UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

SHAUNA WILLIAMS, et al., Plaintiffs, v. REPRESENTATIVE HUGH BLACKWELL, in his official capacity as Chair of the House Standing Committee on Elections, et al., Defendants	Civil Action No. 23 CV 1057
NORTH CAROLINA STATE CONFERENCE OF THE NAACP, et al., Plaintiffs, v. PHILIP BERGER, in his official capacity as the President Pro Tempore of the North Carolina Senate, et al., Defendants.	Civil Action No. 23 CV 1104

WILLIAMS PLAINTIFFS' MOTION FOR LEAVE TO FILE A SUPPLEMENTAL COMPLAINT

Williams Plaintiffs in the above-captioned action, by and through their undersigned counsel, respectfully move this Court for leave to file a Supplemental Complaint, pursuant to Fed. R. Civ. P. 15(d). The proposed Supplemental Complaint is attached as **Exhibit 1**. Legislative Defendants do not oppose this Motion. At the time of filing, the North Carolina State Board of Elections Defendants had not responded to Williams Plaintiffsindicating their position.

Williams Plaintiffs seek to file the Supplemental Complaint to address Senate Bill 249 ("S.B. 249" or "2025 Plan"), the new congressional district map recently enacted by the North

101. These changes to CD-1 and CD-3 unlawfully dilute the voting strength of Black voters in Northeast North Carolina, dismantling a Black opportunity district in CD-1 while ensuring that Black voters remain unable to elect candidates of their choice in CD-3 as well.

102. Black voters were not placed in or removed from this district to comply with the Voting Rights Act. To the contrary, Black voters are now less able to elect candidates of their choice

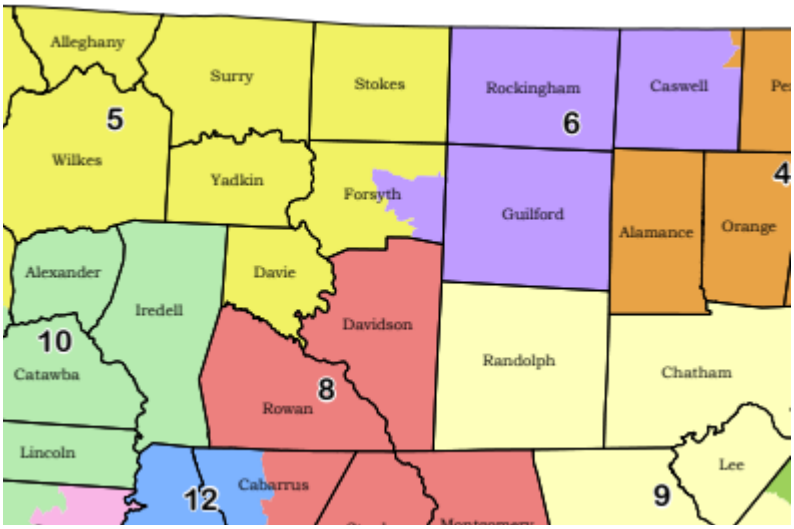
The Piedmont Triad (Congressional Districts 5, 6, 9, and 10)

103. The 2025 Plan's configuration of the Piedmont Triad is identical to the 2023 Plan's configuration of this region.

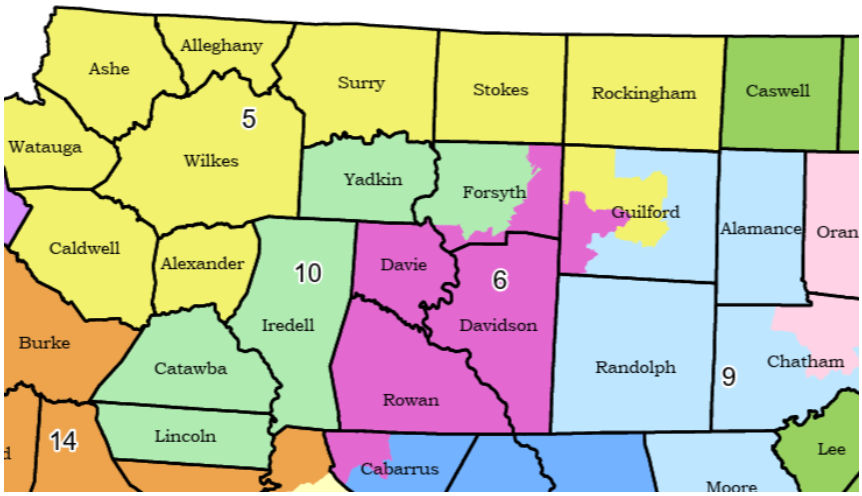
104. The Piedmont Triad is a region and community of interest in north-central North Carolina centered around three major cities: Greensboro (in Guilford County), Winston-Salem (in Forsyth County), and High Point (spanning Guilford, Davidson, Randolph, and Forsyth Counties). The Piedmont Triad has a substantial Black population, especially in these three cities.

105. In the 2022 Plan, CD-6 included much of the Black population in the Piedmont Triad, including the entire cities of Greensboro and High Point, and part of Winston-Salem.

106. Under the 2022 Plan, CD-6 had a BVAP of 31.65% and performed as an effective opportunity district where Black voters could elect their preferred candidates. In the 2023 Plan (like the 2025 Plan), the BVAP of CD-6 dropped by more than 12 percentage points to 19.31%, resulting in a district (and surrounding districts) in which Black voters can no longer elect their candidates of choice.



Piedmont Triad Region in the 2022 Congressional Plan



Piedmont Triad Region in the 2025 Congressional Plan

107. Under the 2023 and 2025 Plans, Black voters in former CD-6 who live in the Piedmont Triad—and specifically in Greensboro, High Point, and Winston-Salem—were dispersed across four separate congressional districts (CD-5, CD-6, CD-9, and CD-10) that span from Ashe County, which borders Tennessee and Virginia, to Hoke County, near the South Carolina border.

108. The 2023 and 2025 Plans' redistribution of Black voters across multiple districts comes at the expense of traditional districting principles, including respect for communities of interest, political subdivision and geographical boundaries, and compactness.

109. As a result of the reconfiguration of the Piedmont Triad, the compactness of CD 6, CD-9, and CD-10 dropped significantly in the 2023 and 2025 Plans, both visually and numerically. All four districts contain appendages and tendrils to carve out pockets of Black voters in Winston-Salem, Greensboro, and High Point to pair them with far-flung white populations.

110. The 2023 and 2025 Plans also increased the number of political subdivision splits across the region. Although the 2022 Plan had just one county split in the Triad, the 2023 and 2025 Plans have three (one split in Forsyth County and two splits in Guilford County), which divides Guilford County among three different districts. Municipal splits also increased; the 2022 Plan contained only two municipality splits in the Triad, while the 2025 Plan has nine total municipality splits, including in each of the major cities of Winston-Salem, High Point, and Greensboro.

111. In short, the 2023 and 2025 Plans carved Black voters up and out of former CD-6 and paired them with distant white voters diluting their voting power and eliminating a functioning Black opportunity district

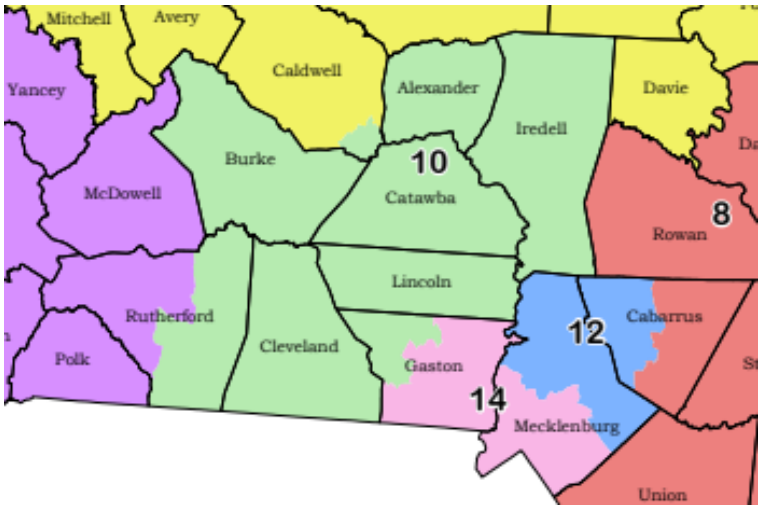
Mecklenburg Area (Congressional Districts 12 and 14)

112. The 2025 Plan's configuration of the Mecklenburg area is identical to the 2023 Plan's configuration of this region.

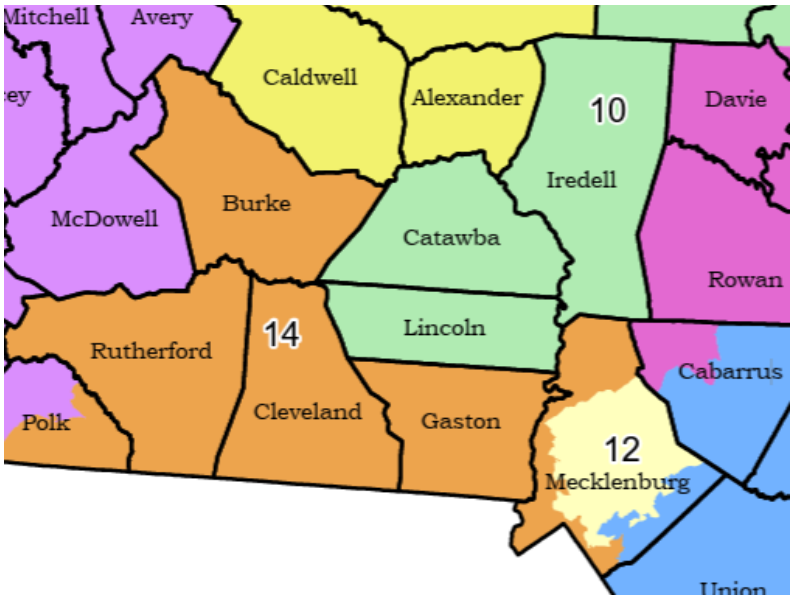
113. Under the 2022 Plan, CD-14 consisted of two adjacent counties, Mecklenburg and Gaston, combining Black voters in Gastonia with other proximate Black communities. CD-14 in the 2022 Plan had a BVAP of 20.68% and performed as an effective minority opportunity district where Black voters could elect their preferred candidates. Under the 2023 and 2025 Plans, Black

voters were moved from CD-14 into CD-12, a district in which Black voters were already electing their candidates of choice by significant margins, and BVAP decreased by nearly five percentage points to 15.93%. Consequently, CD-14 no longer performs as a district in which Black voters can elect their candidates of choice.

114. Under the 2023 and 2025 Plans, Mecklenburg County—home to the state's largest Black population—is split three ways, rendering CD-12 and its surrounding districts significantly less compact than they were in the 2022 Plan. CD-12 concentrates urban Charlotte Black voters into a single district and includes many of Mecklenburg County's most racially diverse precincts, while excluding white voters in south Charlotte from the district.



CD-12 and CD-14 in the 2022 Congressional Plan



CD-12 and CD-14 in the 2025 Congressional Plan

115. Black communities were carved out of CD-14 and placed into CD-12 to the detriment of traditional districting principles in both districts. The reconfiguration of the Mecklenburg area rendered CD-12 and CD-14 less compact under the 2023 and 2025 Plans than they were in the 2022 Plan, with CD-14 sprawling around three sides of CD-12. The 2023 and 2025 Plans also increased the number of political subdivision splits across the region. While CD-12 contains much of the Black population from Charlotte, the district boundary does not track the municipality boundary. Instead CD-12 contains numerous appendages and splits that closely correspond with racial lines.

E. Racial Discrimination and Voting in North Carolina

116. The 2025 Plan is hardly North Carolina's first racially discriminatory redistricting plan or voting practice. North Carolina, has "a long history of race discrimination generally and race-based vote suppression in particular.'" Holmes v. Moore, 270 N.C. App. 7, 20–21, 840 S.E.2d 244, 257 (2020) (quoting McCrory, 831 F.3d at 223).

117. Northeast North Carolina is emblematic of this history. Home to some of the longest-standing Black communities in the U.S., it has a centuries-long legacy of political

organizing in response to official discrimination. For example, Princeville, in Edgecombe County, is the oldest town chartered by African Americans in the country, formed at the end of the Civil War. During Reconstruction, towns like Princeville placed the Northeast North Carolina at the heart of Black political power. Known as the "Black Second," the 1st District and its predecessor district elected three of the first Black people to serve in Congress: John Hyman of Warren County, James O'Hara of Halifax County, and Henry Cheatham of Vance County.

118. The Redemption movement brought an end to Black representation in North Carolina's congressional delegation and made George Henry White, elected in 1898 from Tarboro, North Carolina, the last Black member of Congress from the South until 1972. During the early and mid-twentieth century, Blacks in the Northeast faced extreme discrimination, including the use of literacy tests to deny Blacks the ability to exercise the franchise. Indeed, when Congress enacted the Voting Rights Act, it looked to "North Carolina's pre-1965 history of pernicious discrimination" and made "[f]orty North Carolina jurisdictions," including several counties that make up and surround the districts challenged here, "covered" jurisdictions under Section 5 of the Voting Rights Act based on their use of "suspect prerequisites to voting, like literacy tests." McCrory, 831 F.3d at 215, 223.

119. "[S]tate officials [have] continued in their efforts to restrict or dilute African American voting strength well after 1980 and up to the present day." Holmes, 270 N.C. App. at 23, 840 S.E.2d at 258 (quoting McCrory, 831 F.3d at 225)

F. Totality of the Circumstances

120. Along with North Carolina's history of discrimination, the following factors show that under the totality of the circumstances, Black North Carolinians are less able to participate in the political process than their white counterparts.

1. Ongoing Effects of North Carolina's History of Discrimination

121. The long history of discrimination against Black North Carolinians has produced stark disparities in housing, education, employment, health, criminal justice, and other areas which persist to this day and limit Black North Carolinians' ability to participate in the political process.

122. For example, Black North Carolinians are still less likely to complete high school and college than white North Carolinians. Whereas a third of white North Carolinians have at least a bachelor's degree, only about a fifth of Black North Carolinians have a similar level of educational attainment. Based on worse educational outcomes, Black North Carolinians are at a disadvantage relative to white North Carolinians in participating in the political process.

123. Black households in North Carolina also have substantially lower incomes than those of their white counterparts, and Black North Carolinians are unemployed at more than twice the rate of other racial groups. Recent data from 2010 to 2022 shows that the Black unemployment rate (12%) averaged double that of the white unemployment rate (6%). Similar disparities exist in the areas of home ownership and educational attainment, where white North Carolinians lead their Black counterparts by double digits.

124. The significant income disparity between Blacks and whites in North Carolina has grown over time. In 2010, the Black median household income was approximately $31,000, while that for whites was approximately $48,000—a difference of $17,000. In 2022, the difference had grown to $25,000: approximately $50,000 for Black households, compared to approximately $75,000 for whites. On average, over the same time period, the Black poverty rate was double that of the white poverty rate. Whereas a little over 24% of Black North Carolinians live below the poverty level, that number is a little over 12% for white North Carolinians.

2. Elections in North Carolina are Characterized by Racial Appeals

125. In addition to North Carolina's history of discrimination and the ongoing negative effects of that history, political campaigns in North Carolina have been characterized by both explicit and implicit racial appeals, historically and in recent election cycles.

126. The following examples illustrate the prevalence of racial appeals in North Carolina campaigns in the present day. In 2018, a Republican Party executive, Dallas Woodhouse, repeatedly attacked the 2018 Democratic nominee for the state Supreme Court, Justice Anita Earls, by attempting to associate Earls with violent criminals. Despite Justice Earls having no involvement defending or adjudicating the case of defendant Tilmon Golphin, a Black man who was convicted of murdering two Cumberland County law enforcement offices, Woodhouse tweeted: "Claiming it was racist to execute a cop killer @AnitaEarls got him off death row." Id.

127. In 2022, ads attacking the Democratic candidate for U.S. Senate Cheri Beasley described her as "dangerously liberal" and interspersed images of Beasley with multiple images of mugshots of Black men. Linking former Justice Beasley with crime suggested that she would or could not protect white North Carolinians from Black criminals.

128. In 2023, the North Carolina Republican Party issued a tweet targeting state Democrats along racial lines. Democrats, who were hosting a "Rally to Raise the Wage," invited Senator Bernie Sanders and former state NAACP chairman and Moral Monday pioneer Rev. William Barber II to speak. In response, the Republican Party tweeted, "Socialist Bernie Sanders is teaming up with poverty pimp William Barber to hold a rally with NC Democrats in Durham today."

129. Mark Robinson's 2024 gubernatorial campaign was also dominated by racial appeals. For example, Robinson referred to former First Lady Michelle Obama as a man, claiming she spoke "ghetto" and "wookie," and called the former First Lady "an angry, anti-American

communist Black lady." These and many other racial appeals have come to characterize elections in North Carolina, they prime voters to think along racial lines and contribute to racially polarized voting in the state.

3. Racially Polarized Voting

130. Courts have recognized that voting in North Carolina, both historically and today, is racially polarized, which means that "the race of voters correlates with the selection of a certain candidate or candidates." McCrory, 831 F.3d at 214 (quoting Thornburg v. Gingles, 478 U.S. 30, 62 (1986)).

131. Recent election results demonstrate that racial polarization persists statewide. For example, across all 63 statewide contested partisan elections from 2016 through 2024—Black and white voters consistently supported different candidates. Black voters were highly cohesive in support of Black-preferred candidates, supporting them with an average of 97.6% of the Black vote, while white voters were cohesive in opposing the Black-preferred candidate, with only 28.2% supporting the Black-preferred candidate. Figure 2 below shows the racially polarized voting statewide from 2016–2022.

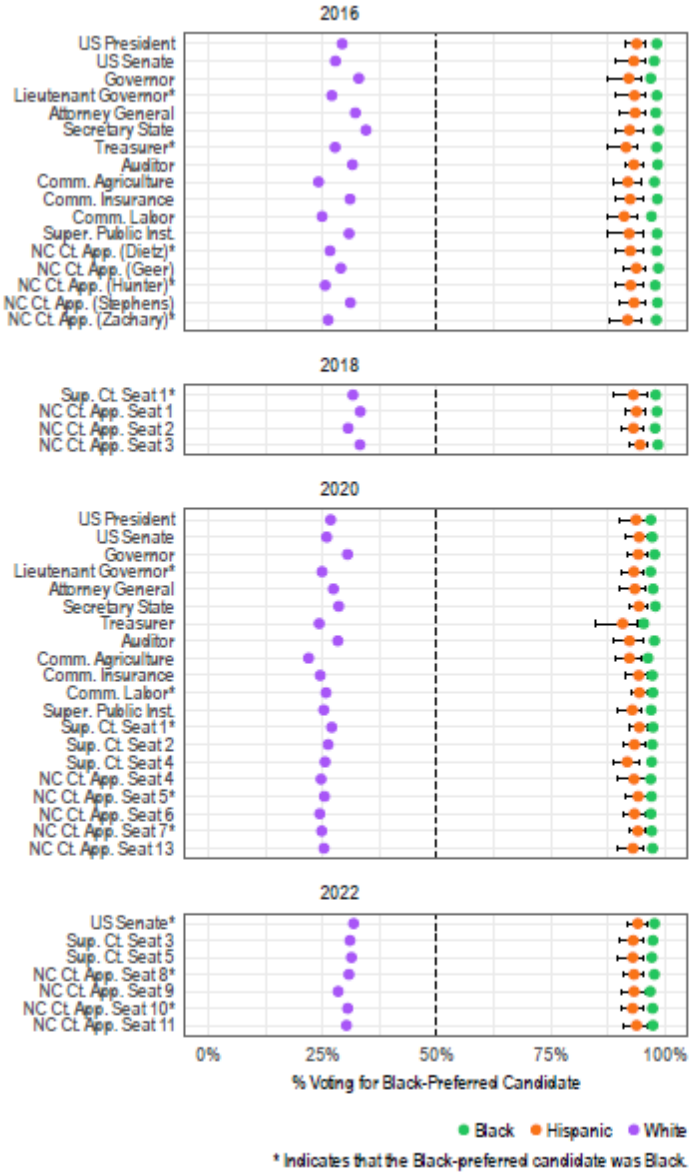


Figure 2: Racially Polarized Voting Estimates by Election — Statewide

132. Similar levels of racial polarization exist in the challenged districts. In the Piedmont Triad, over that same time period, Black voters supported their preferred candidates with an average of 97.5% of their vote, while more than 76% of white voters, on average, opposed Black preferred candidates. Similarly, in CD 14, Black voters supported their preferred candidates with an average of 93.2% of the vote, while more than 80% of white voters, on average, opposed the Black-preferred candidates. And in the Northeast, racial polarization was comparable, with an

average of 97.3% of Black voters supporting the Black-preferred candidate and more than 82% of white voters on average opposing it. Figure 3 below shows racially polarized voting estimates in the Piedmont Triad, Northeast, Mecklenburg and CD 14 in all statewide partisan elections from 2016–2022.

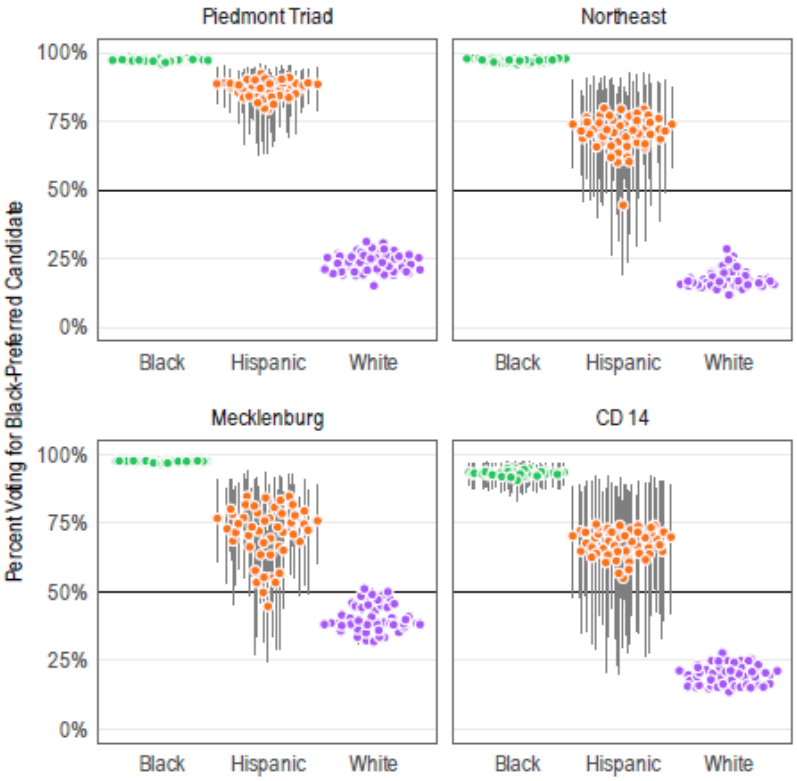


Figure 3: Racially Polarized Voting Estimates by Region

133. Ultimately, racial polarization in voting in North Carolina "offers a 'political payoff for legislators who seek to dilute or limit the minority vote.'" *Holmes*, 270 N.C. App. at 22, 840 S.E.2d at 258 (quoting *McCrory*, 831 F.3d at 222). The fact that "race and party are inexorably linked in North Carolina" creates an "incentive for intentional discrimination in the regulation of elections." *McCrory*, 831 F.3d at 222.

4. Extent to Which Black North Carolinians Have Been Elected to Public Office

134. As a consequence of stark racial polarization in voting and the state's history of racial discrimination, as well as its ongoing effects, Black North Carolinians have struggled to be elected to public office in the state.

135. It took the creation of the state's first two majority-Black districts in the early 1990s—CD-1 and CD-12—for Black North Carolinians to win election to federal office in the 20th century. The citizens of CD-1 and CD-12 have elected a Black representative in every election since 1992. And for the first time in 2022, North Carolina elected three Black representatives to Congress, from CD-1, CD-12, and CD-4. The 2025 Plan's dismantling of CD-1, however, is likely to make it impossible for a Black representative to win election in CD-1.

136. Black North Carolinians have historically fared poorly in statewide elections, too. Of the 69 governors and 57 United States' Senators in North Carolina state history, none have been Black.

137. Black North Carolinians have also consistently been underrepresented in the North Carolina General Assembly over the last 30 years. From 1992 to 2024, comparing the share of seats held by Black representatives in the General Assembly with North Carolina's Black population share reveals that Blacks have been represented at about 76% of their population share. By contrast, white North Carolinians have been consistently overrepresented in the General Assembly at approximately 112% of their population share over the same time period.

138. Finally, when Black candidates have been elected in North Carolina, they have almost exclusively come from majority-minority districts. 78.9% of all of the Black state legislators in North Carolina have come from majority-minority districts, including districts created as a result of Section 2 litigation.

CAUSES OF ACTION

COUNT I
2025 Congressional Plan's violations of the Fourteenth and Fifteenth Amendments to the U.S. Constitution
U.S. Const. amends. XIV and XV; 42 U.S.C. § 1983
(Intentional Discrimination)

139. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

140. The Fourteenth Amendment guarantees racial and ethnic minorities equal protection of the laws. U.S. Const. amend. XIV. And the Fifteenth Amendment guarantees that their votes will not be denied or abridged on account of their race or color. U.S. Const. amend. XV.

141. The Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment to the U.S. Constitution forbid states from enacting laws for which a racially discriminatory intent or purpose is a motivating factor.

142. To establish intentional discrimination, a plaintiff need only show that discriminatory purpose was "a" motivating factor in the legislation—not the only, or even the predominant, factor. Vill. of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 265 (1977).

143. "Intentions to achieve partisan gain and to racially discriminate are not mutually exclusive." Veasey v. Abbott, 830 F.3d 216, 241 n.30 (5th Cir. 2016) (en banc). As the Fourth Circuit has clarified, "intentionally targeting a particular race[] . . . because its members vote for a particular party, in a predictable manner, constitutes discriminatory purpose. This is so even absent any evidence of race-based hatred and despite the obvious political dynamics." McCrory, 831 F.3d at 222–23; see also Washington v. Davis, 426 U.S. 229, 242 (1976) ("[D]iscriminatory purpose

may often be inferred from the totality of the relevant facts, including the fact . . . that the law bears more heavily on one race than another.").

144. The Supreme Court has identified the following non-exclusive list of factors that may tend to prove intentional discrimination: (1) "The impact of the official action—whether it bears more heavily on one race than another. . . . Sometimes a clear pattern, unexplainable on grounds other than race, emerges from the effect of the state action even when the governing legislation appears neutral on its face." (2) "The historical background of the decision . . . , particularly if it reveals a series of official actions taken for invidious purposes." (3) "The specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker's purposes. . . . Departures from the normal procedural sequence also might afford evidence that improper purposes are playing a role." (4) "Substantive departures too may be relevant, particularly if the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached." (5) "The legislative or administrative history may be highly relevant, especially where there are contemporary statements by members of the decisionmaking body, minutes of its meetings, or reports." Arlington Heights, 429 U.S. at 266–68 (quotations omitted).

145. When "a State intentionally dr[aws] district lines in order to destroy otherwise effective crossover districts, that [] raises[s] serious questions under both the Fourteenth and Fifteenth Amendments." Bartlett v. Strickland, 556 U.S. 1, 24 (2009) (plurality op.).

146. The 2025 Plan was adopted, at least in part, with a racially discriminatory intent to discriminate against Black voters in violation of the U.S. Constitution.

147. The 2025 Plan will have a discriminatory impact on Black North Carolinians—a fact that was foreseeable when Defendants drafted and passed the Plan. The General Assembly

has limited Black voters' ability to elect or even influence elections through the purposeful cracking and packing of these voters.

148. In particular, the 2025 Plan intentionally dismantles CD-1, CD-6, and CD-14, which were effective Black opportunity districts under the 2022 plan.

149. Moreover, other circumstantial evidence raises a strong inference of a discriminatory purpose motivating the enactment of the 2025 Plan, including North Carolina's well-documented history and ongoing record of discrimination against Black North Carolinians in redistricting and other voting practices, the sequence of events and non-transparent process that led up to the enactment of the 2025 Plan, and the stark disparity between the racial demographic gains for minority populations and decreased electoral opportunities for minority voters.

150. Plaintiffs have no adequate remedy at law other than the judicial relief sought in this case. The failure to enjoin the conduct of elections under the 2025 Plan and ordering of remedial maps will irreparably harm Plaintiffs by subjecting them to intentionally racially discriminatory districts until the end of the decade.

COUNT II
2025 Congressional Plan's violations of Section 2 of the Voting Rights Act
52 U.S.C. § 10301; 42 U.S.C §1983
(Intentional Vote Dilution)

151. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the count below as though fully set forth herein.

152. Section 2 of the Voting Rights Act of 1965 prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice, or procedure that has the purpose or effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. 52 U.S.C. § 10301(a). Plaintiffs establish a violation when "the totality of circumstances" show that a state's "political processes . . . are not equally open to participation

by" members of a minority group "in that [they] have less opportunity . . . to participate in the political process and to elect representatives of their choice." Id. § 10301(b). A plaintiff establishes an intentional Section 2 vote dilution claim by demonstrating that the plan was enacted with a discriminatory intent and had a discriminatory effect. See, e.g., Harding v. County of Dallas, 948 F.3d 302, 312–13 (5th Cir. 2020)

153. "Demonstrating discriminatory intent . . . 'does not require a plaintiff to prove that the challenged action rested solely on racially discriminatory purpose[].'" Allen v. Milligan, 599 U.S. 1, 37 (2023) (quoting Arlington Heights, 429 U.S. at 265). Plaintiffs may establish a redistricting plan's discriminatory intent through the Arlington Heights factors. See, e.g., Brnovich v. Democratic Nat'l Comm., 594 U.S. 647, 687 (2021)

154. And to demonstrate a plan's discriminatory effect, courts have considered a variety of additional factors, principal among them preconditions 2 and 3 identified in Gingles, 478 U.S. at 30, and the factors set out in the Senate Report to the 1982 amendments to the VRA ("Senate Factors"). Gingles precondition 2 examines whether minority voters are "politically cohesive," and Gingles 3 directs courts to examine whether the "white majority votes sufficiently as a bloc to enable it usually . . . to defeat the minority's preferred candidate." Id. at 51. Together, these factors examine the existence of racially polarized voting in a jurisdiction.

155. The Senate factors provide additional evidence of a redistricting plan's discriminatory effect; these factors direct courts to examine: (1) the history of official voting-related discrimination in the state or political subdivision; (2) the extent to which voting in the elections of the state or political subdivision is racially polarized; (3) the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election

districts, majority-vote requirements, and prohibitions against bullet voting; (4) the exclusion of members of the minority group from candidate slating processes; (5) the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; (6) the use of overt or subtle racial appeals in political campaigns; (7) the extent to which members of the minority group have been elected to public office in the jurisdiction; (8) whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of members of the minority group; and (9) whether the policy underlying the state's practice or procedure is tenuous

156. The Senate Report and the cases interpreting it make clear that "there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other." United States v. Marengo Cnty. Comm'n, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. No. 97-417, 97th Cong., 2nd Sess. at 29 (1982)); see also id. at 1566 ("The statute explicitly calls for a 'totality-of-the circumstances' approach and the Senate Report indicates that no particular factor is an indispensable element of a dilution claim.").

157. Every relevant factor supports a finding of intentional vote dilution here. There is racially polarized voting in North Carolina and in the challenged districts, and the application of the Senate Factors in North Carolina provides additional evidence of the 2025 Plan's discriminatory effect. Among other things, there is a long history of official discrimination in North Carolina the effects of which are felt by Black North Carolinians in education, employment, income, health and in a host of other facets of life; Blacks have had limited electoral success in North Carolina; and campaigns in the state are characterized by racial appeals. The 2025 Plan violates Section 2 of the Voting Rights Act because under the totality of the circumstances, the

Plan has the purpose and effect of diluting the voting power of Black voters in CD-1, CD-6, CD-12, and CD-14, and Black voters have less opportunity than other members of the electorate to elect candidates of their choice.

158. Plaintiffs seek relief and all available remedies under 42 U.S.C. § 1983 and Section 2 of the Voting Rights Act, 52 U.S.C. § 10301.

COUNT III
2025 Congressional Plan's violations of the Fourteenth Amendment and Article I, § 2 of the U.S. Constitution
U.S. Const. amend. XIV; Article I § 2; 42 U.S.C § 1983
(Malapportionment)

159. Plaintiffs re-allege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

160. "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote." Gray v. Sanders, 372 U.S. 368, 381 (1963). When applied to congressional districts, pursuant to Article I, Section 2 of the Constitution, states must "draw congressional districts with populations as close to perfect equality as possible," Evenwel v. Abbott, 578 U.S. 54, 59 (2016), or in other words, "as nearly as is practicable." Wesberry v. Sanders, 376 U.S. at 1, 7–8 (1964). This requires states to make a "good faith effort to achieve precise mathematical equality." Kirkpatrick v. Preisler, 394 U.S. 526, 530–31 (1969) (citing Reynolds v. Sims, 377 U.S. 533, 577 (1964)).

161. When districts are not drawn to contain equal populations, voters in districts containing a larger population have their votes diluted in that they have less ability to influence the outcome of an election when compared to voters in districts that are not overpopulated. See Kirkpatrick, 394 U.S. at 531 ("Equal representation for equal numbers of people is a principle

designed to prevent debasement of voting power and diminution of access to elected representatives.")

162. North Carolina did not make a good faith effort to achieve mathematical equality across districts. Quite the opposite—North Carolina acted in bad faith by redrawing its districts without care for any of the population shifts that have occurred since the 2020 census in a race-based gambit to increase the number of Republican representatives from the state's congressional delegation at the expense of its own citizens.

163. S.B. 249 fails to achieve anything close to precise mathematical equality in populations across North Carolina's districts. Because it is based on a census taken five years ago, S.B. 249 fails to take account of shifts in North Carolina's population. North Carolina's population grew by 605,000 between the 2020 census and 2024—from July 1, 2023, to July 1, 2024, alone, North Carolina's population grew by 165,000 people—the fourth largest population gain in the nation.[7]

164. This growth has been uneven. Between July 2022 and 2023, twenty-six counties had higher population growth rates than North Carolina as a whole.[8]

165. The trends of uneven growth continued between 2023 and 2024. For example, Brunswick County, one of North Carolina's fastest growing counties, increased by 4.5% in that time, while Hyde County's population decreased by 1.18%.[9]

[7] Michael Cline, North Carolina Now Home to Over 11 Million People, N.C. Off. of State Budget & Mgmt. (Dec. 20, 2024), https://www.osbm.nc.us/blog/2024/12/20/north-carolina-now-home-over-11-million-people

[8] Lisa Carlson, 75 NC counties have grown in population since 2022, Carolina Demography (Mar. 18, 2024), https://carolinademography.cpc.unc.edu/2024/03/18/75-counties-have-grown-in-population-since-2022/.

[9] U.S. Census Bureau, County Population Totals and Components of Change: 2020-2024 (Mar. 2025), https://www.census.gov/data/tables/time-series/demo/popest/2020s-counties-total.html.

166. Senator Hise confirmed that the General Assembly relied exclusively on 2020 Census data in attempting to ensure that the 2025 Plan's districts were evenly apportioned.

167. Although states generally "operate under the legal fiction" that plans remain constitutionally apportioned for ten years after they are adjusted for a given census, *Georgia v. Ashcroft*, 539 U.S. 461, 488 n.2 (2003), states should not get the benefit of that legal fiction when they choose to engage in unnecessary, mid-decade redistricting. The purpose of this legal fiction is to "avoid constant redistricting," *LULAC*, 548 U.S. at 421 (emphasis added). Extending the legal fiction to unnecessary, mid-decade redistricting would turn its purpose on its head, such that it would enable, rather than avoid, constant redistricting.

168. Here, unlike in *LULAC v. Perry*, the prior map being replaced by mid-decade redistricting was itself a legislatively enacted map. As a result, a preference for legislatively enacted rather than court-drawn districts provides no justification for extending the legal fiction of equal population to cover North Carolina's voluntary choice in S.B. 249 to redraw its existing Congressional districts now.

169. Plaintiff Armenta Eaton is among the voters injured by North Carolina's decision to enact mid-decade malapportioned maps. Armenta Eaton lives in CD-13, which under the 2025 Plan is overpopulated by thousands of residents according to recent ACS data. Armenta Eaton's vote is therefore diluted relative to the vote of other North Carolinians in other, underpopulated districts.

170. By engaging in the acts and omissions alleged herein, Defendants have acted and continue to act to deny Plaintiffs rights guaranteed to them by the Fourteenth Amendment and Article I § 2 of the United States Constitution, enforceable under 42 U.S.C. § 1983. Defendants will continue to violate those rights absent relief from this Court.

COUNT IV

2025 Congressional Plan's violations of the First and Fourteenth Amendments to the U.S. Constitution

U.S. Const. amends. I, XIV; 42 U.S.C § 1983 (Freedom of Speech and Assembly and Equal Protection Clause – Racial Data and Partisan Advantage)

171. Plaintiffs re-allege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

172. Ordinarily, a state's consideration of race in lawmaking will be subject to strict scrutiny, but courts have been willing to tolerate the consideration of race and the pursuit of partisan advantage in redistricting because they are seen as essential to the necessary task of adjusting districts to reflect population changes after each decennial census. *See Miller v. Johnson*, 515 U.S. 900, 916 (1995); *Rucho v. Common Cause*, 588 U.S. 684, 700–01 (2019). But here, nothing about North Carolina's mid-decade redistricting is necessary, and the General Assembly is thus unable to justify consideration of race or any pursuit of partisan advantage in adopting those districts. The General Assembly's voluntary decision to revise previously enacted districts therefore violates the Constitution.

173. In ordinary decennial redistricting, the Supreme Court has held that complaints about partisan gerrymandering are nonjusticiable in that context, because prohibiting pursuit of "partisan interests" in redistricting might make it impossible for partisan legislatures to draw districts at all. *Rucho*, 588 U.S. at 700–01. The Supreme Court has also emphasized that legislators will "almost always be aware of racial demographics" when they draw districts, and it has therefore imposed a higher standard before subjecting districts drawn with an awareness of race to strict scrutiny—otherwise, redistricting might be impossible. *Miller*, 515 U.S. at 916.

174. Those rationales take as a given that the act of redistricting is necessary, or at least desirable. Absent a court order (and there is no such order here), decide revision of previously

enacted districts is entirely optional, so there can be no necessity justification for the legislature's use of race or for its pursuit of partisan advantage

175. The North Carolina General Assembly's voluntary choice to make unnecessary mid-decade changes to the state's congressional districts eliminates any inevitability justification for the use of racial considerations or the pursuit of partisan advantage in the redistricting process. Even if racial and partisan considerations are an unavoidable part of redistricting, there is no need for legislatures to take those considerations into account more than once in a single decade, unprompted by a court order or the necessity of replacing a court-ordered map.

176. As a result, the General Assembly's consideration of racial information and pursuit of partisan advantage as part of a voluntary, unnecessary mid-decade revision of legislatively enacted congressional plans violates the First Amendment and the Equal Protection Clause.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

a. Declare that the 2025 Plan is unconstitutional because it was passed with discriminatory intent as a motivating factor in violation of the Fourteenth and Fifteenth Amendments;

b. Declare that the 2025 Plan is intentionally discriminatory in violation of Section 2 of the Voting Rights Act;

c. Declare that the 2025 Plan is unjustifiably malapportioned in violation of one person, one vote in Article I, § 2 of the U.S. Constitution and the Fourteenth Amendment;

d. Declare that the 2025 Plan unnecessarily and unjustifiably considers racial and partisan demographics as part of a voluntary, mid-cycle redistricting in violation of the First and Fourteenth Amendments;

e. Enjoin Defendants, as well as their agents and successors in office, from enforcing

or giving any effect to the boundaries of the congressional districts in the 2025 Plan, including an injunction barring Defendants from conducting any congressional elections under the 2025 Plan;

f. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid congressional plan in the State of North Carolina; and

g. Grant such other or further relief the Court deems appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: October 23, 2025

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* Special Appearance pursuant to Lo
Rule 83.1(d)

** Notice of Special Appearance
Pursuant to Local Rule 83.1(d)
Forthcoming