STATE OF NORTH CAROLINA COUNTY OF WAKE	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION Case No. 18 CVS 014001	
COMMON CAUSE; et al.		
Plaintiffs,)	
V.)	
DAVID R. LEWIS, et al.		
Defendants.		

MOTION FOR A PROTECTIVE ORDER BY LEGISLATIVE DEFENDANTS PROPOSED DEPONENTS

Legislative Defendants and the legislators and legislative employees named below ("Deponents") hereby move for a protective order, pursuant to Rule 26(c), N.C. R. Civ. P., for the reasons stated below.

- 1. On January 24, 2019, plaintiffs served notices of deposition on the following defendants directing them to appear for a deposition on the state indicated below. Plaintiffs did not consult with counsel for the Legislative Defendants before issuing these notices.
 - (a) Representative David R. Lewis (3/5/19) (Exhibit 1)
 - (b) Senator Ralph E. Hise (3/7/19) (Exhibit 2)
 - (c) Speaker of the N.C. House Timothy K. Moore (3/11/19) (Exhibit 3)
 - (d) President Pro Tem of the N.C. Senate, Philip E. Berger (3/12/19) (Exhibit 4)
- 2. Also on January 24, 2019, plaintiffs served subpoenas on the following legislators, legislative employees, or former legislative employees ("Deponents") commanding them to appear for a deposition on the dates indicated below and to produce certain documents. Plaintiffs did not consult with counsel for the Legislative Defendants before serving these subpoenas:
 - (a) Legislative Employee Mark Coggins (2/28/19) (Exhibit 5)
 - (b) Senator Trudy Wade (3/18/19) (Exhibit 6)
 - (c) Representative Nelson Dollar (3/13/19) (Exhibit 7)

- (d) Senator Wesley Meredith (3/15/19) (Exhibit 8)
- (e) Senator John Alexander (3/19/19) (Exhibit 9)
- (f) Senator Robert Rucho (3/20/19) (Exhibit 10)
- (g) Former Legislative Employee Jim Blaine (2/27/19) (Exhibit 11)
- (h) Senator Dan Bishop (3/14/19) (Exhibit 12)
- 3. Pursuant to Rule 26(c), N.C. R. Civ. P., Legislative Defendants and the Deponents move for a protective order prohibiting plaintiffs from taking these depositions on the grounds of legislative immunity and legislative privilege. See N.C. Gen. Stat. § 120-9; Northfield Development Co., Inc. v. City of Burlington, 136 N.C. App. 272, 281-83 (2000), aff'd, 352 N.C. 671 (2000).

Respectfully submitted this 4th day of February, 2019.

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

Phillip J. Strach (N.C. Bar No. 29456)

Michael D. McKnight (N.C. Bar No. 36932)

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Michael.mcknight@ogletree.com

Attorneys for Legislative Defendants and the State

of North Carolina

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Telephone: (202) 861-1500

Telephone: (202) 861-1500 Facsimile: (202) 861-1783

Attorneys for Legislative Defendants and the State of North Carolina *Notice of Appearance under Local Rule 83.1 forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused the foregoing MOTION FOR A PROTECTIVE ORDER BY LEGISLATIVE DEFENDANTS AND PROPOSED DEPONENTS to be served on all counsel of record by overnight delivery.

Dated this the 4th day of February, 2019.

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

Phillip J. Strach (N.C. Bar No. 29456)

Michael D. McKnight (N.C. Bar No. 36932)

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Telephone: 919.787.9700 Facsimile: 919.783.9412 Phil.strach@ogletree.com

Michael.mcknight@ogletree.com

Attorneys for Legislative Defendants and the State

of North Carolina

37280750.1

BILL SENDER

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NC-US

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PRIORITY OVERNIGHT

TUE - 05 FEB 10:30A

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Tendering packages by using this system constitutes your agreement to the service conditions for the transportation of your shipments as found in the applicable FedEx Service Guide, available upon request. FedEx will not be responsible for any claim in excess of the applicable declared value, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the applicable FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of 100 USD or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is 500 USD, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see applicable FedEx Service Guide. FedEx will not be liable for loss or damage to prohibited items in any event or for your acts or omissions, including, without limitation, improper or insufficient packaging, securing, marking or addressing, or the acts or omissions of the recipient or anyone else with an interest in the package. See the applicable FedEx Service Guide for complete terms and conditions. To obtain information regarding how to file a claim or to obtain a Service Guide, please call 1-800-GO-FEDEX (1-800-463-3339).





package id 0656722 ship date Mon, Feb 04 2019 to Edwin Speas & C. Mackie POYNER SPRUILL, LLP 301 FAYETTEVILLE ST STE 1900 RALEIGH, NC 27601-2173 **United States** 9197836400 residential address No return label No notification type Label Creation Exception Delivery notification recipients phillip.strach@odnss...

elena.diamond@odnss.com

Phillip J. Strach (4497) Ogletree Deakins Law Firm 4208 Six Forks Road Suite 1100 Raleigh, NC 27609 US billing North Carolina Presi...eaker.Common Cause, et al....t al. (026753.000016) operator Elena Diamond 919-787-9700 elena.diamond@odnss.com create time 02/04/19, 5:14PM

vendor
FedEx
tracking number
785310194118
service
FedEx Priority Overnight®
packaging
FedEx® Envelope
signature
Deliver Without Signature
courtesy quote
8.53

Quote may not reflect all accessorial charges



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Legal Terms and Conditions

Tendering packages by using this system constitutes your agreement to the service conditions for the transportation of your shipments as found in the applicable FedEx Service Guide, available upon request. FedEx will not be responsible for any claim in excess of the applicable declared value, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the applicable FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of 100 USD or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is 500 USD, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see applicable FedEx Service Guide. FedEx will not be liable for loss or damage to prohibited items in any event or for your acts or omissions, including, without limitation, improper or insufficient packaging, securing, marking or addressing, or the acts or omissions of the recipient or anyone else with an interest in the package. See the applicable FedEx Service Guide for complete terms and conditions. To obtain information regarding how to file a claim or to obtain a Service Guide, please call 1-800-GO-FEDEX (1-800-463-3339).





package id 0656741 ship date Mon, Feb 04 2019 to ALEXANDER PETERS, ESQ. NC Department of Justice 114 W EDENTON ST RALEIGH, NC 27603-1712 **United States** 9197166400 residential address No return label No notification type Label Creation Exception Delivery notification recipients phillip.strach@odnss...

elena.diamond@odnss.com

Phillip J. Strach (4497) Ogletree Deakins Law Firm 4208 Six Forks Road Suite 1100 Raleigh, NC 27609 US billing North Carolina Presi...eaker.Common Cause, et al....t al. (026753.000016) operator Elena Diamond 919-787-9700 elena.diamond@odnss.com

create time

02/04/19, 6:06PM

vendor FedEx tracking number 785311525480 service FedEx Priority Overnight® packaging FedEx® Envelope signature Deliver Without Signature courtesy quote 8.53

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3. Keep the second page as a receipt for your records. The receipt contains the terms and conditions of shipping and information useful for tracking your package.

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package id 0656732 ship date Mon, Feb 04 2019 R. STANTON JONES, ESQ. ARNOLD & PORTER 601 MASSACHUSETTS AVE NW WASHINGTON, DC 20001-5369 **United States** 2029425000 residential address No return label No notification type Label Creation Exception Delivery notification recipients phillip.strach@odnss... elena.diamond@odnss.com

Phillip J. Strach (4497) Ogletree Deakins Law Firm 4208 Six Forks Road **Suite 1100** Raleigh, NC 27609 US billing North Carolina Presi...eaker.Common Cause, et al....t al. (026753.000016) operator Elena Diamond 919-787-9700 elena.diamond@odnss.com create time 02/04/19, 5:32PM

vendor
FedEx
tracking number
785310696548
service
FedEx Priority Overnight®
packaging
FedEx® Envelope
signature
Deliver Without Signature
courtesy quote
10.17





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2. Place the label in a waybill pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

3. Keep the second page as a receipt for your records. The receipt contains the terms and conditions of shipping and information useful for tracking your package.

Legal Terms and Conditions

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0656735 ship date Mon, Feb 04 2019 to MARC ELIAS & ARIA **BRANCH** PERKINS COIE, LLP 700 13TH ST NW STE 600 WASHINGTON, DC 20005-5998 **United States** 2026546200 residential address No return label No notification type Label Creation Exception Delivery

notification recipients phillip.strach@odnss... elena.diamond@odnss.com

Phillip J. Strach (4497) Ogletree Deakins Law Firm 4208 Six Forks Road **Suite 1100** Raleigh, NC 27609 US billing North Carolina Presi...eaker.Common Cause, et al....t al. (026753.000016) operator Elena Diamond 919-787-9700 elena.diamond@odnss.com

create time

02/04/19, 5:35PM

vendor FedEx tracking number 785310791620 service FedEx Priority Overnight® packaging FedEx® Envelope signature Deliver Without Signature courtesy quote 10.17

Quote may not reflect all accessorial charges

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

٧.

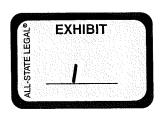
DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF REPRESENTATIVE DAVID R. LEWIS

PLEASE TAKE NOTICE that on March 5, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Representative David R. Lewis at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24th day of January, 2019.



POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

By: Edwin Deas DFJ with Permission

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N.C. State Bar No. 4112

Caroline P. Mackie

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Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF REPRESENTATIVE DAVID R. LEWIS on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

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And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

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And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

 $Counsel \ for \ Legislative \ Defendants$

This the 24 day of January, 2019.

Edua Apeas / DF5 with perm. 35,1001 Edwin M. Speas STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

v.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF SENATOR RALPH E. HISE, JR.

PLEASE TAKE NOTICE that on March 7, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Senator Ralph E. Hise, Jr. at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24th day of January, 2019.

ALL-STATE LEGAL®

POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

Edwin M. Speas, Jr. R By:

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

Raleigh, NC 27602-1801

(919) 783-6400

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PERKINS COIE LLP

Marc E. Elias* Aria C. Branch* 700 13th Street NW Washington, DC 20005-3960 (202) 654-6200 melias@perkinscoie.com

Abha Khanna* 1201 Third Avenue **Suite 4900** Seattle, WA 98101-3099 (206) 359-8000 akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF SENATOR RALPH E. HISE, JR. on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

 $Counsel\ for\ Legislative\ Defendants$

This the $\underline{24}$ day of January, 2019.

Edum Apres /DET with permission Edwin M. Speas

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

٧.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF REPRESENTATIVE TIMOTHY K. MOORE

PLEASE TAKE NOTICE that on March 11, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Representative Timothy K. Moore at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.



POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

Edum Spear 1055 with permission By:

N.C. State Bar No. 4112

Caroline P. Mackie

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espeas@poynerspruill.com

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PERKINS COIE LLP

Marc E. Elias* Aria C. Branch* 700 13th Street NW Washington, DC 20005-3960 (202) 654-6200 melias@perkinscoie.com

Abha Khanna* 1201 Third Avenue Suite 4900 Seattle, WA 98101-3099 (206) 359-8000 akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF DEPOSITION OF REPRESENTATIVE TIMOTHY K. MOORE** on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the 24 day of January, 2019.

Edwin M. Speas

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

ν.

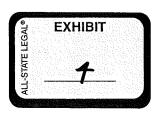
DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF SENATOR PHILIP E. BERGER

PLEASE TAKE NOTICE that on March 12, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Senator Philip E. Berger at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.



POYNER SPRUILL LLP

Edum Mpew Edwin M. Speas, Jr. - DF.5 with permission

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

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Counsel for Common Cause, the North Carolina Democratic Party, and the Individual Plaintiffs

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PERKINS COIE LLP

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Abha Khanna* 1201 Third Avenue Suite 4900 Seattle, WA 98101-3099 (206) 359-8000 akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF DEPOSITION OF SENATOR PHILIP E. BERGER** on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the 24 day of January, 2019.

Edum Deens / DFJ with permission Edwin M. Spéas

STATE OF NORTH CAROLINA	File No. 18-CVS-014001
WAKE County	In The General Court Of Justice District X Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al.	SUBPOENA
	G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
	ED BY COUNSEL: Subpoenas may be produced at your request, but must be erk of Superior Court, or by a magistrate or judge.
Name And Address Of Person Subpoensed Mark Coggins, c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Alternate Address
Telephone No. 919-789-3179	Telephone No.
Name And Location Of Court/Place Of Deposition/Place To Produce	Date To Appear/Produce, Until Released
Poyner Spruill LLP	02/28/2019
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Released 9:30 XAM PM
Name And Address Of Applicant Or Applicant's Attorney	Date 1/24/19
Edwin M. Speas, Esq.	Signature
Poyner Spruill LLP . 301 Fayetteville St., Suite 1900	Educa Depend DES with PERMISSION
Raleigh, NC 27601	Deputy CSC Assistant CSC Clerk Of Superior Court
Telephone No. Of Applicant Or Applicant's Attorney 919-783-2881	☐ Magistrate ☐ Attorney/DA ☐ District Court Judge ☐ Superior Court Judge
RETURN O	
I certify this subpoena was received and served on the person subposed by personal delivery. registered or cert telephone communication by Sheriff (use only for a witness sustelephone communication by local law enforcement agency NOTE TO COURT: If the witness was served by telephone communication by local law enforcement agency NOTE TO COURT:	penaed as follows: ified mail, receipt requested and attached. bpoenaed to appear and testify). (use only for a witness subpoenaed to appear and testify in a criminal case). munication from a local law enforcement agency in a criminal case, the the witness until the witness has been served personally with the written
Service Fee Paid Date Served Name Of Authorized Server (type or pri	
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena m If a party is not represented by an attorney, the copy must be mailed or delive	
AOC-G-100, Rev. 2/18 (Please see a © 2018 Administrative Office of the Courts	EXHIBIT EXHIBIT

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subopena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compet the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compet the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel: expenses to comply with subpoena. When a couri enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) <u>Trade secrets: confidential information</u>. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in theorder.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form</u>. The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- · Your answers to questions must be truthful.

- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

v.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF MARK COGGINS

PLEASE TAKE NOTICE that on February 28, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Mark Coggins at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.

POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

By: Edwin Apen / DIJ with perrission Edwin M. Speas, Jr.

Edwin M. Speas, Jr.
N.C. State Bar No. 4112
Caroline P. Mackie
N.C. State Bar No. 41512
P.O. Box 1801
Raleigh, NC 27602-1801
(919) 783-6400
espeas@poynerspruill.com

Counsel for Common Cause, the North Carolina Democratic Party, and the Individual Plaintiffs R. Stanton Jones*
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Elisabeth S. Theodore*
Daniel F. Jacobson*
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Washington, DC 20001-3743
(202) 942-5000
stanton.jones@arnoldporter.com

PERKINS COIE LLP

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Seattle, WA 98101-3099
(206) 359-8000
akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF MARK COGGINS on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the 24day of January, 2019.

Edwin M. Speas

STATE OF NORTH CAROLINA	File No.	VS-014001
WAKE County		Court Of Justice perior Court Division
Common Cause, et al.,	Additional File Numbers	
VERSUS		
David Lewis, in his Official Capacity as Senior Chairman of th House Select Committee on Redistricting, et al.		
Party Requesting Subpoena NOTE TO PARTIES NOT REPRES State/Plaintiff Defendant signed and issued by the office of the	G.S. 1A-1, Rule 45; SENTED BY COUNSEL: Subpoenas may be produced the Clerk of Superior Court, or by a magistrate or judge.	8-59, -61, -63; 15A-801, -802 I at your request, but must be
TO Name And Address Of Person Subpoenaed Mark Coggins, c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609 Telephone No.	Alternate Address Telephone No.	
919-789-3179 YOU ARE COMMANDED TO: (check all that apply)		
For a list of documents to produce, see the attachment to	Date To Appear/Produce, Until Released	
Poyner Spruill LLP	02/21/2019	
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Released 9:30 Date	⊠ AM □PM
Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq. Poyner Spruill LLP	Signature Edura Roem / DFJ	with sermission
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Deputy CSC Assistant CSC	Clerk Of Superior Court
Felephone No. Of Applicant Or Applicant's Attorney 919-783-2881	Magistrate X Attorney/DA	District Court Judge Superior Court Judge
	N OF SERVICE	
I certify this subpoena was received and served on the person state. By personal delivery. registered or telephone communication by Sheriff (use only for a witness telephone communication by local law enforcement age NOTE TO COURT: If the witness was served by telephone court may not issue a show cause order or order for arrest agas subpoena. Was unable to serve this subpoena. Reason unable to	certified mail, receipt requested and attached. ss subpoenaed to appear and testify). ency (use only for a witness subpoenaed to appear and communication from a local law enforcement agency in ainst the witness until the witness has been served pers	a criminal case, the
Service Fee Paid Date Served Name Of Authorized Server (type		Title/Agency
Due NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoen	na must be delivered mailed or faved to the attenuate	
If a party is not represented by an attorney, the copy must be mailed or d	lelivered to the party. This does not apply in criminal ca	r eacn parry in this case. ses.
AOC-G-100, Rev. 2/18 (Please © 2018 Administrative Office of the Courts	see reverse side)	

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

- (c) Protection of Persons Subject to Subpoena
- (1) <u>Avoid undue burden or expense</u>. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
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ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO MARK COGGINS

INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. <u>Electronically-stored information</u>: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document;
 - B. the date of the communication or document;
 - C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- 1. "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- 5. "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- 9. With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

- committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.
- 10. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes. notes or records of meetings, reports, comments, affidavits, statements, summaries. messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks. receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations. discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- 11. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail.

- photograph, audiotape) they are maintained referring or relating to the 2017 Plans.
- b. All documents referring or relating to the 2017 Plans Criteria.
- c. All documents referring or relating to how each 2017 Plans Criterion was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.
- d. All documents referring or relating to how each 2017 Plans Criterion affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices made in constructing a district based on each criterion.
- e. All documents referring or relating to the prioritization or weighting of the 2017 Plans criteria in developing the 2017 Plans.
- f. All communications since January 1, 2015 with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.
- g. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2017 Plans.
- h. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2017 Plans.
- 2. All documents and communications since November 1, 2010 referring or relating to the 2011 Unchanged Districts, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.
 - a. All documents referring or relating to the criteria considered or using in creating the 2011 Unchanged Districts.
 - b. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.
 - c. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts affected the

- 2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.
- d. All documents referring or relating to the prioritization or weighting of each of the criteria considered or used in creating the 2011 Unchanged Districts.
- e. All communications with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Unchanged Districts.
- f. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2011 Unchanged Districts.
- g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.
- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

STATE OF NORTH CAROLINA	18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ☑ Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	
David Lewis, in his Official Capacity as Senior Chairman of the Jouse Select Committee on Redistricting, et al.	SUBPOENA
	G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -6 TED BY COUNSEL: Subpoenas may be produced at your request, but must
X State/Plaintiff Defendant signed and issued by the office of the C	Clerk of Superior Court, or by a magistrate or judge.
Name And Address Of Person Subpoenced Trudy Wade c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Allernate Address
Telephone No.	Telephone No.
919-789-3179 YOU ARE COMMANDED TO: (check all that apply)	
larne And Location Of Court/Place Of Deposition/Place To Produce	Date To Appear/Produce, Until Released
Poyner Spruill LLP	03/18/2019
801 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Released 9:30 XAM F
	Dale 1,2 C/, O
ame And Address Of Applicant Or Applicant's Attomey Edwin M. Speas, Esq.	1/25/1000 Signature
Poyner Spruill LLP	Four Aprens /OF5 with perpission
01 Fayetteville St., Suite 1900	Deputy CSC Assistant CSC Clerk Of Superior Court
Raleigh, NC 27601 elephone No. Of Applicant Or Applicant's Attorney	Magistrate X Attorney/DA District Court Judge
919-783-2881	Superior Court Judge
RETURN	OF SERVICE
I certify this subpoena was received and served on the person sub	
By personal delivery registered or ce	ertified mail, receipt requested and attached.
telephone communication by Sheriff (use only for a witness)	subpoenaed to appear and testify).
telephone communication by Sheriff (use only for a witness) telephone communication by local law enforcement agence	subpoenaed to appear and testify). Cy (use only for a witness subpoenaed to appear and testify in a criminal case
telephone communication by local law enforcement agent NOTE TO COURT: If the witness was served by telephone co	CY (use only for a witness subpoenaed to appear and testify in a criminal case ommunication from a local law enforcement agency in a criminal case, the
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Telephone communication by local law enforcement agent NOTE TO COURT: If the witness was served by telephone co court may not issue a show cause order or order for arrest again	ncy (use only for a witness subpoenaed to appear and testify in a criminal case ommunication from a local law enforcement agency in a criminal case, the nat the witness until the witness has been served personally with the written
telephone communication by local law enforcement agency NOTE TO COURT: If the witness was served by telephone co court may not issue a show cause order or order for arrest again subpoena. I was unable to serve this subpoena. Reason unable to service Fee Paid Date Served Name Of Authorized Server (type or	cy (use only for a witness subpoenaed to appear and testify in a criminal case ommunication from a local law enforcement agency in a criminal case, the nst the witness until the witness has been served personally with the written erve:
telephone communication by local law enforcement agency NOTE TO COURT: If the witness was served by telephone co court may not issue a show cause order or order for arrest again subpoena. □ I was unable to serve this subpoena. Reason unable to service Fee □ Paid □ Date Served □ Name Of Authorized Server (type or Due NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena If a party is not represented by an attorney, the copy must be mailed or deleter.	icy (use only for a witness subpoenaed to appear and testify in a criminal case ommunication from a local law enforcement agency in a criminal case, the not the witness until the witness has been served personally with the written erve:

- (c) Protection of Persons Subject to Subpoena
- (1) <u>Avoid undue burden or expense</u>. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The molion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel: expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) <u>Trade secrets; confidential information</u>. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in theorder.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form.</u> The person responding need not produce the same electronically stored information in more than one form.
- (4) <u>Inaccessible electronically stored information</u>. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- . In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.

- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition
- You must continue to attend court until released by the court, You must continue to attend a deposition until the deposition is completed.

attorney or the presiding judge. WITNESS FEE

BRIBING OR THREATENING A WITNESS

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your

involvement as a witness in a case, you should promptly report that to the district

AOC-G-100, Side Two, Rev. 2/18 © 2018 Administrative Office of the Courts STATE OF NORTH CAROLINA COUNTY OF WAKE IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

ν.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF FORMER SENATOR TRUDY WADE

PLEASE TAKE NOTICE that on March 18, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Former Senator Trudy Wade at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the <u>24</u> day of January, 2019.

POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

By: Edwin M. Speas, Jr.

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801 Raleigh, NC 27602-1801

(919) 783-6400

espeas@poynerspruill.com

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Daniel F. Jacobson*
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PERKINS COIE LLP

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melias@perkinscoie.com

Abha Khanna*
1201 Third Avenue
Suite 4900
Seattle, WA 98101-3099
(206) 359-8000
akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF FORMER SENATOR TRUDY WADE on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar
Senior Deputy Attorney General
Stephanie A. Brennan
Special Deputy Attorney General
James Bernier, Jr.
Special Deputy Attorney General
North Carolina Dept. of Justice
P.O. Box 629
Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the $\underline{24}$ day of January, 2019.

Edwin M. Speas

STATE OF NORTH CAROLINA	File No. 18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ☑ Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al.	SUBPOENA G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
Party Requesting Subpoena NOTE TO PARTIES NOT REPRESENT signed and issued by the office of the Cl	ED BY COUNSEL: Subpoenas may be produced at your request, but must be lerk of Superior Court, or by a magistrate or judge.
TO Name And Address Of Person Subpoenaed Trudy Wade c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Alternate Address
Telephone No. 919-789-3179	Telephone No.
See attached list. (List here if space sufficient) For a list of documents to produce, see the attachment to this	s Subpoena.
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Released 03/11/2019
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Released 9:30 XAM PM
Name And Address Of Applicant Or Applicant's Attorney	1/24/19
Edwin M. Speas, Esq. Poyner Spruill LLP	Edum Apeas / DFJ with Permission
301 Fayetteville St., Suite 1900	Deputy CSC Assistant CSC Clerk Of Superior Court
Raleigh, NC 27601 Telephone No. Of Applicant Or Applicant's Attorney 919-783-2881	──
	OF SERVICE
I certify this subpoena was received and served on the person subposed in the personal delivery. The personal delivery is the personal delivery in the personal delivery. The personal delivery is the personal delivery in	poenaed as follows: ertified mail, receipt requested and attached. subpoenaed to appear and testify). by (use only for a witness subpoenaed to appear and testify in a criminal case). Transminication from a local law enforcement agency in a criminal case, the st the witness until the witness has been served personally with the written
I was unable to serve this subpoena. Reason unable to service Fee Paid Date Served Name Of Authorized Server (type or	
If a party is not represented by an attorney, the copy must be mailed or del	must be delivered, mailed or faxed to the attorney for each party in this case. ivered to the party. This does not apply in criminal cases. se reverse side)

(c) Protection of Persons Subject to Subpoena

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- (1) <u>Avoid undue burden or expense</u>. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed,
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) <u>Trade secrets; confidential information</u>. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in theorder.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form</u>. The person responding need not produce the same electronically stored information in more than one form.
- (4) <u>Inaccessible electronically stored information</u>. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) <u>Specificity of objection</u>. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

attorney or the presiding judge. WITNESS FEE

BRIBING OR THREATENING A WITNESS

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or

intimidate a witness. If anyone attempts to do any of these things concerning your

involvement as a witness in a case, you should promptly report that to the district

AOC-G-100, Side Two, Rev. 2/18 © 2018 Administrative Office of the Courts

ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO TRUDY WADE

INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. BE ADVISED that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. <u>Electronically-stored information</u>: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document;
 - B. the date of the communication or document;
 - C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- 1. "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- 5. "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- 9. With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

- committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.
- "Document" is used in its broadest sense and is intended to be comprehensive and to 10. include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries. messages, worksheets, notes, correspondence, diaries, calendars, appointment books. registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail,

- photograph, audiotape) they are maintained referring or relating to the 2017 Plans.
- b. All documents referring or relating to the 2017 Plans Criteria.
- c. All documents referring or relating to how each 2017 Plans Criterion was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.
- d. All documents referring or relating to how each 2017 Plans Criterion affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices made in constructing a district based on each criterion.
- e. All documents referring or relating to the prioritization or weighting of the 2017 Plans criteria in developing the 2017 Plans.
- f. All communications since January 1, 2015 with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.
- g. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2017 Plans.
- h. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2017 Plans.
- 2. All documents and communications since November 1, 2010 referring or relating to the 2011 Unchanged Districts, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.
 - a. All documents referring or relating to the criteria considered or using in creating the 2011 Unchanged Districts.
 - b. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.
 - c. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts affected the

- 2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.
- d. All documents referring or relating to the prioritization or weighting of each of the criteria considered or used in creating the 2011 Unchanged Districts.
- e. All communications with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Unchanged Districts.
- f. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2011 Unchanged Districts.
- g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.
- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

STATE OF NORTH CAROLINA	File No. 18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ⊠ Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	
David Lewis, in his Official Capacity as Senior Chairman of the	SUBPOENA
House Select Committee on Redistricting, et al.	G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
	ITED BY COUNSEL: Subpoenas may be produced at your request, but must be Clerk of Superior Court, or by a magistrate or judge.
Name And Address Of Person Subpoensed Nelson Dollar c/o Phillip J. Strach	Alternate Address
Nelson Dollar c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C.	
4208 Six Forks Road, Suite 1100	·
Raleigh, NC 27609	
Telephone No. 919-789-3179	Telephone No.
YOU ARE COMMANDED TO: (check all that apply)	
lame And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Released 03/13/2019
301 Fayetteville St., Suite 1900	Time To Appear/Produce, Until Released
Raleigh, NC 27601	9:30 XAM PM
,	Date / / O. I.I.I.Cu
lame And Address Of Applicant Or Applicant's Attomey Edwin M. Speas, Esq.	/ / 24/) ^C \ Signature
Poyner Spruill LLP	Edur- speck DEJ with permission
01 Fayetteville St., Suite 1900	Deputy CSC Assistant CSC Clerk Of Superior Court
Raleigh, NC 27601 elephone No. Of Applicant Or Applicant's Attorney	Magistrate X Altomey/DA District Court Judge
919-783-2881	Superior Court Judge
and the profile to the rest of the second se	OF SERVICE
telephone communication by Sheriff (use only for a witness telephone communication by local law enforcement agency	ertified mail, receipt requested and attached:
court may not issue a show cause order or order for arrest again subpoena.	ast the witness until the witness has been served personally with the written
I was unable to serve this subpoena. Reason unable to service Fee Paid Date Served Name Of Authorized Server (type or Due	
	must be delivered, mailed or faxed to the attorney for each party in this case. livered to the party. This does not apply in criminal cases.
AOC-G-100, Rev. 2/18 (Please se © 2018 Administrative Office of the Courts	ee reverse side) EXHIBIT 7

- (c) Protection of Persons Subject to Subpoena
- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel: expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) <u>Trade secrets; confidential information</u>. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be mel without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) Order to quash; expenses, When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including altorney's fees.

(d) Duties in Responding to Subpoena

- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form.</u> The person responding need not produce the same electronically stored information in more than one form.
- (4) <u>Inaccessible electronically stored information</u>. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- · In answering questions, speak clearly and loudly enough to be heard.
- · Your answers to questions must be truthful.

- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

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BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

٧.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF FORMER REPRESENTATIVE NELSON DOLLAR

PLEASE TAKE NOTICE that on March 13, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Former Representative Nelson Dollar at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.

POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

By: Elun Bacos for 5 with permission

Edwin M. Speas, Jr.

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

Raleigh, NC 27602-1801

(919) 783-6400

espeas@poynerspruill.com

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Elisabeth S. Theodore*
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PERKINS COIE LLP

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Suite 4900
Seattle, WA 98101-3099
(206) 359-8000
akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF FORMER REPRESENTATIVE NELSON DOLLAR on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the <u>24</u>day of January, 2019.

Edwin M. Speas / DFJ with fermission

STATE OF NORTH CAROLINA	File No.		CVS-014001
WAKE County			al Court Of Justice uperior Court Division
Common Cause, et al.,	Additional File Numbers		
VERSUS			
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al.		SUBPOEN. S. 1A-1, Rule 45	A 5; 8-59, -61, -63; 15A-801, -802
Party Requesting Subpoena NOTE TO PARTIES NOT REPRES Signed and issued by the office of the			
TO Name And Address Of Person Subpoensed Nelson Dollar c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Alternate Address		
Telephone No. 919-789-3179	Telephone No.		
See attached list. (List here if space sufficient) For a list of documents to produce, see the attachment to	this Subpoena.		
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Re 03/06/2019	eleased	
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Re 9: Date	eleased 30	XAM PM
Name And Address Of Applicant Or Applicant's Attorney			
Edwin M. Speas, Esq. Poyner Spruill LLP	Signature		
301 Fayetteville St., Suite 1900 Raleigh, NC 27601		Assistant CSC	Clerk Of Superior Court
Telephone No. Of Applicant Or Applicant's Attorney 919-783-2881	Magistrate X	Attorney/DA	District Court Judge Superior Court Judge
RETUR	N OF SERVICE		
telephone communication by Sheriff (use only for a witne telephone communication by local law enforcement age NOTE TO COURT: If the witness was served by telephone court may not issue a show cause order or order for arrest age subpoena.	r certified mail, receipt requested as subpoenaed to appear and testify ency (use only for a witness subpoo communication from a local law enf painst the witness until the witness ha	r). enaed to appear a orcement agency	and testify in a criminal case). v in a criminal case, the
I was unable to serve this subpoena. Reason unable to Service Fee Paid Date Served Name Of Authorized Server (type		d Server	Title/Agency
\$ DUB DUB NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpose	ena must be delivered, mailed or fax	ed to the attorne	
If a party is not represented by an attorney, the copy must be mailed or			

- (c) Protection of Persons Subject to Subpoena
- (1) <u>Avoid undue burden or expense</u>. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

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- (7) <u>Trade secrets; confidential information</u>. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the courf may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
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- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form.</u> The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) <u>Specificity of objection</u>. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- · Your answers to questions must be truthful.

- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

WITNESS FEE

BRIBING OR THREATENING A WITNESS

attorney or the presiding judge.

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or

intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district

AOC-G-100, Side Two, Rev. 2/18

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ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO NELSON DOLLAR

INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. BE ADVISED that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. Electronically-stored information: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document:
 - B. the date of the communication or document;
 - C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- 1. "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- 5. "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- 9. With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

- committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.
- "Document" is used in its broadest sense and is intended to be comprehensive and to 10. include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail,

photograph, audiotape) they are maintained referring or relating to the 2017 Plans.

- b. All documents referring or relating to the 2017 Plans Criteria.
- c. All documents referring or relating to how each 2017 Plans Criterion was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.
- d. All documents referring or relating to how each 2017 Plans Criterion affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices made in constructing a district based on each criterion.
- e. All documents referring or relating to the prioritization or weighting of the 2017 Plans criteria in developing the 2017 Plans.
- f. All communications since January 1, 2015 with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.
- g. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2017 Plans.
- h. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2017 Plans.
- 2. All documents and communications since November 1, 2010 referring or relating to the 2011 Unchanged Districts, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.
 - a. All documents referring or relating to the criteria considered or using in creating the 2011 Unchanged Districts.
 - b. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.
 - c. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts affected the

- 2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.
- d. All documents referring or relating to the prioritization or weighting of each of the criteria considered or used in creating the 2011 Unchanged Districts.
- e. All communications with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Unchanged Districts.
- f. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2011 Unchanged Districts.
- g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.
- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

File No.	/S-014001
	Court Of Justice perior Court Division
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SUBPOENA	
G.S. 1A-1, Rule 45;	8-59, -61, -63; 15A-801, -802
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- Appear /DFJ	with permission
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, mailed or faxed to the attorney i This does not apply in criminal c	for each party in this case. rases. EXHIBIT
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- (c) Protection of Persons Subject to Subpoena
- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to guash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form.</u> The person responding need not produce the same electronically stored information in more than one form.
- (4) <u>Inaccessible electronically stored information</u>. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost, If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.

- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court
- attend a deposition until the deposition is completed.

You must continue to attend court until released by the court. You must continue to

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or

intimidate a witness. If anyone attempts to do any of these things concerning your

involvement as a witness in a case, you should promptly report that to the district

BRIBING OR THREATENING A WITNESS

attorney or the presiding judge.

AOC-G-100, Side Two, Rev. 2/18 © 2018 Administrative Office of the Courts STATE OF NORTH CAROLINA COUNTY OF WAKE IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

٧.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF FORMER SENATOR WESLEY MEREDITH

PLEASE TAKE NOTICE that on March 15, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Former Senator Wesley Meredith at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.

POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

Edwin M. Speas, Jr.

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

Raleigh, NC 27602-1801

(919) 783-6400

espeas@poynerspruill.com

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Seattle, WA 98101-3099
(206) 359-8000
akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF **DEPOSITION OF FORMER SENATOR WESLEY MEREDITH** on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak, & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the Aday of January, 2019.

Edwar DF5 with permission Edwin M. Speas

Common Cause, et al., VERSUS David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al. OS. 1.A-1, Rule 45: 8-59, -61, -53: 15A-801, -802 Party Requesting Subpoena State/Plantial Defendant State/Plantial Defendant State/Plantial Defendant State/Plantial Defendant State/Plantial Defendant Wesley Meredith do Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609 Telephone No. 919-789-3179 YOU ARE COMMANDED TO: (check all that apply) appear and testify, in the above entitled action, before the court at the place, date and time indicated below. appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below. See attached list, (Let here if space sufficient) See attached list, (Let here if space sufficient) For a list of documents to produce, see the attachment to this Subpoena. Date To Appearathouse, Until Released Date To Appaerathouse, Until Release
Common Cause, et al., VERSUS
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al. Cs. 1.A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al. G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
David Lewis, in his Official Capacity as Senior Charman of the House Select Committee on Redistricting, et al. G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802 Party Requesting Subpoens State/Plantiff
Party Requesting Subpoens Subpoens NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge. TO Name And Address of Person Subpoensed Vision
Vesley Meredith do Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609 Telephone No.
Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609 Telephone No.
Appear of Countrillace Of Deposition/Place To Produce Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601 ### Power Spruill LLP Name And Address Of Applicant Or Applicant's Attomey Edwin M. Speas, Esq. Poyner Spruill LLP Name St., Suite 1900 Raleigh, NC 27601 ### Power Spruill LLP Name And Address Of Applicant Or Applicant's Attomey Edwin M. Speas, Esq. Poyner Spruill LLP Name And Address Of Applicant Or Applicant's Attomey Edwin M. Speas, Esq. Poyner Spruill LLP Name Power Spruill LLP Name And Address Of Applicant Or Applicant's Attomey Edwin M. Speas, Esq. Poyner Spruill LLP Name Power Spruill LLP Name Power Spruill LLP Name And Address Of Applicant Or Applicant's Attomey Edwin M. Speas, Esq. Poyner Spruill LLP Name Power Spruill Est., Suite 1900 Raleigh, NC 27601 #### Power Spruill St., Suite 1900 Raleigh, NC 27601 #### Power Spruill St., Suite 1900 Raleigh, NC 27601
Telephone No. Telephone No. Telephone No. Telephone No.
YOU ARE COMMANDED TO: (check all that apply) □ appear and testify, in the above entitled action, before the court at the place, date and time indicated below. □ appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below. □ produce and permit inspection and copying of the following items, at the place, date and time indicated below. □ See attached list. (List here if space sufficient) For a list of documents to produce, see the attachment to this Subpoena. Date To Appear/Produce, Until Released
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See attached list. (List here if space sufficient) For a list of documents to produce, see the attachment to this Subpoena. Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP Date To Appear/Produce, Until Released 03/08/2019 301 Fayetteville St., Suite 1900 Time To Appear/Produce, Until Released 9:30 Salation PM Date
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Name And Location Of Count/Place Of Deposition/Place To Produce Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601 Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq. Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601 Date Lime To Appear/Produce, Until Released 9:30 Signature Signature Assistant CSC Clerk Of Superior Count
Name And Location Of Count/Place Of Deposition/Place To Produce Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601 Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq. Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601 Date Lime To Appear/Produce, Until Released 9:30 Signature Signature Assistant CSC Clerk Of Superior Count
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Raleigh, NC 27601 9:30 Date Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq. Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601 9:30 Date Date
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301 Fayetteville St., Suite 1900 Deputy CSC
Raleigh, NC 27601
Tentoign, 100 27001
Telephone No. Of Applicant Or Applicant's Attorney Magistrate Magistrate Magistrate District Court Judge
919-783-2881 Superior Court Judge
RETURN OF SERVICE
I certify this subpoena was received and served on the person subpoenaed as follows:
By personal delivery. registered or certified mail, receipt requested and attached.
telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify). telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).
NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the
court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written
subpoena.
I was unable to serve this subpoena. Reason unable to serve:
Sanday For Tax Data Sandad Name Of Authorized Sanger (hung or print) Signature Of Authorized Sanger Title Manager
Service Fee Paid Date Served Name Of Authorized Server (type or print) Signature Of Authorized Server Title/Agency \$ Due

- (c) Protection of Persons Subject to Subpoena
- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, In lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or langible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The suppoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney." BRIBING OR THREATENING A WITNESS

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.

- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

AOC-G-100, Side Two, Rev. 2/18 © 2018 Administrative Office of the Courts

ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO WESLEY MEREDITH

INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. <u>Electronically-stored information</u>: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document;
 - B. the date of the communication or document;
 - C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- 1. "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- 5. "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- 9. With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

- committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.
- "Document" is used in its broadest sense and is intended to be comprehensive and to 10. include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- 11. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail,

photograph, audiotape) they are maintained referring or relating to the 2017 Plans.

All documents referring or relating to the 2017 Plans Criteria. b.

All documents referring or relating to how each 2017 Plans Criterion c. was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

All documents referring or relating to how each 2017 Plans Criterion d. affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices

made in constructing a district based on each criterion.

All documents referring or relating to the prioritization or weighting of e.

the 2017 Plans criteria in developing the 2017 Plans.

All communications since January 1, 2015 with any affiliate of the f. Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.

All communications with any mapmakers, consultants, advisors, experts, g. statisticians, mathematicians, or political scientists referring or relating to the 2017 Plans.

All non-privileged communications with any committees, legislators, or h. legislative staffers referring or relating to the 2017 Plans.

- All documents and communications since November 1, 2010 referring or relating to the 2. 2011 Unchanged Districts, including, but not limited to:
 - All documents, proposals, analyses, memoranda, notes, and calendar a. entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.

All documents referring or relating to the criteria considered or using in a.

creating the 2011 Unchanged Districts.

All documents referring or relating to how each of the criteria b. considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

All documents referring or relating to how each of the criteria c. considered or used in creating the 2011 Unchanged Districts affected the 2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.

d. All documents referring or relating to the prioritization or weighting of each of the criteria considered or used in creating the 2011 Unchanged Districts.

- e. All communications with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Unchanged Districts.
- f. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2011 Unchanged Districts.
- g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.
- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

STATE OF NORTH CAROLINA	18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ☑ Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	
Pavid Lewis, in his Official Capacity as Senior Chairman of the louse Select Committee on Redistricting, et al.	SUBPOENA G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
	TED BY COUNSEL: Subpoenas may be produced at your request, but must be
O Name And Address Of Person Subpoensed John M. Alexander, Jr., c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	llerk of Superior Court, or by a magistrate or judge. Alternate Address
Telephone No. 919-789-3179	Telephone No.
ame And Location Of Court/Place Of Deposition/Place To Produce	Date To Appear/Produce, Until Released
oyner Spruill LLP	Date To Appear/Produce, Until Released 03/19/2019
oyner Spruill LLP 01 Fayetteville St., Suite 1900	
oyner Spruill LLP 01 Fayetteville St., Suite 1900 aleigh, NC 27601 ame And Address Of Applicant Or Applicant's Attorney	03/19/2019 Time To Appear/Produce, Until Released 9:30
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oyner Spruill LLP 01 Fayetteville St., Suite 1900 Laleigh, NC 27601 ame And Address Of Applicant Or Applicant's Attorney Idwin M. Speas, Esq. oyner Spruill LLP 01 Fayetteville St., Suite 1900 Laleigh, NC 27601 aleigh, NC 27601 blephone No. Of Applicant Or Applicant's Attorney 919-783-2881 RETURN certify this subpoena was received and served on the person subply personal delivery registered or ce telephone communication by Sheriff (use only for a witness sometime of the person of	Date 9:30 X AM PM PM PM PM PM PM PM
oyner Spruill LLP 01 Fayetteville St., Suite 1900 caleigh, NC 27601 ame And Address Of Applicant Or Applicant's Attorney dwin M. Speas, Esq. oyner Spruill LLP 01 Fayetteville St., Suite 1900 caleigh, NC 27601 elephone No. Of Applicant Or Applicant's Attorney 919-783-2881 RETURN certify this subpoena was received and served on the person subplete of the personal delivery. I telephone communication by Sheriff (use only for a witness of the personal delivery). I telephone communication by local law enforcement agency NOTE TO COURT: If the witness was served by telephone concount may not issue a show cause order or order for arrest against subpoena. I was unable to serve this subpoena. Reason unable to service Fee Paid Due Name Of Authorized Server (type or personal delivery).	O3/19/2019 Time To Appear/Produce, Until Released 9:30

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable lime for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c, The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
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- (7) <u>Trade secrets: confidential information</u>. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
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- (5) <u>Specificity of objection</u>. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

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- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

AOC-G-100, Side Two, Rev. 2/18 © 2018 Administrative Office of the Courts STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

ν.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF SENATOR JOHN M. ALEXANDER, JR.

PLEASE TAKE NOTICE that on March 19, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Senator John M. Alexander, Jr. at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.

POYNER SPRUILL LLP

By: Edwin Deew Dr5 with sethisser Edwin M. Speas, Jr.

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

Raleigh, NC 27602-1801

(919) 783-6400

espeas@poynerspruill.com

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Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF SENATOR JOHN M. ALEXANDER, JR. on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar
Senior Deputy Attorney General
Stephanie A. Brennan
Special Deputy Attorney General
James Bernier, Jr.
Special Deputy Attorney General
North Carolina Dept. of Justice
P.O. Box 629
Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the 24day of January, 2019.

Edwin M. Speas

STATE OF NORTH CAROLINA	18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ☑ Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	QUIDDOTNA
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al.	SUBPOENA G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
Party Requesting Subpoena NOTE TO PARTIES NOT REPRESENT X State/Plaintiff Defendant Signed and issued by the office of the Cla	ED BY COUNSEL: Subpoenas may be produced at your request, but must be erk of Superior Court, or by a magistrate or judge.
TO Name And Address Of Person Subpoensed John M. Alexander, Jr., c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Alternate Address Telephone No.
Telephone No. 919-789-3179	Telephone Vo.
See attached list. (List here if space sufficient) For a list of documents to produce, see the attachment to this	Subpoena.
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Released 03/12/2019
301 Fayetteville St., Suite 1900	Time To Appear/Produce, Until Released 9:30
Raleigh, NC 27601	Date
Name And Address Of Applicant Or Applicant's Attorney	1/24/19
Edwin M. Speas, Esq. Poyner Spruill LLP	Edum Deen DFJ with PerMission
301 Fayetteville St., Suite 1900	Deputy CSC Assistant CSC Clerk Of Superior Court
Raleigh, NC 27601	→ Magistrate X Attorney/DA District Court Judge
Telephone No. Of Applicant Or Applicant's Attorney 919-783-2881	Superior Court Judge
	DF SERVICE
□ telephone communication by Sheriff (use only for a witness s □ telephone communication by local law enforcement agenc NOTE TO COURT: If the witness was served by telephone concount may not issue a show cause order or order for arrest agains subpoena.	rtified mail, receipt requested and attached. ubpoenaed to appear and testify). y (use only for a witness subpoenaed to appear and testify in a criminal case). numunication from a local law enforcement agency in a criminal case, the st the witness until the witness has been served personally with the written rve:
Service Fee	agricultural de la company de
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena If a party is not represented by an attorney, the copy must be mailed or delin	must be delivered, mailed or faxed to the attorney for each party in this case. vered to the party. This does not apply in criminal cases. e reverse side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

- (c) Protection of Persons Subject to Subpoena
- Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees
- (2) For production of public records or hospital medical records, Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to guash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel: expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoensed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoensed as a witness, you should contact the person named on Page One of this Subpoens in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.

- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge. WITNESS FEE

BRIBING OR THREATENING A WITNESS

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

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ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO JOHN M. ALEXANDER, JR.

INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. <u>Electronically-stored information</u>: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document;
 - B. the date of the communication or document;
 - C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- 1. "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- 9. With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

- committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.
- "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- 11. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail,

photograph, audiotape) they are maintained referring or relating to the 2017 Plans.

b. All documents referring or relating to the 2017 Plans Criteria.

c. All documents referring or relating to how each 2017 Plans Criterion was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

d. All documents referring or relating to how each 2017 Plans Criterion affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices

made in constructing a district based on each criterion.

e. All documents referring or relating to the prioritization or weighting of

the 2017 Plans criteria in developing the 2017 Plans.

- f. All communications since January 1, 2015 with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.
- g. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2017 Plans.
- h. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2017 Plans.
- 2. All documents and communications since November 1, 2010 referring or relating to the 2011 Unchanged Districts, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.

a. All documents referring or relating to the criteria considered or using in

creating the 2011 Unchanged Districts.

b. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

c. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts affected the

- 2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.
- d. All documents referring or relating to the prioritization or weighting of each of the criteria considered or used in creating the 2011 Unchanged Districts.
- e. All communications with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Unchanged Districts.
- f. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2011 Unchanged Districts.
- g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.
- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

STATE OF NORTH CAROLINA	File No. 18-CVS-014001		
WAKE County	In The General Court Of Justice ☐ District ⊠ Superior Court Division		
Common Cause, et al.,	Additional File Numbers		
VERSUS			
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al.	SUBPOENA		
	G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802		
	ED BY COUNSEL: Subpoenas may be produced at your request, but must be rk of Superior Court, or by a magistrate or judge.		
TO Name And Address Of Person Subpoensed Robert Rucho c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Allernate Address		
Telephone No. 919-789-3179	Telephone No.		
A Notice of Deposition is being served contemporaneously w Name And Location Of Court/Place Of Deposition/Place To Produce	Date To Appear/Produce, Until Released		
Poyner Spruill LLP	03/20/2019		
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Released 9:30 AM PM		
Kaleigh, 140 27001	Date		
Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq.	1/24/19		
Poyner Spruill LLP	Edur Delas Into with permission		
301 Fayetteville St., Suite 1900	Deputy CSC Assistant CSC Clerk Of Superior Court		
Raleigh, NC 27601 Telephone No. Of Applicant Or Applicant's Attorney	Magistrate X Attorney/DA District Court Judge		
919-783-2881	Superior Court Judge		
4. Y. W.	F SERVICE		
telephone communication by Sheriff (use only for a witness sum telephone communication by local law enforcement agency NOTE TO COURT: if the witness was served by telephone communication as subpoena.	ified mail, receipt requested and attached. bpoenaed to appear and testify). (use only for a witness subpoenaed to appear and testify in a criminal case). munication from a local law enforcement agency in a criminal case, the the witness until the witness has been served personally with the written		
I was unable to serve this subpoena. Reason unable to serve service Fee Paid Date Served Name Of Authorized Server (type or pri			
\$ Due			
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena m If a party is not represented by an attorney, the copy must be mailed or delive	ered to the party. This does not apply in criminal cases.		
AOC-G-100, Rev. 2/18 (Please see a @ 2018 Administrative Office of the Courts	TH-STATE LEGAL®		

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

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- (c) Protection of Persons Subject to Subpoena
- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court, if objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets: confidential information. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quast or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in theorder.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form.</u> The person responding need not produce the same electronically stored information in more than one form.
- (4) <u>Inaccessible electronically stored information</u>. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) <u>Specificity of objection</u>. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

V

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF FORMER SENATOR ROBERT RUCHO

PLEASE TAKE NOTICE that on March 20, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Former Senator Robert Rucho at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.

POYNER SPRUILL LLP

By: Edwin M. Speas, Jr.

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

Raleigh, NC 27602-1801

(919) 783-6400

espeas@poynerspruill.com

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Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF FORMER SENATOR ROBERT RUCHO on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the 24day of January, 2019.

Edwin M. Speas / DFS with Pel MISSION

STATE OF NORTH CAROLINA	File No. 18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ☒ Superior Court Division
	Additional File Numbers
Common Cause, et al.,	
VERSUS	
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al.	SUBPOENA G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
	ED BY COUNSEL: Subpoenas may be produced at your request, but must be each of Superior Court, or by a magistrate or judge.
TO Name And Address Of Person Subpoensed	Alternate Address
Telephone No. 919-789-3179	Telephone No.
For a list of documents to produce, see the attachment to this	
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Refeased 03/13/2019
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Released 9:30 Date
Name And Address Of Applicant Or Applicant's Attorney	1/24/19
Edwin M. Speas, Esq.	Signature ,
Poyner Spruill LLP	Edur Appear DET with permission
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Deputy CSC Assistant CSC Clerk Of Superior Court
Telephone No. Of Applicant Or Applicant's Attorney 919-783-2881	- ☐ Magistrate
RETURN	DF SERVICE
I certify this subpoena was received and served on the person subp By personal delivery. registered or cer telephone communication by Sheriff (use only for a witness sometime in the person subp telephone communication by local law enforcement agency NOTE TO COURT: If the witness was served by telephone communication is served by telephone communication.	oenaed as follows: tified mail, receipt requested and attached. ubpoenaed to appear and testify). y (use only for a witness subpoenaed to appear and testify in a criminal case). umunication from a local law enforcement agency in a criminal case, the t the witness until the witness has been served personally with the written
Service Fee Paid Date Served Name Of Authorized Server (type or p	
\$ Due NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena	
If a party is not represented by an attorney, the copy must be mailed or deliv	rust be delivered, mailed of laxed to the attorney for each party in this case, rered to the party. This does not apply in criminal cases.

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NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) <u>Avoid undue burden or expense</u>. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) <u>Trade secrets; confidential information</u>. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in theorder.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena

- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) <u>Electronically stored information in only one form.</u> The person responding need not produce the same electronically stored information in more than one form.
- (4) <u>Inaccessible electronically stored information</u>. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) <u>Specificity of objection</u>. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court
 or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

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ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO ROBERT RUCHO

INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. Electronically-stored information: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document;
 - B. the date of the communication or document;
 - C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

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For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- 1. "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- 5. "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- 9. With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.

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- "Document" is used in its broadest sense and is intended to be comprehensive and to 10. include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail,

photograph, audiotape) they are maintained referring or relating to the 2017 Plans.

. (7) (1) 44-46-710 (6) (7) (7) (7)

All documents referring or relating to the 2017 Plans Criteria. b.

All documents referring or relating to how each 2017 Plans Criterion c. was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

All documents referring or relating to how each 2017 Plans Criterion d. affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices

made in constructing a district based on each criterion.

All documents referring or relating to the prioritization or weighting of e.

the 2017 Plans criteria in developing the 2017 Plans.

- All communications since January 1, 2015 with any affiliate of the f. Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.
- All communications with any mapmakers, consultants, advisors, experts, g. statisticians, mathematicians, or political scientists referring or relating to the 2017 Plans.
- All non-privileged communications with any committees, legislators, or h. legislative staffers referring or relating to the 2017 Plans.
- All documents and communications since November 1, 2010 referring or relating to the 2. 2011 Unchanged Districts, including, but not limited to:
 - All documents, proposals, analyses, memoranda, notes, and calendar a. entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.
 - All documents referring or relating to the criteria considered or using in a. creating the 2011 Unchanged Districts.
 - All documents referring or relating to how each of the criteria b. considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.
 - All documents referring or relating to how each of the criteria C. considered or used in creating the 2011 Unchanged Districts affected the

2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.

d. All documents referring or relating to the prioritization or weighting of each of the criteria considered or used in creating the 2011 Unchanged Districts.

- e. All communications with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Unchanged Districts.
- f. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2011 Unchanged Districts.
- g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.
- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

STATE OF NORTH CAROLINA	File No. 18-CVS-014001		
WAKE County	In The General Court Of Justice ☐ District ⊠ Superior Court Division		
C. C. C.	Additional File Numbers		
Common Cause, et al.,			
VERSUS	SUBPOENA		
David Lewis, in his Official Capacity as Senior Chairman of the			
House Select Committee on Redistricting, et al.	G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802		
Party Requesting Subpoena NOTE TO PARTIES NOT REPRESENT Signed and issued by the office of the C	TED BY COUNSEL: Subpoenas may be produced at your request, but must be Clerk of Superior Court, or by a magistrate or judge.		
TO Name And Address Of Person Subpoenaed Jim Blaine c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Alternate Address		
Telephone No. 919-789-3179	Telephone No.		
See attached list. (List here if space sufficient) A Notice of Deposition is being served contemporaneously			
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Released 02/27/2019		
301 Fayetteville St., Suite 1900	Time To Appear/Produce, Until Released 9:30		
Raleigh, NC 27601	Date		
Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq. Poyner Spruill LLP	Signature Edum Apens / DFJ with fermission		
301 Fayetteville St., Suite 1900	Deputy CSC Assistant CSC Clerk Of Superior Court		
Raleigh, NC 27601 Telephone No. Of Applicant Or Applicant's Attorney	Magistrale ☑ Attorney/DA ☐ District Court Judge ☐ Superior Court Judge		
919-783-2881			
I certify this subpoena was received and served on the person su By personal delivery. registered or of telephone communication by Sheriff (use only for a wilness telephone communication by local law enforcement age	certified mail, receipt requested and attached.		
I was unable to serve this subpoena. Reason unable to	Serve:		
Service Fee Paid Date Served Name Of Authorized Server (type \$ Due	or printy		
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoer If a party is not represented by an attorney, the copy must be mailed or dependent of the copy must be mailed or dependent or depende	see reverse side)		
© 2018 Administrative Office of the Courts	LL-STATE LEGAL		

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

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- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

(6) Order to compel; expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

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- (7) Trade secrets: confidential information. When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in theorder.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoensed as a witness, you should contact the person named on Page One of this Subpoens in the box labeled "Name And Address Of Applicant Or Applicant's Attorney.'

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

AOC-G-100, Side Two, Rev. 2/18 © 2018 Administrative Office of the Courts STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

٧.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF JIM BLAINE

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PLEASE TAKE NOTICE that on February 27, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Jim Blaine at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.

POYNER SPRUILL LLP

By: Edwar Opean for with permission

Edwin M. Speas, Jr.

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

Raleigh, NC 27602-1801

(919) 783-6400

espeas@poynerspruill.com

Counsel for Common Cause, the North Carolina Democratic Party, and the Individual Plaintiffs

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(206) 359-8000
akhanna@perkinscoie.com

Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

This are the second of the second second

I hereby certify that I have this day served a copy of the foregoing NOTICE OF **DEPOSITION OF JIM BLAINE** on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar
Senior Deputy Attorney General
Stephanie A. Brennan
Special Deputy Attorney General
James Bernier, Jr.
Special Deputy Attorney General
North Carolina Dept. of Justice
P.O. Box 629
Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the 24 day of January, 2019.

Edwin M. Speas DFJ with perpussion

STATE OF NORTH CAROLINA	18-CVS-	
WAKE County	In The General Co ☐ District	ourt Of Justice ior Court Division
	Additional File Numbers	
ommon Cause, et al.,		
VERSUS	SUBPOENA	
avid Lewis, in his Official Capacity as Senior Chairman of the ouse Select Committee on Redistricting, et al.		59, -61, -63; 15A-801, -802
Arty Requesting Subpoena NOTE TO PARTIES NOT REPRESE	ENTED BY COUNSEL: Subpoenas may be produced at e Clerk of Superior Court, or by a magistrate or judge.	your request, but must be
Name And Address Of Person Subpoenaed Jim Blaine c/o Phillip J. Strach	Alternate Address	
Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100		
Raleigh, NC 27609 Telephone No. 919-789-3179	Telephone No.	
OU ARE COMMANDED TO: (check all that apply) appear and testify, in the above entitled action, before the co	urt at the place, date and time indicated below.	
appear and testify, in the above entitled action, stated and estify, in the above entitled action, at a deposition produce and permit inspection and copying of the following it See attached list. (List here if space sufficient) For a list of documents to produce, see the attachment to	ems, at the place, date and time indicated below.	
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lame And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Released 02/20/2019	
301 Fayetteville St., Suite 1900	Time To Appear/Produce, Until Released	XAM P
Raleigh, NC 27601	9:30	
Name And Address Of Applicant Or Applicant's Attorney	Date 1/24/19	
Edwin M. Speas, Esq.	Signature	. H man ci a
Poyner Spruill LLP	E (00 VII)	with permission
301 Fayetteville St., Suite 1900	Deputy CSC Assistant CSC	Clerk Of Superior Court District Court Judge
Raleigh, NC 27601 Felephone No. Of Applicant Or Applicant's Attorney	Magistrate X Attorney/DA	Superior Court Judge
919-783-2881		
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I certify this subpoena was received and served on the person	or certified mail, receipt requested and attached.	
by personal deniery.	ness subnoenaed to appear and testify).	
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NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subp	in delivered to the party.	or eacn party in this case ases.
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© 2018 Administrative Office of the Courts		

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

- (c) Protection of Persons Subject to Subpoena
- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
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ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO JIM BLAINE

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INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. Electronically-stored information: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document;
 - B. the date of the communication or document;
 - the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- 1. "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- 5. "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.

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- "Document" is used in its broadest sense and is intended to be comprehensive and to 10. include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail,

photograph, audiotape) they are maintained referring or relating to the 2017 Plans.

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b. All documents referring or relating to the 2017 Plans Criteria.

c. All documents referring or relating to how each 2017 Plans Criterion was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

d. All documents referring or relating to how each 2017 Plans Criterion affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices

made in constructing a district based on each criterion.

e. All documents referring or relating to the prioritization or weighting of

the 2017 Plans criteria in developing the 2017 Plans.

f. All communications since January 1, 2015 with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.

g. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating

to the 2017 Plans.

a.

h. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2017 Plans.

- 2. All documents and communications since November 1, 2010 referring or relating to the 2011 Unchanged Districts, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.

All documents referring or relating to the criteria considered or using in

creating the 2011 Unchanged Districts.

b. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

c. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts affected the

2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.

d. All documents referring or relating to the prioritization or weighting of each of the criteria considered or used in creating the 2011 Unchanged Districts.

e. All communications with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Unchanged Districts.

f. All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating to the 2011 Unchanged Districts.

g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.

- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

STATE OF NORTH CAROLINA	File No. 18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ☑ Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	QUIDDOCNIA
David Lewis, in his Official Capacity as Senior Chairman of the	SUBPOENA
House Select Committee on Redistricting, et al.	G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
Party Requesting Subpoena NOTE TO PARTIES NOT REPRESENT Signed and issued by the office of the Co	TED BY COUNSEL: Subpoenas may be produced at your request, but must be Clerk of Superior Court, or by a magistrate or judge.
Name And Address Of Person Subpoenced Dan Bishop, c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609	Alternate Address
Telephone No. 919-789-3179	Telephone No.
For a list of documents to produce, see the attachment to th	is Subpoena.
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Released 03/07/2019
301 Fayetteville St., Suite 1900	Time To Appear/Produce, Until Released
Raleigh, NC 27601	9:30 ESTAN LITE
Name And Address Of Applicant Or Applicant's Attorney	1/24/19
Edwin M. Speas, Esq.	Signature
Poyner Spruill LLP	Edum Apeam / DFT with permission
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Deputy CSC Assistant CSC Clerk Of Superior Court Magnistrate X Attorney/DA District Court Judge
Telephone No. Of Applicant Or Applicant's Attorney	☐ Magistrate
919-783-2881	
	OF SERVICE hopenaed as follows:
telephone communication by Sheriff (use only for a witness telephone communication by local law enforcement ager	certified mail, receipt requested and allached. It is subpoenaed to appear and testify). Incy (use only for a witness subpoenaed to appear and testify in a criminal case). It is communication from a local law enforcement agency in a criminal case, the linst the witness until the witness has been served personally with the written
Service Fee Paid Date Served Name Of Authorized Server (type of	or print) Signature Of Authorized Server Title/Agency
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoen if a party is not represented by an attorney, the copy must be mailed or do AOC-G-100, Rev. 2/18 (Please	na must be delivered, mailed or faxed to the attorney for each party in this case. elivered to the party. This does not apply in criminal cases. see reverse side)
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NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

- (c) Protection of Persons Subject to Subpoena
- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11, Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compet the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel: expenses to comply with subpoena. When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information, When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in theorder.
- (8) Order to quash; expenses. When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoena
- (1) Form of response. A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. The person responding need not produce the same electronically stored information in more than one form.
- (4) <u>Inaccessible electronically stored information</u>. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoensed as a witness, you should contact the person named on Page One of this Subpoens in the box labeled "Name And Address Of Applicant Or Applicant's Atlorney."

DUTIES OF A WITNESS

 Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony

- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

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ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO DAN BISHOP

INSTRUCTIONS

For the purposes of this Subpoena, the following instructions shall apply as set forth below except as otherwise required by context:

- 1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 30, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys' fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
- 2. Electronically-stored information: This Subpoena includes requests to permit the forensic copying and examination of electronically stored information ("ESI"), as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all metadata, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information.
- 3. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
- 4. If any documents, communications, ESI, or responses are withheld on the ground of any privilege, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document;
 - B. the date of the communication or document;
 - the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
 - D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
 - E. the name and address of any person currently in possession of the document or a copy thereof; and
 - F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

- "2011 Plans" mean the 2011 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in November 2011, including all drafts thereof.
- 2. "2017 Plans" mean the 2017 redistricting plans for the North Carolina House of Representatives and the North Carolina Senate that were passed by the North Carolina General Assembly in August 2017, including all drafts thereof.
- 3. "2011 Unchanged Districts" means the state legislative districts enacted by the General Assembly under the 2011 Plans that were not altered under the 2017 Plans, including all drafts thereof.
- 4. The "2017 Plans Criteria" refer to the criteria that the North Carolina House and Senate Redistricting Committees adopted for the 2017 Plans.
- 5. "Individual Defendants" refers to Senator Ralph E. Hise, Jr.; Representative David R. Lewis; President Pro Tempore Philip E. Berger; Speaker Timothy K. Moore; Chairman Andy Penry, Chairman of the North Carolina State Board of Elections and Ethics Enforcement; Joshua Malcolm, Vice-Chair of the North Carolina State Board of Elections & Ethics Enforcement; Ken Raymond, Secretary of the North Carolina State Board of Elections & Ethics Enforcement; Stella Anderson, Member of the North Carolina State Board of Elections & Ethics Enforcement; Damon Circosta, Member of the North Carolina State Board of Elections & Ethics Enforcement; Stacy "Four" Eggers IV, Member of the North Carolina State Board of Elections & Ethics Enforcement; Jay Hemphill, Member of the North Carolina State Board of Elections & Ethics Enforcement; Valerie Johnson, Member of the North Carolina State Board of Elections & Ethics Enforcement; John Lewis, Member of the North Carolina State Board of Elections & Ethics Enforcement; and their predecessors in office.
- 6. "Entity Defendants" refers to The State of North Carolina and the North Carolina State Board of Elections and Ethics Enforcement.
- 7. "Defendants" refers to the Individual Defendants and the Entity Defendants.
- 8. With respect to the Individual Defendants, "You" and "Your" refers to the Individual Defendants and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.
- 9. With respect to the Entity Defendants, "You" and "Your" refers to the Entity Respondents and all branches of government, including departments, agencies,

committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Defendants.

- "Document" is used in its broadest sense and is intended to be comprehensive and to 10. include, without limitation, a record, in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
- "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.
- 12. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, officers, members, employees, consultants, or representatives.

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS SUBPOENA

- 1. All documents and communications referring or relating to the 2017 Plans, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail,

photograph, audiotape) they are maintained referring or relating to the 2017 Plans.

b. All documents referring or relating to the 2017 Plans Criteria.

c. All documents referring or relating to how each 2017 Plans Criterion was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

d. All documents referring or relating to how each 2017 Plans Criterion affected the 2017 Plans, including any rule or principle guiding the use of each criterion in developing the 2017 Plans, or any specific choices

made in constructing a district based on each criterion.

e. All documents referring or relating to the prioritization or weighting of

the 2017 Plans criteria in developing the 2017 Plans.

f. All communications since January 1, 2015 with any affiliate of the Republican Party, including, but not limited to, the Republican Party of North Carolina, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2017 Plans.

 All communications with any mapmakers, consultants, advisors, experts, statisticians, mathematicians, or political scientists referring or relating

to the 2017 Plans.

h. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2017 Plans.

- 2. All documents and communications since November 1, 2010 referring or relating to the 2011 Unchanged Districts, including, but not limited to:
 - a. All documents, proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Unchanged Districts.

a. All documents referring or relating to the criteria considered or using in

creating the 2011 Unchanged Districts.

b. All documents referring or relating to how each of the criteria considered or used in creating the 2011 Unchanged Districts was measured, including the specific data, information, formulas, scores, or estimates used in assessing or promoting compactness, partisanship (of precincts, voting districts, and/or proposed House and Senate districts), the protection of incumbents, and avoiding the splitting of counties, municipalities, and precincts.

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2011 Unchanged Districts, including any rule or principle guiding the use of each criterion in developing the 2011 Unchanged Districts, or any specific choices made in constructing a district based on each criterion.

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g. All non-privileged communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Unchanged Districts.

- 3. All documents and communications since January 1, 2015 not encompassed within Requests 1 or 2 that refer or relate to the development of new state legislative districts for the North Carolina House of Representatives and the North Carolina Senate.
- 4. All non-privileged documents and communications since January 1, 2015 not encompassed within Requests 1, 2, or 3 that refer or relate to the litigation surrounding, or the legal status of, the 2011 Plans.

STATE OF NORTH CAROLINA	18-CVS-014001
WAKE County	In The General Court Of Justice ☐ District ☒ Superior Court Division
Common Cause, et al.,	Additional File Numbers
VERSUS	SUBPOENA
David Lewis, in his Official Capacity as Senior Chairman of the House Select Committee on Redistricting, et al.	G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802
Party Requesting Subpoena NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.	
TO Name And Address Of Person Subpoenaed Dan Bishop, c/o Phillip J. Strach Ogletree Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100	Alternate Address
Raleigh, NC 27609 Telephone No. 919-789-3179	Telephone No.
See attached list. (List here if space sufficient) A Notice of Deposition is being served contemporaneously to	with this Subpoena.
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP	Date To Appear/Produce, Until Released 03/14/2019
301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Time To Appear/Produce, Until Released 9:30 XAM PM Date
Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq.	Signature 1/24/19
Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601	Edwar Spee / DF3 with fermission Deputy CSC Assistant CSC Clerk Of Superior Court
Telephone No. Of Applicant Or Applicant's Attorney 919-783-2881	Magistrate X Attorney/DA District Court Judge Superior Court Judge
I certify this subpoena was received and served on the person subpoenaed as follows: By personal delivery. registered or certified mail, receipt requested and attached. telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify). telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).	
NOTE TO COURT: If the witness was served by telephone collection court may not issue a show cause order or order for arrest again subpoena.	mmunication from a local law enforcement agency in a criminal case, the street the witness has been served personally with the written
I was unable to serve this subpoena. Reason unable to se Service Fee Paid Date Served Name Of Authorized Server (type or	1. Till (Among)
NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena If a party is not represented by an attorney, the copy must be mailed or del.	must be delivered, mailed or faxed to the attorney for each party in this case. ivered to the party. This does not apply in criminal cases.
AOC-G-100, Rev. 2/18 © 2018 Administrative Office of the Courts (Please se	er reverse side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

- (c) Protection of Persons Subject to Subpoena
- (1) Avoid undue burden or expense. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
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- (3) Written objection to subpoenas. Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
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- (1) Form of response, A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled *Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.

- If you are commanded to produce any items, you must bring them with you to court
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

WITNESS FEE

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

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COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 014001

COMMON CAUSE, et al.,

Plaintiffs,

٧.

DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON REDISTRICTING, et al.,

Defendants.

NOTICE OF DEPOSITION OF SENATOR DAN BISHOP

PLEASE TAKE NOTICE that on March 14, 2019, beginning at 9:30 a.m., Plaintiffs in the above-captioned matter will take the deposition of Senator Dan Bishop at the offices of Poyner Spruill LLP, located at 301 Fayetteville Street, Suite 1900, Raleigh, NC 27601, upon oral examination, pursuant to Rules 26 and 30 of the North Carolina Rules of Civil Procedure before a Notary Public or some other person duly authorized by law to take depositions. The examination shall continue from day to day until completed. All counsel are invited to attend and cross-examine as provided by law.

Respectfully submitted, this the 24 day of January, 2019.

POYNER SPRUILL LLP

ARNOLD & PORTER KAYE SCHOLER LLP

By:

Ednam Apen 1075 with permission

Edwin M. Speas, Jr.

N.C. State Bar No. 4112

Caroline P. Mackie

N.C. State Bar No. 41512

P.O. Box 1801

Raleigh, NC 27602-1801

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Counsel for Common Cause and the Individual Plaintiffs

* Pro hac vice motions submitted

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NOTICE OF DEPOSITION OF SENATOR DAN BISHOP on counsel by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following addresses:

Amar Majmundar Senior Deputy Attorney General Stephanie A. Brennan Special Deputy Attorney General James Bernier, Jr. Special Deputy Attorney General North Carolina Dept. of Justice P.O. Box 629 Raleigh, NC 27602

And via e-mail to: amajmundar@ncdoj.gov sbrennan@ncdoj.gov jbernier@ncdoj.gov

Counsel for State Defendants

Phillip J. Strach and Michael D. McKnight Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 4208 Six Forks Road, Suite 1100 Raleigh, NC 27609

And via e-mail to: phillip.strach@ogletree.com michael.mcknight@ogletree.com

Mark E. Braden and Richard Raile Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. Washington, D.C. 20036

And via email to: mbraden@bakerlaw.com rraile@bakerlaw.com

Counsel for Legislative Defendants

This the $\underline{24}$ day of January, 2019.

Edwar Dec 10F5 with germission Edwin M. Spéas