

REBECCA HARPER, *et al.*,
 Plaintiffs,
 v.
 REPRESENTATIVE DAVID R. LEWIS, IN
 HIS OFFICIAL CAPACITY AS SENIOR
 CHAIRMAN OF THE HOUSE SELECT
 COMMITTEE ON REDISTRICTING, *et al.*,
 Defendants.

UM

**ANSWER OF INTERVENOR
 DEFENDANTS TED BUDD, VIRGINIA
 FOXX, AND RICHARD HUDSON**

NOW COME Intervenor Defendants Ted Budd, Virginia Foxx, and Richard Hudson (“Intervenor Defendants”) and hereby submit this Answer pursuant to Rule 8 of the North Carolina Rules of Civil Procedure, as follows:

Any allegations not contained in numbered paragraphs are denied. Intervenor Defendants’ any use of Plaintiffs’ headings is for convenience only, and is not an admission.

RESPONSE TO ENUMERATED ALLEGATIONS

INTRODUCTION

1. The Court’s opinion in *Common Cause v. Lewis* speaks for itself. The remaining allegations contained in Paragraph 1 are legal conclusions, which do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

2. Admitted that this case concerns North Carolina’s 2016 congressional map (“Congressional Map”). Denied that “there is no dispute” about the lawfulness of the Congressional Map. The remaining allegations contained in Paragraph 2 are legal conclusions,

which do not require a response, or allege facts about the Legislative Defendants to which Intervenor Defendants lack sufficient personal knowledge or information to respond; therefore, such allegations are denied.

3. Admitted that Republican candidates have won elections for 10 of North Carolina's 13 congressional seats since the 2016 Plan was adopted. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Specifically denied that "[t]he 2016 Map is impervious to 'the will of the people.'" Intervenor Defendants lack sufficient personal knowledge or information to respond to the remaining allegations contained in Paragraph 3; therefore, such allegations are denied.

4. The opinion of the Supreme Court of the United States in *Rucho v. Common Cause* speaks for itself. This Court's opinion in *Common Cause v. Lewis* speaks for itself. The remaining allegations contained in Paragraph 4 are legal conclusions, which do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

5. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Intervenor Defendants deny that the "facts of this case are undisputed." The remaining allegations contained in Paragraph 5 are legal conclusions, which do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

PARTIES

A. Plaintiffs

6. Admitted that incumbent Rep. G.K. Butterfield won the NC-01 congressional race with 69.85% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 6; therefore, such allegations are denied.

7. Admitted that incumbent Republican Rep. George Holding won the NC-02

congressional race with 51.27% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 7; therefore, such allegations are denied.

8. Admitted that then-incumbent Republican Rep. Walter Jones won the NC-03 congressional race with 100% of the vote in 2018. Admitted that now-incumbent Dr. Greg Murphy won the NC-03 congressional race with 61.7% of the vote in 2019. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 8; therefore, such allegations are denied.

9. Admitted that incumbent Democrat Rep. David Price won the NC-04 congressional race with 72.37% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 9; therefore, such allegations are denied.

10. Admitted that incumbent Republican Rep. Virginia Foxx won the NC-05 congressional race with 57.03% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 10; therefore, such allegations are denied.

11. Admitted that incumbent Republican Rep. Mark Walker won the NC-06 congressional race with 56.52% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 11; therefore, such allegations are denied.

12. Admitted that incumbent Republican Rep. David Rouzer won the NC-07 congressional race with 55.54% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 12;

therefore, such allegations are denied.

13. Admitted that incumbent Republican Rep. Richard Hudson won the NC-08 congressional race with 55.34% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 13; therefore, such allegations are denied.

14. Admitted that Republican Rep. Dan Bishop won the NC-09 congressional race with 50.69% of the vote in 2019. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 14; therefore, such allegations are denied.

15. Admitted that incumbent Republican Rep. Patrick McHenry won the NC-10 congressional race with 59.29% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 15; therefore, such allegations are denied.

16. Admitted that incumbent Republican Rep. Mark Meadows won the NC-11 congressional race with 59.21% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 16; therefore, such allegations are denied.

17. Admitted that incumbent Republican Rep. Mark Meadows won the NC-11 congressional race with 59.21% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 17; therefore, such allegations are denied.

18. Admitted that incumbent Democrat Rep. Alma Adams won the NC-12 congressional race with 73.07% of the vote in 2018. Intervenor Defendants lack sufficient

information or knowledge to respond to the remaining allegations contained in Paragraph 18; therefore, such allegations are denied.

19. Admitted that incumbent Republican Rep. Ted Budd won the NC-13 congressional race with 51.54% of the vote in 2018. Intervenor Defendants lack sufficient information or knowledge to respond to the remaining allegations contained in Paragraph 19; therefore, such allegations are denied.

B. Defendants

20. Admitted upon information and belief.

21. Admitted upon information and belief.

22. Admitted upon information and belief.

23. Admitted upon information and belief.

24. Admitted upon information and belief.

25. Admitted upon information and belief.

26. Admitted upon information and belief.

27. Admitted upon information and belief.

28. Admitted upon information and belief.

29. Admitted upon information and belief.

30. Admitted upon information and belief.

31. Admitted upon information and belief.

JURISDICTION AND VENUE

32. The allegations of Paragraph 32 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

33. The allegations of Paragraph 33 assert legal conclusions and do not require a

response. To the extent the allegations are not legal conclusions, such allegations are denied.

34. The allegations of Paragraph 34 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

FACTUAL ALLEGATIONS

A.

35. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 35; therefore, such allegations are denied.

36. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 36; therefore, such allegations are denied.

37. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 37; therefore, such allegations are denied.

38. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 38; therefore, such allegations are denied.

B.

39. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 39; therefore, such allegations are denied.

40. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 40; therefore, such allegations are denied.

41. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 41; therefore, such allegations are denied.

42. Upon information and belief, the referenced deposition transcript of Dr. Thomas Hofeller speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 42; therefore, such allegations are denied.

43. Upon information and belief, the referenced deposition transcript of Dr. Thomas Hofeller speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 43; therefore, such allegations are denied.

44. Admitted that Republican candidates won 9 of 13 congressional seats in 2012. Admitted that the 2012 election results speak for themselves. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 44, including the table immediately following Paragraph 44; therefore, such allegations are denied.

C.

45. Admitted that the *Harris v. McCrory* opinion speaks for itself. Any remaining allegations contained in Paragraph 45 are denied.

46. Admitted that there was a supermajority of Republicans in both chambers of the General Assembly in 2016. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 46; therefore, such allegations are denied.

47. Upon information and belief, the referenced deposition transcripts of Rep. David Lewis and Dr. Thomas Hofeller speak for themselves. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 47; therefore, such allegations are denied.

48. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 48; therefore, such allegations are denied.

49. Upon information and belief, the referenced deposition transcripts and trial testimony of Dr. Thomas Hofeller speaks for themselves. Intervenor Defendants lack sufficient

knowledge or information to respond to the remaining allegations contained in Paragraph 49; therefore, such allegations are denied.

50. Upon information and belief, the referenced deposition transcripts of Dr. Thomas Hofeller speaks for themselves. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 50; therefore, such allegations are denied.

51. Upon information and belief, the referenced deposition transcript of Dr. Thomas Hofeller speaks for itself. Upon information and belief, the referenced deposition transcript of Rep. David Lewis speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 51; therefore, such allegations are denied.

52. Upon information and belief, the referenced deposition transcript of Dr. Thomas Hofeller speaks for itself. Upon information and belief, the referenced deposition transcript of Rep. David Lewis speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 52; therefore, such allegations are denied.

53. Upon information and belief, the referenced deposition transcript of Rep. David Lewis speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 53; therefore, such allegations are denied.

54. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 54; therefore, such allegations are denied.

55. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 55; therefore, such allegations are denied.

56. Admitted, upon information and belief.

57. The Adopted Criteria speak for themselves. Any remaining allegations contained in Paragraph 57 are denied.

58. The referenced legislative record speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 58; therefore, such allegations are denied.

59. The referenced legislative record speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 59; therefore, such allegations are denied.

60. The Adopted Criteria speak for themselves. Any remaining allegations contained in Paragraph 60 are denied.

61. The referenced legislative record speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 61; therefore, such allegations are denied.

62. The Adopted Criteria speak for themselves. Any remaining allegations contained in Paragraph 62 are denied.

63. The proceedings of the General Assembly are public records and speak for themselves. The referenced legislative record speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 63; therefore, such allegations are denied.

64. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 64; therefore, such allegations are denied.

65. Intervenor Defendants lack sufficient knowledge or information to respond to the

allegations contained in Paragraph 65; therefore, such allegations are denied.

66. Upon information and belief, the referenced deposition transcript of Dr. Thomas Hofeller speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 66; therefore, such allegations are denied.

67. The referenced legislative record speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 67; therefore, such allegations are denied.

68. The referenced legislative record speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 68; therefore, such allegations are denied.

69. The proceedings of the General Assembly are public records and speak for themselves. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 69; therefore, such allegations are denied.

70. Upon information and belief, the referenced deposition transcript of Sen. Rucho speaks for itself. Intervenor Defendants lack sufficient knowledge or information to respond to the remaining allegations contained in Paragraph 70; therefore, such allegations are denied.

D.

71. Denied.

72. The 2016 electoral results speak for themselves. Any remaining allegations contained in Paragraph 72 are denied.

73. The 2018 electoral results speak for themselves. Specifically denied that the “adjust[ed]” vote percentage, after apparently taking out all votes from some of the most

Republican areas of North Carolina, is representative of how North Carolina voted in 2018 as a whole. Any remaining allegations contained in Paragraph 73 are denied.

74. The 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 74 or the table immediately following Paragraph 74 are denied.

75. The 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 75 are denied.

76. To the extent Plaintiffs seek to introduce expert testimony from previous challenges to the 2016 Plan, Intervenor Defendants reserve the right to rebut such testimony with expert testimony of their own. To the extent the conclusions of Drs. Jowei Chen and Jonathan Mattingly are contained in expert reports disclosed in discovery, introduced into evidence or in trial testimony, such documents speak for themselves. Any remaining allegations contained in Paragraph 76 are denied.

E.

77. Denied.

Congressional District 1

78. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 78 are denied.

79. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 79 are denied.

80. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 80 are denied.

81. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 81 are denied.

82. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 82 are denied.

Congressional District 2

83. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 83 are denied.

84. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 84 are denied.

Congressional District 3

85. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 85 are denied.

86. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 86 are denied.

Congressional District 4

87. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 87 are denied.

88. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 88 are denied.

Congressional District 5

89. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 89 are denied.

90. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 90 are denied.

Congressional District 6

91. Admitted upon information and belief that Greensboro is the third most populous city in North Carolina. Any remaining allegations contained in Paragraph 91 are denied.

92. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 92 are denied.

93. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 93 are denied.

94. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 94 are denied.

Congressional District 7

95. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 95 are denied.

96. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 96 are denied.

Congressional District 8

97. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 97 are denied.

98. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 98 are denied.

Congressional District 9

99. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 99 are denied.

100. The 2016 and 2018 electoral results speak for themselves. Any remaining

allegations contained in Paragraph 100 are denied.

Congressional Districts 10 and 11

101. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 101 are denied.

102. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 102 are denied.

103. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 103 are denied.

Congressional District 12

104. Upon information and belief, the referenced deposition transcript of Dr. Thomas Hofeller speaks for itself. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 104 are denied.

105. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 105 are denied.

Congressional District 13

106. The Congressional Districts and their territorial locations speak for themselves. Any remaining allegations contained in Paragraph 106 are denied.

107. The 2016 and 2018 electoral results speak for themselves. Any remaining allegations contained in Paragraph 107 are denied.

F.

108. Upon information and belief, the referenced deposition transcript of Dr. Thomas Hofeller speaks for itself. Any remaining allegations contained in Paragraph 108 are denied.

109. The Adopted Criteria speak for themselves. Any remaining allegations contained

in Paragraph 109 are denied.

110. Upon information and belief, the referenced deposition transcripts of Rep. David Lewis and Sen. Rucho speak for themselves. Intervenor Defendants lack sufficient knowledge or information to respond to the allegations contained in Paragraph 110; therefore, such allegations are denied.

G.

111. The opinion of the Supreme Court of the United States in *Rucho v. Common Cause* speaks for itself. The remaining allegations contained in Paragraph 111 are admitted, upon information and belief.

112. The Middle District of North Carolina's opinion in *Common Cause v. Rucho* speaks for itself. Any remaining allegations contained in Paragraph 112 are denied.

113. The opinion of the Supreme Court of the United States in *Rucho v. Common Cause* speaks for itself. Any remaining allegations contained in Paragraph 113 are denied.

114. The opinion of the Supreme Court of the United States opinion in *Rucho v. Common Cause* speaks for itself. Any remaining allegations contained in Paragraph 114 are denied.

H.

115. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining allegations contained in Paragraph 115 are denied.

116. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining allegations contained in Paragraph 116 are denied.

117. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining allegations contained in Paragraph 117 are denied.

118. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining

allegations contained in Paragraph 118 are denied.

119. Denied.

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

120. Intervenor Defendants incorporate by reference their responses to all other paragraphs as if fully set forth herein.

121. The North Carolina Constitution speaks for itself. Any remaining allegations contained in Paragraph 121 are denied.

122. The cited documents speak for themselves. The remaining allegations of Paragraph 122 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

123. The cited documents speak for themselves. The remaining allegations of Paragraph 123 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

124. The North Carolina Constitution speaks for itself. The cited case law speaks for itself. The remaining allegations of Paragraph 124 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

125. The North Carolina Constitution and this Court's opinion in *Common Cause v. Lewis* speak for themselves. Any remaining allegations contained in Paragraph 125 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

126. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining allegations contained in Paragraph 126 assert legal conclusions and do not require a response. To

the extent the allegations are not legal conclusions, such allegations are denied.

127. Denied.

128. Denied.

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

129. Intervenor Defendants incorporate by reference their responses to all other paragraphs as if fully set forth herein.

130. The North Carolina Constitution speaks for itself. Any remaining allegations contained in Paragraph 130 are denied.

131. The cited case law speaks for itself. The remaining allegations in Paragraph 131 are legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

132. The *Stephenson* case speaks for itself. The remaining allegations in Paragraph 132 are legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

133. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining allegations contained in Paragraph 133 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

134. Denied.

135. Denied.

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

136. Intervenor Defendants incorporate by reference their responses to all other paragraphs as if fully set forth herein.

137. The North Carolina Constitution speaks for itself. Any remaining allegations contained in Paragraph 137 are denied.

138. The North Carolina Constitution speaks for itself. Any remaining allegations contained in Paragraph 138 are denied.

139. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining allegations contained in Paragraph 139 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

140. This Court's opinion in *Common Cause v. Lewis* speaks for itself. Any remaining allegations contained in Paragraph 140 assert legal conclusions and do not require a response. To the extent the allegations are not legal conclusions, such allegations are denied.

141. Denied.

142. Denied.

143. Denied.

144. Denied.

To the extent that any portion of the Complaint and any of its subparts and sections contain allegations that have not been specifically responded to in this Answer, such allegations are denied. Furthermore, the Prayer for Relief and Headings contained in the Complaint (to the extent that the words and phrases contained therein may constitute allegations) are denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted and should be dismissed pursuant to Rule 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrines of estoppel, laches, and waiver. Specifically, Plaintiffs—most of whom were Plaintiffs represented by the same counsel in *Common Cause v. Lewis*—failed to raise these claims in their previous lawsuit challenging North Carolina legislative district maps as unconstitutional partisan gerrymanders. Plaintiffs' unreasonable delay harms the interests of Intervenor Defendants and other North Carolina candidates and voters who will suffer due to the confusion and delay Plaintiffs' proposed remedy would cause.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' politically-biased theory of liability is a non-justiciable political question and therefore the Amended Complaint should be dismissed pursuant to Rule 12(b)(1).

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs request that this Court enter an order to the General Assembly dictating the time, places, and manner of congressional elections in North Carolina. Such a request, if granted, violates Article I, Section 4 of the United States Constitution, which mandates that state legislatures set the "Times, Places and Manner of holding Elections for . . . Representatives[.]"

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs request that the Court grant them a right to reside or vote in districts that are drawn to favor their preferred political party at the expense of their non-preferred political party. Such a request, if granted based on Plaintiffs' theories, violates the First and Fourteenth Amendments to the United States Constitution and Article I, Sections 10, 12, 14, and 19 of the

North Carolina Constitution.

SIXTH AFFIRMATIVE DEFENSE

The North Carolina Constitution allows the General Assembly to consider partisan advantage and incumbency protection in the application of its discretionary redistricting decisions. *Stephenson v. Bartlett*, 355 N.C. 35, 562 SE.2d 377, 390 (2002). Plaintiffs' requested relief thus violates the First and Fourteenth Amendments to the United States Constitution and Article I, Secs. 10, 12, 14, and 19 of the North Carolina Constitution.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' politically-biased theory of liability, if adopted by this Court, would effectively bypass the People and constitute a judicial amendment of the North Carolina Constitution in violation of Article XIII.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' requested relief, to redraw legislative districts without any consideration of party affiliation, violates of the separation of powers doctrine, in Article I, Section 6 of the North Carolina Constitution.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' are requesting that the Court "punish" and "burden" Intervenor Defendants, both as candidates and voters, in the same way plaintiffs contend that the General Assembly has "punished" or "burdened" Democratic voters. Plaintiffs' request for equitable relief should therefore be denied because plaintiffs have unclean hands.

PRAYER FOR RELIEF

WHEREFORE, Defendants respectfully request that the Court enter an order and final judgment which:

1. Dismisses all of Plaintiffs' claims with prejudice; and
2. Awards Intervenor Defendants such other and further relief as may be equitable and proper.

This the 1st day of November 2019.

SHANAHAN LAW GROUP, PLLC

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing INTERVENOR DEFENDANTS' ANSWER upon all parties to this matter by email as follows:

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This the 1st day of November, 2019.

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