

STATE OF NORTH CAROLINA **FILED** IN THE GENERAL COURT OF JUSTICE
COUNTY OF WAKE SUPERIOR COURT DIVISION
NO. 18-CVS-014001

2019 SEP 12 A 10:45

COMMON CAUSE, et al.,
Plaintiffs,

WAKE CO., C.D.C.

BY

(B)

v.

Representative DAVID R. LEWIS, in his
official capacity as Senior Chairman of the
House Select Committee on Redistricting,
et al.,

Defendants.

MOTION FOR LEAVE TO FILE *AMICI
CURIAE* MATTER BY THE PRINCETON
GERRYMANDERING PROJECT

The Princeton Gerrymandering Project respectfully moves this Court for leave to file the attached *amici curiae* material attached hereto at Exhibit A, namely a letter to the Court from Professor Samuel S.-H. Wang, Director of the Princeton Gerrymandering Project, concerning his suggestions regarding public access to data related to this case.

In support of this Motion, the Princeton Gerrymandering Project shows the Court as follows:

1. The Princeton Gerrymandering Project is a redistricting policy and research group housed at the Center for Information Technology Policy at Princeton University and dedicated to bridging the gaps between math, law and technology. Its director is Professor Samuel S.-H. Wang, a professor at Princeton University.

2. The Princeton Gerrymandering Project seeks permission to participate as *amici curiae* solely to provide information to the Court in the form of the attached letter from Professor Wang concerning issues before the Court.

3. Professor Wang has participated in the filing of *amicus* briefs before the United States Supreme Court on issues related to gerrymandering and has also authored a number of law review articles on the subject of partisan gerrymandering.

4. As such, he brings a unique and valuable point of view to the Court, especially on the subject of his letter, namely, public access to data.

WHEREFORE, the Princeton Gerrymandering Project respectfully requests that this Court:

- a. Grant it leave to submit the attached *amici curiae* matter attached as Exhibit A;
and
- b. Grant such other and further relief as the Court deems just and proper.

This the 12th day of September, 2019.

WOMBLE BOND DICKINSON (US) LLP



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EXHIBIT A



**PRINCETON
UNIVERSITY**

**Princeton Neuroscience Institute
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September 12, 2019

**The Honorable Paul Ridgeway
Senior Resident Judge
Wake County Justice Center
300 S. Salisbury Street
Raleigh, NC 27602**

**The Honorable Alma L. Hinton
Senior Resident Judge
Halifax County Courthouse
357 Ferrell Lane
Halifax, NC 27839**

**The Honorable Joseph N. Crosswhite
Senior Resident Judge
Hall of Justice
226 Stockton Street
Statesville, NC 28677**

Re: Common Cause et al. v. Lewis et al., No. 18-CVS-14001 (N.C. Super.)

To the Court:

I write on behalf of the Princeton Gerrymandering Project, a redistricting policy and research group which I direct. The Princeton Gerrymandering Project's mission is to bridge gaps between math, law, and technology to enable open and fair districting nationwide. Founded by me in 2015, the Project is housed at the Center for Information Technology Policy at Princeton University.

I am a full professor at Princeton, appointed to the Neuroscience Institute. My scholarly work includes numerous papers on the development and implementation of statistical methods in large data sets. I have written articles on partisan gerrymandering for the *Stanford Law Review* and the *Election Law Journal*. One of these articles was recognized with a national prize by Common Cause. I have co-written two amicus briefs that have been cited by the U.S. Supreme Court. One brief, written in collaboration with Heather Gerken, dean of the Yale Law School, was cited by Chief Justice John Roberts in *Gill v. Whitford*. A second brief was cited in *Rucho v. Common Cause*. My most recent law article, "Laboratories of Democracy: State Constitutions and Partisan Gerrymandering" focuses on the judicial approach taken by the Court in this case. This article is forthcoming in the *University of Pennsylvania Journal of Constitutional Law* and can be found on the Social Science Research Network (SSRN) and at <http://bit.ly/2lzNegj>.

PUBLIC DRAWING OF MAPS IS ONLY THE START OF TRUE TRANSPARENCY

My principal reason for writing is to highlight the importance of “digital sunshine” in ensuring a fair redrawing of the House and Senate maps. Commendably, the Court has required that the drawing process between now and September 18 be done in public. I recommend an additional step of transparency: **digitally-downloadable publication of draft maps on a day-by-day basis**. Such a step would take little effort on the part of the General Assembly, yet add enormously to the transparency of the process.

The Court has rightly determined that House and Senate maps were drawn to confer an overall statewide advantage to the Republican Party. The Court has further ordered that re-drawing occur to minimize county splits and not use election data. The intentions behind these rules are commendable. However, they still allow the possibility that a partisan advantage could be created.

A PRETTY MAP CAN STILL HIDE ILL INTENT

For example, in last year’s case before the Pennsylvania Supreme Court, the legislature proposed a remedial map that was as visually attractive as the map that was ultimately adopted. Yet the legislature’s proposed map contained considerably more bias. See “When Simple Rules Aren’t Enough.” Princeton Election Consortium, February 13, 2018. Downloadable at <http://bit.ly/2IZIWPi>.

Even if lines are drawn in public view, that information is not enough to let everyday citizens evaluate the outcomes that are expected from those lines. **Publicly available redistricting software allows such a determination to be done rapidly - but only if the draft district boundaries are available in machine-readable form.**

The Princeton Gerrymandering Project has complete precinct geography for North Carolina, validated against other sources, as well as election results from 2008 through 2018. We can evaluate the impact of a draft map in seconds. We are also working with PlanScore.org and other organizations that make tools freely available so that citizens and journalists can make their own evaluations.

“DIGITAL SUNSHINE” CAN IMPROVE THE OUTCOME

We therefore recommend to the Court that it instruct the General Assembly to disclose the results of its line drawing process as close to real time as is practicable. For example, the Court could instruct the legislature to post the results of each day’s work in machine-readable format at the close of the day’s business. This could take a variety of forms, including **census block equivalency files, shapefiles, or other industry standards**. A growing community of citizen analysts would then be able to interpret the likely impact of maps almost instantaneously. Such a public eye on the shapefiles is critical in a process where we have already seen House Republican counsel send granular partisan data out to the full Committee and the Senate Committee withdraw a plan in the morning, only to continue using it in the evening.

We have been on the forefront of public input in this remedial linedrawing process. In the past days, we were able to gain access to the shapefiles for the Senate Committee’s map and score its partisanship levels as compared with the current map. This process was neither quick nor simple, but if these shapefiles were released by the Committee in real-time and on its own accord, outside groups like ours would be able to monitor and score

any hidden partisan slant within minutes. Not only that, but groups like ours would also be equipped with the tools to ensure that the Committee's maps remain compact and minimize the splits of municipalities and voting tabulation districts. Doing so would keep the Committees honest as they do their work, ensuring nonpartisan results that keep in line with the criteria in this Court's order.

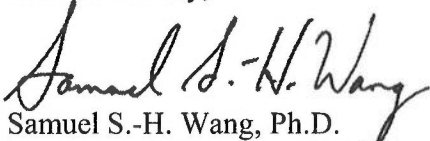
THE VALUE OF DR. HOFELLER'S FILES

In the same vein, we encourage the Court to make available the data and redistricting work product of the late Dr. Thomas Hofeller as soon as possible. Even if the legislators are enjoined from using election results in drawing maps, some legislators may remember details of Dr. Hofeller's maps that were drawn with partisan intent. Thus a partisan offense could be committed even while nominally complying with the Court's instructions. The availability of Dr. Hofeller's files will greatly reduce the likelihood of such an occurrence. His files are also a valuable resource to researchers. He was a master of his craft, and it would be of great interest to researchers and good-government advocates alike to study how he achieved his feats.

CONCLUSION

Once again, we commend the Court on establishing an admirably transparent process for the coming weeks. Our recommendation of "digital sunshine" will open the process even further.

Yours sincerely,



Samuel S.-H. Wang, Ph.D.
Professor, Neuroscience Institute
Director, Princeton Gerrymandering Project

CERTIFICATE OF SERVICE

I certify that today, I caused the foregoing Motion for Leave to File *Amici Curiae* Material and the attached letter to be served on all counsel by email and U.S. mail, addressed to:

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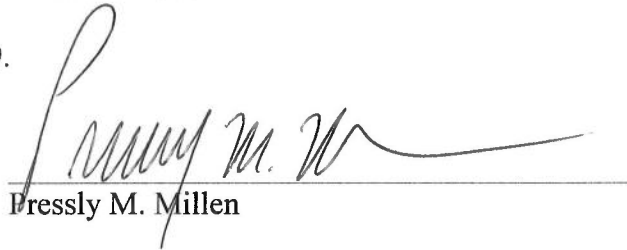
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This the 12th day of September, 2019.

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