

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 AND  
PROPOSED DEONENTS**


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)

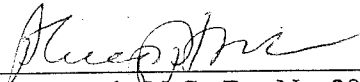
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2019 FEB -5 AM 2:48  
WAKE COUNTY, N.C.  
BY 

- (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 4<sup>th</sup> day of February, 2019.

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

By:   
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Michael D. McKnight (N.C. Bar No. 36932)  
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of North Carolina*

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*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 4<sup>th</sup> day of February, 2019.

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

By: 

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

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

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Phil.strach@ogletree.com

Michael.mcknight@ogletree.com

*Attorneys for Legislative Defendants and the State  
of North Carolina*

37280750.1



**COPY**

<b>22 SOPA</b> NC-US RDU 27601		TRK# 7853 1019 4118 0201 TUE - 05 FEB 10:30A PRIORITY OVERNIGHT	RALEIGH NC 27601 INV: (919) 783-6400 REF: 026753.000016-4497 DEPT:	PO:	ORIGIN ID: RZZA (919) 787-9700 PHILLIP J. STRACH OGLETREE DEAKINS LAW FIRM 4208 SIX FORKS ROAD SUITE 1100 RALEIGH, NC 27609 UNITED STATES US	SHIP DATE: 04FEB19 ACTWGT: 0.50 LB CAD: 103782297WMSX12750
			TO <b>EDWIN SPEAS &amp; C. MACKIE</b> <b>POYNER SPRULL, LLP</b> <b>301 FAYETTEVILLE ST STE 1900</b> <b>RALEIGH NC 27601</b>			BILL SENDER
		REL# 3783346	565J20E3D/23AD			

FOLD on this line and place in shipping pouch with **bar code and delivery address** visible

1. Fold the first printed page in half and use as the shipping label.
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

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).



<i>package id</i>	<i>from</i>	<i>vendor</i>
0656722	Phillip J. Strach (4497)	FedEx
<i>ship date</i>	Ogletree Deakins Law Firm	<i>tracking number</i>
Mon, Feb 04 2019	4208 Six Forks Road	785310194118
<i>to</i>	Suite 1100	<i>service</i>
Edwin Speas & C. Mackie	Raleigh, NC 27609	FedEx Priority Overnight®
POYNER SPRUILL, LLP	US	<i>packaging</i>
301 FAYETTEVILLE ST	<i>billing</i>	FedEx® Envelope
STE 1900	North Carolina	<i>signature</i>
RALEIGH, NC 27601-	Presi...eaker.Common	Deliver Without Signature
2173	Cause, et al....t al.	<i>courtesy quote</i>
United States	(026753.000016)	8.53
9197836400	<i>operator</i>	<i>Quote may not reflect all</i>
<i>residential address</i>	Elena Diamond	<i>accessorial charges</i>
No	919-787-9700	
<i>return label</i>	elena.diamond@odnss.com	
No	<i>create time</i>	
<i>notification type</i>	02/04/19, 5:14PM	
Label Creation		
Exception		
Delivery		
<i>notification recipients</i>		
phillip.strach@odnss...		
elena.diamond@odnss.com		

**COPY**

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565J20E3DZ3AD

FOLD on this line and place in shipping pouch with bar code and delivery address visible

1. Fold the first printed page in half and use as the shipping label.
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.
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elena.diamond@odnss.com

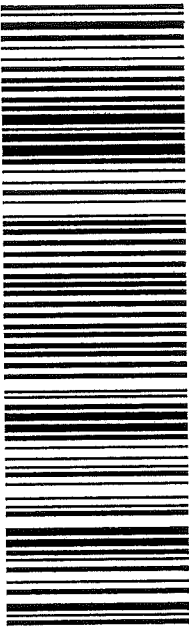
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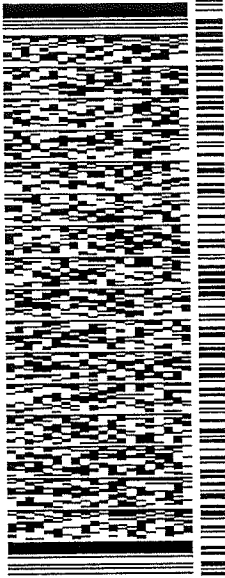
*Quote may not reflect all  
accessorial charges*

**COPY**

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 0201  
 TUE - 05 FEB 10:30A  
 PRIORITY OVERNIGHT



REF: 026753.000016-4497  
 DEPT.  
 PO.  
 NV.  
 (202) 942-5000  
 WASHINGTON DC 20001  
 601 MASSACHUSETTS AVE NW  
 ARNOLD & PORTER  
 R. STANTON JONES, ESQ.  
 TO



REL#  
 3785346  


ORIGIN ID: RZZA (919) 787-9700  
 PHILLIP J. STRACH  
 OGLETREE DEAKINS LAW FIRM  
 4208 SIX FORKS ROAD  
 SUITE 1100  
 RALEIGH NC 27609  
 UNITED STATES US  
 SHIP DATE: 04FEB19  
 ACTWGT: 0.50 LB  
 CAD: 103782287MSX12750  
 BILL SENDER

565J20E3D123AD

FOLD on this line and place in shipping pouch with bar code and delivery address visible

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*package id*

0656732

*ship date*

Mon, Feb 04 2019

*to*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

*from*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

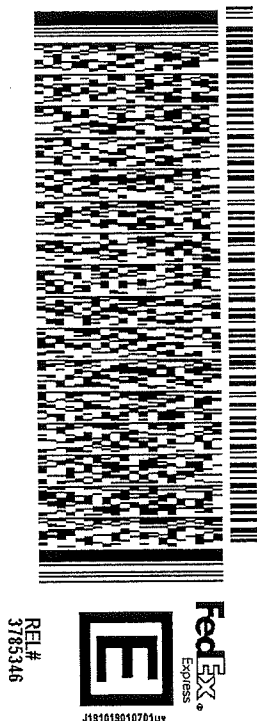
*signature*

Deliver Without Signature

*courtesy quote*

10.17

Quote may not reflect all  
accessorial charges

**COPY**

WASHINGTON DC 20005  
REF: 026753 000016-4497  
DEPT: PO

TO MARC ELIAS & ARIA BRANCH  
PERKINS COLE, LLP  
700 13TH ST NW STE 600

ORIGIN ID: RZZA (919) 787-9700  
PHILIP J. STRACH  
OGLETREE DEAKINS LAW FIRM  
4208 SIX FORKS ROAD  
SUITE 1100  
RALEIGH, NC 27609  
UNITED STATES US

SHIP DATE: 04FEB19  
ACTWGT: 0.50 LB  
CAD: 103782287MSX12750  
BILL SENDER

565J20E3D/23AD

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*package id*

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

*from*

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,

v.

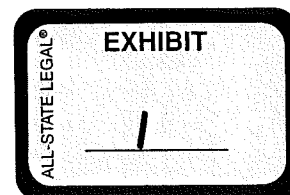
DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR  
CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON  
REDISTRICTING, et al.,

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 24<sup>th</sup> day of January, 2019.



**POYNER SPRUILL LLP**

By: Edwin Speas / DFS with permission

Edwin M. Speas, Jr.  
N.C. State Bar No. 4112  
Caroline P. Mackie  
N.C. State Bar No. 41512  
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*Counsel for Common Cause, the  
North Carolina Democratic Party,  
and the Individual Plaintiffs*

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KAYE SCHOLER LLP**

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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**

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

*Counsel for State Defendants*

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

Mark E. Braden and Richard Raile  
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Washington, D.C. 20036

And via email to:  
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rraile@bakerlaw.com

*Counsel for Legislative Defendants*

This the 24 day of January, 2019.

Edwin M. Speas / DFS 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,

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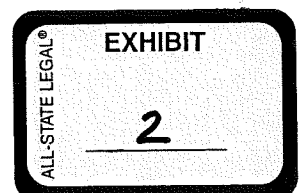
DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR  
CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON  
REDISTRICTING, et al.,

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 24<sup>th</sup> day of January, 2019.



**POYNER SPRUILL LLP**

**ARNOLD & PORTER  
KAYE SCHOLER LLP**

By: Edwin M. Speas, Jr. / DFS with permission

Edwin M. Speas, Jr.  
N.C. State Bar No. 4112  
Caroline P. Mackie  
N.C. State Bar No. 41512  
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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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Elisabeth S. Theodore\*  
Daniel F. Jacobson\*  
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(202) 942-5000  
stanton.jones@arnoldporter.com

**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 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 24 day of January, 2019.

Edwin M. Speas / DJS with permission  
Edwin M. Speas

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

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Plaintiffs,

v.

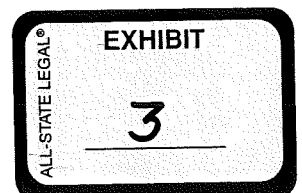
DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR  
CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON  
REDISTRICTING, et al.,

Defendants.

**NOTICE OF DEPOSITION OF 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**

By: Edwin M. Speas, Jr. *Appear for DFS 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*

**ARNOLD & PORTER  
KAYE SCHOLER LLP**

R. Stanton Jones\*  
David P. Gersch\*  
Elisabeth S. Theodore\*  
Daniel F. Jacobson\*  
601 Massachusetts Ave. NW  
Washington, DC 20001-3743  
(202) 942-5000  
stanton.jones@arnoldporter.com

**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 / DFS 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,

v.

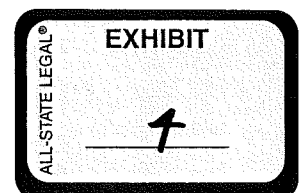
DAVID LEWIS, IN HIS OFFICIAL CAPACITY AS SENIOR  
CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON  
REDISTRICTING, et al.,

Defendants.

**NOTICE OF DEPOSITION OF SENATOR 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**

By: Edwin M. Speas, Jr. / D.E.S. 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*

**ARNOLD & PORTER  
KAYE SCHOLER LLP**

R. Stanton Jones\*  
David P. Gersch\*  
Elisabeth S. Theodore\*  
Daniel F. Jacobson\*  
601 Massachusetts Ave. NW  
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(202) 942-5000  
stanton.jones@arnoldporter.com

**PERKINS COIE LLP**

Marc E. Elias\*  
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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 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.

Edwin M. Speas / DFS with permission  
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

☒ State/Plaintiff☐ Defendant

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  
Mark Coggins, c/o Phillip J. StrachOgletree Deakins, Nash, Smoak & Stewart, P.C.  
4208 Six Forks Road, Suite 1100  
Raleigh, NC 27609

Alternate Address

Telephone No.

919-789-3179

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)

A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Date To Appear/Produce, Until Released

02/28/2019

Time To Appear/Produce, Until Released

9:30

☒ AM☐ PM

Date

1/24/19

Signature

Edwin Speas / DJS with permission

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ Magistrate☒ Attorney/DA☐ District Court Judge☐ Superior Court Judge

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.  
Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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: \_\_\_\_\_

Service Fee

☐ Paid

Date Served

☐ Due

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

**NOTE TO PERSON REQUESTING SUBPOENA:** A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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EXHIBIT

5

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 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 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.

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 M. Speas, Jr. / DFS 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*

R. Stanton Jones\*

David P. Gersch\*

Elisabeth S. Theodore\*

Daniel F. Jacobson\*

601 Massachusetts Ave. NW

Washington, DC 20001-3743

(202) 942-5000

stanton.jones@arnoldporter.com

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 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 24 day of January, 2019.

Edwin M. Speas / DES with permission  
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

☒ State/Plaintiff ☐ Defendant

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

Mark Coggins, c/o Phillip J. Strach

Ogletree Deakins, Nash, Smoak &amp; Stewart, P.C.

4208 Six Forks Road, Suite 1100

Raleigh, NC 27609

Alternate Address

Telephone No.

919-789-3179

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.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP

301 Fayetteville St., Suite 1900

Raleigh, NC 27601

Date To Appear/Produce, Until Released

02/21/2019

Time To Appear/Produce, Until Released

9:30

☒ AM☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.

Poyner Spruill LLP

301 Fayetteville St., Suite 1900

Raleigh, NC 27601

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ Magistrate☒ Attorney/DA☐ District Court Judge☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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:

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please 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 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 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.

**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. **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.

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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff ☐ Defendant

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

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.

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)

A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/18/2019

Time To Appear/Produce, Until Released

9:30

☒ AM ☐ PM

Date

11/25/19

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.  
Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ Magistrate

☒ Attorney/DA

☐ District Court Judge

☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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:

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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ALL-STATE LEGAL®

EXHIBIT

6

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 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.
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- (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.

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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 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 24 day of January, 2019.

**POYNER SPRUILL LLP**

By: Edwin Speas / DFS 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**

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 24 day of January, 2019.

Edwin M. Speas / DFO with permission  
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

☒ State/Plaintiff☐ Defendant

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

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.

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.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/11/2019

Time To Appear/Produce, Until Released

9:30

☒ AM☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.  
Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Signature

Edwin M. Speas / DFS with permission

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ Magistrate☒ Attorney/DA☐ District Court Judge☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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: \_\_\_\_\_

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please 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 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 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.

**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. **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.

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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff☐ Defendant

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TO

Name And Address Of Person Subpoenaed

Nelson Dollar c/o Phillip J. Strach

Ogletree Deakins, Nash, Smoak &amp; Stewart, P.C.

4208 Six Forks Road, Suite 1100

Raleigh, NC 27609

Alternate Address

Telephone No.

919-789-3179

Telephone No.

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A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP

301 Fayetteville St., Suite 1900

Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/13/2019

Time To Appear/Produce, Until Released

9:30

☒ AM☐ PM

Date

1/24/19

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ Magistrate☒ Attorney/DA☐ District Court Judge☐ Superior Court Judge

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.

Poyner Spruill LLP

301 Fayetteville St., Suite 1900

Raleigh, NC 27601

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

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☐ I was unable to serve this subpoena. Reason unable to serve: \_\_\_\_\_

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

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AOC-G-100, Rev. 2/18

(Please see reverse side)

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EXHIBIT

7

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- (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 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.

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 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: Edwin Speas / DJS 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,  
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**PERKINS COIE LLP**

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Suite 4900  
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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**

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 24 day of January, 2019.

Edwin M. Speas / DFS with permission  
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

☒ State/Plaintiff ☐ Defendant

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

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.

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.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/06/2019

Time To Appear/Produce, Until Released

9:30

☒ AM ☐ PM

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

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ Magistrate☒ Attorney/DA☐ District Court Judge☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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: \_\_\_\_\_

Service Fee

☐ Paid  
☐ Due

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

**NOTE TO PERSON REQUESTING SUBPOENA:** A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

© 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.
- (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.
- (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 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.
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- 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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**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.

**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.

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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff ☐ Defendant

**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

Wesley Meredith 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.

**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)

A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/15/2019

Time To Appear/Produce, Until Released

9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.  
Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ Magistrate

☒ Attorney/DA

☐ District Court Judge

☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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: \_\_\_\_\_

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

**NOTE TO PERSON REQUESTING SUBPOENA:** A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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EXHIBIT

8

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 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 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.

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 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**

By: Edwin M. Speas, Jr. / DFS 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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*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 24 day of January, 2019.

Edwin M. Speas / DFS with permission  
Edwin M. Speas

<b>STATE OF NORTH CAROLINA</b>		File No. <b>18-CVS-014001</b>	
WAKE County		In The General Court Of Justice <input type="checkbox"/> District <input checked="" type="checkbox"/> Superior Court Division	
Common Cause, et al.,		Additional File Numbers	
<b>VERSUS</b>		<b>SUBPOENA</b>	
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 <input checked="" type="checkbox"/> State/Plaintiff <input type="checkbox"/> Defendant		<b>NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:</b> 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.	
<b>TO</b> Name And Address Of Person Subpoenaed Wesley Meredith 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.	
<p><b>YOU ARE COMMANDED TO:</b> (check all that apply)</p> <p><input type="checkbox"/> appear and testify, in the above entitled action, before the court at the place, date and time indicated below.</p> <p><input type="checkbox"/> appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.</p> <p><input checked="" type="checkbox"/> produce and permit inspection and copying of the following items, at the place, date and time indicated below.</p> <p><input checked="" type="checkbox"/> See attached list. (List here if space sufficient)</p> <p style="margin-left: 40px;">For a list of documents to produce, see the attachment to this Subpoena.</p>			
Name And Location Of Court/Place Of Deposition/Place To Produce Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601		Date To Appear/Produce, Until Released 03/08/2019	
Name And Address Of Applicant Or Applicant's Attorney Edwin M. Speas, Esq. Poyner Spruill LLP 301 Fayetteville St., Suite 1900 Raleigh, NC 27601		Time To Appear/Produce, Until Released 9:30 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	
Telephone No. Of Applicant Or Applicant's Attorney 919-783-2881		Date 1/24/19	
Signature Edwin Speas / DFO with permission		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> Magistrate <input checked="" type="checkbox"/> Attorney/DA <input type="checkbox"/> District Court Judge <input type="checkbox"/> Superior Court Judge	
<b>RETURN OF SERVICE</b>			
<p>I certify this subpoena was received and served on the person subpoenaed as follows:</p> <p>By <input type="checkbox"/> personal delivery.    <input type="checkbox"/> registered or certified mail, receipt requested and attached.</p> <p><input type="checkbox"/> telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).</p> <p><input type="checkbox"/> telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).</p> <p><b>NOTE TO COURT:</b> If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may <b>not</b> issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.</p> <p><input type="checkbox"/> I was unable to serve this subpoena. Reason unable to serve: _____</p>			
Service Fee \$ <input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served	Name Of Authorized Server (type or print)	Signature Of Authorized Server
Title/Agency			
<b>NOTE TO PERSON REQUESTING SUBPOENA:</b> A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.			

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.
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  - d. The subpoena is otherwise unreasonable or oppressive.
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- (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) 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.
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- (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**

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**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.

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. **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.

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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff ☐ Defendant

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

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.

919-789-3179

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)

A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/19/2019

Time To Appear/Produce, Until Released

9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.  
Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Signature

Edwin Speas / DJS with permission

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ Magistrate☒ Attorney/DA☐ District Court Judge☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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: \_\_\_\_\_

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

**NOTE TO PERSON REQUESTING SUBPOENA:** A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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EXHIBIT

9

**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 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 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.

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 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 Speas / DFS 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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David P. Gersch\*  
Elisabeth S. Theodore\*  
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**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 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 24 day of January, 2019.

Edwin M. Speas / DFT with permission  
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

☒ State/Plaintiff ☐ Defendant

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

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.

919-789-3179

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.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/12/2019

Time To Appear/Produce, Until Released

9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.  
Poyner Spruill LLP  
301 Fayetteville St., Suite 1900  
Raleigh, NC 27601

Signature

Edwin Speas / DFT with permission

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ Magistrate☒ Attorney/DA☐ District Court Judge☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

## 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:

Service Fee \$ <input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served	Name Of Authorized Server (type or print)	Signature Of Authorized Server	Title/Agency
--	-------------	---	--------------------------------	--------------

**NOTE TO PERSON REQUESTING SUBPOENA:** A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please 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 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 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.

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- 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.

**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. **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.

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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff ☐ Defendant

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  
 Robert Rucho 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.

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)

A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Date To Appear/Produce, Until Released  
 03/20/2019

Time To Appear/Produce, Until Released  
 9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney  
 Edwin M. Speas, Esq.  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Signature

Edwin Speas / DJS with permission

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ Magistrate

☒ Attorney/DA

☐ District Court Judge

☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney  
 919-783-2881

### 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: \_\_\_\_\_

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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LL-STATE LEGAL®

EXHIBIT

10

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 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 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.

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: E. Lynn Spears / DFS with permission  
Edwin M. Spears, 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*

**ARNOLD & PORTER  
KAYE SCHOLER LLP**

R. Stanton Jones\*  
David P. Gersch\*  
Elisabeth S. Theodore\*  
Daniel F. Jacobson\*  
601 Massachusetts Ave. NW  
Washington, DC 20001-3743  
(202) 942-5000  
stanton.jones@arnoldporter.com

**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 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 24 day of January, 2019.

Edwin M. Speas / DFS with permission  
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

☒ State/Plaintiff ☐ Defendant

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  
 Robert Rucho 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.

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.

Name And Location Of Court/Place Of Deposition/Place To Produce  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Date To Appear/Produce, Until Released  
 03/13/2019

Time To Appear/Produce, Until Released  
 9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney  
 Edwin M. Speas, Esq.  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court  
☐ Magistrate ☒ Attorney/DA ☐ District Court Judge  
☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney  
 919-783-2881

## 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:

Service Fee \$	<input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served	Name Of Authorized Server (type or print)	Signature Of Authorized Server	Title/Agency
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NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please 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:
- 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.
  - The subpoena subjects a person to an undue burden or expense.
  - The subpoena is otherwise unreasonable or oppressive.
  - 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 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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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.

**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

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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff ☐ Defendant

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  
 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.

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)

A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Date To Appear/Produce, Until Released

02/27/2019

Time To Appear/Produce, Until Released

9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney  
 Edwin M. Speas, Esq.  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ Magistrate

☒ Attorney/DA

☐ District Court Judge

☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney  
 919-783-2881

## 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:

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

(Please see reverse side)

AOC-G-100, Rev. 2/18

© 2018 Administrative Office of the Courts

STATE LEGAL

EXHIBIT

11

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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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 JIM BLAINE**

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: Edwin M. Speas, Jr. / ors 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*

**ARNOLD & PORTER  
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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 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 / DFS with permission  
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

☒ State/Plaintiff ☐ Defendant

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  
 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.

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.

Name And Location Of Court/Place Of Deposition/Place To Produce  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Date To Appear/Produce, Until Released  
 02/20/2019

Time To Appear/Produce, Until Released  
 9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney  
 Edwin M. Speas, Esq.  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ Magistrate

☒ Attorney/DA

☐ District Court Judge

☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney  
 919-783-2881

## 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:

Service Fee ☐ Paid ☐ Due  
 \$

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

(Please see reverse side)

AOC-G-100, Rev. 2/18

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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 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 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.

ATTACHMENT TO JANUARY 24, 2018 SUBPOENA TO JIM BLAINE

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.

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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff ☐ Defendant

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  
 Raleigh, NC 27609

Alternate Address

Telephone No.

919-789-3179

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.

Name And Location Of Court/Place Of Deposition/Place To Produce  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Date To Appear/Produce, Until Released  
 03/07/2019

Time To Appear/Produce, Until Released  
 9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney  
 Edwin M. Speas, Esq.  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Signature

Edwin Speas / DFO with permission

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ Magistrate

☒ Attorney/DA

☐ District Court Judge

☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney  
 919-783-2881

## 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:

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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EXHIBIT

12

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 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 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.

**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;
  - 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 electronic 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

Party Requesting Subpoena

☒ State/Plaintiff ☐ Defendant

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  
 Raleigh, NC 27609

Alternate Address

Telephone No.

919-789-3179

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)

A Notice of Deposition is being served contemporaneously with this Subpoena.

Name And Location Of Court/Place Of Deposition/Place To Produce

Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Date To Appear/Produce, Until Released

03/14/2019

Time To Appear/Produce, Until Released

9:30

☒ AM ☐ PM

Date

1/24/19

Name And Address Of Applicant Or Applicant's Attorney

Edwin M. Speas, Esq.  
 Poyner Spruill LLP  
 301 Fayetteville St., Suite 1900  
 Raleigh, NC 27601

Signature

Edwin Speas / DFS with permission

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ Magistrate

☒ Attorney/DA

☐ District Court Judge

☐ Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

919-783-2881

### 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: \_\_\_\_\_

Service Fee

☐ Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

☐ Due

**NOTE TO PERSON REQUESTING SUBPOENA:** A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please 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 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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- (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.
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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 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**

By: Edwin M. Speas, Jr. / DFS 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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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 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 24 day of January, 2019.

Edwin M. Speas / DFS with permission  
Edwin M. Speas