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' REPLY IN SUPPORT OF THEIR MOTION FOR PRELIMINARY INJUNCTION**

INTRODUCTION

Legislative Defendants ("Defendants") fail to rebut *Williams* Plaintiffs' showing that preliminary injunctive relief is warranted and necessary. The evidence reveals that the General Assembly used S.B. 249 "to entrench itself" by "targeting voters who, based on race, were unlikely to vote for the majority party." *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 233 (4th Cir. 2016). Even if "done for partisan ends," because the General Assembly used Black voters as the means to achieve their partisan goal, "that constitute[s] racial discrimination." *Id.*[1]

ARGUMENT

I. Plaintiffs are likely to succeed on the merits of their claims.

A. Plaintiffs stated the correct legal standard.

Ignoring the Supreme Court's clear directive that "[a] vote-dilution claim is 'analytically distinct' from a racial-gerrymandering claim and follows a 'different analysis,'" *Alexander v. S.C. State Conf. of NAACP*, 602 U.S. 1, 38 (2024) (citation omitted), Defendants wrongly attempt to import *Alexander*'s racial gerrymandering standard here, *see* Opp.6. But to prove intentional vote dilution, Plaintiffs must simply show that discriminatory purpose was "a motivating factor,"—not the "sole" or "primary" purpose—and may make that showing with any available "circumstantial and direct

[1] Defendants offer almost no response to Plaintiffs' malapportionment and First and Fourteenth Amendment claims, resting on their arguments in their Motion to Dismiss. Even if their attempt to incorporate their MTD arguments here were deemed proper and not waived, *see* Local Rule 7.3(d)(3), those arguments fail for reasons stated in Plaintiffs' forthcoming opposition brief.

evidence of intent." *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-66 (1977). Defendants ignore that recent Supreme Court decisions have reaffirmed "the familiar approach outlined in *Arlington Heights*" to evaluate "the question of discriminatory intent," *see, e.g.*, *Brnovich v. DNC*, 594 U.S. 647, 687 (2021), and claim that the Court has blessed their targeting of Black voters to achieve partisan ends. Opp.9, 16. Not so: "targeting voters who, based on race, were unlikely to vote for the majority party," *McCrory*, 831 F.3d at 233, constitutes impermissible racial discrimination.

Defendants also wrongly suggest that without direct evidence of discriminatory intent, a vote dilution claim must fail. Opp.16. But the Court has made clear that "discriminatory intent need not be proven by direct evidence," *Rogers v. Lodge*, 458 U.S. 613, 618 (1982), and has "often acknowledged the utility of circumstantial evidence in discrimination cases," *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 99-100 (2003). For good reason: "Outright admissions of impermissible racial motivation are infrequent," and "plaintiffs often must rely upon other evidence." *Hunt v. Cromartie*, 526 U.S. 541, 553 (1999); *see also Mi Familia Vota v. Fontes*, 129 F.4th 691, 725 (9th Cir. 2025) ("direct evidence of legislators' discriminatory purpose is [] rare," and "circumstantial evidence [of discriminatory intent] may be 'more certain, satisfying and persuasive than direct evidence'") (quoting *Costa*, 539 U.S. at 100). Requiring direct evidence would "ignore the reality that neutral reasons can and do mask racial intent," and "give legislatures free rein to racially discriminate so long as they do not overtly state discrimination as their purpose." *Veasey v. Abbott*, 830 F.3d 216, 235 (5th Cir. 2016).

This case in particular is not one where "direct evidence" of discrimination is likely

to be "be smoked out," Opp.7-8 (citing *Alexander*, 602 U.S. at 8), *e.g.*, through "scores of leaked emails from state officials instructing their mapmaker to pack as many black voters as possible into a district," *Cooper v. Harris*, 581 U.S. 285, 318 (2017). Defendants made sure of that by repealing a longstanding law that made redistricting communications public and giving legislators the unilateral authority to delete their emails and destroy their records. Br.6 n.3. Moreover, during prior phases of this litigation, Defendants have shielded any possible direct evidence by asserting privilege over numerous redistricting documents relevant to the enactment of the 2023 Plan. Ex. 15.[2]

B. Plaintiffs are likely to demonstrate intentional vote dilution.

The *Arlington Heights* factors—largely undisputed by Defendants—support a finding that S.B. 249 was motivated by discriminatory intent. First, Defendants do not contest S.B. 249's discriminatory impact: it nearly guarantees that Black voters in CD-1 and CD-3 will be unable to elect their preferred candidates by shifting tens of thousands of Black voters across district lines while keeping the BVAP in both districts low enough that Black voters form ineffective minorities in both districts. Br.7-12. This was achieved by decreasing the BVAP of CD-1 by 8 percentage points—which is *double* the decrease in Democratic voter share—a pattern that holds regardless of the data examined. *See* Opp.19-22; *see* Ex. 1 at 9-10. Nor do they contest that this change came at the expense of traditional redistricting principles, or that Black voters disproportionately reside in districts under S.B. 249 where they cannot elect their preferred candidates. Opp.19-22.

[2] Exhibits are attached to the First and Second Declarations of Lalitha D. Madduri.

Second, unable to contest Plaintiffs' evidence of racially polarized voting or North Carolina's history of voting-related discrimination, Defendants claim such evidence is irrelevant. *See* Opp.21. They are wrong on both counts. Racially polarized voting—which Defendants' own expert confirms exists, *see* Alford Rep., Opp., Ex. 9 at 4-6—"provide[s] an incentive for intentional discrimination," *McCrory*, 831 F.3d at 222, because a high degree of polarization "offers a political payoff for legislators who seek to dilute or limit the minority vote," *Holmes v. Moore*, 840 S.E.2d 244, 258 (N.C. 2020) (quotation omitted). Indeed, as the Fourth Circuit and a former expert for the State recognized, *McCrory*, 831 F.3d at 225, and Senator Hise admitted at trial, ECF No. 166 ¶ 573, race is among the best predictors of voting behavior: Black North Carolinians vote more cohesively and consistently than white voters, Ex. 2 at 3, providing an obvious incentive to target Black voters to produce enduring gerrymanders.

Moreover, the Court has made clear that the "historical background of a legislative enactment is one evidentiary source relevant to the question of intent." *Abbott v. Perez*, 585 U.S. 579, 603-04 (2018) (citation omitted); *see also United States v. Sanchez-Garcia*, 98 F.4th 90, 99 (4th Cir. 2024). Plaintiffs have presented recent, direct evidence of the General Assembly (and specifically Senator Hise) repeatedly using unlawful means to achieve their political goals in recent redistricting cycles. *See* Br.17-19. That includes considering partisanship even when doing so was unlawful, *see* Br.17, and improperly considering race. *See Cooper*, 581 U.S. at 300 (quoting trial testimony that legislative consultant was "instructed to draw [District 1] with a [BVAP] in excess of 50 percent") (alterations in original)). That evidence "provides important context for determining

whether the same decisionmaking body—and here, the same decisionmaker, *see infra* § I.D —has also enacted a law with discriminatory purpose." *McCrory*, 831 F.3d at 223-24.

Finally, Defendants do not dispute any of the substantive and procedural deviations in S.B. 249's enactment. Instead, they acknowledge that the General Assembly avoided scrutiny at every turn and refused to implement the views expressed in public comments. Opp.20. They do not dispute that S.B. 249 set out to target the State's oldest Black opportunity district, significantly departing from the last 150 years of congressional plans, nor do they dispute the extraordinary pace of the legislative process or the suppression of legislative debate so that the means and motivation behind the districting changes could not be investigated. Br.15-17. "[R]ush[ing] [a bill] through the legislative process" "strongly suggests an attempt to avoid in-depth scrutiny," and supports an inference of discriminatory intent under *Arlington Heights*. *McCrory*, 831 F.3d at 228-29.

Defendants' insistence that race could not have played a role because the Legislature professed that S.B. 249 was enacted to accomplish partisan goals ignores that "[t]he sorting of voters on the grounds of their race remains suspect even if race is meant to function as a proxy for other (including political) characteristics." *Cooper*, 581 U.S. at 308 n.7. It also ignores that "[i]ntentions to achieve partisan gain and to racially discriminate are not mutually exclusive." *Veasey*, 830 F.3d at 241 n.30.

C. Plaintiffs disentangled race from politics.

The requirement to disentangle race from politics, though relevant to racial gerrymandering claims, does not apply here. *Alexander*, 602 U.S. at 38 ("A vote-dilution claim is 'analytically distinct' from a racial-gerrymandering claim and follows a 'different

analysis.'").[3] But even if it did apply, Plaintiffs have sufficiently separated race from politics and shown that Defendants "use[d] race" to "advance[]their partisan interests." *Cooper*, 581 U.S. at 308 n.7.

First, Dr. Rodden shows that the racial effects of S.B. 249 do not align with partisanship. Br.11. While CD-1's Democratic vote share dropped only about 4 percentage points between the two plans, its BVAP fell by 8 points, *double* the drop in the percentage of Democratic voters. *Id.* Moreover, that disparity exists across *all* partisan groups—Democrats, Republicans, and unaffiliated voters; Black voters of *all* party affiliations were disproportionately moved out of CD-1 and into CD-3. *Id*. In the face of these statistics, Defendants have nothing but Dr. Barber's unsubstantiated say-so that the observed racial differences must have resulted from partisan sorting. Opp.18. But both Dr. Rodden's analysis of Dr. Barber's original simulations and Dr. Rodden's new responsive simulations show that S.B. 249's extreme racial sorting was not necessary to achieve the General Assembly's professed partisan goals. Ex. 17, Rodden Rebuttal Rep. at 15. The same is true of Dr. Rodden's prior analysis of the General Assembly's draft maps, which show partisan goals did not necessitate the unusually low BVAP in CD-1. *Id.* at 14-15. The fact "that [S.B. 249] bears more heavily on one race than another" supports an "infer[ence]" of "discriminatory purpose." *Washington v. Davis*, 426 U.S. 229, 242 (1976).

None of Defendants' remaining arguments meaningfully challenge Plaintiffs'

[3] For the same reason, Defendants are wrong that Plaintiffs face an "adverse inference" because they have not produced an alternative map. Opp.16. That requirement is specific to the racial gerrymandering context. The Court has never imposed it in vote dilution cases.

evidence. They criticize Dr. Rodden's analyses because he observed that the General Assembly treated Black voters differently in the 2023 Plan than in S.B. 249, Opp.17-18, but that observation reflects only the indisputable facts that the 2023 Plan did not dismantle CD-1 and held BVAP relatively steady as compared to the 2022 Plan, while S.B. 249 significantly reconfigured CD-1, dropping its BVAP by eight percentage points. They next question why Dr. Rodden did not conduct every prior analysis he performed for the 2023 Plan for S.B. 249. Opp.17. The answers are both simple and mundane. A single week passed between S.B. 249's passage and Plaintiffs' filing of their PI, giving limited time to prepare a report. Ex. 17 at 2, 4. But, even so, some of Dr. Rodden's prior analyses were not suitable for the two-district focus of S.B. 249. *Id.* at 3, 10 (explaining the county envelope analysis is meaningful only where there are sufficient split counties to examine alternative VTD configurations and correcting Dr. Barber's mischaracterization of prior regressions).[4] Further, Defendants ignore several expert analyses that support Plaintiffs' claims. For example, they do not dispute—or even acknowledge—that S.B. 249 performs worse than the prior plan on nearly every traditional redistricting criterion—including historic configurations, respect for incumbents, preserving cores of former districts, political subdivision splits, and respect for communities of interest. *See Karcher v. Daggett*, 462 U.S. 725, 740 (1983); *see also* Ex. 17 at 4-10 (further showing S.B. 249 performs worse than 2023 Plan on several traditional redistricting criteria and including racial dislocation

[4] The Court has already seen Dr. Rodden testify credibly, consistently, and candidly at trial. Dr. Rodden has been forthcoming about how his various analyses can be informative to the Court as "piece[s] of the larger puzzle" rather than "a strict statistical test." Tr.1464:21-1465:12. This is no less true of the analysis in his supplemental reports.

analyses demonstrating unnatural racial sorting).

Defendants next suggest that race could not have been a motivating factor in S.B. 249 because it did not move majority-Black counties, Opp.17-18, but they do not dispute that the Plan swaps *disproportionately* Black communities (counties with 30-40% BVAP) out of CD-1 into CD-3 in exchange for heavily white counties (with BVAP as low as 1.81%), Br.7-8, sufficient to dismantle Black opportunity in CD-1. That they could have shifted *even more* Black voters does not erase the targeted swaps S.B. 249 inflicted or its resulting discriminatory effect.

D. Plaintiffs rebutted the legislative presumption of good faith.

The presumption of good faith asks courts to put their thumb on the scale in favor of the legislature when "confronted with evidence that could plausibly support multiple conclusions." *Alexander*, 602 U.S. at 10 (citing *Abbott*, 585 U.S. at 610-12). Courts have recently recognized that an effective demonstration of the *Arlington Heights* factors may "rebut[] the presumption of legislative good faith." *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1350 (N.D. Ala. 2025). And partisanship considerations alone do not explain the observed racial sorting in CDs 1 and 3. *Supra* § I.C.

Plaintiffs have also provided extensive evidence to question Senator Hise's credibility, Br.17-19, and Defendants' attempts to rehabilitate him are unavailing. Senator Hise's insistence that he did not actively view racial data while configuring S.B. 249 does not, as Defendants allege, "defeat the allegations of racial motive," Opp.8, both because "legislators rarely provide … direct evidence of their invidious motives," *Tenn. State Conf. of NAACP v. Lee*, 746 F. Supp. 3d 473, 503 (M.D. Tenn. 2024), and because the evidence

shows that Senator Hise has uniquely deep knowledge of racial demographics in North Carolina: He has drawn more than a half dozen maps, served in leadership roles in redistricting since 2017, and even helped draw a congressional map last census cycle that the Supreme Court affirmed targeted a 55% BVAP in CD-1. *Cooper*, 581 U.S. at 300. In other words, he has far more than "general knowledge," Opp.11, of race in the Northeast, and did not need to actively view racial data to target Black voters.

Defendants' revisionist history of past judicial findings of the General Assembly's and Senator Hise's lapses in credibility does not move the needle. Opp.12. In spite of Senator Hise's insistence "several times under oath" that the General Assembly did not use partisan data in crafting the 2021 Plan, ECF No. 166 ¶ 460, the North Carolina Supreme Court concluded that "[t]he General Assembly ha[d] substantially diminished the voting power of voters affiliated with one party on the basis of partisanship" and had "done so intentionally." *Id*. (quoting *Harper v. Hall*, 868 S.E.2d 499, 554 (N.C. 2022)). That decision does not "support[] Senator Hise's attestation[]," Opp.12—it directly contradicts it. They next suggest that this finding can be ignored because it was a "state-court decision[]" that considered partisanship, not race. Opp.13. But it does not matter in which court he offered misleading testimony or the type of information about which he was "less than candid," *id*. Further, Senator Hise's misstatements continued into the 2025 legislative process when he denied having seen or reviewed any analysis of racially polarized voting in CD-1 in the 2025 or 2023 processes. *See id.* at 17-18.

Defendants' attempts to explain away *Common Cause v. Lewis*, 2019 WL 4569584 (N.C. Super. Sep. 03, 2019), fare no better. While they claim the court accepted that the

General Assembly "did not use racial data in drawing [] districts" during the 2017 process, Opp.13, that decision actually found that "the unrebutted evidence established that Defendants," including Senator Hise, "cracked African American voters in rural and semi-rural parts of the state where cracking Democratic voters would maximize Republican victories." *Common Cause*, 2019 WL 4569584, at *102. And while Defendants "claimed … that … they did not use racial data in drawing the districts" and only "checked the racial demographics of the districts on the 'back end' to ensure that 'the VRA was satisfied,'" "the Court f[ound] th[at] assertion *not credible*." *Id*. (emphases added). Far from supporting the General Assembly's credibility, these prior decisions demonstrate "[a] historical pattern of laws producing discriminatory results" from "the same decisionmaking body" that drew and enacted S.B. 249. *McCrory*, 831 F.3d at 223-24.

These facts, compounded by the General Assembly's insistence on shielding redistricting materials and by Plaintiffs' demonstration of the *Arlington Heights* factors, overcome the presumption of good faith.

II. Plaintiffs are entitled to injunctive relief.

Misreading *Pierce v. North Carolina State Board of Elections*, Defendants contend that Plaintiffs seek a "disfavored" mandatory injunction. Opp.22 (citing 97 F.4th 194, 209 (4th Cir. 2024)). Not so—Plaintiffs seek a prohibitory injunction to "maintain the status quo and prevent irreparable harm." *League of Women Voters of N.C. v. North Carolina* ("*LWV*"), 769 F.3d 224, 236 (4th Cir. 2014) ("[R]equir[ing] a party who has recently disturbed the status quo to reverse its actions … restores, rather than disturbs, the status quo ante.") (citations omitted). Plaintiffs sued immediately—not "a month" after the plan

was enacted—and their motion does not "seek to impose an entirely different map." *Pierce*, 97 F.4th at 209-10; *see also LWV*, 769 F.3d at 236 (concluding that plaintiffs who filed suit immediately after bill's enactment were "[w]ithout doubt" "seeking to maintain the status quo"). Plaintiffs seek only the continued use of the 2023 Map while the Court adjudicates their claims as to the Piedmont Triad and Mecklenburg districts.

Citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006), Defendants also take the untenable position that there is insufficient time for the Court to replace an illegal map with its direct predecessor in a non-election year. Opp.22. That is factually incorrect. The Court set a schedule that the State Board indicates provides enough time to implement a remedy. Further, applying *Purcell* here would create skewed incentives, insulating unlawful maps from judicial review whenever a state waits until the last minute to alter a map. No case supports such an outcome. *Merrill v. Milligan*, Opp.22, is not on point: there, the Supreme Court stayed an *election-year order* to "completely redraw[]" Alabama's districts "within a few short weeks." 142 S. Ct. 879 (2022) (Alito, J., concurring). Similarly, *Robinson v. Callais*, 144 S. Ct. 1171 (2024), stayed an election-year order that left Louisiana without any map. *See also Pierce*, 97 F.4th at 229 (applying *Purcell* where preliminary relief would require "discard[ing] completed ballots"). Reverting, in an off-cycle year, to the same map that governed North Carolina's most recent elections does not present any of the same challenges. In fact, reverting to the status quo would promote *Purcell*'s objectives of "stability and sense of repose that engender trust and confidence in our elections." *Id.* at 229.

CONCLUSION

The Court should preliminarily enjoin the use of S.B. 249 and order use of the 2023 Plan, pending resolution of claims heard at trial.

Dated: November 18, 2025

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* *Special Appearance pursuant to Local Rule 83.1(d)*

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.3(d), I hereby certify that this brief contains 3,109 words as indicated Microsoft Word, excluding the caption, signature lines, certificate of service, cover page, and tables.

This the 18th day of November, 2025.

/s/ *Lalitha D. Madduri*
Lalitha D. Madduri

CERTIFICATE OF SERVICE

On this 18th day of November, 2025, I electronically filed the foregoing using the Court's CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by that system.

/s/ *Lalitha D. Madduri*
Lalitha D. Madduri

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

SECOND DECLARATION OF LALITHA D. MADDURI IN SUPPORT OF *WILLIAMS* PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

I, Lalitha D. Madduri, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18 and competent to make this declaration. I am a partner with the law firm Elias Law Group LLP and am admitted to practice law in the States of California and Arizona and the District of Columbia and before the United States Supreme Court, as well as multiple federal courts of appeals and district courts. I serve as counsel

for *Williams* Plaintiffs in the above-captioned matter. I have appeared by special appearance pursuant to Local Rule 83.1(d) in this case.

2. I submit this second declaration to provide the Court with true and correct copies of materials submitted in support of *Williams* Plaintiffs' Motion for Preliminary Injunction. ECF No. 187.

Exhibit 15 is a true and correct copy of Legislative Defendants' Objections and Responses to *Williams* Plaintiffs' First Set of Interrogatories, dated May 24, 2024.

Exhibit 16 is a true and correct copy of the Supplemental Expert Rebuttal Report of Dr. Allan J. Lichtman, dated November 18, 2025.

Exhibit 17 is a true and correct copy of the Supplemental Expert Rebuttal Report of Dr. Jonathan Rodden, dated November 18, 2025.

Exhibit 18 is a true and correct copy of the Second Supplemental Rebuttal Report of Dr. Maxwell Palmer, dated November 17, 2025.

Dated: November 18, 2025

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EXHIBIT 15

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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

LEGISLATIVE DEFENDANTS' OBJECTIONS AND RESPONSES TO *WILLIAMS* PLAINTIFFS' FIRST SET OF INTERROGATORIES

Defendants Representative Destin Hall, Senator Ralph Hise, Senator Paul Newton, Senator Warren Daniel, Speaker Timothy K. Moore, and President Pro Tempore Philip E. Berger, each in their official capacities (collectively, "Legislative Defendants"), by and through undersigned counsel and pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, serve their objections and responses to Plaintiff Shauna Williams' ("*Williams* Plaintiffs") First Set of Interrogatories as follows:

GENERAL OBJECTIONS AND RESERVATION OF RIGHTS

Legislative Defendants make the following answers, responses, and objections to *Williams* Plaintiffs' First Set of Interrogatories ("Interrogatories"). Each of the following responses is made subject to any and all objections as to competence, relevance, or other grounds that would require exclusion of such statements if made by a witness present and testifying in court. Any and all such objections and grounds are expressly reserved.

The responses are based on Legislative Defendants' present knowledge, information, and belief, as derived from: (a) the knowledge and information of present employees or agents of Legislative Defendants gained in their capacity as such, and (b) a review of the documents and materials maintained by Legislative Defendants that would be likely to contain the information called for by the Interrogatories. These responses are subject to amendment and supplementation as Legislative Defendants acquire additional information. Legislative Defendants state that their responses to the Interrogatories were prepared in consultation with their attorneys and may not exactly match the words or phrases that may be used by individuals in the courts of this litigation to describe events, policies, and practices discussed herein.

No incidental or implied admissions are intended by these responses. The fact that Legislative Defendants respond or object to any Interrogatories should not be taken as an admission that Legislative Defendants accept or admit to the existence of any facts assumed by such Interrogatories or that such response or objection constitutes admissible evidence as to any such assumed facts. The fact that Legislative Defendants respond to part or all of any Interrogatories is not intended to be and shall not be construed as a waiver by Legislative Defendants of any part of any objection to any Interrogatories. Legislative Defendants will respond to *Williams* Plaintiffs' Interrogatories in accordance with Rules 26 and 33 of the Federal Rules of

Civil Procedure and will not provide responses or documents to the extent such responses or production would exceed the requirements of those Rules.

Since the Federal Rules of Civil Procedure prohibit discovery of privileged materials, Legislative Defendants have interpreted each Interrogatory to call for discoverable matters only. To the extent any response or produced documents contain or refer to matters otherwise protected from discovery by the work product doctrine, the attorney-client privilege, legislative privilege, or any other applicable privilege, no waiver is intended, nor is any waiver intended as to any other matters that are or may be subject to such protection or otherwise privileged.

Interrogatory No. 1

Identify each iteration of each redistricting proposal, including any map, whether partial or complete, or in any other format, seeking the modification of any congressional district boundary from the boundaries used in the 2022 general election. Your answer should describe in detail all proposals that were publicly or privately considered or supported by any member of the General Assembly, including, but not limited to, present or past employees or staff or any other persons or entities acting at the direction of, or subject to the control of, any member of the General Assembly; and explain the reasons and/or justifications for any such support.

ANSWER: Legislative Defendants object on the grounds that this Interrogatory is vague and ambiguous. As written, it is unclear whether Plaintiffs seek Congressional plans drafted in 2022 in the remedial phase of *NCLCV v. Hall,* or subsequent modifications to the plans implemented by the court in that litigation. Legislative Defendants object to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and not proportionate to the needs of the case because it may purport to seek discovery into a map that is not challenged in the present matter and was subject

to adjudication in a separate case. Legislative Defendants further object on the grounds that it is overbroad, and unduly burdensome in that it seeks all plans whether publicly or privately considered for all members of the General Assembly and staff, including those who are not parties to this litigation. As to the remedial plans drawn for the 2022 election, Legislative Defendants object on the grounds that members of the General Assembly did not draw the 2022 Congressional map, and as such, this request seeks information beyond Legislative Defendants' custody and control. Any maps considered or passed by the General Assembly during the remedial phase of *NCLCV v. Hall,* are publicly available online, and information regarding the same was made available to the public during that case. Likewise, drafts of the 2022 Congressional Plan are publicly available on the General Assembly's website, as is the 2023 Plan. As such, these materials are equally available to Plaintiffs. Legislative Defendants further object to this Interrogatory to the extent it calls for information covered by the attorney-client privilege, legislative privilege, or any other applicable privileges or protections.

Subject to and without waiving the foregoing objections Legislative Defendants refer Plaintiffs to the publicly available shapefiles of the 2022 and 2023 Congressional Plans found at: https://www.ncleg.gov/redistricting/. Legislative Defendants further refer Plaintiffs to the public case documents in *Harper v. Hall*, 384 N.C. 292, 886 S.E.2d 393 (2023), and all district court proceedings before that opinion found here: https://www.nccourts.gov/locations/wake-county/cases-of-public-interest. Legislative Defendants also direct Plaintiffs to drafts of both the 2022 and 2023 plans found here: https://www.ncleg.gov/Committees/CommitteeInfo/SenateStanding/154. To the extent, Plaintiffs are inquiring about drafts of the 2022 Plans, Legislative Defendants finally direct Plaintiffs to the

Special Masters in that matter, Bob Orr, Thomas Ross, and Bob Edmunds, who purportedly drew the 2022 Congressional plan with their "advisors."

Interrogatory No. 2

Identify all individuals and/or entities—including but not limited to state legislators or their staffs, members of Congress or their staffs, consultants, attorneys, experts, political party entities or officials, and/or interest group agents or employees—that drew or provided input in the drawing of any iteration of the 2023 Congressional Plan, in whole or in part. Your answer should describe the nature and timing of each person's involvement in the redistricting process, including the time, place, and attendees of each related meeting called and/or attended, whether virtual or in-person, and all related communications, including the subject matter discussed.

ANSWER: Legislative Defendants object to this Interrogatory on the grounds that it is vague and ambiguous as the phrase "provided input" is undefined and subject to multiple meanings and interpretations. Legislative Defendants further object on the grounds that the Interrogatory is overly broad, unduly burdensome, and not proportionate to the needs of the case. Legislative Defendants further object to this Interrogatory to the extent it calls for information covered by the attorney-client privilege, legislative privilege, or any other applicable privileges or protections.

Subject to and without waiving the foregoing objections, Legislative Defendants refer Plaintiffs to Legislative Defendants' initial disclosures. Legislative Defendants further refer Plaintiffs to the publicly available legislative record, including the members of the Senate Committee on Redistricting and Elections. A list of members of the Senate Committee on Redistricting and Elections is publicly available here: https://www.ncleg.gov/Committees/CommitteeInfo/SenateStanding/154.

Interrogatory No. 3

Identify all factors (i.e. criteria, constraints, and considerations) that the General Assembly considered (including those factors that were considered and rejected) in creating or adopting any iteration of the 2023 Congressional Plan, in whole or in part, and describe how these factors were prioritized and for which iteration of the Plan.

ANSWER: Legislative Defendants object to this Interrogatory to the extent it calls for information covered by the attorney-client privilege, legislative privilege, or any other applicable privileges or protections. Legislative Defendants also object to this Interrogatory on the grounds that it is compound and contains at least two distinct subparts. Legislative Defendants further object to this Interrogatory to the extent that it seeks information that is publicly known and equally available to *Williams* Plaintiffs.

Subject to and without waiving the foregoing objections, Legislative Defendants respond that the joint redistricting criteria for the 2023 Congressional Plan is publicly available on the General Assembly's website, at: https://webservices.ncleg.gov/ViewDocSiteFile/81643. Additionally, these criteria were explained by Senators Hise and Daniel in a Senate Redistricting and Elections Committee meeting dated October 19, 2023, which is publicly available on the General Assembly's website at: https://www.youtube.com/watch?v=IgR0A8u9KMI and which has been transcribed and will be produced by Legislative Defendants in a forthcoming document production.

Interrogatory No. 4

For each factor identified in response to Interrogatory No. 3, describe in detail how the 2023 Congressional Plan serves that factor.

ANSWER: Legislative Defendants object to this Interrogatory to the extent it calls for information covered by the attorney-client privilege, legislative privilege, or any other applicable privileges or protections. Legislative Defendants also object to this Interrogatory to the extent that it seeks information that is publicly known and equally available to *Williams* Plaintiffs.

Subject to and without waiving the foregoing objections, Legislative Defendants direct *Williams* Plaintiffs to the answer to Interrogatory No. 3, above. These criteria and their related roles and considerations were explained by Senators Hise and Daniel in Senate Redistricting and Elections Committee meetings dated October 19, 2023 and October 23, 2023, both of which are publicly available on the General Assembly's website at: https://www.youtube.com/watch?v=IgR0A8u9KMI and https://www.youtube.com/watch?v=yQsX1OjHKxs, respectively. Both of these documents have been transcribed and will be produced by Legislative Defendants in a forthcoming document production.

Interrogatory No. 5

Identify and describe any and all instructions provided to individuals or entities who drafted or were in any way involved in the drafting of any iteration of the 2023 Congressional Plan, including who drafted, provided, and/or conveyed those instructions.

ANSWER: Legislative Defendants object to this Interrogatory to the extent it calls for information covered by the attorney-client privilege, legislative privilege, or any other applicable privileges or protections. Legislative Defendants also object to this Interrogatory on the grounds that it is compound and contains distinct subparts. Legislative Defendants further object to this

Interrogatory to the extent that it seeks information that is publicly known and equally available to *Williams* Plaintiffs.

Subject to and without waiving the foregoing objections, Legislative Defendants respond that the joint redistricting criteria for the 2023 Congressional Plan, is publicly available on the General Assembly's website, at: https://webservices.ncleg.gov/ViewDocSiteFile/81643. All committee members, legislators, and the public were duly instructed to follow these criteria. Legislative Defendants further state that the 2023 Congressional Plan complies with these criteria as explained in Committee hearings and the legislative record.

This the 24th day of May, 2024.

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* *Appeared via Special Notice*

CERTIFICATE OF SERVICE

I hereby certify that the forgoing document was served by email on all counsel of record in this action.

This the 24th day of May, 2024.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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EXHIBIT 16

UNITED STATES DISTRICT COURT FOR THE 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

SUPPLEMENTAL EXPERT REBUTTAL REPORT OF DR. ALLAN J. LICHTMAN

I. Statement Of Purpose

I previously filed an initial report in this litigation using the Arlington Heights framework, which follows standard methodology. This reply report responds to defendant expert Dr. Michael J. Barber's November 14, 2025, report regarding whether intentional discrimination against African Americans played a role in the enactment of SB 249. Both of my reports aim to determine whether a racially discriminatory purpose helped motivate North Carolina's 2025 congressional redistricting plan (SB 249).

II. Summary of Opinions

1. Dr. Barber's report critiques only a narrow portion of my initial report and does not engage with most of the Arlington Heights factors I analyzed. It therefore fails to provide a comprehensive assessment of discriminatory intent in the adoption of SB 249.
2. Where Dr. Barber directly addresses my work, he focuses principally on Table 2 (split units) and Table 3 (racial and political transfers between CD1 and CD3).
3. Even if one were to accept Dr. Barber's criticisms for the sake of argument, his analysis does not undermine my conclusions; it instead confirms and reinforces the findings of my initial report.
4. Dr. Barber's specific criticisms of Tables 2 and 3 are unsound and do not withstand closer scrutiny.
5. In sum, Dr. Barber's analyses, taken in full, support, rather than contradict, the conclusion that intentional racial discrimination was a factor in the enactment of SB 249.

III. SB 249 Violates Traditional Redistricting Principles Acknowledged by the General Assembly Re: Unit Splits and Protection of Communities of Interest

In my initial report, I explained that the General Assembly adopted avoiding political subdivision splits as a traditional redistricting criterion guiding the 2025 cycle. I compared unit splits in SB 249 to the 2022 congressional plan rather than to the 2023 plan, which is currently challenged as racially discriminatory. That choice was deliberate: the appropriate baseline for evaluating compliance with the avoidance-of-unit-splits principle is the lawful 2022 plan, regardless of who drew it, not the challenged 2023 plan, which the 2025 plan perpetuates outside of CDs 1 and 3. My comparison shows that SB 249 introduced additional splits of municipalities and VTDs, contrary to the General Assembly's stated strictures. Barber does not dispute these results; he instead challenges the choice of baseline. That challenge misunderstands the analytic purpose of the comparison.

Even if one accepts Dr. Barber's suggested baseline (the 2023 plan), his own data sustains my findings. Dr. Barber's Table 1 (p. 5) shows that SB 249 increases splits for counties and VTDs relative to the 2023 Plan, while municipality splits remain the same. In short, Dr. Barber's analysis reaffirms that the General Assembly's 2025 redraw of CDs 1 and 3 introduced more political subdivision splits than the 2023 Plan.

Dr. Barber's September 2024 report expressly recognized "communities of interest" as a traditional redistricting principle. Keeping communities of interest together is also a consideration commonly considered by experts and mapdrawers. The General Assembly has

included communities of interest in its redistricting criteria in the past, and Republicans in the House identified that communities of interest is an important consideration during floor debates on October 22, 2025, the day on which the state legislature adopted SB 249, explaining that their retained mapdrawer was permitted to consider "an incumbent state members' knowledge of communities of interest."[1] Yet Dr. Barber's November 14, 2025 report omits any analysis of communities of interest.

Dr. Barber's omission is significant: treating the Black Belt's African American population as a discrete community of interest—and assessing whether SB 249 preserves or fragments that community—is directly relevant to assessing the racial intent of SB 249. Dr. Barber's September 2024 report confirms that African Americans in North Carolina's Black Belt constitute a community of interest on criteria other than race.

> "Race is highly correlated with a number of factors that are **essential t**o the redistricting process. These include not only partisanship, but also geographic location, population density, historical trends in employment, migration, transportation, and even the type of soil in the area—something that was determined millions of years before humans were ever here." (Barber, September 2024 Report, pp. 24-25, emphasis added).

In his scholarship cited in support of this finding, Dr. Barber concludes, "These differences across racial groups show how it is essential to consider race in theories of realignment, particularly because of the different experiences across racial groups."[2] Another source that Dr. Barber cites emphasizes how the distinct historical experiences of African Americans create local communities of interest, distinct from White communities: "Social and political behaviors are passed down from one generation to the next through parent-child socialization and socialization within communities, schools, churches, and other kinds of local networks."[3]

By cracking Black communities of interest in CD1 and splitting them between two White-dominated districts, SB 249 violated the redistricting principle of respect for communities of interest. The drafter of SB 249, Senator Hise—an experienced map drawer and long-time member and chair of the Senate Redistricting Committee with prior involvement in CD1's racial composition—acknowledged that he knew of the significant minority population in CD1 and could not reasonably have been unaware that the plan fractured these Black communities.[4]

Critics of SB 249 in legislative debate repeatedly underscored that it deliberately fractured established communities of interest. For example, African American Democratic Senator Paul Lowe warned, "You are breaking apart communities bound by faith, by history and by shared struggle."[5] African American Democratic Representative Rodney Pierce said that SB

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[1] House Floor Session, 10.22.2025, Audio, 00:07:59.
[2] Michael Barber and Jeremy C. Pope," The Crucial Role of Race in Twenty-First Century US Political Realignment*," Public Opinion Quarterly*, 88, no. 1 (2024), 1.
[3] Avidit Acharya, Matthew Blackwell, and Maya Sen, *Deep Roots: How Slavery Still Shapes Southern Politics* (Princeton University Press: 2018), 21-22.
[4] Senate Elections Committee, 10.20.25, 01:22:50.
[5] Senate Floor Session, 10.20.2025, at 01:56:53.

249 “fractures communities, it pulls together counties that have little in common in geography, economy and daily life. It ties our inland agricultural communities where families are working generations deep in the soil to coastal areas driven by tourism, property and development. These are different economies, different priorities, different needs.”[6]

IV. Dr. Barber’s Analysis of Population Swaps Between CD1 and CD3 in SB 249 Confirms and Reinforces My Findings

Dr. Barber challenges my use of 2024 population figures and the 2024 presidential election returns for analyzing population transfers between CD1 and CD3. I address the methodological points below. Critically, however, substituting Dr. Barber’s alternative data does not alter the substantive result: both analyses reach the same conclusion. As shown in Table R1, the percentage of transfers differentiated by race, in both sets of analyses, is roughly double that differentiated by partisan voting measures, approximately 20% versus approximately 10%, confirming that racial factors played a far larger role in the swaps between CD1 and CD3.

TABLE R1
POPULATION SWAPS CD1 AND CD3, SB 249, LICHTMAN AND BARBER RESULTS

COUNTIES REMOVED FROM CD1			
Lichtman Black %	Barber Black %	Lichtman Republican %	Barber Republican %
37.2%	36.1%	54.3%	52.1%
COUNTIES ADDED TO CD1			
Lichtman Black %	Barber Black %	Lichtman Republican %	Barber Republican %
16.5%	14.4%	63.4%	63.6%
DIFFERENTIAL RACIAL AND PARTISAN MEASURES			
+20.7%	+21.7%	-9.1%	-11.5%
Sources: Lichtman Initial Report, Table 3; Barber Rebuttal Report, p. 14.			

V. Dr. Barber’s Critique of my Demographic and Partisan Measures Does Not Withstand Scrutiny (Barber Report, pp. 21-22)

Dr. Barber criticizes my use of the 2024 presidential results to assess the partisan leanings of counties, arguing instead for long-term averages. That is another approach that can be used, but the 2024 presidential results are the most recent and directly probative measure of voting

[6] House Floor Session, 10.22.2025, Audio, 00:15:02.

behavior in federal elections. Moreover, even if we use Dr. Barber's alternative partisan results, it makes no consequential difference: we see the same pattern of racial versus partisan swaps.

Dr. Barber also faults my reliance on 2024 population and demographic data rather than 2020 Census figures. I used the most recent available data, which reflects current demography. This methodological disagreement underscores a central problem with mid-decade redistricting: it depends on stale data and therefore risks misrepresenting one-person-one-vote conditions and the current racial composition of transfers between districts. My initial report documents that mid-decade congressional redistricting is an unusual procedural departure, unprecedented in North Carolina.[7]

Contrary to Dr. Barber's critique, I was consistent in explaining that the plan transferred majority-minority counties with substantial Black populations from CD1 to CD3. Table 3 of my initial report shows these counties contained substantial Black populations without being majority-Black. While I also reported overall minority figures (three of the four removed counties were majority-minority), my analyses in Tables 3 and R1 focus on transfers of Black and White populations and their racial implications.

Dr. Barber's dismissal of non-Black minorities misses their practical importance for Black voters' ability to elect their preferred candidates. Non-Black minority voters align more closely with Black voters than non-Hispanic White voters and thus materially affect Black voter opportunity. North Carolina exit polls show this pattern: in 2024, 88% of Black voters supported the Democratic presidential ticket, compared with 51% of non-Black minorities and 37% of non-Hispanic Whites; 2020 exit polls show a similar, even larger disparity (56% of non-Black minorities and 33% of non-Hispanic Whites). Removing majority-minority populations from CD1 therefore significantly reduces the district's capacity to form effective cross-racial coalitions and allow Black voters to elect their preferred candidate.[8]

VI. Even if We Accept Everything in the Barber Report as True, It Does Not Refute the Central Findings of My Original Report

Dr. Barber's Report, even if accepted in full, does not refute the finding of disparate impact, as considered by the *Arlington Heights* test. Instead, Dr. Barber asks the wrong substantive question. Dr. Barber repeatedly frames his analysis in terms of whether race "predominated" in the 2025 drawing of the lines between CD1 and CD3 (pp. 8, 18, 20, 23). Yet, whether race predominated in line drawings is not the correct inquiry identified by *Arlington Heights*, which considers disparate impact.

Dr. Barber's report overlooks that the drafters of SB-249 acted to diminish Black electoral opportunity by eliminating CD1 as an effective Black-opportunity district. And because Dr. Barber did not perform an *Arlington Heights* factors intent analysis, he fails to grapple with the record evidence related to those factors. That evidence includes: documented prior efforts to

[7] I also footnoted my source for demographic information and indicated that I was using the 2024 estimates.
[8] CNN Exit Poll, 2024 President, North Carolina, https://www.cnn.com/election/2024/exit-polls/north-carolina/general/president/0, and 2020 President, North Carolina, https://www.cnn.com/election/2020/exit-polls/president/north-carolina.

disadvantage African Americans in redistricting involving the same leadership of Senator Ralph Hise; past deceptions tied to recent redistricting cycles (e.g., false statements about map availability for a special election and false claims that redistricting software contained no racial data); significant procedural and substantive departures from ordinary redistricting practices; and disingenuous, misleading assertions by decision-makers that the process was color-blind. Expert Report of Allan J. Lichtman, Oct. 31, 2025, at 4-18. That evidence also includes the plan's disregard for traditional redistricting principles—such as avoiding political subdivision splits and preserving communities of interest—which, taken together with the other record evidence, supports an inference of discriminatory intent.

Critically, as further evidence of bad faith and effort, decision-makers turned a blind eye to any meaningful assessment of whether SB-249 would discriminate against Black voters. They performed no racial-impact analysis and ignored repeated warnings offered in public comment and legislative debate. Senator Hise, who had prior Supreme Court guidance recognizing CD1 as an effective Black-opportunity district and who played a leading role in earlier redistricting battles over the racial composition of Northeast North Carolina, would have known that targeting the redrawing of CD1 that significantly lowers the BVAP would dismantle that opportunity and materially impair Black voters' ability to elect their preferred candidates. Expert Report of Allan J. Lichtman, Oct. 31, 2025, at 14-17. That foreknowledge helps explain the truncated 2025 process and the significant procedural and substantive departures from ordinary redistricting practice. *Id.* at 7-11.

Dr. Barber's Report actually confirms this analysis. Barber evaluates the particular county exchanges, but acknowledges that "any district change that alters partisan balance will also alter the district's racial composition" (p. 18). But he does not dispute that such racial shifts produce vote-dilutionary effects (or that those racial effects are larger than the partisan impact). Critically, his report never engages with those effects at all.

VII. Conclusion

Dr. Barber's Report overlooks a central issue in this litigation: before drafting the bill's details, Republican decision-makers intentionally sought to dismantle CD1, which was an effective Black-opportunity district that had enabled Black voters in northeastern North Carolina to elect candidates of their choice since 1992. As the architect of SB 249 and a leader of prior redistricting cycles centered on racial issues, Senator Hise knew this dismantling of CD1 would have the discriminatory effect of diluting Black voting strength, depriving those voters of the opportunity to elect their preferred candidates to Congress. The General Assembly then engaged in procedural and substantive deviations, as well as disingenuous, misleading statements during the redistricting process. They did not fool legislative opponents or the many members of the public who criticized SB 249 as racially discriminatory; they simply ignored them.

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

Respectfully submitted,

Executed on: 18 November 2025

Allan J. Lichtman

Allan J. Lichtman

EXHIBIT 17

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF NORTH CAROLINA

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

SUPPLEMENTAL EXPERT REBUTTAL REPORT OF DR. JONATHAN RODDEN

November 18, 2025

I. INTRODUCTION AND SUMMARY OF FINDINGS

I have been asked to respond to the expert report of Dr. Michael Barber, which was filed on November 14, 2025, along with some characterizations of my October 31, 2025 Supplemental Report that were made in Legislative Defendants' Preliminary Injunction Opposition, which was filed on November 14, 2025. Dr. Barber and Legislative Defendants raise some questions about analyses that were carried out in my earlier reports in this case but not repeated in my Supplemental Report on Eastern North Carolina. In this report, first, I briefly explain why some of these analyses are less appropriate in analyzing the changes the 2025 Plan made in largely rural Eastern North Carolina. Second, I include an analysis of "racial dislocation," which was absent from my October 31, 2025 report purely because of time constraints and provides further confirmation of the findings in my Supplemental Report.

Third, I analyze and discuss Dr. Barber's claim that the North Carolina Legislature's stated interest in the creation of a map with 11 Republican-leaning seats out of 14 necessitated the breakup of historical Black communities in Eastern North Carolina. As he recommends, I hold fixed the boundaries of all districts other than Districts 1 and 3 in Eastern North Carolina and explore 5,000 computer-simulated ways of drawing two compact, contiguous districts based primarily on whole counties. This exercise shows that there are very few districting plans—less than 5 percent of the ensemble of simulated plans—that produce a Black voting-age population share in the congressional district encompassing the "Black Belt" as low as that of the 2025 Plan. Moreover, the simulations demonstrate that it is possible to draw two Republican-leaning districts in ways that produce a district with significantly higher Black voting-age population than the 2025 Plan.

Finally, I point out that the Legislature's approach to district-drawing in the 2023 Plan indicates that there are no constitutional or statutory constraints requiring respect for previous boundaries or increased compactness. These are choices the Legislature made in drawing the 2025 Plan rather than exogenous constraints. Using draft maps considered by the Legislature, I demonstrate that it is possible to draw maps containing 11 Republican seats that do not include the creation of a First Congressional District with exceptionally low Black voting-age population in Eastern North Carolina.

II. ANALYSIS OF LARGE METROPOLITAN AREAS VERSUS EASTERN NORTH CAROLINA

Dr. Barber and defense counsel point out that my Supplemental Report on Eastern North Carolina was slim relatively to my previous reports in this case. Part of the reason for this stems from the extremely short timeframe for producing the Supplemental Report, which was filed about a week after the passage of the 2025 Plan. Additionally, some of the analyses from my previous report are not applicable to the context of redistricting in rural North Carolina, especially given that the

Legislature decided to hold all existing boundaries fixed other than those separating Districts 1 and 3.

First, I did not include any examination of the "county envelope" approach in this instance because the 2025 Plan swapped whole counties in contrast to the 2023 Plan's splitting of counties. Because there are many counties in Eastern North Carolina with relatively low population, the primary unit of analysis for evaluating districts in Eastern North Carolina is the county rather than the VTD. As I described in my Supplemental Report, after selecting its preferred counties, the Legislature was able to achieve population equality in CD-1 and CD-3 by grabbing a small handful of additional precincts in the (overwhelmingly White) town of Swansboro in Onslow County and placing them in District 1. The county envelope approach is one way to examine the role of race in the choice of VTDs where counties are split. This approach is simply not approbative in a setting without county splits, where not many choices were made at the VTD level. This analysis was thus applicable in the Piedmont Triad and Mecklenburg regions, where split counties contained a large number of VTDs and the legislature could have drawn the district any number of ways within the split counties. In those settings, the county envelope analysis was useful for understanding whether and how those counties were split along racial lines. Because the configuration of CDs 1 and 3 in rural Eastern North Carolina in the 2025 Plan was done primarily along county lines, the county envelope analysis is less relevant.

Second, in my Supplemental Report, I provided a full accounting of changes to split counties, municipalities, and VTDs in the redrawn plan. However, I did not update Table 1 of my initial report, which provided compactness data for individual districts. I include that table below.

As Dr. Barber points out, the new North-South arrangement of Districts 1 and 3 is somewhat more compact than the old East-West arrangement. This is not surprising. As discussed further below, there are many ways to draw two relatively compact districts within the territory covered by Districts 1 and 3 in the 2023 Plan. However, while this somewhat more compact north-south arrangement increases average compactness relative to the 2023 plan, it is still lower than the 2022 Plan.

	Reock			**Polsby-Popper**		
District	2022 Plan	2023 Plan	2025 Plan	2022 Plan	2023 Plan	2025 Plan
1	0.379	0.361	0.424	0.383	0.261	0.328
2	0.342	0.397	0.397	0.322	0.277	0.277
3	0.338	0.308	0.570	0.200	0.249	0.268
4	0.413	0.491	0.491	0.455	0.256	0.256
5	0.254	0.240	0.240	0.219	0.219	0.219

6	0.428	0.408	0.408	0.405	0.297	0.297
7	0.456	0.538	0.538	0.369	0.286	0.286
8	0.535	0.319	0.319	0.325	0.274	0.274
9	0.519	0.439	0.439	0.308	0.171	0.171
10	0.414	0.258	0.258	0.341	0.272	0.272
11	0.306	0.263	0.263	0.305	0.265	0.265
12	0.607	0.571	0.571	0.365	0.280	0.280
13	0.456	0.379	0.379	0.296	0.139	0.139
14	0.369	0.294	0.294	0.236	0.160	0.160
Avg.	0.415	0.376	0.399	0.323	0.243	0.249

The 2025 Plan also increased political subdivision splits compared to prior plans. The 2022 Plan included 13 county splits (the minimum required for a 14-district plan). The 2023 Plan included 14 splits, and the new 2025 Plan includes 15 splits. As for VTDs, the 2022 plan split only 13 (the minimum required), while the 2023 Plan split 20, and the 2025 Plan split 21.

The decision to swap counties between CD-1 and CD-3 while retaining the highly non-compact districts and multiple unnecessary municipal splits elsewhere in the state cannot be characterized as an embrace of traditional redistricting criteria.

III. RACIAL DISLOCATION ANALYSIS

In my initial report in this case, I conducted an analysis applying the concept of "dislocation," which is a way of visualizing and quantifying the extent to which electoral districts disrupt local, geographically defined communities. Legislative Defendants fault me for not including this analysis in my Supplemental Report on Eastern North Carolina. This was purely due to time constraints, and at their suggestion, I provide the racial dislocation analysis here. The results of the racial dislocation analysis are consistent with the conclusions in my Supplemental Report as well as my earlier reports on the Piedmont Triad: under the 2025 Plan, Black voters are removed from their proximate communities and combined with rural White communities in districts with unnaturally low Black voting-age population.

This analysis uses the same methodology described in my prior report. Imagine that for each person in North Carolina, there is a bespoke congressional district composed of their nearest 745,670 nearest neighbors. For each Black North Carolina resident, how many members of that bespoke district are also Black? This captures the extent to which the individual lives in a neighborhood—at the scale relevant for drawing congressional districts—with other Black residents. Next, for each Black North Carolina resident, we can ask: how many members of the *district to which they have*

been assigned are also Black? For each individual we can then ask whether the Black population share of the assigned district is larger or smaller than that of the relevant geographic neighborhood. This gives us a sense of whether the racial composition of the district matches that of the neighborhood. Let us refer to this difference as the "racial dislocation" associated with a redistricting plan and let us refer to negative values of racial dislocation—where a Black voter's assigned district has a lower proportion of Black voters than their geographic neighborhood—as instances of "racial dilution."

The larger the difference between the racial composition of the neighborhood and that of the district, the more evidence we have that the districts were drawn in a way that disrupts local clusters of Black voters. To get a broad understanding of whether one set of districts has been drawn in a way that is less consistent with the underlying racial geography than another set of districts, we can then evaluate summary statistics for these differences—for distinct areas, for specific proposed districts, and for a redistricting plan.

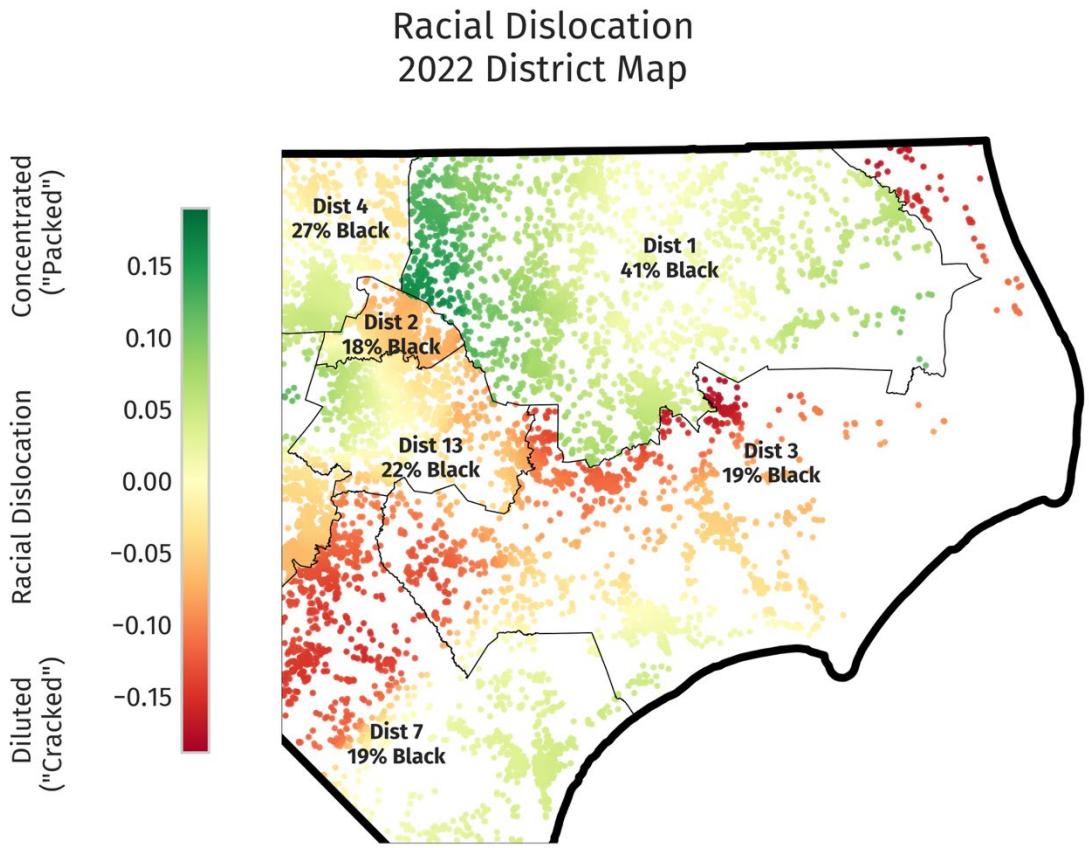
For a set of representative voters, Figure 1 maps the difference between the Black share of the district and the Black share of the voter's 745,670 nearest neighbors.[1] The first panel is for the 2022 Plan; the second panel is the 2023 Plan that was used in the 2024 General Election; and the third panel is the new 2025 Plan. The focus area of the map is Eastern North Carolina.

Yellow and light green colors indicate areas where the racial composition of the district mirrors that of the neighborhood. Figure 1 demonstrates that District 1 in the 2022 Plan was drawn in a way that kept racial dislocation quite low in the Black Belt area of Northeast North Carolina. The same was true of District 1 in the 2023 Plan. There are clusters of high dislocation along the boundaries of District 1, especially in Greenville in the 2023 Plan, where clusters of Black voters end up in districts with relatively low Black population, and within District 1, including areas along the border where the district BVAP is somewhat higher than that of the neighborhood. But in these redistricting plans, a large share of the Black Belt communities are in districts where the size of the local Black community is reflected in the Black voting-age population of the district.

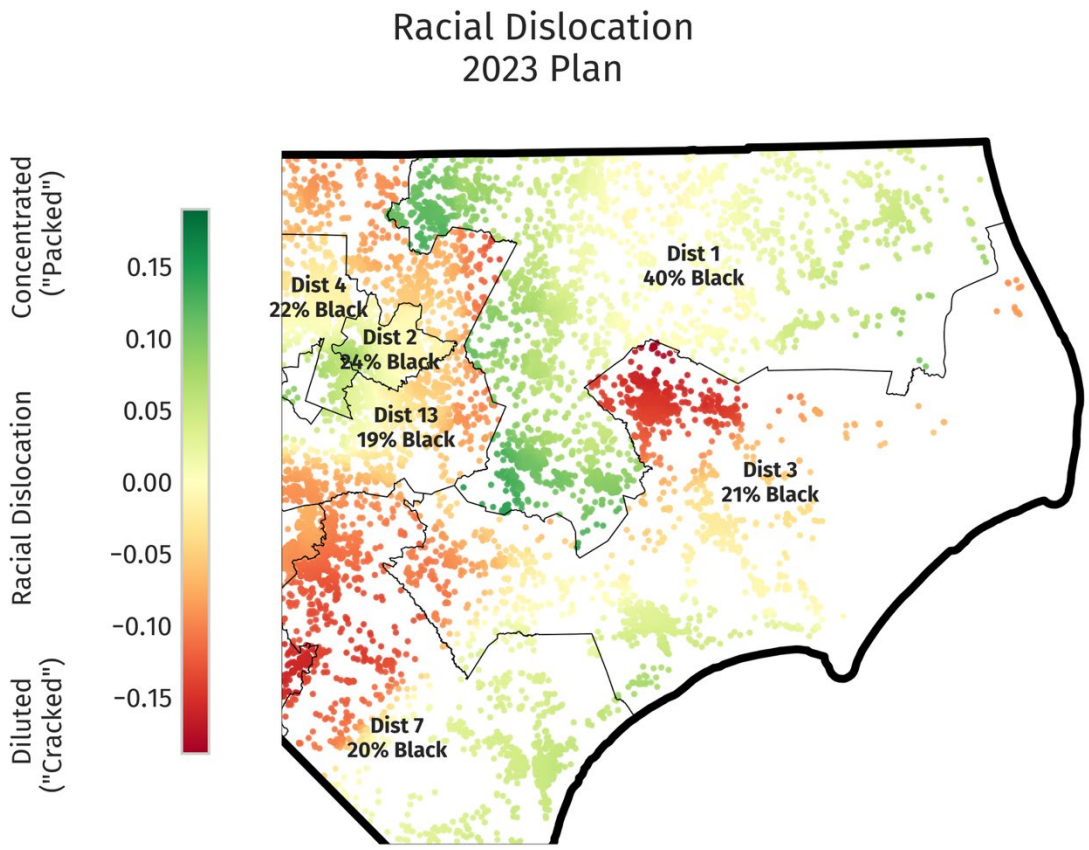
The final panel of Figure 1 shows that this pattern changed with the introduction of the 2025 Plan. The yellow and green dots in the Black Belt have turned to orange, indicating that Black voters are now placed in a district where the Black voting-age population is lower than that of the geographic neighborhood—an indicator that the community has been "cracked." Throughout the territory of Districts 1 and 3, as well as in District 13 and much of District 7, district lines have been drawn to place Black voters in districts where the BVAP is lower than that of the geographic neighborhood.

[1] In preparing the dislocation analysis and maps, I received technical assistance from Nick Eubank, Assistant Research Professor at the Duke University Social Science Research Institute and the Duke University Department of Political Science.

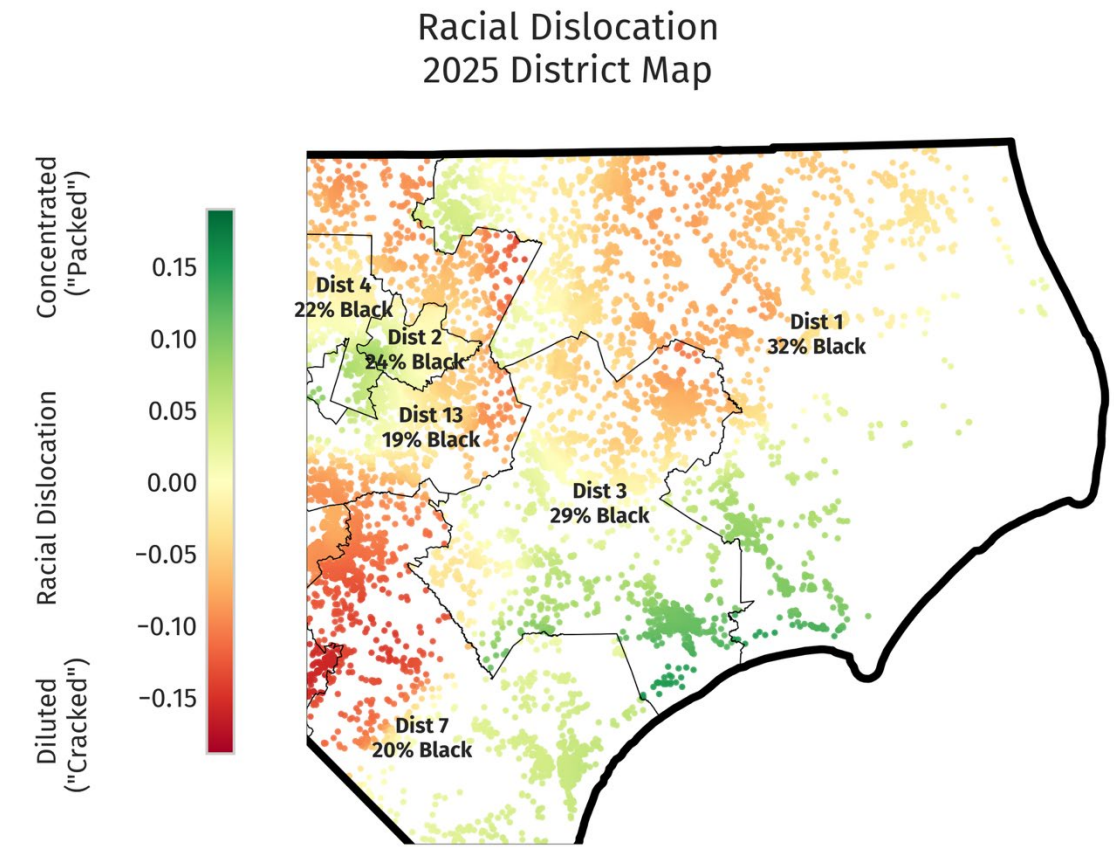
Figure 1: Racial Dislocation



Racial Dislocation is the share of a voter's district that is Any Part Black minus the share of the voter's k Nearest Neighbors who are Any Part Black. Colored dots show racial dislocation for Any Part Black VAP North Carolineans. Non-Black voters not plotted.



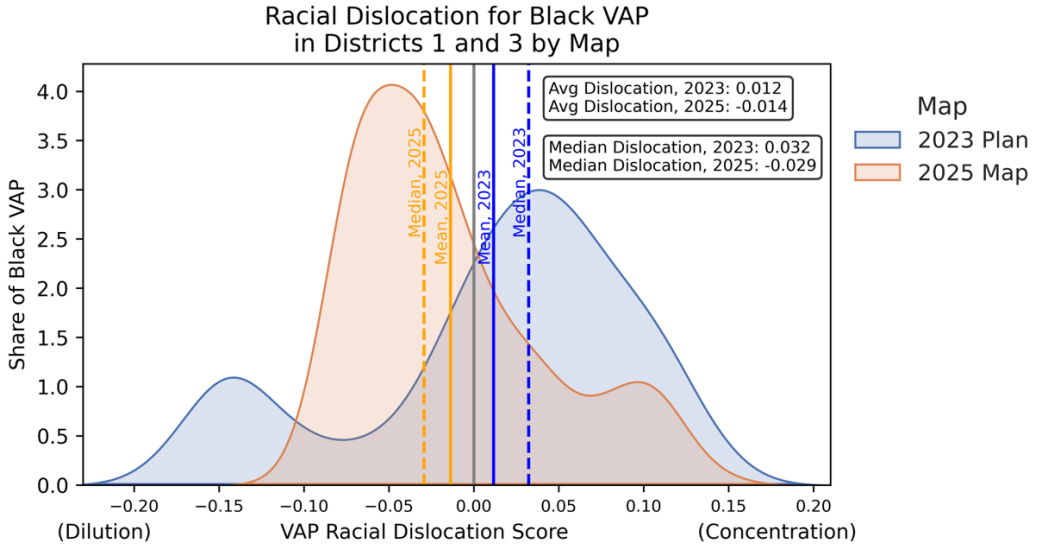
Racial Dislocation is the share of a voter's district that is Any Part Black minus the share of the voter's k Nearest Neighbors who are Any Part Black. Colored dots show racial dislocation for Any Part Black VAP North Carolineans. Non-Black voters not plotted.



Racial Dislocation is the share of a voter's district that is Any Part Black minus the share of the voter's k Nearest Neighbors who are Any Part Black. Colored dots show racial dislocation for Any Part Black VAP North Carolineans. Non-Black voters not plotted.

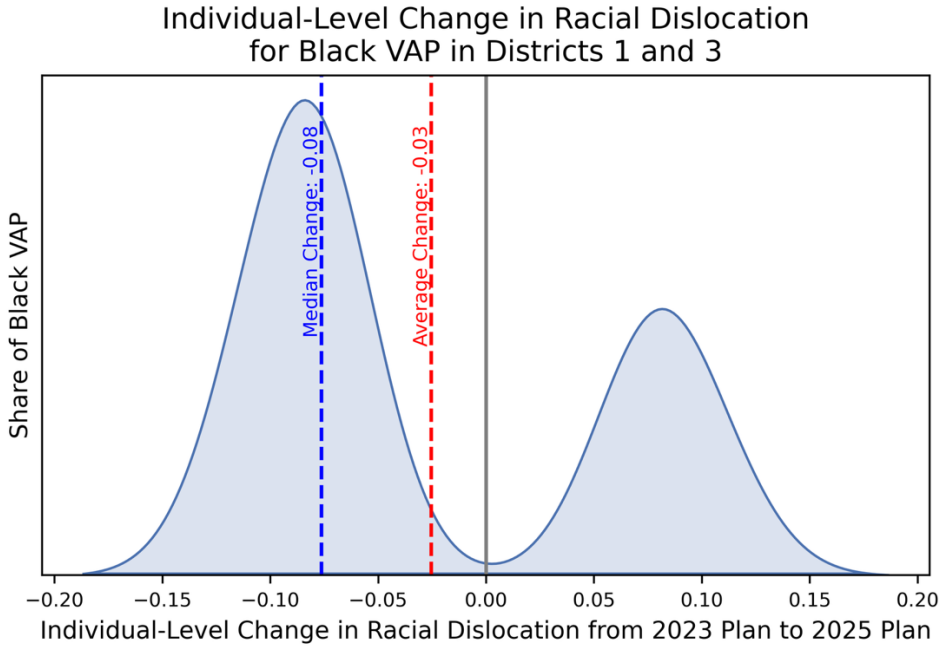
To understand the magnitude of the change between the 2023 and 2025 Plans, Figure 2 provides kernel densities (smoothed histograms) of racial dislocation experienced by Black voters in the two plans, focusing only on voters living within the common territory of District 1 and 3 of the two plans. Again, this is the same methodology presented in my initial report. In Figure 2, the blue area indicates that in the 2023 Plan, most Black voters in Eastern North Carolina lived in places where the Black share of the population was only slightly higher than that of their neighborhood, while a small minority in the left tail of the distribution—mostly the Greenville area—were placed in a district that had a much larger White population than the neighborhood. In the 2025 Plan, indicated in red, most Black voters are now in a district where the BVAP is well below that of the neighborhood.

Figure 2: Racial Dislocation Experienced by Black Residents, Eastern North Carolina



Distribution of Racial Dislocation across Black VAP in the Districts 1 and 3. Negative values indicate a person's district has a lower Any Part Black composition than their geographic neighborhood. Average values indicated with solid blue and orange lines, median values indicated with dashed lines.

Figure 3: Change in Racial Dislocation Experienced by Black Residents, Eastern NC



Distribution of individual-level change in Racial Dislocation for Black VAP in Districts 1 and 3. Negative dislocation values indicate a person's district has a lower Any Part Black composition than their geographic neighborhood (racial dilution). Average change indicated with red dashed line, median change indicated with blue dashed line.

Figure 3 focuses on the *change* in racial dislocation from the 2023 Plan to the 2025 Plan. It shows that for most Black residents of Eastern North Carolina, the 2025 Plan led to a substantial increase

in “cracking” or “dilution” where their district came to have a lower BVAP than their geographic neighborhood.

This pattern is quite similar to the analysis I conducted in my initial report, which focused on the Piedmont Triad, where urban Black communities were extracted from their geographic context and placed in rural districts with demographic compositions that are quite different from what they would experience if the district was drawn to keep proximate communities together.

IV. DOES EXTREME PARTISAN GERRYMANDERING REQUIRE EXTREME RACIAL SORTING?

Like my previous reports in this case, my Supplemental Report on Eastern North Carolina was primarily descriptive. It provides the Court with information about how the Legislature’s map divides voters across districts by race. It does not purport to divine the specific intent of individual legislators and makes no claims about racial predominance. Nonetheless, Dr. Barber repeatedly characterizes my report as an unsuccessful attempt to demonstrate racial predominance in line drawing.

As part of that critique, he suggests that instead of descriptive statistics on the racial composition of areas moved in and out of Districts 1 and 3, I should have included regression analysis in which I control for 1) distance to the median population center of the district and 2) residence in certain cities. He also indicates that it would be useful to control for myriad unspecified aspects of history and geography.

Dr. Barber incorrectly implies that my previous report did this for my prior in-out analysis. In my initial report, as part of my study of the selection of VTDs to include or exclude from districts within the “county envelope” that encompasses a particular district, I presented regression models that included control variables for the distance of each VTD from the population center of the district, as well as residence in one of the cities that a district-drawer may have desired to keep together—geographic factors that may have influenced the likelihood that a VTD would end up in a particular district. When I presented statistics about the areas moved into and out of a district when it was redrawn, however, I conducted no such regressions. The in-out analysis is a descriptive accounting exercise, and it appears that Dr. Barber and I have no disagreement about the numbers. Moreover, Dr. Barber and I appear to agree that the 2025 Plan swapped entire counties rather than VTDs, so a regression at the county level would have far too few observations to be meaningful. There are 33 counties in the territory covered by Districts 1 and 2. An empirical model would need to have four possible values for each county: 1) assigned to the core of District 1, 2) assigned to the core of District 3, 3) moved from District 3 to District 1, and 4) moved from District 1 to District 3. Some of these categories have very few observations: only 4 counties moved from District 1 to 3, and 6 moved in the opposite direction. One cannot estimate a meaningful regression model in this situation.

Dr. Barber and I appear to agree about many of the basic facts demonstrated by our analyses. The specific decisions of the Legislature when redrawing its previous map led to a notable reduction in the Black voting-age population of District 1, marking the end of an era of consistent Black representation in Eastern North Carolina that dates to Reconstruction. There is no dispute about this. Nor is there dispute about the way it was achieved: by holding the boundaries of all other districts constant and swapping a set of counties in a way that moved Black voters from District 1 to District 3 and White voters from District 3 to District 1. And Black voters were more likely to be moved out of District 1 and into District 3 regardless of party affiliation.

However, Dr. Barber goes beyond descriptive analysis and makes the strong claim that in order to achieve the Legislature's political goal—adding a Republican-leaning seat so that the congressional map results in 11 Republican-leaning seats out of 14—it was necessary to dramatically decrease the BVAP of District 1. In other words, he implies the pursuit of partisan goals *required* the observed racial sorting of the 2025 Plan.

This is demonstrably false. To demonstrate this, I proceed with two types of analysis. First, I follow Dr. Barber's recommendation: I hold constant all other districts and generate a large ensemble of simulated 2-district arrangements in the area of Eastern North Carolina covered by Districts 1 and 3. Second, I return to the draft maps considered by the Legislature in 2023 and find that it was possible to achieve the Legislature's stated political objectives without creating the racial effects of the 2025 Plan.

Simulations

Dr. Barber cites a document called "2025 Congressional Plan Criteria,"[2] which, among other things, demonstrates that when drawing the 2025 Plan, the Legislature decided to change key aspects of the approach to redistricting that it took when drawing the 2023 Plan. First, when drawing the 2023 Plan, the Legislature paid no attention to previous districts and held nothing fixed, but in its 2025 criteria, the Legislature stated a desire to hold 12 of 14 districts fixed and only make changes to Districts 1 and 3. Second, as demonstrated in my initial report, the Legislature's 2023 approach involved the construction of wildly non-compact districts that violate traditional redistricting criteria in the Piedmont Triad and elsewhere. In 2025, the Legislature reverses course and commits to drawing "compact" districts, but only in Eastern North Carolina.[3]

Dr. Barber interprets these criteria not as strategic choices by the Legislature but as exogenous constraints. He criticizes my discussion of his previous simulations by pointing out that they do

[2] https://webservices.ncleg.gov/ViewDocSiteFile/101156

[3] Although he relies on it, Dr. Barber's report is clearly at odds with the 2025 criteria. The document claims that there is "not legally significant racially polarized voting in North Carolina, including in the counties in northeast North Carolina." One of the key contentions in Dr. Barber's report is that voting in northeast North Carolina is extremely racially polarized.

not play by the Legislature's self-imposed rules: they consider districts that cross outside the "fixed" area of Districts 1 and 3. He argues that I should have held the boundaries of all other districts fixed, and generated an ensemble of two-district plans covering the territory of Districts 1 and 3. I see no reason to accept at face value the characterization of the 2025 Criteria as hard constraints. If one wishes to argue that racial sorting is an inevitable consequence of partisan gerrymandering, it is pertinent to consider alternative arrangements that may have facilitated the same partisan goals with different racial configurations.

Nevertheless, I have implemented Dr. Barber's recommended approach. I isolate all the VTDs of the area covered by Districts 1 and 3, and, using the same redistricting simulation algorithm as Dr. Barber, I generate 5,000 simulated two-district arrangements, requiring that only a single county be split, as in the 2025 Plan, and like Dr. Barber in his earlier report, instructing the algorithm to draw relatively compact districts.

The ensemble produces a wide range of ways to combine the counties of Eastern North Carolina into two districts. For each plan, I identify the district with the highest BVAP. Figure 4a presents a histogram of the BVAP of those top-ranked districts and includes a red dashed line for the BVAP (32.3 percent) of District 1 in the 2025 Plan. Figure 4b presents a histogram of the BVAP of the lower-ranked district in each plan and includes a red dashed line for the BVAP (29.4 percent) of the lower-ranked district in the 2025 Plan. This analysis verifies that a highest-ranked BVAP of 32.3 percent is indeed quite unusual in the ensemble of race-blind plans. Only around 4.9 percent of all plans have a similar or lower BVAP in their highest-ranked district. In Figure 4b, the BVAP is higher in the second-ranked district than in all but 4.3 percent of the plans. Together, Figures 4a and 4b indicate that the 2025 Plan dispersed Black voters relatively evenly between the two districts in a way that rarely happened in the race-blind simulations.

Figure 4a: Histograms of BVAP in Ensemble of Two-District Eastern North Carolina Plans, *Highest* BVAP District

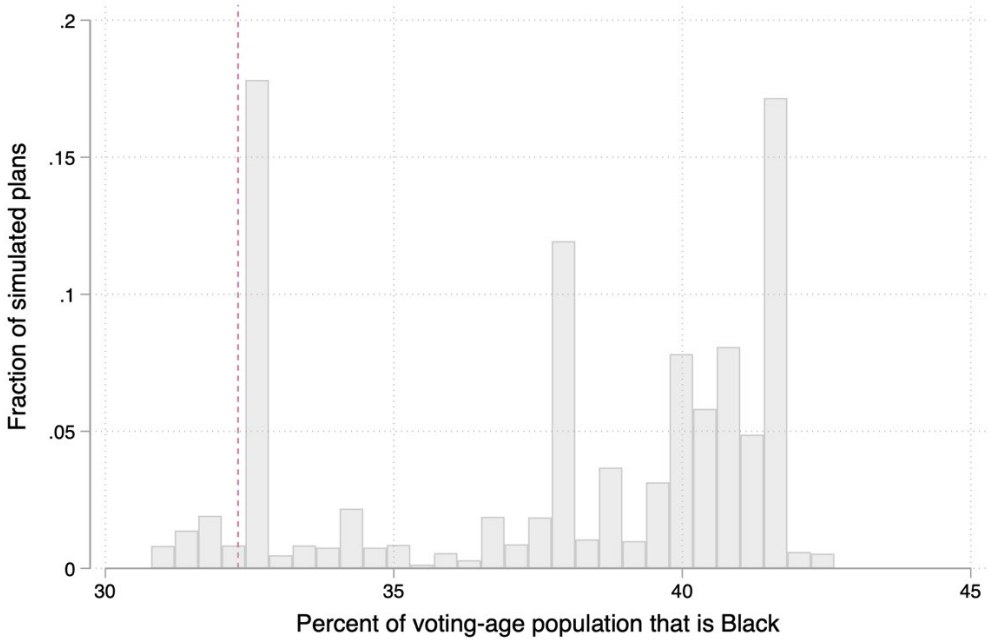
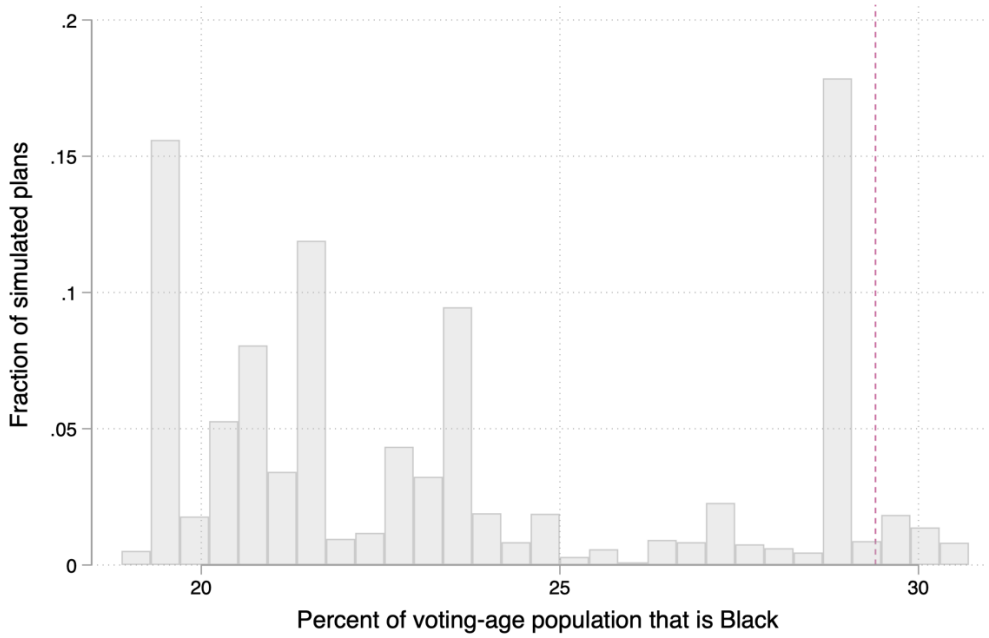


Figure 4b: Histograms of BVAP in Ensemble of Two-District Eastern North Carolina Plans, *Lowest* BVAP District



While the 2025 Plan also displays a partisan composition very uncommon in the simulations, Dr. Barber implies that it is not possible to draw two majority-Republican districts without bringing the district with the higher-ranked BVAP all the way down to about 32 percent. That is not the case. Although the simulations typically produce one Democratic-leaning district and one Republican-leaning district, 1,429 simulated plans (around 29 percent of the ensemble) produced two Republican districts. Of those, 1,184 (around 83 percent) had a BVAP in the higher-ranked district greater than the 2025 Plan's District 1's BVAP of 32.3 percent. In other words, the simulations reveal that it was quite possible to meet the updated 2025 political goals of the Legislature without such an extreme approach to cracking Black voters in Northeast North Carolina.

Draft Maps

Dr. Barber treats the Legislature's decision to hold 12 districts constant and draw two relatively compact districts in Eastern North Carolina as a hard constraint that must be observed—something like a constitutional or statutory requirement. It is better understood as a choice made by the Legislature—one that is inconsistent with the approach taken only two years earlier. The crucial question is whether, in order to achieve the Legislature's stated political goal—a map where Republicans can expect an 11-3 advantage—it was necessary to minimize the BVAP in CD-1. A quick look at the draft maps considered by the Legislature in September of 2023 reveals that this is not the case. The draft maps from September 2024, which are included in the appendix of my Reply Report of October 17, 2024, demonstrate that it is possible to achieve an 11-3 Republican-leaning configuration without resorting to the stark racial effects of minimizing the BVAP of CD-1 of the 2025 Plan. These maps produce 11 solid Republican seats while producing a district in Eastern North Carolina with Black voting-age population above 38 percent.

And even if we were to accept the decisions of the Legislature and hold the boundaries of all districts other than Districts 1 and 3 fixed, the simulations presented above demonstrate that it was not necessary to reduce the BVAP of District 1 to anywhere near 32 percent to achieve their stated political goals.

V. CONCLUSIONS

My earlier reports focused largely on Mecklenburg County, where metropolitan Black voters were packed into District 12, and the Piedmont Triad, where metropolitan Black voters were extracted from former District 6 and divided across several non-compact, rural, predominantly white districts. In those reports, much of the focus was on the precise location of boundaries within split counties.

In electing to redraw the districts in Eastern North Carolina in 2025, the Legislature followed the approach it previously took in the Piedmont Triad. While the approach in Eastern North Carolina involved moving whole counties rather than individual VTDs within counties and afforded a more

compact arrangement, the effect was the same: district boundaries were drawn to split geographically proximate Black communities with shared history and interests.

The Legislature's professed goals in drawing these Plans were partisan in nature, but my various analyses, including examining simulations and draft plans considered by the Legislature, demonstrated that the splitting of geographically proximate Black communities in the Piedmont Triad had racial effects beyond what was necessary to achieve the Legislature's political goals. In this report, the same techniques also reveal that it was not necessary to split historical rural Black communities in the Northeast to accomplish its newest stated goal of drawing an additional Republican seat. In each case, the observed racial sorting and dismantling of Black communities went beyond what appears necessary to achieve its professed political goals.

Executed on November 18, 2025

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Jonathan Rodden

EXHIBIT 18

SECOND SUPPLEMENTAL REBUTTAL REPORT OF MAXWELL PALMER, PH.D.

1. I submitted a second supplemental report in this matter on October 31, 2025 in which I analyzed racially polarized voting and the performance of Black preferred candidates in the 1st and 3rd Congressional Districts as defined in Senate Bill 249, passed by the North Carolina General Assembly on October 22, 2025. I found strong evidence of racially polarized voting in the 1st and 3rd Districts.

2. Dr. Alford submitted a second supplemental report on November 14, 2025. I have been asked by counsel to respond to his comments on my analysis in that report.

3. Dr. Alford and I utilized the same ecological inference methodology to analyze racially polarized voting. He replicated the results in my second supplemental report, and used the estimates from my report in his analysis.

4. Dr. Alford includes the 2016 Supreme Court election in his racially polarized voting analysis. This election was a nonpartisan contest, and Dr. Alford finds that voting was less polarized in this contest. Notably, Dr. Alford does not include any other non-partisan elections in his analysis. As I did in my report, I included results from all partisan statewide contested races in the 2016, 2018, 2020, 2022, and 2024 general elections, as those bear most directly on the congressional elections that are the subject of my reports. Furthermore, As the purpose of this analysis is ultimately to understand racially polarized voting in this area for Congressional elections, partisan contests are more probative than nonpartisan contests.

5. In any event, Dr. Alford analyzed this election using the same ecological inference methodology as I used in my original report. Including this election does not substantively alter my conclusions, nor does Dr. Alford suggest that it does.

6. Dr. Alford argues that party, rather than race, explains the voting patterns that we observe in the racially polarized voting analysis. Dr. Alford is focusing on the wrong question—does the race of the candidate affect their support from Black and White voters—rather than the fundamental question of racially polarized voting: do Black and White voters cohesively support different candidates?

7. Dr. Alford finds that "[i]n contrast to the strong impact of candidate party affiliation, the race of the candidates does not appear to have a polarizing impact on voters' behavior."[1] In comparing differences in support for candidates within each racial group by the race of the candidates, Dr. Alford is attempting to explain *why* Black and White voters support difference candidates. This question is irrelevant to the question of

[1] Alford Second Supplemental Report p.8

whether there is racially polarized voting, which simply asks *if* voters of different races make different choices.[2]

8. Furthermore, Dr. Alford implicitly assumes that an individual's race and an individual's political party are two separate and independent factors that influence vote choice. A long literature in political science about how voters develop partisan attachments and make decisions about voting shows the opposite: an individual's background, including their race, is a key factor in their politics and party preferences.[3] This means that even if members of a racial group strongly support candidates of a single party, race, as a key factor in driving their support for that party, is an inseparable part of their support for those candidates. Because a voter's race influences their party preferences, Dr. Alford provides no basis to conclude that party alone, without race, causes voters to choose the candidate for whom they vote. In other words, the strong support of Democratic candidates by Black voters cannot be attributed to partisan preferences alone, as Dr. Alford suggests, but to a mix of personal and political factors and experiences, of which race is an essential and inseparable part.

9. Neither Dr. Alford's second supplemental report nor any of his prior reports contest the conclusions or analysis in my reports that Black voters are less able to elect their preferred candidates under the 2025 plan relative to the 2022 and 2023 plans, while White voters are more able to elect their preferred candidates under the 2025 plan relative to the 2022 and 2023 plans. Indeed, Dr. Alford provides no response to this analysis at all.

I reserve the right to supplement my report in this case in light of additional facts, testimony, and/or materials that may come to light.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Maxwell Palmer

Executed this 17th day of November, 2025, at Arlington, Massachusetts.

[2]In my October 17, 2024 reply report, I explained why Dr. Alford is asking the wrong question about racially polarized voting. Racially polarized voting is purely a descriptive question. The second *Gingles* precondition requires the finding that the minority group is politically cohesive——identifying a pattern in voting behavior, not explaining why this pattern exists. See ¶¶10–13.

[3]See, for example, Dawson, Michael C. *Behind the mule: Race and class in African-American politics.* Princeton University Press, 1995; Dawson, Michael C. *Black visions: The roots of contemporary African-American political ideologies.* University of Chicago Press, 2001; Jardina, Ashley. *White identity politics.* Cambridge University Press, 2019; White, Ismail K., and Chryl N. Laird. *Steadfast democrats: How social forces shape Black political behavior.* Princeton University Press, 2020; Hood III, Morris V., Quentin Kidd, and Irwin L. Morris. *The rational southerner: Black mobilization, republican growth, and the partisan transformation of the American south.* Oxford University Press, 2014.