

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
NO. 1:15-CV-00399

SANDRA LITTLE COVINGTON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	DEFENDANTS' RESPONSE IN
v.)	OPPOSITION TO PLAINTIFFS'
)	MOTION TO EXCLUDE
STATE OF NORTH CAROLINA, <i>et al.</i>)	TESTIMONY BY SEAN TRENDE
)	
Defendants.)	
_____)	

On March 21, 2016, three weeks before trial, and four months after plaintiffs were required to disclose their expert witnesses (*See* D.E. 25, Scheduling Order), plaintiffs filed a motion to strike the testimony of defendants' expert Sean Trende. Plaintiffs' motion was supported by a previously unidentified expert who submitted a previously undisclosed affidavit. For the following reasons, the undisclosed expert's affidavit should be stricken and plaintiffs' motion denied.

I. BACKGROUND

On November 5, 2015, the parties entered into a joint stipulation concerning evidence and testimony previously admitted in the state court cases of *Dickson v. Rucho*, CA No. 11-CVS-16890, and *NC NAACP v. State of North Carolina*, CA No. 11-CVS-16940 (Wake County Superior Court) ("*Dickson*"). In relevant part, the stipulation expressly states that expert reports from *Dickson* may be received into evidence in this case subject only to objections under Rules 402 and 403 of the Federal Rules of Evidence. (D.E. 28, *Covington* First Joint Stipulation) The expert who is the subject of

this motion, Sean Trende, gave a report in *Dickson* that was received into evidence (*See* Ex. 1, *Dickson* Revised Affidavit of Sean Trende (December 10, 2012)).

On November 30, 2015, defendants produced Mr. Trende's expert report in this case (D.E. 79-1, Plaintiffs' Motion to Exclude Testimony by Sean Trende, Ex. A, *Covington*, Declaration of Sean Trende (11-30-15)). The report updates the report Mr. Trende prepared in *Dickson*. It also includes some additional analysis supplementing the conclusions offered in *Dickson* and also to be offered in this case: redistricting plans drawn by Republicans favored Republicans and redistricting plans drawn by Democrats or their political allies favored Democrats.

Only two weeks after defendants disclosed their experts, on December 16, 2015, defendants advised plaintiffs that they intended to offer testimony by Dr. Stephen Ansolabehere and Dr. Barry Burden. Dr. Ansolabehere has been an expert for plaintiffs' counsel and the plaintiffs in *Harris v. McCrory*, 1:13-CV-949 (M.D.N.C.) and the testimony defendants intended to offer came from the report Dr. Ansolabehere prepared in that case. Similarly, defendants notified plaintiffs that they intended to offer testimony from a report offered by Dr. Barry Burden for the NC NAACP plaintiffs in *North Carolina State Conference of the NAACP v. McCrory*, No. 1:13-CV-658 (M.D.N.C.) Plaintiffs' attorneys in this case had been in the possession of the Ansolabehere and Burden reports for months. The testimony defendants intended to offer by Dr. Ansolabehere and Dr. Burden was limited, specific, and well known to plaintiffs' counsel.

On January 27, 2016, plaintiffs moved to “enforce the scheduling order” and requested that this court bar testimony by either Dr. Ansolabehere or Dr. Burden. Plaintiffs’ argued that they had been prejudiced because defendants notified plaintiffs of their intent to offer this testimony two weeks after the deadline for disclosing expert witnesses. On February 10, 2016 the Court granted plaintiffs’ motion. (D.E. 57)

On March 21, 2016, three weeks before trial and after the close of discovery, plaintiffs filed the pending motion to exclude testimony by Mr. Trende. The only supporting evidence submitted by plaintiffs is the affidavit of Dr. James Stimson who had not previously been disclosed as an expert witness. Dr. Stimson’s affidavit operates as a rebuttal report of Mr. Trende’s report. Plaintiffs filed this motion even though they had already stipulated that the report prepared by Mr. Trende in December of 2012 could be admitted into evidence subject only to objections under Rules 402 and 403.

II. ARGUMENT

1. There is no basis for striking any of Mr. Trende’s reports or testimony.

Rule 702 of the Federal Rules of Evidence provides as follows:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

The Supreme Court held in *Daubert v. Merrell Dow Pharms.*, 509 U.S. 579, 589 (1993), that pursuant to Rule 702, “the trial judge must ensure that any and all scientific testimony or evidence admitted is not only relevant, but reliable.”

Under *Daubert*, “a trial judge, faced with a proffer of expert scientific testimony, must conduct ‘a preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid and of whether that reasoning or methodology properly can be applied to the facts in issue.’” *Cooper v. Smith & Nephew, Inc.*, 259 F.3d 194, 199 (4th Cir. 2001) (quoting *Daubert*, 509 U.S. at 592-93). The Supreme Court enunciated several factors in *Daubert* which the trial court may use in performing its “gatekeeping” role, but these factors are “neither definitive, nor exhaustive.” *Id.* The trial court has broad discretion in making its determination regarding the admissibility of expert testimony. *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 142 (1999) (stating that “the law grants a district court the same broad latitude when it decides how to determine reliability as it enjoys in respect to its ultimate reliability determination”); *Cooper*, 259 F.3d at 200. The court applying the *Daubert* analysis is not obliged prior to admitting the testimony to “determine that the proffered expert testimony is irrefutable or certainly correct,” because, “[a]s with all other admissible evidence, expert testimony is subject to testing by vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof.” *United States v. Moreland*, 437 F.3d 424, 431 (4th Cir. 2006) (internal quotation marks omitted) *overruled on other grounds U.S. v. Foote* 764 F.3d 931 (4th Cir. 2015).

The expert report which plaintiffs challenge here will be offered in a trial where judges will be the trier of fact, which means there is no jury to protect from undue influence. *See, e.g., Smith v. Ford Motor Co.*, 215 F.3d 713, 718 (7th Cir. 2000) (“When making these determinations, the district court functions as a ‘gatekeeper’ whose role is to keep experts within their proper scope, lest apparently scientific testimony carry more weight with the jury than it deserves.”) (internal quotation marks omitted); *Gibbs v. Gibbs*, 210 F.3d 491, 500 (5th Cir. 2000) (“Most of the safeguards provided for in *Daubert* are not as essential in a case such as this where a district judge sits as the trier of fact in place of a jury.”); *Seaboard Lumber Co. v. United States*, 308 F.3d 1283, 1301-02 (Fed. Cir. 2002) (noting that a “concern underlying the rule in *Daubert* is that without this screening function, the jury might be exposed to confusing and unreliable expert testimony,” and although the court must apply the *Daubert* standards in a bench trial, “these concerns are of lesser import”). In a bench trial, should the trial court find the case for admissibility to be weak, the evidence should be admitted but given little weight. *See SmithKline Beecham Corp. v. Apotex Corp.*, 247 F. Supp. 2d 1011, 1042 (N.D. Ill. 2003) (finding that in a bench trial “it is an acceptable alternative to admit evidence of borderline admissibility and give it the (slight) weight to which it is entitled,” and stating that “*Daubert* requires a binary choice--admit or exclude--and a judge in a bench trial should have discretion to admit questionable technical evidence, though of course he must not give it more weight than it deserves”).

Plaintiffs’ motion should be denied for several reasons. First, plaintiffs have waived any right to object to Mr. Trende’s testimony by signing a stipulation allowing his

Dickson report to be admitted into evidence subject only to objections for relevance. It is illogical to think that Mr. Trende's *Dickson* report can come into evidence but that Mr. Trende is barred from explaining his report. Defendants relied upon this stipulation in naming Mr. Trende as an expert in this case and cannot at this late stage locate a substitute expert.

Second, Mr. Trende is more than qualified by training and experience to render an opinion. He has a B.A. degree from Yale University with a double major in history and political science. He has a J.D. and an M.A. in political sciences from Duke University. He joined Real Clear Politics in January of 2009. In 2010 he became their Senior Elections Analyst. Real Clear Politics is one of the most heavily trafficked political websites in the world. It is a recognized pioneer in the field of poll capsulation and is routinely cited by influential voices in politics including David Brooks of the *New York Time* and Britt Hume of *Fox News*, Michael Barone of the *Almanac of American Politics*, Paul Gigot of the *Wall Street Journal*, and Peter Beinart of *The New Republic*. (D.E. 79-1, ¶¶ 6-11).

Mr. Trende's main responsibilities with Real Clear Politics consist of tracking, analyzing, and writing about elections. He is responsible for rating the competitiveness of U.S. House of Representatives races and collaborates in rating the competitiveness of presidential, senate and gubernatorial races. Mr. Trende's election predictions have proven more reliable than predictions made by the three best-know election analysts in the nation (Stewart Rothenburg, Larry Sabato, and Charlie Cook). (D.E. 79-1, ¶¶ 12-198). Mr. Trende is engaged by Dr. Larry Sabato as a columnist for his publication,

“Crystal Ball.” Mr. Trende co-authored the 2014 Almanac of American Politics. He has authored books and articles on American Politics and has appeared on many national network shows to discuss politics and make election predictions. (*Id.* at ¶¶ 19-27). He has given expert testimony in three other voting rights cases. (*Id.* at ¶¶ 28-30).

In short, Mr. Trende is a nationally recognized expert in evaluating districts and predicting election results. His business is to analyze districts and to make predictions on likely election outcomes. It is baseless for plaintiffs to contend that Mr. Trende lacks the education or experience to offer an opinion in this case, particularly given their stipulation that his report prepared for the *Dickson* case may be submitted into evidence subject only to relevancy objections.

Plaintiffs argue that Mr. Trende is not qualified to render an opinion concerning the partisan slant of the challenged provisions because he does not have a Ph.D., is not a political scientist, and has not authored any peer-reviewed articles. While these facts might go to the weight of Mr. Trende’s testimony, they do not disqualify him as an expert.

As the Seventh Circuit observed:

While extensive academic and practical expertise in an area is certainly sufficient to qualify a potential witness as an expert, Rule 702 specifically contemplates the admission of testimony by experts whose knowledge is based on experience. Thus, a court should consider a proposed expert’s full range of practical experience as well as academic or technical training when determining whether that expert is qualified to render an opinion in a given area.

Smith v. Ford Motor Co., 215 F.3d at 718.

Plaintiffs argue that Mr. Trende's methodology is unreliable because their undisclosed expert disagrees with the models used by Mr. Trende. However, the models used by Mr. Trende are those currently used by experts who analyze the competitiveness of districts for purposes of making election predictions. (*See* D.E. 79-1, ¶ 71).

Plaintiffs' undisclosed expert, Dr. James Stimson, provides no evidence that he has ever before been engaged to actually evaluate the competitive nature of legislative or congressional districts or make predictions on who would win in a particular election. In contrast, this is a regular part of Mr. Trende's day-to-day work at Real Clear Politics. In short, unlike Mr. Trende, Dr. Stimson provides no evidence that he has any expertise or experience to offer any opinion on the issues discussed by Mr. Trende. Under the *Daubert* test, it is Dr. Stimson's affidavit that should be stricken even assuming plaintiffs had followed the scheduling order and disclosed him as an expert.

2. The Court should strike Dr. Stimson's Affidavit.

It is remarkable that plaintiffs would move to strike "undisclosed" expert testimony by experts they used in identical or similar cases and then file a *Daubert* motion three weeks before trial that is based upon an affidavit by their own undisclosed expert. Defendants have obviously been prejudiced by the timing of this disclosure of what amounts to a rebuttal report. They have not had the opportunity to depose Dr. Stimson and it is not possible at this stage to replace Mr. Trende.

Neither *Daubert* nor *Ruffin v. Shaw Indus.*, 149 F.3d 294, 296-97 (4th Cir. 1998), stand for the proposition that a party may surprise an opposing party by filing a last second rebuttal report by an undisclosed expert. Instead, these cases only say that courts

may consider reliable matters from independent and credible sources that might not otherwise be admitted into evidence. None of the materials considered in these cases included an undisclosed expert report prepared by an expert hired by the moving party. In the only case with facts remotely similar to this case, *Celebrity Cruises Inc. v. Essef Corp.*, 434 F.Supp.2d at 169, 190 (S.D.N.Y. 2006), it is not clear whether the court's ruling is based upon a last second rebuttal report filed by an undisclosed expert. However, it certainly does not involve the circumstances here where the moving party has previously stipulated that a nearly identical report by the expert they seek to exclude may come into evidence.

There will be direct evidence in this case that the legislative leaders told the General Assembly that politics and partisan consideration would play a role in redistricting. Mr. Trende's testimony provides circumstantial evidence confirming what everyone knew and understood – districts drawn by the majority party favored Republicans while districts drawn by prior Democratic-controlled General Assembly in 2003, Democratic leaders in 2011, and the SCSJ in 2011 favored Democrats.

Mr. Trende's opinion is supported by other direct evidence. When redistricting plans were enacted by a Democratic-controlled General Assembly, North Carolina admitted in its Section 5 submissions that its plans were designed to reduce the percentage of black population in VRA districts by submerging large groups of Republican voters in heavily Democratic districts. The evidence will show that all of the 2011 alternative plans followed the same strategy and in doing so failed to follow the state's constitutional redistricting criteria and United States Supreme Court criteria for

the percentage of black population that must be included in a VRA districts and the number of VRA districts that should be considered by a jurisdiction. The approach taken by North Carolina in prior redistricting plans, as well as all of the 2011 alternative plans, show that politics were the driving force behind the manner in which the plans were drafted. Mr. Trende's report is therefore directly relevant and probative on significant issues in the case.

CONCLUSION

Based upon the foregoing, the Court should strike the Affidavit of Dr. James Stimson and deny plaintiffs' motion to strike testimony by Sean Trende.

This the 6th day of April, 2016.

NORTH CAROLINA DEPARTMENT OF
JUSTICE

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CERTIFICATE OF SERVICE

I, Thomas A. Farr, hereby certify that I have this day emailed the foregoing **DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE TESTIMONY BY SEAN TRENDE** to the following:

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EXHIBIT 1

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

MARGARET DICKSON, *et al.*
Plaintiffs,

v.

ROBERT RUCHO, *et al.*
Defendants.

11 CVS 16896

NORTH CAROLINA STATE CONFERENCE
OF BRANCHES OF THE NAACP; *et al.*

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et al.*
Defendants.

11 CVS 16940

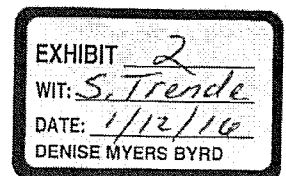
(Consolidated)

REVISED AFFIDAVIT OF SEAN P. TRENDE

1. I am a recognized expert in the fields of psephology, redistricting, and United States demographic trends and political history. I have been retained in this matter to provide expert testimony. I am compensated at a rate of \$300 per hour, excluding travel time. My *curriculum vitae* is attached to this affidavit as Exhibit 1.

EXPERT CREDENTIALS

2. I have studied and followed United States elections on both a part-time and full-time basis for almost two decades. My basic approach to election analysis has consistently been a three-step process: (1) evaluate the fundamentals of the district; (2) evaluate the district's likely performance in the context of the national political environment and; (3) evaluate the impact that



fundraising, candidate quality, incumbency, scandals and other election-specific effects have on the election.

3. Beginning in 2004, I was the proprietor of the (now-defunct) MyElectionAnalysis.com. I projected presidential, senate, gubernatorial, and house elections. In 2004, I projected that Republicans would pick up three house seats. Stuart Rothenberg, one of the three best-known psephologists in the nation (Larry Sabato and Charlie Cook being the other two) projected an outcome between a six seat gain for the Democrats and a two seat gain for the GOP, for a median likely outcome of a two seat gain for the Democrats. Larry Sabato projected a Republican pickup of three seats. Republicans picked up three House seats.

4. In 2006, I projected that Democrats would pick up 22 seats. Charlie Cook projected that Democrats would pick up between 20 and 35 House seats, for a median outcome of a 27 or 28 seat pickup for the Democrats. Rothenberg projected that Democrats would pick up between 30 and 36 seats, for a median outcome of a 33 seat pickup for the Democrats. Sabato projected that Democrats would pick up between 25 and 33 House seats, for a median outcome of a 29 seat pickup for the Democrats. Democrats picked up 31 House seats.

5. In 2008, I wrote for Race42008.com. I projected that Democrats would pick up 22 House seats. Cook projected that Democrats would pick up between 24 and 30 House seats, for a median outcome of a 27 seat pickup for the Democrats. Rothenberg projected that Democrats would pick up between 27 and 33 House seats, for a median outcome of a 30 House seat pickup for the Democrats. Sabato projected that Democrats would pick up 26 House seats. Democrats picked up 21 House seats.

6. I joined RealClearPolitics in January of 2009 as their Senior Elections Analyst. I assumed a fulltime position with them in March of 2010. RealClearPolitics is one of the most

heavily trafficked political websites in the world. It receives daily web traffic comparable to that of MSNBC, the Associated Press, Politico, and CBS News. See, e.g., *RealClearPolitics Site Info*, June 13, 2012, <http://www.alex.com/siteinfo/realclearpolitics.com#>. It is routinely cited by the most influential voices in politics, including David Brooks of *The New York Times*, Brit Hume of *Fox News*, Michael Barone of *The Almanac of American Politics*, Paul Gigot of *The Wall Street Journal*, and Peter Beinart of *The New Republic*.

7. My main responsibility with RealClearPolitics consists of tracking, analyzing, and rating various elections. Because RealClearPolitics uses polling averages as its major tool for rating high-profile races, such as presidential and senate races, my skills are mostly directed toward House races, where polling is spottier.

8. In May of 2009, Rothenberg wrote that the idea of a Republican takeover of the House of Representatives in the 2010 midterm elections was “lunacy [that] ought to be put to rest immediately.” Stuart Rothenberg, *April Madness: Can GOP Win Back the House in 2010?*, RealClearPolitics, April 24, 2009, http://www.realclearpolitics.com/articles/2009/04/24/april_madness_can_gop_win_back_the_house_in_2010_96149.html.

9. At the same time, Cook suggested that the most likely scenario for the Democrats was a pickup of a few seats. Charlie Cook, *Obama's Midterm Exam*, Government Executive, May 5, 2009, <http://gatekeeper1.govexec.com/oversight/on-politics/2009/05/obamas-midterm-exam/29089/print/>.

10. By contrast, I concluded that the GOP clearly had a chance to take back the House. Sean Trende, *Is A 2010 Republican Comeback Really Impossible*, RealClearPolitics, May 12, 2009, http://www.realclearpolitics.com/articles/2009/05/12/is_a_2010_republican_comeback_really_impossible_96455.html.

11. I was the first analyst to provide a statistical explanation for why Scott Brown had a real chance of winning Ted Kennedy's Senate seat. Sean Trende, *Can Republicans Win Ted Kennedy's Senate Seat*, RealClearPolitics, December 31, 2009, <http://realclearpolitics.blogs.time.com/2009/12/31/can-republicans-win-ted-kennedys-senate-seat/>

12. In 2010, RealClearPolitics' median outcome was that Republicans would pick up 66 or 67 House seats. Cook projected that Republicans would pick up between 50 and 60 House seats, for a median outcome of 55 seats. Rothenberg projected that Republicans would pick up between 55 and 65 House seats, for a median outcome of 60 seats. Sabato projected that Republicans would pick up 55 House seats. Republicans picked up 63 House seats.

13. On September 21, 2012, National Journal announced that I had been selected as a co-author of the 2014 *Almanac of American Politics*. The Almanac is considered the foundational text for understanding congressional districts and the representatives of those districts. My focus will be researching and writing descriptions of the newly-drawn districts, including those in North Carolina.

OBJECTIVE

14. I have been asked to do political scorings of districts drawn for the North Carolina House of Representatives and North Carolina Senate.

15. For the North Carolina Senate, I was asked to review the following maps, as described on the North Carolina General Assembly Redistricting Website, <http://www.ncleg.net/representation/redistricting.aspx>: "NC Plan 1C", ratified in 2001, but not used in an election; "2003 Senate Redistricting Plan", ratified in 2003, used for the 2004 through

2010 elections; "Rucho Senate 2"; "SCSJ Senate"; "Possible Senate Districts – McKissick"; "Senate Fair and Legal – Nesbitt."

16. For the North Carolina House of Representatives, I was asked to review the following maps, as described on the North Carolina General Assembly Redistricting Website, *supra*: "Sutton House Plan 3," ratified in 2001, but not used in an election; "Session Law 2009-78", ratified in 2009, used for the 2010 elections (and used for most House districts for the 2004 through 2010 elections); "Lewis-Dollar-Dockham 4"; "SCSJ House"; "Possible House Districts – Alexander, K"; "House Fair and Legal – Martin."

17. My objective is not to provide full projections for any particular election. Instead, my objective is to evaluate how the districts themselves would perform in various election scenarios over the course of the following decade. In short, I was asked to perform Steps One and Two as described *supra* ¶2.

18. Performing Step Three at this point would be impossible, as one cannot really know who is likely to run in a particular district two years from now, much less eight years from now. Nor can we predict which challengers will arise and what degrees of funding they will have in any given year. All of these things would affect the final rating assigned to a district after Step Two.

19. In other words, this report should only be read as an evaluation of the districts themselves, in various political environments. It should not be read as a prediction for the 2012 elections or beyond. There may well be districts, especially in rural areas, which lean or will soon lean Republican in their fundamentals, but that will continue to elect conservative Democrats unless those Democrats retire at some point in the following decade, or find themselves overwhelmed by a Republican wave. Similarly, there may be districts, especially in

suburban areas, which lean or will soon lean Democratic in their fundamentals, but that will continue to elect Republicans unless those Republicans retire at some point in the following decade, or find themselves overwhelmed by a Democratic wave.

SOURCES

20. In preparing these race ratings, I drew upon data provided by the website of the North Carolina General Assembly, *supra*. For the 2001 maps, I drew upon data provided by the redistricting archives of that website, found at <http://www.ncleg.net/representation/Content/Archives.aspx>.

21. I relied upon the following source for presidential election data: "Dave Leip's Atlas of U.S. Presidential Elections," <http://www.uselectionatlas.org>.

22. In addition, I relied upon the following treatises and texts: Michael Barone et al., *The Almanac of American Politics*, various editions; Earl Black & Merle Black, *The Rise of Southern Republicans* (2002); Rob Christensen, *The Paradox of Tar Hell Politics: The Personalities, Election, and Events that Shaped Modern North Carolina* (2d ed. 2008); V.O. Key, Jr., *Southern Politics* (1949); Christopher H. Cooper & H. Gibbs Knotts, eds., *The New Politics of North Carolina* (2008); Kenneth C. Martis, *The Historical Atlas of United States Congressional Districts: 1789-1983* (1982); Douglas Orr et al., *The North Carolina Atlas: Portrait For A New Century* (2000); Byron E. Shafer & Richard Johnston, *The End of Southern Exceptionalism: Class, Race, and Partisan Change in the Postwar South*; Sean Trende, *The Lost Majority: Why The Future of Government is Up For Grabs - And Who Will Take It* (2012).

DATA CONSIDERED

23. In evaluating these districts, I paid particular attention to the following data for each district, in descending order of importance: (1) the performance of the presidential

candidates, as measured by Partisan Voting Index (hereinafter "PVI"); (2) the party registration data for the district; (3) the performance of the candidates in the 15 statewide races for which data were provided; (4) the performance of the candidates in the 10 statewide races for *state* office for which data were provided;¹ (5) demographic trends in North Carolina; (6) previous state senate or house race results in the baseline districts from 2004 through 2010.

24. An explanation of these data follows:

25. PVI: Perhaps the most commonly used heuristic device for understanding the political orientation of a district is the performance of presidential candidates in a district. This is typically expressed using the district's PVI. PVI is a technique for filtering out the national political environment, in order to ascertain how a state, district, or county would perform in a neutral political environment. It is calculated by selecting a party to measure,² averaging the previous two performances of that party's presidential candidates in a state, district or county, and then subtracting the average of the previous two performances of that party's presidential candidates nationally. *See Barone, passim*; *Trende* at xxix.

26. To understand why we might want to do this, consider the case of Massachusetts. As Table 1 shows, in Presidential elections from 1976 to 1988, it gave the Democratic candidate 58 percent, 50 percent, 49 percent, and 54 percent of the two-party vote.³ Without any further

¹ These ten races are a subset of the fifteen races described in item (3), not an independent collection of data.

² The result is the same regardless of which party one selects.

³ Two-party vote is the metric typically used by political scientists when examining elections. It tells us what the vote would be in a given election year if you removed third parties and allocated their votes to the major-party candidates evenly. In 1960, Richard Nixon and John Kennedy both received about 50 percent of the popular vote. Eight years later, Nixon and Hubert Humphrey got 43 percent of the popular vote apiece, with the remaining 14 percent largely going to American Independent candidate George Wallace. If we tracked the performance of the

context from these numbers, one might conclude that the state was a swing state, and trending Republican.

27. Of course, we know that this isn't the case; Massachusetts' competitiveness simply reflected the weakness of the Democrats atop the national ticket, due in part to the failing economy in 1980 and the strong economy in 1984 and 1988. If we subtract the Democratic share of the national vote from the state vote in each year, we effectively control for national effects, and can see the state was consistently five to eight points more Democratic than the country as a whole, and leaned Democratic across the time period.

28. Party Registration: A district's PVI is merely the starting point for proper evaluation of a district. In many places in the rural South, the Democrats' national candidates perform poorly, yet the area is open to conservative-to-moderate Democrats at the local level. Conversely, in the suburban North, the Republicans may perform poorly at the Presidential level, and yet local Republicans perform well at the local level.

29. This phenomenon occurs regularly in North Carolina, especially in the tidewater and coastal portions of the state. To account for this phenomenon, party registration statistics can help sort out districts where John Kerry and Barack Obama may have fared poorly, but where Democrats nevertheless maintain a substantial registration advantage, and where a local Democrat might actually begin with a marked advantage. Likewise, areas where Republicans have an outright registration advantage are rare, and can suggest an advantage that might not be immediately obvious in Presidential voting.

Democratic Party over the years, we would look at these numbers and conclude that the party performed terribly in 1968, especially compared to 1960. By removing the third party vote in 1968, we can compare the two elections more directly, and view them properly both as 50/50 elections.

30. Overall Race Results: For the 2003 and 2009 maps, data were presented for each individual district's performance for the following races: 2004 State Auditor's race; 2004 Governor's race; 2004 Presidential race; 2004 Senate race; 2008 Attorney General's race; 2008 Agriculture Commissioner's race; 2008 Commissioner of Labor's race; 2008 State Auditor's race; 2008 Insurance Commissioner's race; 2008 Superintendent of Public Instruction's race; 2008 Lieutenant Governor's race; 2008 Governor's race; 2008 Presidential race; 2010 Senate race.

31. Downballot races can be particularly useful in evaluating the true partisan leanings of districts, because they are often low-information races that turn more around base partisanship than the unique attributes of the candidates.

32. For the 2003 and 2009 maps, I used four iterations of the data. First, I looked at the number of races that all statewide Democratic candidates won during these years. Second, I looked at the number of races that statewide Democratic candidates won during these years who were running for state offices only. Third, I looked at the average percentage of all statewide Democratic candidates during these years. Fourth, I looked at the average percentage of all statewide Democratic candidates who were running for state office only.

33. I then compiled actual results from 2004, 2006, 2008, and 2010 in House or Senate races within the given districts, to obtain a sense of how often Democratic candidates won actual races in these districts. The results are compiled in Tables 2 and 3.

34. For the 2001 maps, much more limited data are available. Data were presented for each individual district's performance for the following races: 2000 Governor's race; 2000 State Auditor's race; 2000 Chief Justice, Supreme Court of North Carolina race.

35. **Demographic Trends:** North Carolina is a dynamic state, where the political alignments are changing rapidly. Traditionally, Republicans drew their strength from the mountainous region in the northwest of the state, where Republican ties dated back to the Civil War. These regions were fully capable of electing Republicans members to Congress – hence the Democratic legislatures traditionally drew sinuous districts that drew in heavily Democratic regions in the Piedmont area – and kept the state more competitive than many Southern states in statewide and Presidential elections. *See* Key at 226, fig. 43; Martis, *passim*. These regions remain largely Republican today.

36. This Republican base, however, was more than offset by the heavily Democratic rural areas of the state.

37. The South as a whole and North Carolina in particular did not begin to move strongly toward Republicans until the urban areas began to grow rapidly after World War II, bringing in residents from the North and raising the living standards for voters in urban counties such as Mecklenburg and Wake counties. *See, e.g.,* Black & Black at 64-71; Christensen at 203-04; Trende at 20-31. *See generally* Shafer & Johnston.

38. Beginning in the mid-1960s, the rural areas began to shift gradually toward Republicans at the Presidential level. This shift became especially marked when Jesse Helms succeeded in convincing rural voters in eastern North Carolina to vote Republican in 1972. *See* Barone at 816-17 (1982); Christensen at 212-14; Larry Copeland, “Jessecrats’ propel a native to victory,” *USA Today*, Nov. 6, 2002, http://www.usatoday.com/news/politicselects/2002-11-06-dole_x.htm. These “Jessecrats,” however, were reluctant to embrace Republicans at the local level, and the realignment here has proceeded in fits and starts. Republicans won several

districts in this region in the 1994 midterm election, but gave many of them back in the subsequent elections.

39. Beginning in the 1990s, however, Northern suburbs began to move toward the Democratic Party. This phenomenon occurred in North Carolina as well, as the Research Triangle area in particular moved toward the Democrats. This trend continued through the 2000s as well.

40. Figure 1 shows the trends in North Carolina over the past decade. Counties where the PVI shifted more than 5 points toward Barack Obama from Al Gore are indicated with diagonal lines, while counties where the PVI shifted more than 5 points toward John McCain from George W. Bush's 2000 showing are marked in gray.

41. The areas that have shifted toward Democrats are mostly located in the urban areas of the state. The I-40 corridor from Raleigh to Winston-Salem, Buncombe County (Asheville), and Mecklenburg County (Charlotte) have all moved substantially in a Democratic direction. The remaining three counties include a county with a substantial college population (Watauga) and two rural counties in the east. The shift in Wake, Buncombe, Mecklenburg, Durham, and Forsyth counties has been especially strong.

42. It was assumed that if a district was located in one of these counties, the district would tend to shift toward the Democrats over the course of the decade. The district would therefore generally be moved a notch toward the Democrats, compared to where a district with similar characteristics outside of these counties would be located.

43. The areas that have shifted toward Republicans are mostly located in the rural areas of the state. In particular, the areas in the southeastern portion of the state, the northeastern

corner of the state, and west of Charlotte have moved toward Republicans. The shift in the northeastern and southeastern corners of the state have been especially strong.

44. It was assumed that if a district was located in one of these counties, the district would tend to shift toward the Republicans over the course of the decade. The district would therefore generally be moved a notch toward the Republicans, compared to where a district with similar characteristics outside of these counties would be located.

45. **Race Results:** Finally, I reviewed race results over the course of the past decade, including the percentages that GOP and Democratic candidates for the state house or state senate received in a given district in 2004, 2006, 2008, 2010. This is the least important information for evaluating a district's competitiveness, given that challenger quality and fundraising can play a huge role. This played a sort of "tiebreaker" role – if a district was somewhere between Tossup and "Competitive Democratic," the performance of Democratic candidates in these years would help determine what the final rating would be.

46. **Previous Overall House Results:** When discussing and analyzing races, it was useful to keep in mind the overall history of Republican and Democratic performance in the House and Senate. This gave context to races that occurred in a given year. These data are collected in Table 4.

47. From viewing the data, it is apparent that 2006 and 2008 were unusually good Democratic years, while 1994 and 2010 stand out as unusually good Republican years.

METHODOLOGY

48. The first step was sorting the districts into categories, by base district partisanship. These categories are "Uncompetitive Republican," "Marginally Competitive Republican,"

"Competitive Republican," "Tossup," "Competitive Democrat," "Marginally Competitive Democrat," and "Uncompetitive Democrat."

49. Districts in the "Marginally Competitive" categories are not expected to be competitive in all but the most heavily partisan years, and even then will be competitive only in particular districts with peculiar circumstances. This category is included only as an acknowledgement that there are districts that are not generally competitive, but which are also not wholly safe.

50. I began with the 2001 maps. For these, district data were compiled with the party registration numbers and the share of the two-party vote that the Democrats won in each of the three races for which data were provided.

51. Because Presidential data were not available for these maps, it was reverse-engineered from the other statewide races. Democrats won the statewide races that year by 3 points on average. George W. Bush won the state by 13 points. Therefore, any race that Democrats won by 16 points or more was assumed to have voted for Al Gore. Given the narrowness of the national race, any district that voted for Gore had Democratic PVI. Because Republicans won only 2 of 228 races held in districts that had a Democratic PVI in the 2000s, any district with a Democratic PVI was rated "Safe Democrat."

52. Districts were also sorted by party registration. Because Democrats won only 11 of 240 races held in districts where Republicans held a registration advantage in the 2000s, any district with a Republican registration advantage was rated "Safe Republican." In addition, in districts where Democrats failed to win any of the three 2000 statewide races, they would not be expected to win the election. These districts are rated "Safe Republican" as well.

53. In some districts, Democrats won all three 2000 statewide races, although George Bush may have carried the district against Al Gore. Democrats won each of these districts by, on average, more than five points, and won the bulk of them by, on average, more than ten points. It would be very difficult for Republicans to overcome such odds. They are therefore rated as "Marginally Competitive Democratic seats."

54. In three additional districts, the Republican candidate for Chief Justice of the Supreme Court of North Carolina won by only a fraction of a point, while Democrats retained substantial registration advantages of over fifteen percent. These races are likewise rated as "Marginally Competitive Democratic seats."

55. In some districts, Democrats won one of the three 2000 statewide races, but ran behind their statewide margin in all three races. These districts would be very difficult for a Democrat to win, and are rated Marginally Competitive Republican.

56. The remaining few races were competitive, and were rated according to party registration and the Democratic performance in the three 2000 statewide elections.

57. The analysis of the 2001 maps was backwards-looking. In other words, it attempted to look at how the maps would have performed over the course of the '00s. This allowed for a mechanistic application of PVI and registration data. By contrast the analysis of the remaining maps is forward-looking.

58. More robust data were available for the 2003, 2009, and 2011 plans. They are therefore assigned ratings by considering all of the data described above. *Supra* ¶¶ 22-45.

59. In particular, during the 2004, 2006, 2008 and 2010 elections, Democrats won only 11 of 240 elections in senate or house districts where Republicans have an outright registration advantage over Democrats. Therefore, the heavy presumption was that a district

where Republicans were given a registration advantage would be rated Safe for the Republicans, unless it was located in a county that was trending Democrat, or unless some other factor strongly suggested it would be competitive.

60. Similarly, during the 2004, 2006, 2008 and 2010 elections, Republicans won only 2 of 226 elections in senate or house districts with a Democratic PVI. Therefore, the heavy presumption was that a district with a Democratic PVI would be rated Safe for the Democrats, unless it was located in a county that was trending Republican, or unless some other factor strongly suggested it would be competitive.

61. These districts were evaluated holistically, using the metrics established above, particularly the data in Tables 2 and 3.

CONCLUSIONS -- SENATE

62. The following data are summarized in Table 5.

63. Under NC Plan 1C, 18 districts were Safe Democrat, 8 districts were Marginally Competitive Democrat, 6 districts were Competitive Democrat, 1 district was Tossup, 1 district was Marginally Competitive Republican, and 16 districts were Safe Republican.

64. Under NC Plan 1C, 7 districts were Competitive.

65. Under the 2003 Enacted Plan, 17 districts are Safe Democrat, 5 districts are Marginally Competitive Democrat, 1 district is Competitive Democrat, 2 districts are Tossups, 7 districts are Competitive Republican, 5 Districts are Marginally Competitive Republican, and 13 districts are Safe Republican.

66. Under the 2003 Enacted Plan, 10 districts are Competitive.

67. It is important to keep in mind that the forgoing 2 paragraphs are forward-looking, rather than backward looking. In other words, they sketch out what would happen if the baseline plan were to remain in effect for the following decade.

68. Under the Rucho Plan, 16 districts are Safe Democrat, 1 district is Marginally Competitive Democrat, 2 districts are Competitive Democrat, 4 districts are Tossups, 11 districts are Competitive Republican, 3 Districts are Marginally Competitive Republican, and 13 districts are Safe Republican.

69. Under the Rucho Plan, 17 districts are Competitive.

70. Under the SCSJ Plan, 14 districts are Safe Democrat, 7 districts are Marginally Competitive Democrat, 5 districts are Competitive Democrat, 3 districts are Tossups, 2 districts are Competitive Republican, 6 Districts are Marginally Competitive Republican, and 13 districts are Safe Republican.

71. Under the SCSJ Plan, 10 districts are Competitive.

72. Under the Nesbitt Plan, 18 districts are Safe Democrat, 4 districts are Marginally Competitive Democrat, 2 districts are Competitive Democrat, 4 districts are Tossups, 5 districts are Competitive Republican, 4 Districts are Marginally Competitive Republican, and 13 districts are Safe Republican.

73. Under the Nesbitt Plan, 11 districts are Competitive.

74. Under the McKissick Plan, 17 districts are Safe Democrat, 7 districts are Marginally Competitive Democrat, 2 districts are Competitive Democrat, 3 districts are Tossups, 3 districts are Competitive Republican, 3 Districts are Marginally Competitive Republican, and 15 districts are Safe Republican.

75. Under the McKissick Plan, 8 districts are Competitive.

76. A list of the specific district ratings under the various plans is included in Table 9.

77. To get a sense for how things would play out, I ran through scenarios of a "good Republican" year, a "good Democrat" year, and a neutral year. A neutral year was intended to be a year where the tossups are split 50-50 between the parties, and both parties won all seats that leaned their way. In a good Republican year, the Republicans won all the tossups, and half the "Competitive Democrat" seats. For a good Democrat year, the inverse is true.

78. The results are listed in Table 6.

79. Again, this is not a prediction of how races themselves would play out. This is just a measurement of the playing field in different scenarios. Or, if one prefers to think of it this way, what the result would be if every seat were open, and the parties ran equally well funded candidates of equal quality in each district.

CONCLUSIONS – HOUSE

80. The following data are summarized in Table 7.

81. Under Sutton House Plan 3, 37 districts are Safe Democrat, 23 districts are Marginally Competitive Democrat, 2 districts are Competitive Democrat, 3 districts are a Tossup, 8 districts are Marginally Competitive Republican, and 46 districts are Safe Republican.

82. Under Sutton House Plan 3, 6 districts are Competitive.

83. Under the 2009 Enacted Plan, 41 districts are Safe Democrat, 14 districts are Marginally Competitive Democrat, 7 districts are Competitive Democrat, 5 districts are Tossups, 11 districts are Competitive Republican, 11 Districts are Marginally Competitive Republican, and 31 districts are Safe Republican.

84. Under the 2009 Enacted Plan, 23 districts are Competitive.

85. It is important to keep in mind that the forgoing 2 paragraphs are forward-looking, rather than backward looking. In other words, they sketch out what would happen if the baseline plan are to remain in effect for the following decade.

86. Under the Lewis Dollar Dockham 4 Plan, 36 districts are Safe Democrat, 9 districts are Marginally Competitive Democrat, 6 districts are Competitive Democrat, 3 districts are Tossups, 22 districts are Competitive Republican, 15 Districts are Marginally Competitive Republican, and 29 districts are Safe Republican.

87. Under the Lewis Dollar Dockham 4 Plan, 31 districts are Competitive.

88. Under the SCSJ Plan, 41 districts are Safe Democrat, 13 districts are Marginally Competitive Democrat, 6 districts are Competitive Democrat, 5 districts are Tossups, 16 districts are Competitive Republican, 9 Districts are Marginally Competitive Republican, and 30 districts are Safe Republican.

89. Under the SCSJ Plan, 27 districts are Competitive.

90. Under the Martin Plan, 44 districts are Safe Democrat, 14 districts are Marginally Competitive Democrat, 5 districts are Competitive Democrat, 2 districts are Tossups, 12 districts are Competitive Republican, 10 Districts are Marginally Competitive Republican, and 33 districts are Safe Republican.

91. Under the Martin Plan, 19 districts are Competitive.

92. Under the Alexander Plan, 42 districts are Safe Democrat, 14 districts are Marginally Competitive Democrat, 5 districts are Competitive Democrat, 4 districts are Tossups, 11 districts are Competitive Republican, 13 Districts are Marginally Competitive Republican, and 31 districts are Safe Republican.

93. Under the Alexander Plan, 20 districts are Competitive.

94. A list of the specific district ratings under the various plans is included in Table 10.

95. To get a sense for how things would play out, I ran through scenarios of a "good Republican" year, a "good Democrat" year, and a neutral year. A neutral year was intended to be a year where the tossups are split 50-50 between the parties, and both parties won all seats that leaned their way. In a good Republican year, the Republicans won all the tossups, and half the "Competitive Democrat" seats. For a good Democrat year, the inverse is true.

96. The results are listed in Table 8.

97. Again, this is not a prediction of how races themselves would play out. This is just a measurement of the playing field in different scenarios. Or, if one prefers to think of it this way, what the result would be if every seat were open, and the parties ran equally well funded candidates of equal quality in each district.

Table 1: Democratic Vote Performance and PVI in Massachusetts: 1976-1988			
Year	Dem Share in MA	Dem Share Nationally	PVI
1976	58.1 percent	51.4 percent	D+6.7
1980	49.9 percent	44.7 percent	D+5.2
1984	48.6 percent	40.8 percent	D+7.8
1988	54.0 percent	46.1 percent	D+7.9

Table 2: % of State House or Senate Races Won By Democrats, 2004-2010, by Number of Statewide Races Won By Democrats In Given Districts			
# Statewide Races Won In District – All	% of State Senate or State House Races Won By Democrats In These Districts	# Statewide Races Won In District – State Office Only	% of State Senate or State House Races Won By Democrats In These Districts
0	0%	0	0%
1	11%	1	11%
2	20%	2	19%
3	25%	3	35%
4	42%	4	35%
5	42%	5	50%
6	25%	6	47%
7	50%	7	75%
8	58%	8	92%
9	92%	9	92%
10	93%	10	97%
11	88%		
12	90%		
13-15	100%		

Table 3: % of State House or Senate Races Won By Democrats, 2004-2010, by Number of Statewide Races Won By Democrats In Given Districts

Avg. Dem % In Statewide Races In District – All	% of State Senate or State House Races Won By Democrats In These Districts	Avg. Dem % In Statewide Races In District – State Office Only	% of State Senate or State House Races Won By Democrats In These Districts
0%-40%	1.3%	0%-40%	0.0%
41%-45%	19.0%	41%-45%	12.0%
46%-48%	27.4%	46%-48%	27.9%
49%-50%	52.5%	49%-50%	30.0%
51%-52%	52.0%	51%-52%	52.8%
53%-55%	86.4%	53%-54%	96.9%
56%+	100.0%	56%-60%	89.9%
		61%-100%	99.1%

Table 4: Number of Seats Won, By Party (Source: Dubin 142)

Year	House		Senate	
	D	R	D	R
1992	78	42	39	11
1994	52	68	26	24
1996	59	61	30	20
1998	66	54	35	15
2000	62	58	35	15
2002	59	61	28	22
2004	63	57	22	21
2006	68	52	31	19
2008	68	52	30	20
2010	52	67	19	31

Table 5: Senate Projections								
Map	Safe D	Marginally Competitive D	Competitive D	Tossup	Competitive R	Marginally Competitive R	Safe R	Total Comp.
2001	18	8	6	1	0	1	16	7
2003	17	5	1	2	7	5	13	10
Rucho	16	1	2	4	11	3	13	17
SCSJ	14	7	5	3	2	6	13	10
Nesb	18	4	2	4	5	4	13	11
McK	17	7	2	3	3	3	15	8

Table 6: Senate Outcomes In Different Scenarios						
	Good Democrat		Neutral		Good Republican	
	D	R	D	R	D	R
2001	33	17	32.5	17.5	29	21
2003	28.5	21.5	24	26	22.5	27.5
Rucho	28.5	21.5	21	29	18	32
SCSJ	30	20	27.5	22.5	23.5	26.5
Nesb	30.5	19.5	26	24	23	27
McK	30.5	19.5	27.5	22.5	25	25

Table 7: House Projections								
Map	Safe D	Marginally Competitive D	Competitive D	Tossup	Competitive R	Marginally Competitive R	Safe R	Total Comp.
2001	37	23	2	3	1	8	46	6
2009	41	14	7	5	11	11	31	23
LDD	36	9	6	3	22	15	29	31
SCSJ	41	13	6	5	16	9	30	27
Mart	44	14	5	2	12	10	33	19
Alex	42	14	5	4	11	13	31	20

Table 8: House Outcomes In Different Scenarios						
	Good Democrat		Neutral		Good Republican	
	D	R	D	R	D	R
2001	65.5	54.5	63.5	56.5	61	59
2009	72.5	47.5	64.5	55.5	58.5	61.5
LDD	65	55	52.5	67.5	48	72
SCSJ	73	47	62.5	57.5	57	63
Mart	71	49	64	56	60.5	59.5
Alex	70.5	49.5	63	57	58.5	61.5

Table 9: Senate Ratings						
	2001	2003	Rucho	SCSJ	Nesbitt	McKissick
1	MCD	MCD	CD	CD	MCD	MCD
2	SD	MCR	MCR	MCR	MCR	MCR
3	CD	SD	SD	SD	SD	SD
4	SR	SD	SD	SD	SD	SD
5	TU	MCD	SD	MCD	MCD	MCD
6	SD	MCR	MCR	MCR	MCR	MCR
7	SD	SD	CR	SD	SD	SD
8	CD	TU	TU	CD	TU	MCD
9	SD	CR	CR	TU	TU	TU
10	MCD	MCD	CR	MCD	CD	CD
11	SD	MCD	TU	MCD	CR	MCD
12	SR	MCR	CR	MCR	MCD	MCR
13	SR	SD	SD	SD	SD	SD
14	SD	SD	SD	SD	SD	SD
15	CD	CR	CR	MCR	CD	CD
16	SR	SD	SD	SD	SD	SD
17	SR	CR	CR	CR	CR	CR
18	SD	SD	CD	TU	SD	MCD
19	SR	MCD	MCD	MCD	TU	TU
20	SD	SD	SD	SD	SD	SD
21	SR	SD	SD	SD	SD	SD
22	SR	SR	SD	CD	SR	SR
23	MCD	SD	SD	SD	SD	SD
24	MCD	TU	CR	CD	CR	SD
25	SR	CD	TU	CD	SD	MCD
26	SR	MCR	CR	MCR	MCR	SR
27	SR	SD	CR	MCD	SD	SD
28	SR	SD	SD	SD	SD	SD
29	CD	SR	SR	SR	SR	SR
30	SD	SR	SR	SR	SR	SR
31	SD	SR	SR	SR	SR	SR
32	SD	SD	SD	SD	SD	SD
33	SD	SR	SR	SR	SR	SR
34	MCD	SR	SR	SR	SR	SR
35	SR	SR	SR	SR	SR	SR
36	SR	SR	SR	SR	SR	SR
37	MCR	SD	SD	MCD	SD	SD
38	SR	SD	SD	SD	SD	SD
39	SR	SR	SR	SR	SR	SR
40	SD	SD	SD	SD	SD	SD
41	SD	SR	SR	MCD	SR	SR
42	SR	SR	SR	SR	MCD	SR
43	MCD	CR	SR	SR	SR	SR

44	SR	SR	SR	SR	MCR	CR
45	SR	MCR	MCR	SR	SR	SR
46	SR	CR	CR	MCR	CR	CR
47		CR	CR	CR	CR	MCD
48		SR	SR	SR	SR	SR
49		SD	SD	SD	SD	SD
50		CR	TU	TU	TU	TU

Table 10: House Ratings						
	2001	2003	LDD	SCSJ	Martin	Alexander
1	MCD	MCD	CD	MCD	MCD	MCD
2	MCD	MCD	MCD	TU	MCD	MCD
3	MCR	MCR	CR	CR	SR	MCR
4	MCR	MCD	CR	CR	CD	MCD
5	SD	SD	SD	SD	SD	SD
6	MCD	CD	MCD	CR	CR	CD
7	SD	SD	SD	SD	SD	SD
8	SD	SD	CD	SD	SD	SD
9	CD	MCD	MCD	MCD	MCD	MCD
10	TU	TU	CR	CR	MCR	CR
11	TU	MCR	SD	MCR	CR	SR
12	SD	SD	SD	SD	SD	SD
13	SR	SR	SR	SR	MCR	SR
14	MCR	CR	MCR	CD	CR	CR
15	SR	SR	MCR	CR	MCD	MCR
16	SR	SR	MCR	SR	SR	MCR
17	SR	SR	SR	SR	SR	SR
18	SD	SD	SD	SD	SD	SD
19	MCD	SR	SR	SR	SR	SR
20	SD	MCD	MCR	MCD	MCD	MCD
21	SD	SD	SD	SD	SD	SD
22	SR	MCD	MCD	MCD	CR	CD
23	MCD	SD	SD	TU	CR	MCD
24	SD	SD	SD	SD	SD	SD
25	MCR	TU	CR	CR	SR	SD
26	SR	CR	CR	CR	SR	SR
27	SD	SD	SD	SD	SD	SD
28	SR	SR	MCR	SR	SD	CR
29	SR	SD	SD	SD	SD	SD
30	MCD	SD	SD	SD	SD	SD
31	SR	SD	SD	SD	SD	SD
32	CR	SD	SD	SD	MCR	SD
33	SD	SD	SD	SD	SD	SD
34	SD	MCD	SD	SD	SD	SD
35	SD	SD	CR	SD	SD	SD
36	SR	TU	CR	TU	MCD	TU
37	SR	CR	CR	TU	CR	TU
38	SD	SD	SD	SD	SD	SD
39	SR	SD	SD	SD	SD	SD
40	MCR	CR	CR	CR	CD	CR
41	MCD	CD	TU	CD	CD	CD
42	SD	SD	SD	SD	SD	SD
43	SD	SD	SD	SD	SD	SD

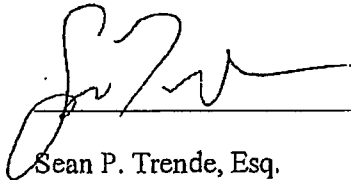
44	MCD	MCD	MCD	MCD	MCD	MCD
45	MCD	MCD	MCD	MCD	MCD	MCD
46	SD	MCD	MCD	MCD	SD	CD
47	SD	SD	SD	SD	SD	SD
48	SD	SD	SD	SD	SD	SD
49	SD	MCD	CR	SD	SD	MCD
50	SR	SD	SD	CD	MCD	SD
51	MCD	CD	CR	MCD	MCD	MCD
52	SR	SR	SR	SR	SR	SR
53	SR	CR	CR	MCD	CD	CR
54	MCD	SD	MCD	SD	SD	MCD
55	MCD	SD	CR	MCD	MCD	SD
56	MCD	SD	SD	SD	MCD	SD
57	SR	SD	SD	SD	SD	SD
58	SD	SD	SD	SD	SD	SD
59	SD	SD	CR	SD	SD	SD
60	SD	SD	SD	SD	SD	SD
61	SR	CR	MCR	MCR	MCR	MCR
62	SD	CR	CR	CR	CR	CR
63	SR	SD	CD	SD	SD	SD
64	SR	SR	CR	CR	SR	SR
65	MCD	CD	TU	MCD	CR	TU
66	CD	MCD	MCD	MCR	CR	MCD
67	SR	SR	SR	SR	SR	MCR
68	SR	SR	SR	SR	SR	SR
69	MCD	SD	SR	SD	SD	SD
70	SR	SR	SR	SR	SR	SR
71	SD	SD	SD	SD	SD	SD
72	SD	SD	SD	SD	SD	SD
73	SR	SR	SR	SR	SR	CR
74	SR	CR	SR	CD	CR	MCR
75	MCD	MCR	CR	SD	SR	SR
76	SR	SR	SR	SR	MCR	SR
77	MCD	CD	CR	TU	SR	TU
78	SR	SR	SR	SR	SR	SR
79	SR	SR	SR	SR	MCR	SR
80	SR	SR	SR	SR	SR	SR
81	SR	TU	SR	MCR	SR	CR
82	SD	MCR	SR	SR	SR	SR
83	SR	SR	MCR	CR	SR	SR
84	SR	SR	MCR	SR	SR	SR
85	SD	MCR	SR	SR	SR	MCD
86	SD	CR	MCR	MCR	MCR	MCR
87	SD	MCR	SR	MCR	MCR	MCR
88	SD	MCR	CR	CR	SR	SR

89	SD	SR	SR	SR	SR	SR
90	SR	MCR	MCR	MCR	SR	MCR
91	SR	SR	MCR	SR	TU	MCR
92	SR	SR	TU	SR	CR	SR
93	SR	CD	CD	CD	CD	CD
94	SR	SR	SR	SR	SR	MCR
95	SR	SR	SR	SR	SR	SR
96	SR	SR	SR	SR	SD	SR
97	SR	SR	SR	SR	SD	SR
98	TU	CR	SR	SR	SR	SR
99	SR	SD	SD	SD	SD	SD
100	SR	SD	SD	SD	SD	SD
101	SR	SD	SD	SD	SD	SD
102	MCD	SD	SD	SD	SD	SD
103	MCR	TU	CR	CR	SD	CR
104	SR	MCR	MCR	MCR	MCR	MCR
105	MCR	SR	SR	CR	SR	SR
106	SR	SD	SD	SD	SD	SD
107	MCD	SD	SD	SD	SD	SD
108	MCR	SR	SR	SR	SR	SR
109	SR	MCR	MCR	CR	TU	SR
110	SR	SR	MCR	SR	SR	SR
111	SR	CR	CR	CR	CR	CR
112	SD	MCR	MCR	MCR	MCR	MCR
113		SR	SR	SR	SR	SR
114		SD	SD	SD	SD	SD
115		SD	CD	SD	SD	SD
116		CD	CR	CD	MCD	CR
117		SR	SR	SR	SR	SR
118		MCD	CD	MCD	MCD	MCD
119		MCD	SD	MCD	SD	SD
120		SR	SR	SR	SR	SR

Fig 1: PVI Shifts In North Carolina, 2000-2008



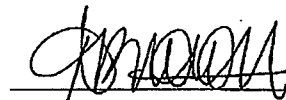
I declare, under penalty of perjury, that the foregoing is true and correct.


Sean P. Trende, Esq.

STATE OF OHIO

COUNTY OF DELAWARE

The foregoing was sworn and subscribed before me, a Notary Public in and for the state of Ohio,
by the above Affiant, a person known to me and pursuant to law, on this 10 day of ^{December}~~June~~, 2012.

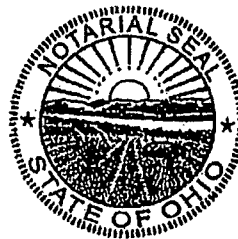


Notary Public

Printed Name: Angela Brown

My Commission Expires:

May 4, 2016



Angela K. Brown
Notary Public, State of Ohio
My Commission Expires 05-04-2016