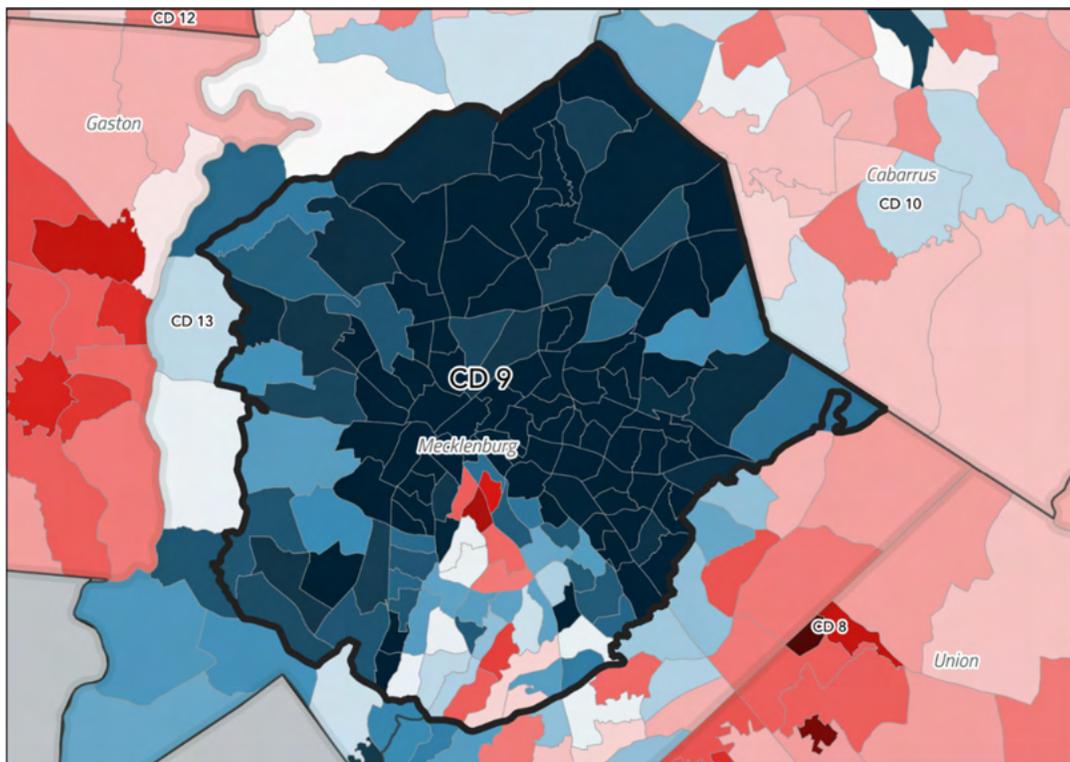
134. Legislative Defendants created a safe Republican seat in District 8 by combining Democratic-leaning Hoke and Anson Counties with heavily Republican Union, Moore, Montgomery, and Stanly Counties. As discussed in greater detail below, Legislative Defendants also included portions of heavily Democratic Mecklenburg County in District 8, splitting Charlotte and ensuring that Democratic votes in that county would be wasted in this safe Republican seat.



135. District 8 performs as expected: President Biden won only 41.1% of the vote in the new District 7.

Congressional District 9

136. District 9, a guaranteed Democratic district capturing a carefully hewn chunk of Charlotte, reflects flagrant packing of Democratic voters in heavily Democratic Mecklenburg County. As discussed earlier, Legislative Defendants divided this Democratic stronghold into three districts: many (but not all) of Mecklenburg County’s most Democratic VTDs are packed into District 9. The rest of Mecklenburg’s Democratic voters are meticulously cracked between District 8 and District 13.

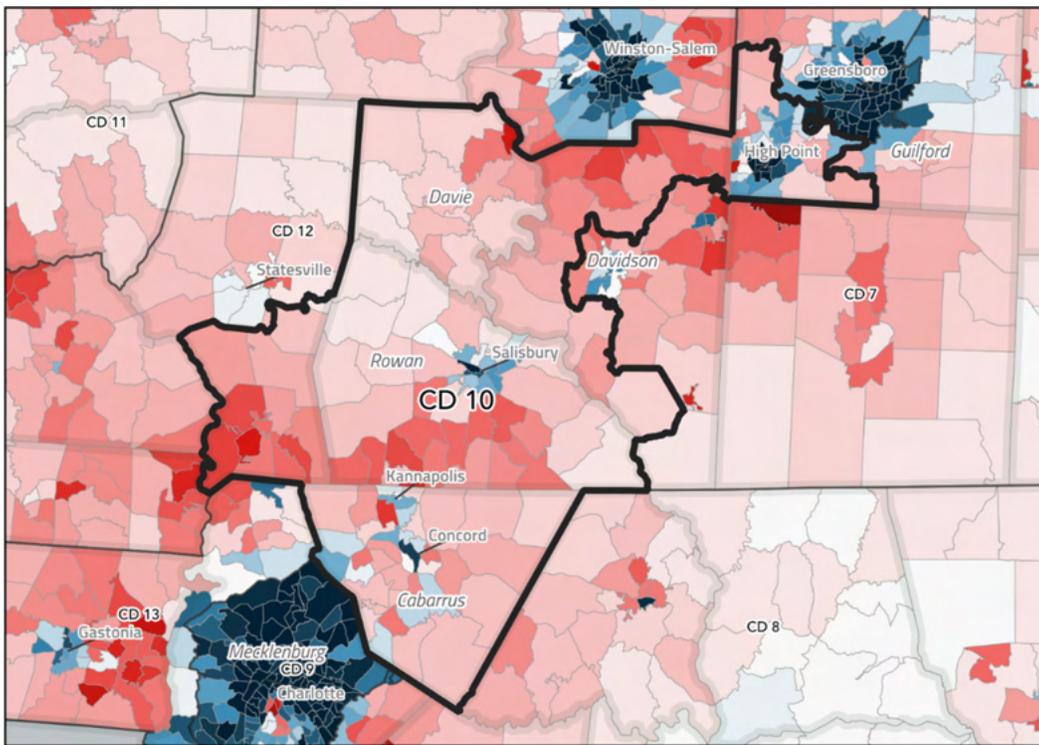


137. Legislative Defendants inarguably succeeded in wasting Democrats’ votes by packing them into this district: President Biden won an overwhelming 75.8% of the vote in this district in the 2020 presidential election, an increase from 71.5% under the Charlotte-based District 12 in the 2019 Congressional Plan.

Congressional District 10

138. As discussed, Legislative Defendants cracked Guilford County—one of the largest

Democratic counties in the state—among three different districts, ensuring that all Democratic votes in Guilford County are wasted. District 10, the southeastern district in the tripartite split, groups the heavily Democratic voters in High Point with the overwhelmingly Republican neighboring counties of Davidson, Cabarrus, Rowan, and Davie. District 10 in the 2021 Plan thus closely resembles District 13 in the 2016 Congressional Plan, which similarly paired High Point and other Democratic Guilford County voters with several of the same Republican counties to the west.

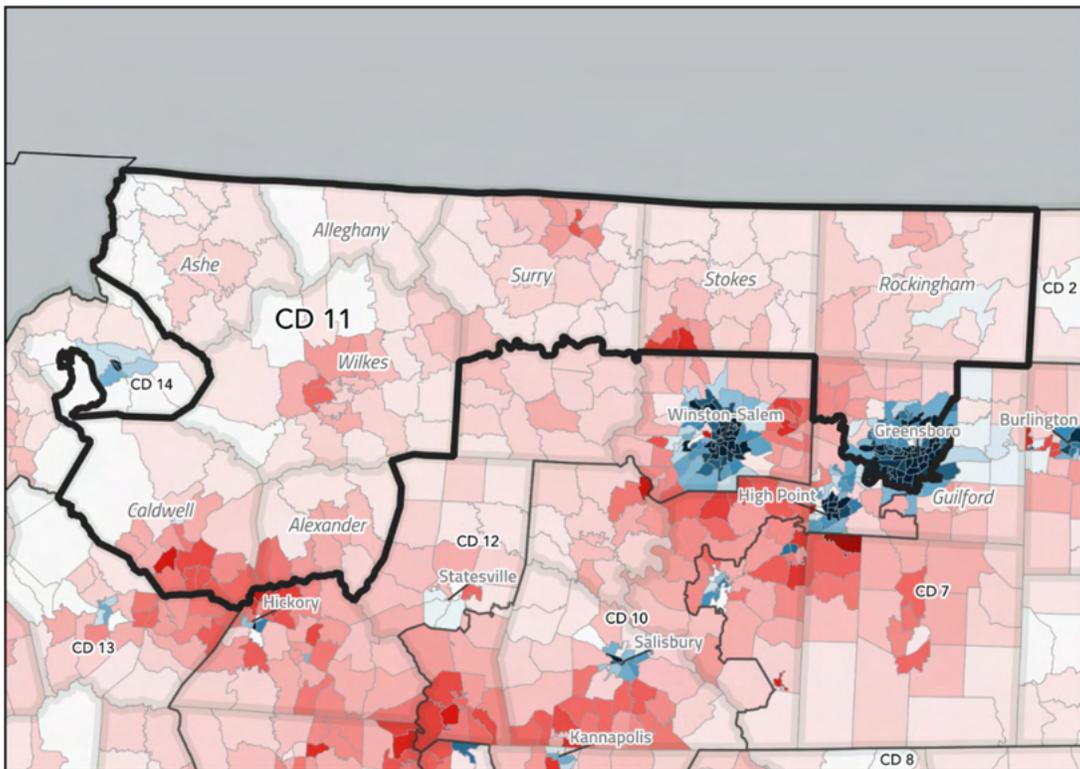


139. Legislative Defendants succeeded in creating another safe Republican seat here: President Biden won only 39.5% of the vote in the new District 10 in the 2020 election.

Congressional District 11

140. Evoking a handgun aiming eastward, District 11 takes the third portion of the fractured Guilford County—including much of the heavily Democratic city of Greensboro—and combines it with heavily Republican counties in the northwestern part of the state, ensuring that

Greensboro’s Democratic voters have no influence in a safe Republican district. District 11 also cuts out a bizarre, boot-like bit of Watauga County to encompass the residential address of Republican incumbent Congresswoman Virginia Foxx, in a seemingly intentional effort to place her in the same district as Congresswoman Manning. District 11 thus takes the same basic approach to splitting apart the Triad area as District 5 did in the 2016 Congressional Plan, but swaps Guilford’s Democratic voters in for those in Forsyth County.

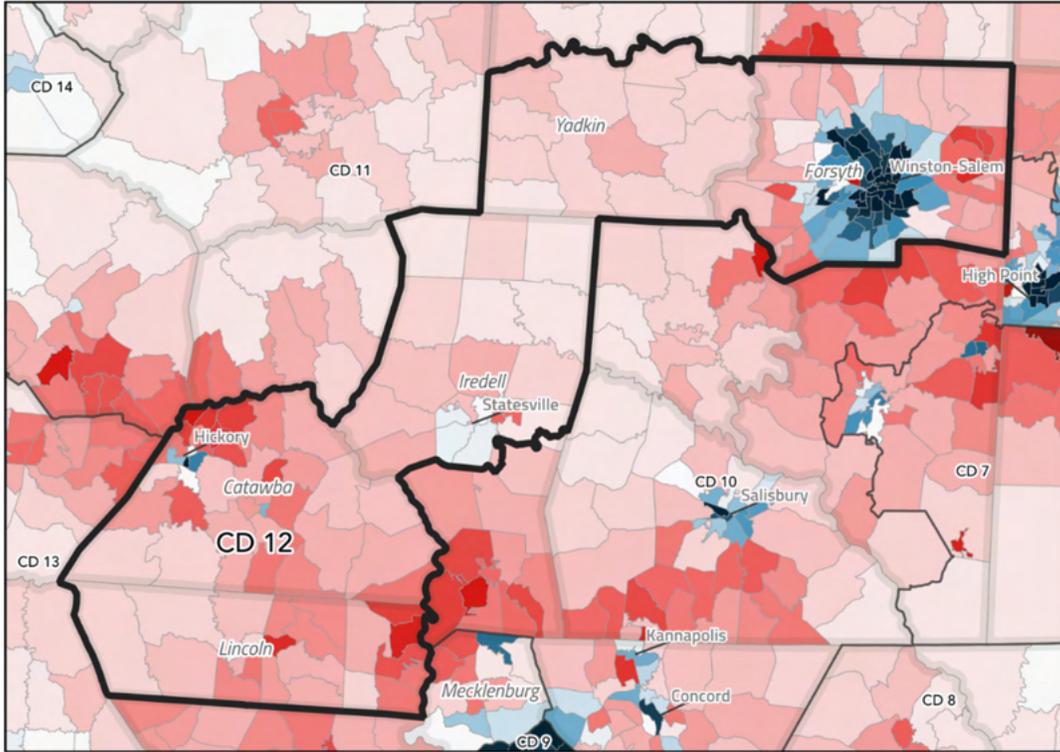


141. As expected, the new District 11 is a safe Republican seat: President Biden won a mere 42.9% of the vote here in 2020.

Congressional District 12

142. District 12 pieces together heavily Democratic Forsyth County, including Winston-Salem, with four heavily Republican counties to the south and west. District 12 also splits Iredell County in half with District 10, and fences in the Democratic cities of Statesville and Hickory. The result is a safe Republican district that effectively guarantees that Democratic voters in Winston-

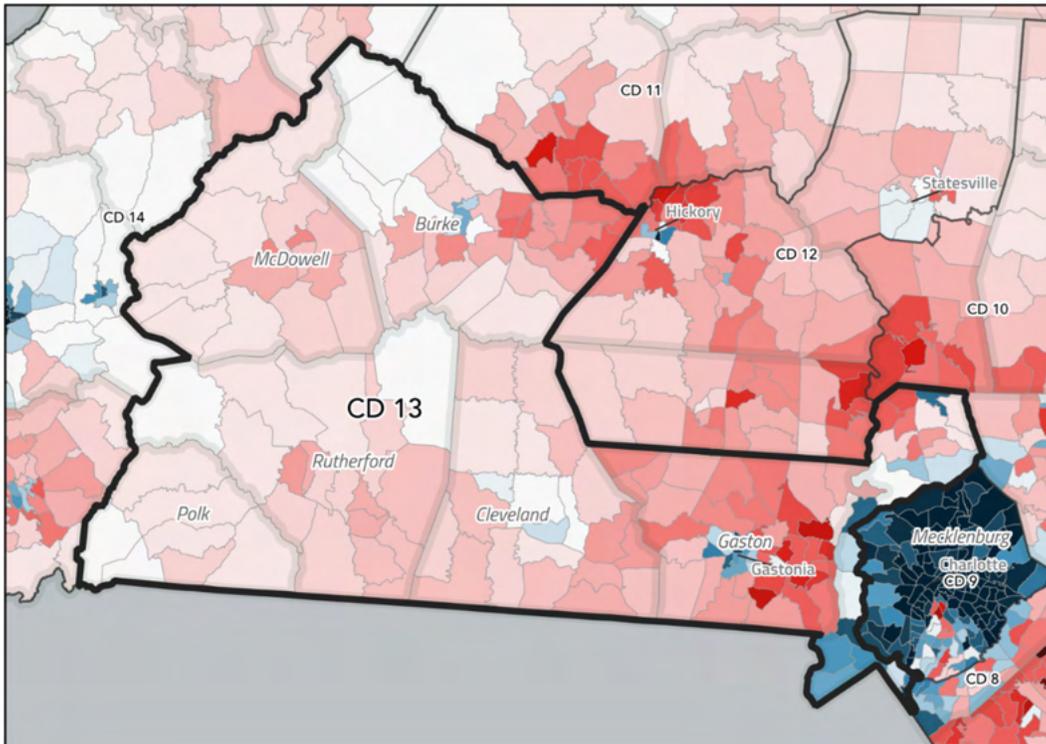
Salem, Statesville, and Hickory cannot elect a candidate of their choice.



143. In the 2020 presidential election, President Biden won only 43.4% of the vote in this new district.

Congressional District 13

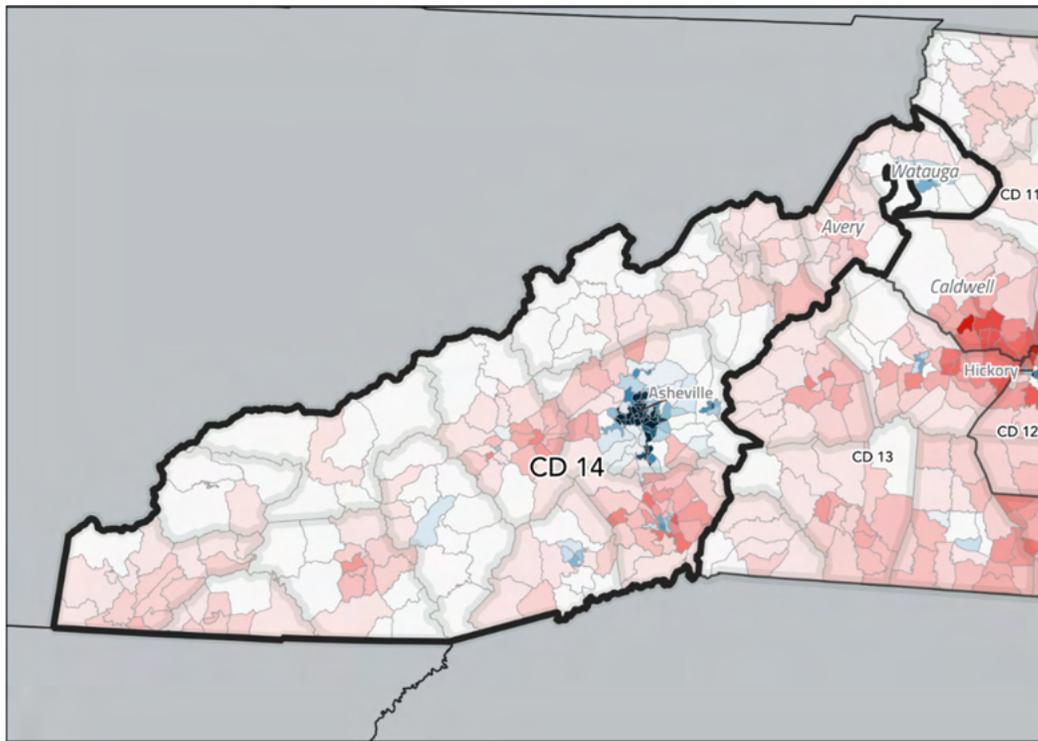
144. Akin to District 10 in the 2016 Congressional Plan, Legislative Defendants created a safe Republican seat in District 13 by combining voters from the cracked Mecklenburg County and from Gastonia with heavily rural and Republican counties to the west. While two incumbents are double bunched in neighboring District 11, no incumbent resides in District 13, which includes Defendant Speaker Moore’s residence.



145. The new District 13 performs as expected: President Biden won 39.2% of the vote here in the 2020 election.

Congressional District 14

146. Finally, similar to District 11 in the 2016 Congressional Plan, Legislative Defendants created a safe Republican seat in District 14 by capturing heavily Republican counties in the western part of the state, pairing them with Asheville's Democratic voters to ensure that they cannot elect a candidate of their choice. District 14 pairs Watauga County and Buncombe for the first time since the 1870s and meticulously avoids the Watauga County boot covering Republican incumbent Virginia Foxx.



147. Democrats have little chance of electing a candidate of their choice here:
President Biden won 46.3% of the vote here in 2020.

I. The 2021 Senate and House Plans pack and crack plaintiffs and other democratic voters to dilute their votes.

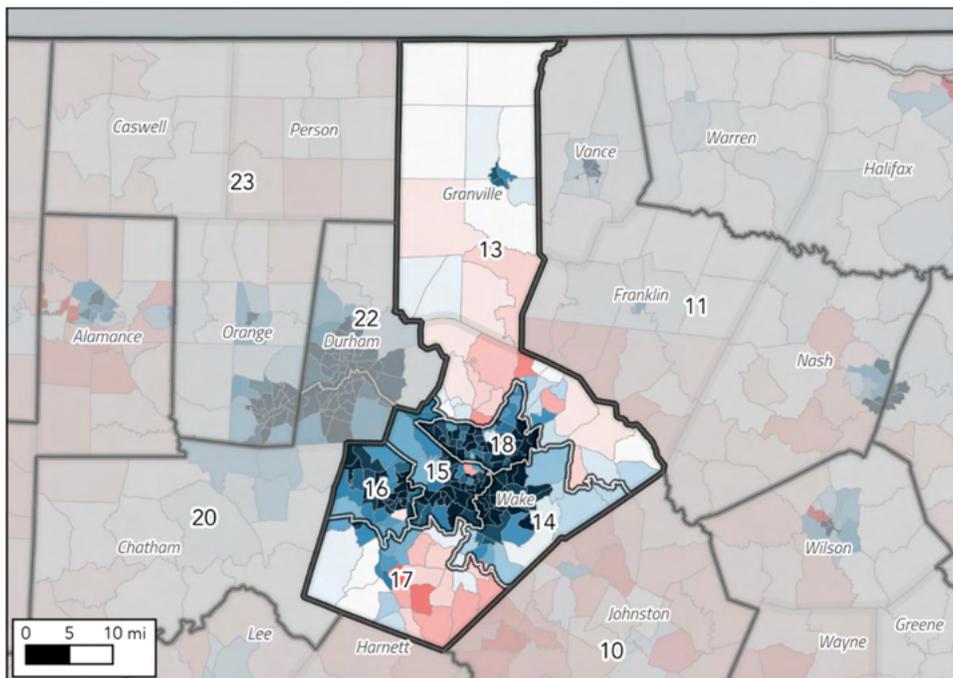
148. To maximize the number of Republican seats in the General Assembly, the 2021 Senate and House Plans meticulously pack and crack Democratic voters, including through

Legislative Defendants’ choice of county clusters in situations where the Whole County Rule left them with options. The sections below set forth some of the examples of packing and cracking of Democratic voters in the 2021 Senate and House Plans.

1. The 2021 Senate Plan packs and cracks Democratic voters.

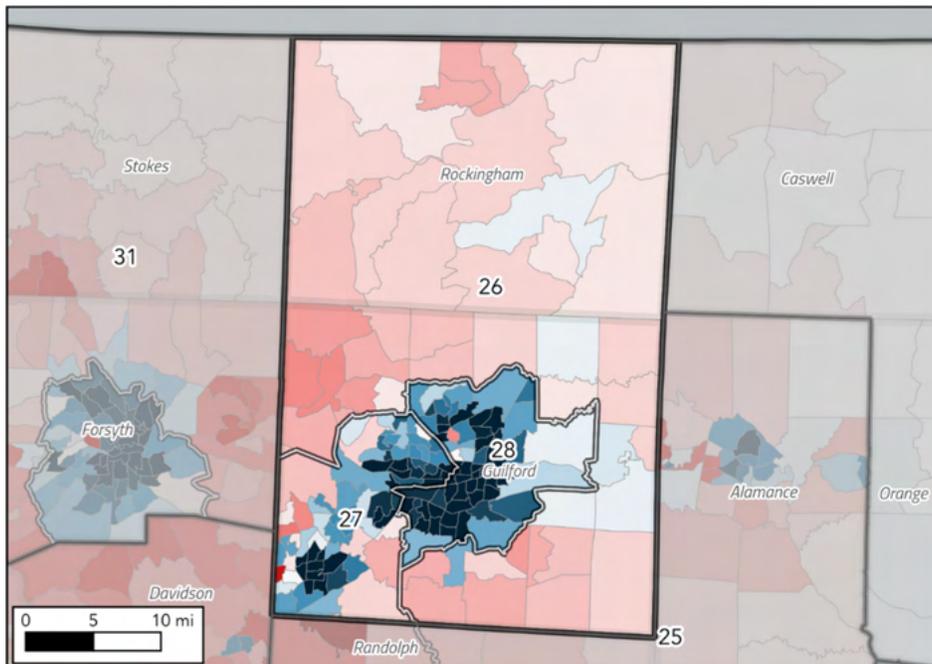
Granville-Wake Grouping (Senate Districts 13, 14, 15, 16, 17, and 18)

149. Like the 2021 Congressional Plan, the 2021 Senate Plan entrenches a statewide partisan advantage for Republicans in large part by strategically packing and cracking voters in the three largest Democratic Counties—Wake, Guilford, and Mecklenburg. Legislative Defendants packed Democratic voters in Wake County into four overwhelmingly Democratic districts as shown below (Districts 14, 15, 16, and 18). The upshot of this inefficient distribution of Democratic voters is that the 2021 Senate Plan produces a Republican seat in District 13, which pairs Democratic VTDs in northern Wake County with Republican Granville County. Moreover, the configuration of Districts 17 and 13 are similar to Districts 17 and 18 in the 2017 Senate Plan that was struck down as an unlawful gerrymander in *Common Cause*.



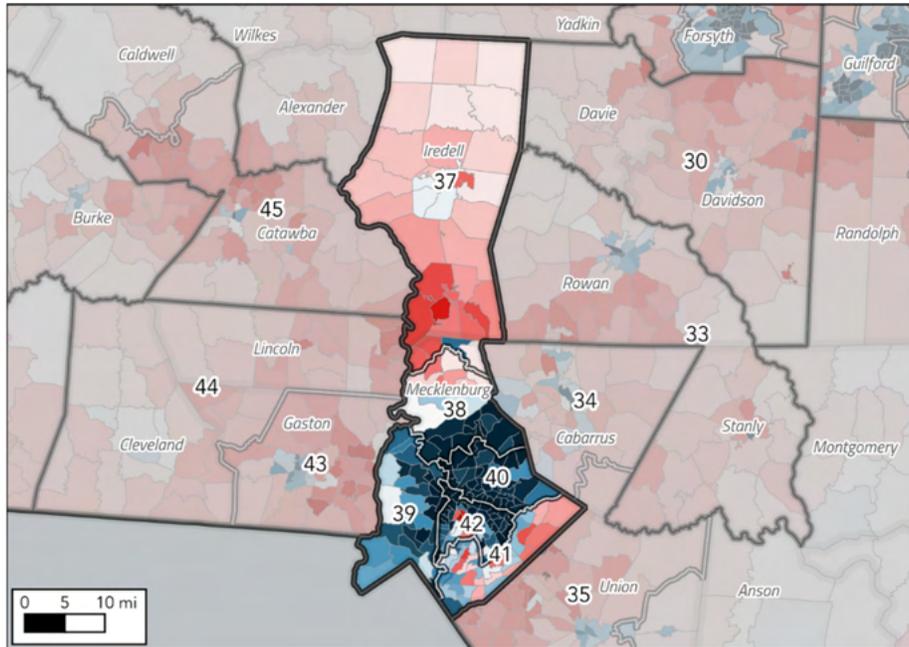
Guilford-Rockingham Grouping (Senate Districts 26, 27, and 28)

150. In heavily Democratic Guilford County, Legislative Defendants packed Democratic voters into two districts (District 27 and 28) that the Democratic candidate will win by overwhelming margins. Legislative Defendants then combined Guilford County’s remaining voters with voters in heavily Republican Rockingham County to the north, creating a safe Republican seat in District 26 as shown below.



Iredell-Mecklenburg Grouping (Senate Districts 37, 38, 39, 40, 41, and 42)

151. Legislative Defendants further entrenched a statewide partisan advantage in the Senate Plan by packing and cracking Democratic voters in Mecklenburg County. The 2021 Senate Plan packs Mecklenburg voters into four overwhelming Democratic seats—Districts 38, 39, 40, and 42. Legislative Defendants then combined the remaining Democratic VTDs in northern Mecklenburg County with Iredell County to produce a safe Republican seat (District 37), in which Democratic voters have no meaningful opportunity to elect a candidate of their choice.

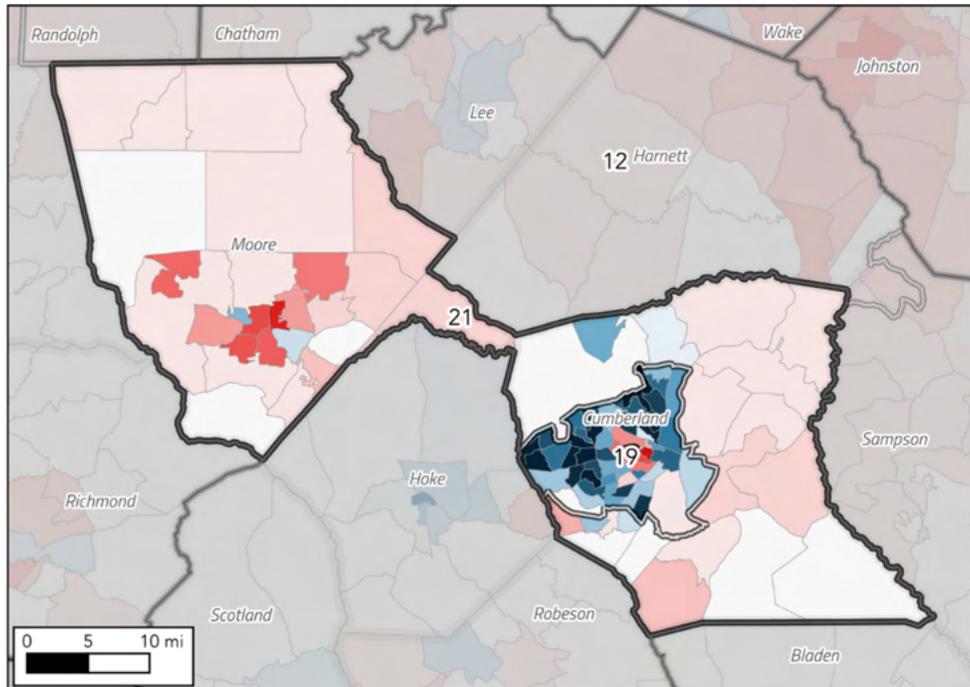


Buncombe-McDowell-Burke Grouping (Senate Districts 43, 44, 46, 48, 49)

152. Although Legislative Defendants had two clustering options for these five districts, including combining heavily Democratic Buncombe County with the more Democratic Henderson and Polk Counties, they chose instead to combine Buncombe County with McDowell and Burke to enable the creation of a packed Buncombe district and a Republican-favoring district in McDowell and Burke.

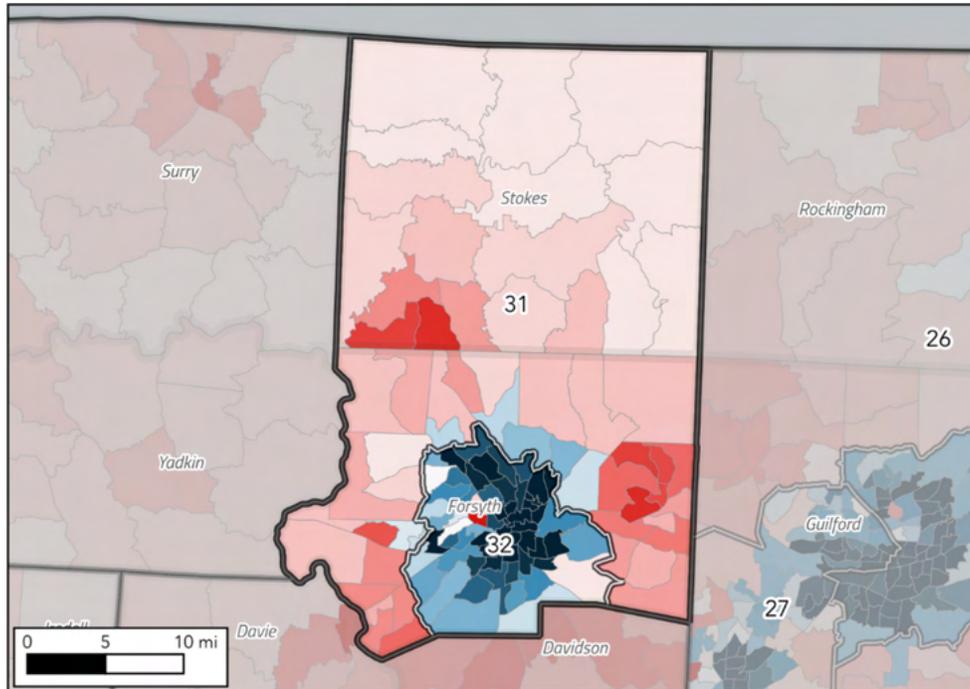
Cumberland-Moore Grouping (Senate Districts 19 and 21)

153. Legislative Defendants gerrymandered heavily Democratic Cumberland County by packing Cumberland’s most Democratic VTD’s into District 19, creating an overwhelming Democratic district. Legislative Defendants then combined Cumberland’s remaining VTDs with heavily Republican Moore County, ensuring that Democratic voters in this district have no meaningful opportunity to elect a candidate of their choice. This configuration also split the town of Hope Mills.



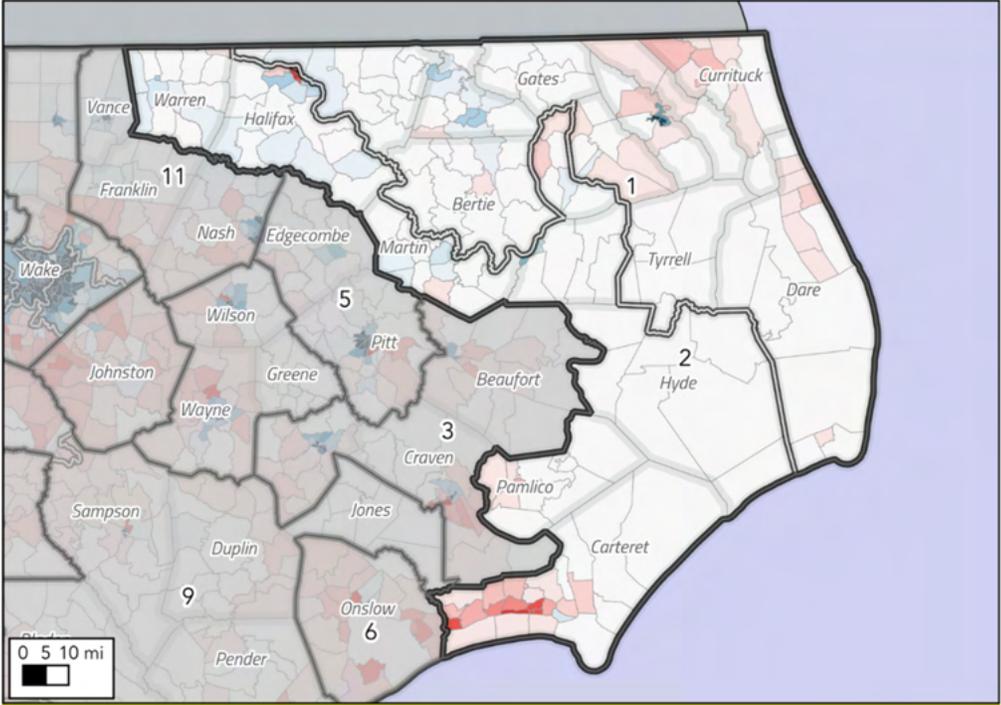
Forsyth-Stokes Grouping (Senate Districts 31, 32, and 36)

154. Legislative Defendants further diluted Democratic voting power throughout the 2021 Senate Plan by needlessly packing Democratic voters in Forsyth County into District 32, which Democrats will regularly win by overwhelming margins. By creating a packed District 32, Legislative Defendants ensured that Forsyth County’s remaining Democratic voters are unable to elect a candidate of their choice by combining them with heavily Republican Stokes County to create a safe Republican seat in District 31. Legislative Defendants were not required by the Whole County Rule to combine Forsyth County with Stokes County, but did so because that combination was more favorable to Republicans.

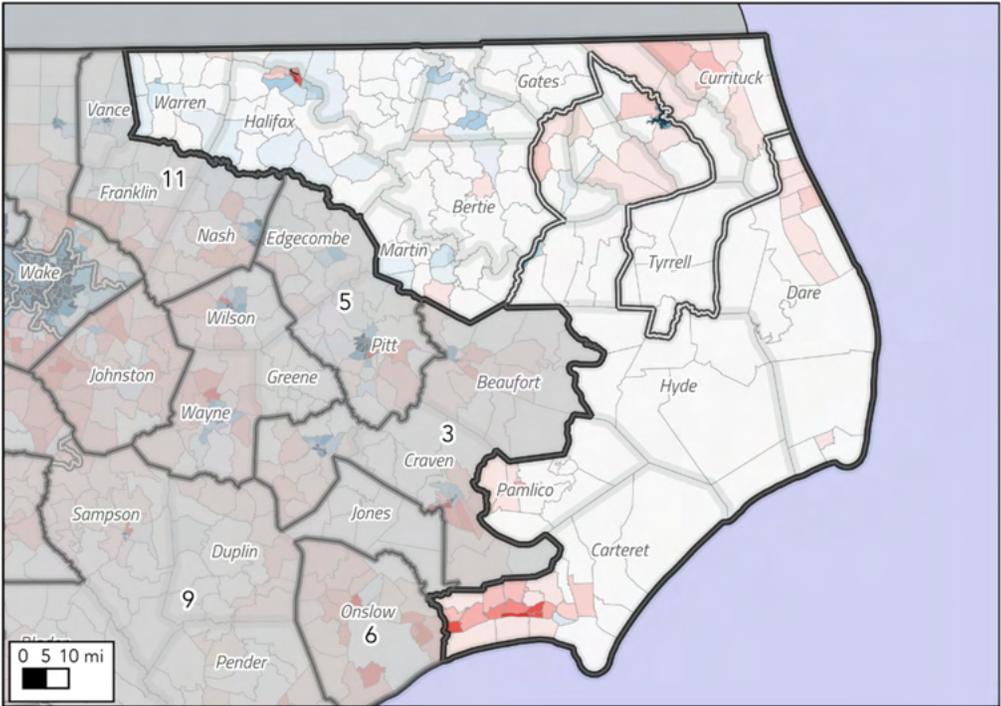


Northeast Grouping (Senate Districts 1 and 2)

155. Legislative Defendants further diluted Democratic voting power by cracking Democratic voters in the state’s northeastern quadrant. Although residents of the heavily Democratic Counties of Bertie, Hertford, Northampton, Halifax, and Warren could have been grouped into a single district, Legislative Defendants divided this Democratic cluster of counties between Districts 1 and 2. The upshot of this biased configuration is that Districts 1 and 2 are safe Republican seats, ensuring that voters in this heavily Democratic portion of the state have no meaningful opportunity to elect a member of their choice.



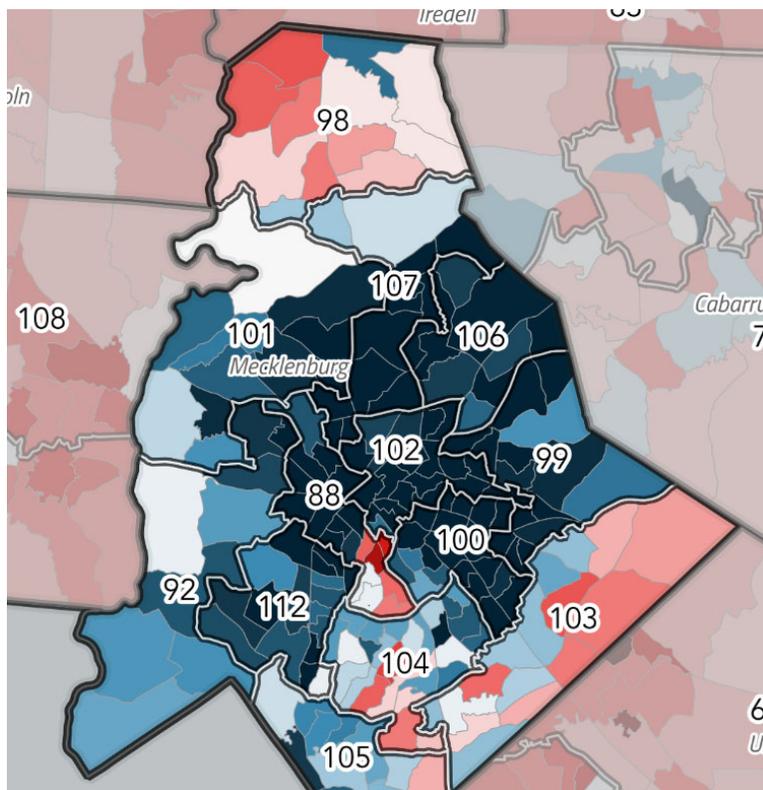
156. As shown below, the alternative grouping of these counties would have given Democrats in heavily Democratic of Bertie, Hertford, Northampton, Halifax, and Warren Counties a meaningful chance of electing a member of their choice:



2. The 2021 House Plan packs and cracks Democratic voters.

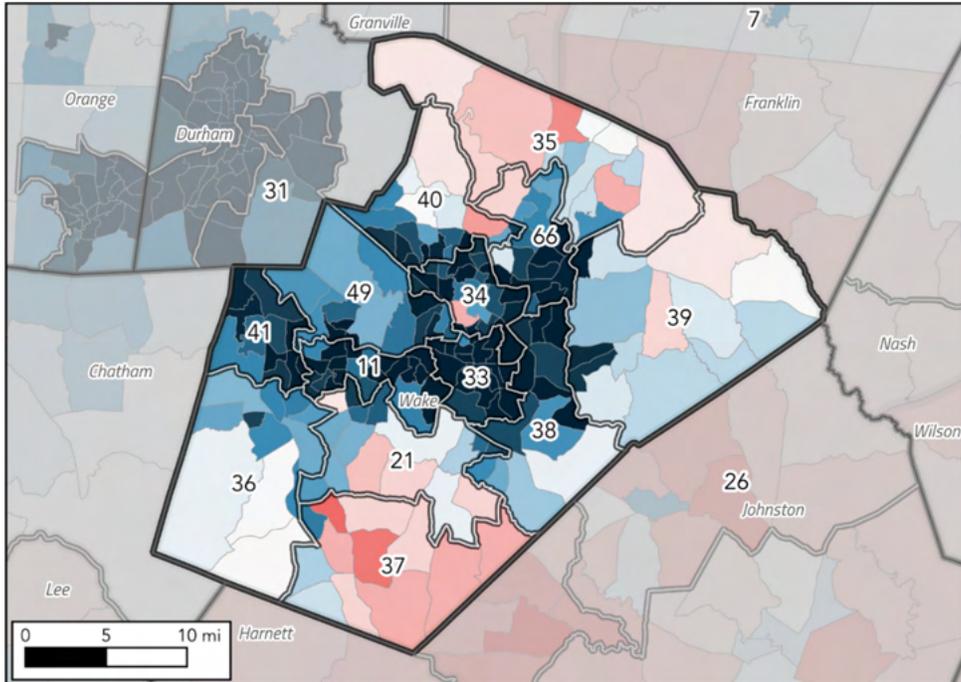
Mecklenburg County (House Districts 88, 92, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 112)

157. Legislative Defendants entrenched their majority in the House by strategically packing Democratic voters throughout Mecklenburg County. By packing Mecklenburg voters into a handful of overwhelming Democratic districts as shown in the image below, Legislative Defendants created two districts (House Districts 98 and 103) favorable to Republicans.



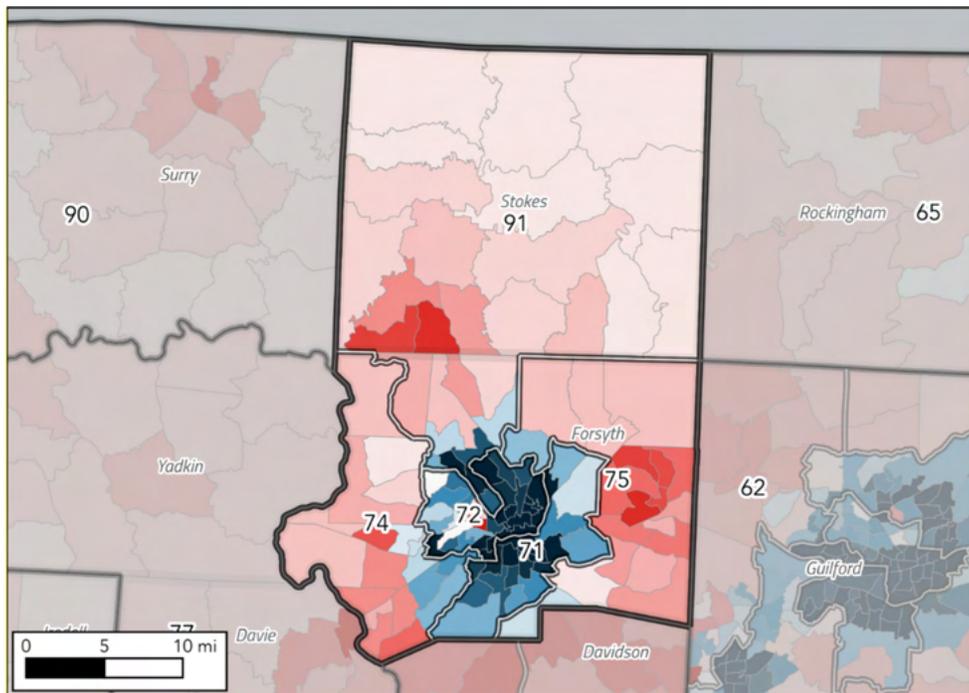
Wake County (House Districts 11, 21, 33, 34, 35, 36, 37, 38, 39, 40, 41, 49)

158. As with the cluster of House Districts in Mecklenburg, Legislative Defendants further diluted Democratic voting power in Wake County and in turn statewide by packing Wake Democrats into a handful of overwhelmingly safe districts, enabling the creation of two Republican-leaning districts (House Districts 35 and 37).



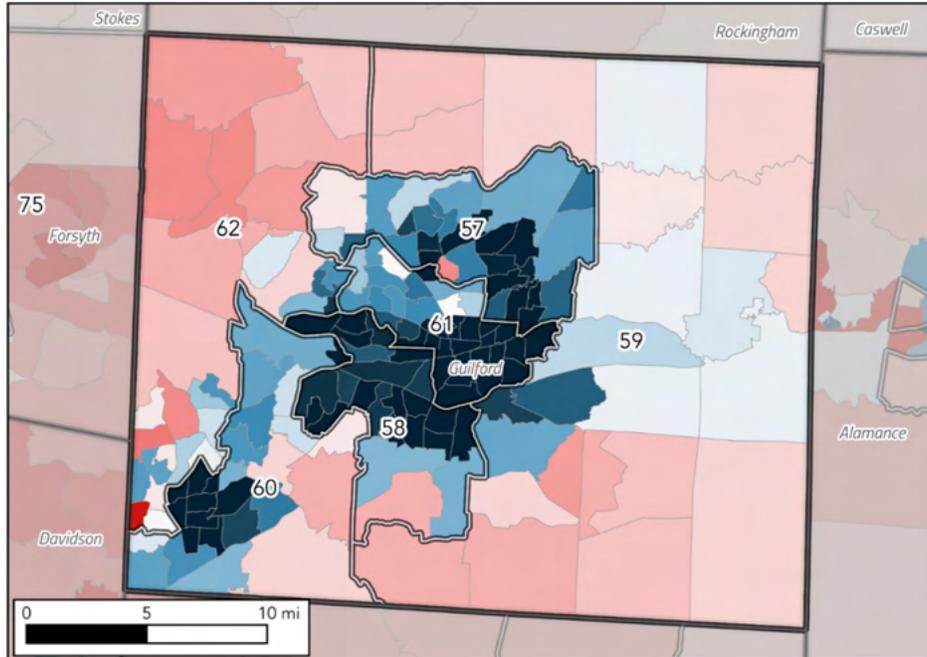
Forsyth-Stokes Grouping (House Districts 71, 72, 74, 75, 91)

159. Legislative Defendants further diluted Democratic voting power throughout the 2021 House Plan by needlessly packing Democratic voters in Forsyth County's Winston-Salem area into two overwhelmingly Democratic districts (Districts 71 and 72). Forsyth County's remaining VTDs are then distributed into two oddly shaped safe Republican districts where Democratic voters have no meaningful opportunity to elect candidates of their choice (Districts 75 and 91) and a third district that favors Republicans (District 74).



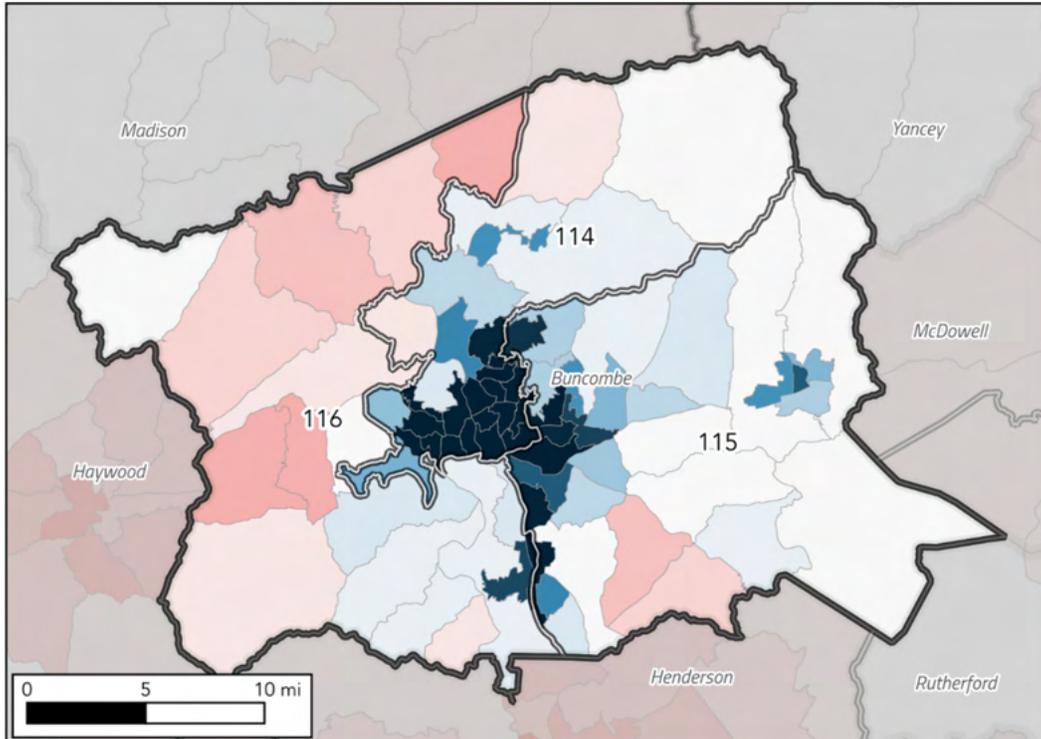
Guilford County (House Districts 57, 58, 59, 60, 61, 62)

160. Legislative Defendants further eroded Democratic voting power statewide by unnecessarily packing Democratic voters in Guilford County. The 2021 House Plan packs Guilford County Democrats into four overwhelmingly Democratic districts (Districts 57, 58, 60, and 61) in order to carve out two Republican districts (Districts 59 and 62).



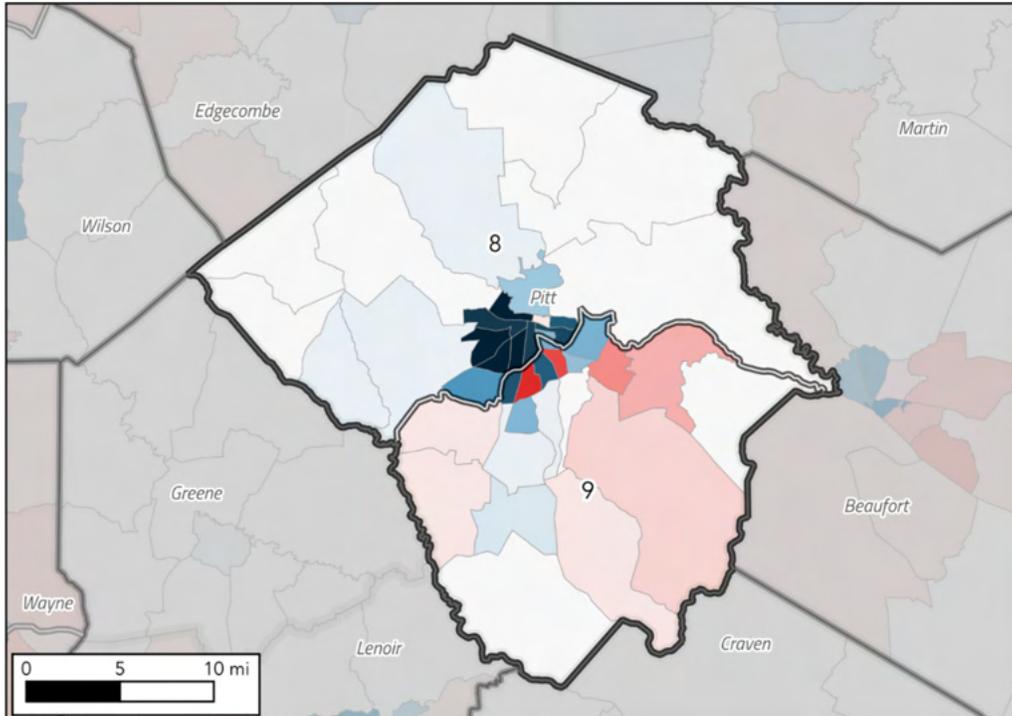
Buncombe County (House Districts 114, 115, 116)

161. Legislative Defendants further cemented their majority in the House by artificially creating a Republican district in heavily Democratic Buncombe County. The 2021 House Plan packs Democrats into two overwhelmingly Democratic seats (Districts 114 and 115) in order to carve out a Republican seat in District 116.



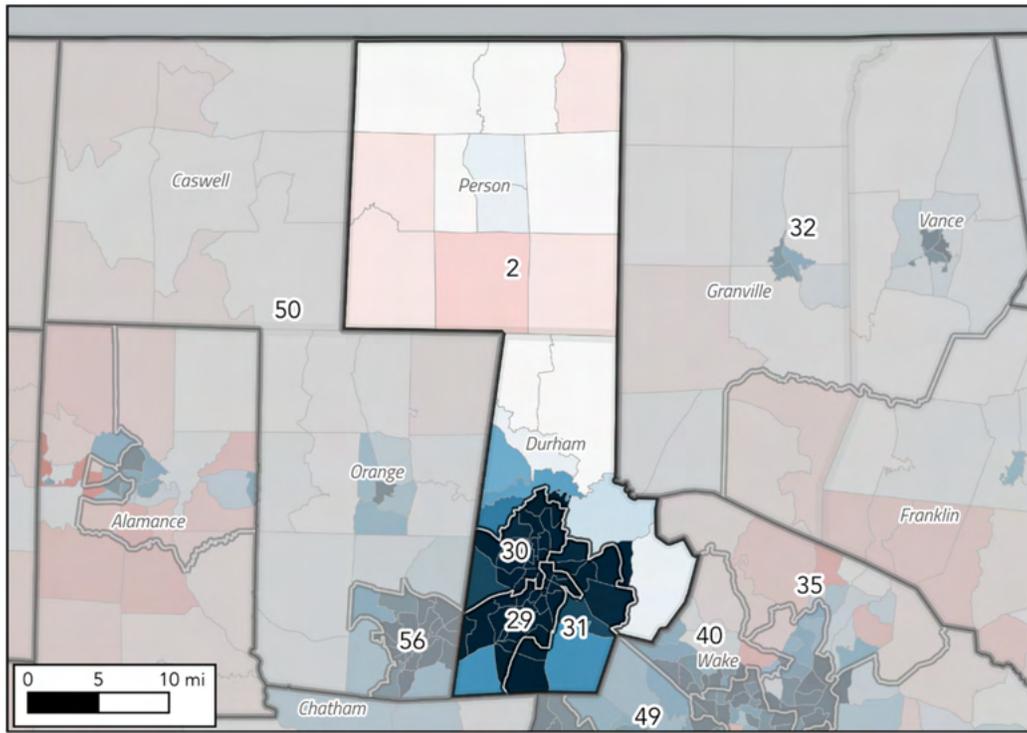
Pitt County (House Districts 8 and 9)

162. Legislative Defendants created a Republican House District in heavily Democratic Pitt County by packing Pitt County's most Democratic VTDs into District 8. The upshot of this manipulation of district boundaries is that District 8 is an overwhelmingly safe Democratic seat, while District 9 narrowly favors the Republicans.



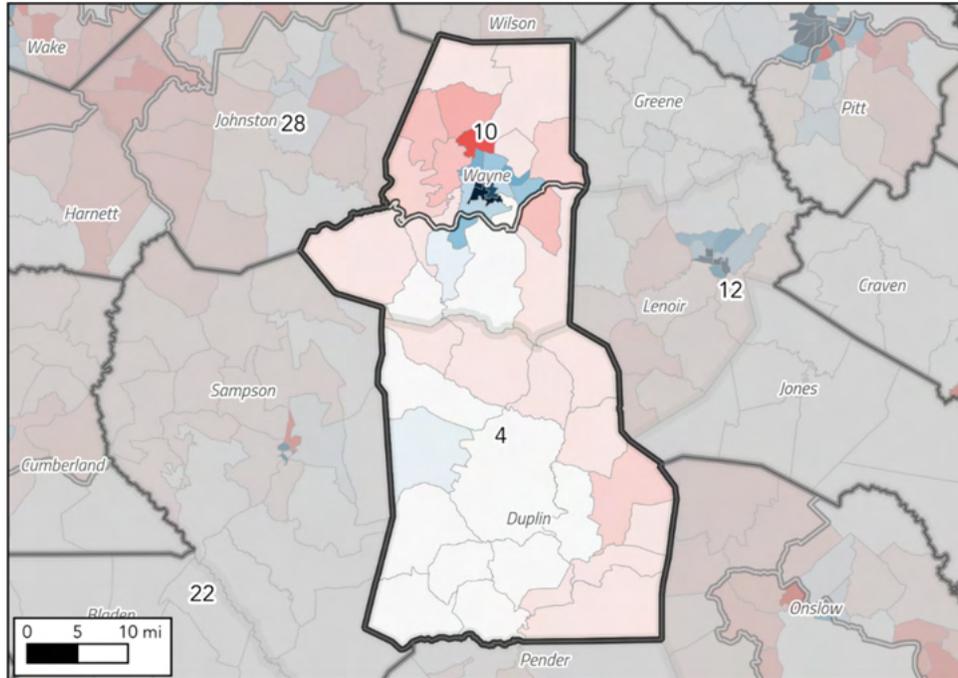
Durham-Person Grouping (House Districts 2, 29, 30, and 31)

163. Legislative Defendants manipulated district lines in heavily Democratic Durham County, packing the County's most heavily Democratic VTDs into districts 29, 30, and 31 to allow for a Republican seat in District 2.



Duplin-Wayne Grouping (House Districts 4, 10, 14, 15, 16, and 22)

164. Legislative Defendants cracked Democratic voters in Wayne County between Districts 4 and 10. As a result of this cracking, Districts 4 and 10 are safe Republican seats in which Democratic voters have no meaningful opportunity to elect a candidate of their choice. The Whole County Rule did not require Legislative Defendants to pair Wayne and Duplin Counties.



COUNT ONE
Violation of the North Carolina Constitution's
Free Elections Clause, Art. I, § 10

165. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

166. Article I, Section 10 of the North Carolina Constitution, which has no counterpart in the U.S. Constitution, provides that “All elections shall be free.”

167. North Carolina’s Free Elections Clause traces its roots to the 1689 English Bill of Rights, which declared that “Elections of members of Parliament ought to be free.” Bill of Rights 1689, 1 W. & M. c. 2 (Eng.); see John V. Orth, *North Carolina Constitutional History*, 70 N.C. L. Rev. 1759, 1797–98 (1992).

168. This provision of the 1689 English Bill of Rights was a product of the king’s efforts to manipulate parliamentary elections, including by changing the electorate in different areas to achieve “electoral advantage.” J.R. Jones, *The Revolution of 1688 in England* 148 (1972). The king’s efforts to maintain control of parliament by manipulating elections led to a revolution. After dethroning the king, the revolutionaries called for a “free and lawful parliament” as a critical reform. Grey S. De Krey, *Restoration and Revolution in Britain: A Political History of the Era of Charles II and the Glorious Revolution* 241, 247-48, 250 (2007).

169. North Carolina has strengthened the Free Elections Clause since its adoption to reinforce its principal purpose of preserving the popular sovereignty of North Carolinians. The original clause, adopted in 1776, provides that “elections of members, to serve as Representatives in the General Assembly, ought to be free.” N.C. Declaration of Rights, VI (1776). Nearly a century later, North Carolina revised the clause to state that “[a]ll elections ought to be free,” thus expanding the principle to include all elections in North Carolina. N.C. Const. art. I, § 10 (1868). And another century later, North Carolina adopted the current version which provides that “[a]ll elections *shall* be free.” As the North Carolina Supreme Court later explained, this change was

intended to “make [it] clear” that the Free Elections Clause and the other rights secured to the people by the Declaration of Rights “are commands and not mere admonitions” to proper conduct on the part of the government. *N.C. State Bar v. DuMont*, 304 N.C. 627, 635, 639 (1982) (internal quotations omitted).

170. Based on the text and history of North Carolina’s Free Elections Clause, “the meaning of the Free Elections Clause is that elections must be conducted freely and honestly to ascertain, fairly and truthfully, the will of the people.” Order on Inj. Relief at 6. “[E]xtreme partisan gerrymandering—namely redistricting plans that entrench politicians in power, that evince a fundamental distrust of voters by serving the self-interest of political parties over the public good, and that dilute and devalue votes of some citizens compared to others—is contrary to the fundamental right of North Carolina citizens to have elections conducted freely and honestly to ascertain, fairly and truthfully, the will of the people.” *Id.* at 7.

171. “[P]artisan gerrymandering . . . strikes at the heart of the Free Elections Clause.” *Common Cause v. Lewis*, 18-CVS-014001, slip op. at 305. “[E]xtreme partisan gerrymandering—namely redistricting plans that entrench politicians in power, that evince a fundamental distrust of voters by serving the self-interest of political parties over the public good, and that dilute and devalue votes of some citizens compared to others—is contrary to the fundamental right of North Carolina citizens to have elections conducted freely and honestly to ascertain, fairly and truthfully, the will of the people.” *Id.* at 302. Simply put, “[e]lections are not free when partisan actors have tainted future elections by specifically and systematically designing the contours of the election districts for partisan purposes and a desire to preserve power.” *Id.* at 305.

172. The 2021 Plans violate the Free Elections Clause in the same way as the invalidated 2016 Plan and 2017 state legislative plans. In creating the 2021 Plan, Legislative Defendants

“specifically and systematically design[ed] the contours of the election districts for partisan purposes and a desire to preserve power.” *Id.* at 305. The 2021 Plans “unlawfully seek to predetermine election outcomes in specific districts” and across the state as a whole. *Id.* Because of Legislative Defendants’ extreme partisan gerrymandering of the 2021 Plans, congressional and state legislative elections in North Carolina are not “conducted freely and honestly to ascertain, fairly and truthfully, the will of the people.” *Id.* at 302. For example, the 2021 Congressional Plan takes the three largest Democratic counties in the state and trisects each one among different congressional districts, effectively diluting Democratic voting power throughout the state. And it packs the remaining Democratic strongholds into a handful of congressional districts, resulting in a map that produces 10 safe Republican seats, 3 safe Democratic seats, and 1 competitive seat. The 2021 Senate and House Plans entrench Republican majorities through similarly meticulous packing and cracking of Democratic voters throughout North Carolina.

COUNT TWO
Violation of the North Carolina Constitution’s
Equal Protection Clause, Art. I, § 19

173. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

174. Article I, Section 19 of the North Carolina Constitution provides in relevant part that “[n]o person shall be denied the equal protection of the laws.”

175. North Carolina’s Equal Protection Clause affords broader protections to its citizens in the voting rights context than the U.S. Constitution’s equal protection provisions. *See Stephenson v. Bartlett*, 355 N.C. 354, 376–81 & n.6 (2002); *Blankenship v. Bartlett*, 363 N.C. 518, 523–24, (2009).

176. Irrespective of its federal counterpart, North Carolina’s Equal Protection Clause protects the right to “substantially equal voting power.” *Stephenson*, 355 N.C. at 379. “It is well settled in this State that the right to vote on equal terms is a fundamental right.” *Id.* at 378 (internal

quotation marks omitted). Thus, the North Carolina Supreme Court has enforced the State’s Equal Protection Clause to invalidate other redistricting schemes, such as the combined use of single-member and multi-member districts in a redistricting plan that “impermissibl[y] distin[guished] among similarly situated citizens” and thus “necessarily implicate[d] the fundamental right to vote on equal terms.” *Id.* at 377–78.

177. Partisan gerrymandering violates North Carolina’s Equal Protection Clause. “[P]artisan gerrymandering runs afoul of the State’s obligation to provide all persons with equal protection of law because, by seeking to diminish the electoral power of supporters of a disfavored party, a partisan gerrymander treats individuals who support candidates of one political party less favorably than individuals who support candidates of another party.” Order on Inj. Relief at 8.

178. The 2021 Plans violate North Carolina’s Equal Protection Clause in the same ways as the invalidated 2016 Plan and 2017 state legislative plans. In drawing the new congressional map, Legislative Defendants “acted with the intent, unrelated to any legitimate legislative objection, to classify voters and deprive citizens of the right to vote on equal terms.” *Common Cause v. Lewis*, 18-CVS-014001, slip. op. at 312. Legislative Defendants drew and enacted maps for the House, Senate, and Congress that systematically discriminate against Democratic voters, and that cannot be explained in any other way. Legislative Defendants’ intent is laid bare by the packing and cracking of particular Democratic communities described above.

179. And, as with the 2016 Plan and 2017 state legislative plans, these efforts have produced discriminatory effects for Plaintiffs and other Democratic voters. On a statewide basis, Democrats will continue to receive far fewer congressional and state legislative seats than they would absent the gerrymander. The grossly disproportionate number of seats that Republicans have won and will continue to win in the congressional delegation and in the General Assembly

relative to their share of the statewide vote cannot be explained or justified by North Carolina’s political geography or any legitimate redistricting criteria. The packing and cracking of Democratic voters under the 2021 Plans burdens the representational rights of Democratic voters individually and as a group, and discriminates against Democratic candidates and organizations individually and as a group. “[P]acking dilutes the votes of Democratic voters such that their votes, when compared to the votes of Republican voters, are substantially less likely to ultimately matter in deciding the election results.” *Common Cause*, 18-CVS-014001, slip. op. at 314. And “the entire purpose of cracking likeminded voters across multiple districts is so they do not have sufficient ‘voting power’ to join together and elect a candidate of their choice.” *Id.* Legislative Defendants can offer no legitimate justification for their overriding partisan intent in drawing the 2021 Plan.

COUNT THREE
Violation of the North Carolina Constitution’s
Freedom of Speech and Freedom of Assembly Clauses, Art. I, §§ 12 & 14

180. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

181. Article I, § 12 of the North Carolina Constitution provides in relevant part: “The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances.”

182. Article I, § 14 of the North Carolina Constitution provides in relevant part: “Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained.”

183. “There is no right more basic in our democracy than the right to participate in electing our political leaders—including, of course, the right to vote.” Order on Inj. Relief, *Harper I*, at 9. “Political belief and association constitute the core of those activities protected by the First Amendment.” *Id.* And in North Carolina, “the right to assembly encompasses the right of association.” *Id.* “[F]or elections to express the popular will, the right to assemble and consult for

the common good must be guaranteed.” *Id.* (quoting John V. Orth, *The North Carolina State Constitution* 48 (1995)).

184. Irrespective of the U.S. Constitution, the 2021 Plan violates Article I, § 14 of the North Carolina Constitution by “burden[ing] protected expression based on viewpoint by making Democratic votes less effective.” *Common Cause*, 18-CVS-014001, slip. op. at 322. Legislative Defendants “identified certain preferred speakers (e.g., Republican voters), while targeting certain disfavored speakers (e.g., Democratic voters) because of disagreement with the views they express when they vote.” Order on Inj. Relief, *Harper I*, at 10. Legislative Defendants singled out Democratic voters for disfavored treatment by packing and cracking them into districts with the aim of diluting their votes and, in the case of cracked districts, ensuring that these voters are significantly less likely, in comparison to Republican voters, to be able to elect a candidate who shares their views. “The fact that Democratic voters can still cast ballots under gerrymandered maps changes nothing. The government unconstitutionally burdens speech where it renders disfavored speech *less effective*, even if it does not ban such speech outright.” *Common Cause*, 18-CVS-014001, slip. op. at 323.

185. Irrespective of the U.S. Constitution, the 2021 Plans independently violate Article I, § 12 because it “severely burden[s]—if not outright preclude[s]”—the ability of Democratic voters to associate by eroding their ability to “instruct” and “obtain redress” from their members of Congress and the General Assembly on issues important to them. *Common Cause*, 18-CVS-014001, slip. op. at 326-27.

186. Irrespective of the U.S. Constitution, the 2021 Plans independently violate Article I, Sections 12 and 14 of the North Carolina Constitution by retaliating against Plaintiffs and other Democratic voters based on their exercise of political speech. The 2021 Plans take adverse action

against Plaintiffs and other Democratic voters, retaliates against their protected speech and conduct, and would not have taken the adverse action but for Legislative Defendants' retaliatory intent to pack and crack Democratic voters because of their prior political speech and associations.

187. There is no legitimate state interest in discriminating and retaliating against Plaintiffs because of their political viewpoints, voting histories, and affiliations. Nor can the 2021 Plans be explained or justified by North Carolina's geography or any legitimate redistricting criteria.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants, and

a. Declare that the 2021 Plans are unconstitutional and invalid because they violate the rights of Plaintiffs and all Democratic voters in North Carolina under the North Carolina Constitution's Free Elections Clause, Art. I, § 10; Equal Protection Clause, Art. I, § 19; and Freedom of Speech and Freedom of Assembly Clauses, Art. I, §§ 12 & 14;

b. Enjoin Defendants, their agents, officers, and employees from administering, preparing for, or moving forward with the 2022 primary and general elections for Congress, the House, and Senate using the 2021 Plans;

c. Establish new congressional and state legislative districting plans that comply with the North Carolina Constitution, if the North Carolina General Assembly fails to enact new congressional and legislative districting plans comporting with the North Carolina Constitution in a timely manner;

d. Enjoin Defendants, their agents, officers, and employees from using past election results or other political data in any future redistricting of North Carolina's congressional and state legislative districts to intentionally dilute the voting power of citizens or groups of citizens based

on their political beliefs, party affiliation, or past votes;

e. Enjoin Defendants, their agents, officers, and employees from otherwise intentionally diluting the voting power of citizens or groups of citizens in any future redistricting of North Carolina's congressional or legislative districts based on their political beliefs, party affiliation, or past votes; and

f. Grant Plaintiffs such other and further relief as the Court deems just and appropriate.

Dated: December 12, 2021

By: /s/ Narendra K. Ghosh

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** *Pro hac vice* application pending

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *by email*, addressed to the following counsel for defendants:

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This the 12th day of December, 2021.

/s/ Narendra K. Ghosh
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