

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**OHIO A. PHILIP RANDOLPH
INSTITUTE, *et al.***

Plaintiffs,

v.

**LARRY HOUSEHOLDER, Speaker of the
Ohio House of Representatives, *et al.***

Defendants.

No. 1:18-cv-00357-TSB-KNM-MHW

Judge Timothy S. Black
Judge Karen Nelson Moore
Judge Michael H. Watson
Magistrate Judge Karen L. Litkowitz

NOTICE OF FILING OF JOINT UNCONTROVERTED FACTS

The parties hereby give notice that, pursuant to this Court's notation order of February 4, 2019, attached hereto as Appendix A are their Joint Uncontroverted Facts.

February 7, 2019

Respectfully submitted,

/s/ Freda J. Levenson
Freda J. Levenson (0045916)
(Trial Attorney)
American Civil Liberties
Union of Ohio
Foundation
4506 Chester Avenue
Cleveland, Ohio 44103
Tel.: (614) 586-1958
flevenson@acluohio.org
Counsel for Plaintiffs

/s/ Phillip J. Strach
Phillip J. Strach (Trial Attorney)
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, NC 27609
Tel.: (919) 787-9700
phil.strach@ogletree.com
Counsel for Defendants

/s/ Patrick T. Lewis
Patrick T. Lewis (0078314) (Trial Attorney)
Baker Hostetler LLP
127 Public Square, Suite 2000
Cleveland, Ohio 44114
Tel.: (216) 621-0200
plewis@bakerlaw.com
Counsel for Intervenors

CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify the foregoing document was served upon all counsel of record in this case via ECF.

/s/ Freda J. Levenson
Trial Attorney for Plaintiffs

APPENDIX A

APPENDIX A: JOINT UNCONTROVERTED FACTS

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JOINT UNCONTROVERTED FACTS

I. Proposed Uncontested Facts

A. Redistricting in Ohio

1. Under the United States constitution and laws of the State of Ohio as they existed in 2011-2012, the Ohio General Assembly (the “General Assembly”) is the body responsible for enacting legislation that defines the boundaries for Ohio’s congressional districts. To become law, a congressional district plan must be approved by a majority of both the Ohio House of Representatives and the Ohio State Senate, and then signed into law by the Governor of Ohio.

2. The bipartisan Joint Legislative Task Force on Redistricting, Reapportionment, and Demographic Research (“Task Force”) is tasked with assisting the General Assembly. The Task Force is a six-person bipartisan committee, with three members appointed by the Speaker of the Ohio House of Representatives and three by the President of the Ohio State Senate, with no more than two members from each chamber from the same political party. The majority and

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minority caucuses of the Ohio House of Representatives and the Ohio Senate were apportioned an equal amount of money to assist with their work on the Task Force.

B. The legislative history of HB 319.

3. On September 8, 2011, the House State Government and Elections Committee (“HSGEC”) issued a notice that indicated that the committee would hear testimony on Ohio’s congressional map. The congressional map was considered at hearings of the HSGEC on September 13 and 14. State representative Matthew Huffman introduced House Bill 319 (“HB 319”) and gave sponsor testimony at the September 13 hearing. At the September 14 hearing, the committee voted HB 319 out of committee to the full House by a vote of 14 to 8 on a straight party line vote.

4. HB 319 was debated on the floor of the House on September 15, 2011, and approved the same day by a 56-36 vote.

5. On September 19, 2011, HB 319 was introduced in the Ohio Senate.

6. On September 20, 2011, the Senate Committee on Government Oversight and Reform (“SCGOR”), chaired by Senator Keith Faber, held a hearing on HB 319.

7. On September 21, 2011, the SCGOR held a second hearing on HB 319 and added an amendment to include a \$2.75 million appropriation for local boards of elections. After adding the amendment, the Committee then voted to approve the map on a straight party line vote.

8. HB 319, as amended, passed the Senate later that same day—September 21, 2011—by a vote of 24-7. Two Democratic members of the Senate voted in favor of HB 319.

9. HB 319, as amended, returned to the House for a vote on September 21, without going to any committee. The House passed the amended bill by a 60-35 margin on September 21, 2011.

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10. HB 319 was signed into law by Governor Kasich on September 26, 2011.

C. Referendum on HB 319.

11. On September 28, 2011, an advocacy group called Ohioans for Fair Districts filed a mandamus action in state court seeking to compel the Ohio Secretary of State to treat Sections 1 and 2 of HB 319 as subject to the constitutional right of referendum.

12. A referendum petition on HB 319 was filed with the Ohio Secretary of State's Office on October 12, 2011.

13. On October 14, 2011, the Ohio Supreme Court ruled that a referendum could proceed if there were signatures of 6% of state electors collected by December 25, 2011.

D. The legislative history of HB 369.

14. On November 3, 2011, Huffman introduced HB 369, which amended the congressional district map adopted in HB 319, in the House Rules and Reference Committee.

15. On November 9, 2011, Huffman gave sponsor testimony before the House Rules and Reference Committee.

16. HB 369 also changed the primary system in Ohio by consolidating two primary election dates (one for state, local, and U.S. Senate elections and the other for the U.S. House and presidential elections) into a single primary date. This change was projected to save the State approximately \$15 million per year.

17. The Ohio House passed HB 369 on December 14, 2011, by a 77-17 margin.

18. On December 14, 2011, HB 369 was introduced in the Ohio Senate by Faber and was passed the same day by a vote of 27-6.

19. The Ohio General Assembly enacted HB 369, Ohio's current congressional redistricting plan, on December 14, 2011.

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20. HB 369 was then signed into law by Governor Kasich on the following day, December 15, 2011.

E. The 2011 Ohio Congressional District Plan.

21. The population of each congressional district in the congressional district plan enacted under HB 369 (the “2011 Plan”) is either 721,031 or 721,032, rendering the population deviation between districts as either plus one or minus one.

22. The 2011 Plan splits 23 of Ohio’s 88 counties. Hamilton, Lucas, Mahoning, Trumbull, Medina, Richland, Tuscarawas, Muskingum, Ross, Scioto, Erie, Athens, Marion, Huron, Ottawa, and Fayette counties are split into two different congressional districts. Franklin, Stark, Lorain, Portage, and Mercer counties are split into three different congressional districts. Cuyahoga and Summit counties are split into four congressional districts. The remaining 65 counties are maintained entirely in one congressional district.

23. The 2011 Plan created a district in northeast Ohio—Congressional District 11—with a Black Voting Age Population of 52.37%.

24. Ohio’s 11th Congressional District has been represented by an African-American woman—Marcia Fudge—since 2008. The 11th Congressional District has been represented by an African-American since 1993.

25. The 2011 Plan created a district in Franklin County—Congressional District 3—with a Black Voting Age Population of 30.87%.

26. Ohio’s 3rd Congressional District has been represented by an African-American woman—Joyce Beatty—since 2013.

27. The 2011 Plan placed Representative Turner and Representative Austria into the same congressional district.

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28. The 2011 Plan placed Representative Kaptur and Representative Kucinich into the same congressional district.

29. The 2011 Plan placed Representative Renacci and Representative Sutton into the same congressional district.

30. All other incumbent members of Congress as of 2011 were not placed into a congressional district in the 2011 Plan with another incumbent member of Congress.

31. Republican congressional candidates have won 12 (75%) of Ohio's U.S. congressional seats in the last four election cycles held under the map.

F. Plaintiffs' Proposed Remedial Plan

32. The Proposed Remedial Plan splits 13 counties two ways: Clark, Coshocton, Franklin, Geauga, Hamilton, Highland, Holmes, Licking, Mahoning, Mercer, Morrow, Noble, and Wood. The only county split three ways is Cuyahoga County.

33. Under the Proposed Remedial Plan, District 11 has a Black Voting Age Population of 47.48%

34. Under the Proposed Remedial Plan, District 3 has a Black Voting Age Population of 30.31%.

35. Under the Proposed Remedial Plan, District 1 has a Black Voting Age Population of 26.74%.

G. Ohio Issue 1

36. Ballot Issue 1 ("Issue 1"), the Congressional Redistricting Procedures Amendment, was approved by Ohio voters on May 8, 2018.

37. Issue 1 passed with nearly 75% of the statewide vote.

38. Issue 1 will put in place a process that begins after the next census, with map-drawing to start in 2021.

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39. Issue 1 was a bi-partisan effort to amend the manner in which the State of Ohio will draw its congressional districts following the 2020 Census. It will take effect on January 1, 2021.

40. Issue 1 was supported by numerous groups and organizations including the Ohio Republican Party, the Ohio Democratic Party, the League of Women Voters of Ohio, the Ohio Environmental Council, Common Cause, among other groups.

41. Under Issue 1, the Ohio legislature can adopt a 10-year congressional redistricting plan with a 60 percent vote of members in each chamber in favor, and at least 50 percent of the minority party voting in favor in each chamber.

42. If the Ohio legislature fails to meet these vote requirements, then a seven-member Ohio Redistricting Commission (which, under Ohio's constitution, is responsible for enacting district plans for the Ohio House of Representatives and Ohio Senate) may adopt a 10-year congressional redistricting plan with support from at least two members of the minority party on the commission.

43. If the Ohio Redistricting Commission fails to adopt a plan, the Ohio legislature may then either (a) adopt a 10-year plan with only one-third vote of the members from the minority party supporting the proposal; or (b) adopt a plan by a simple majority vote with the plan lasting just two general election cycles (four years), rather than 10 years.

H. The Plaintiffs are Ohio organizations and voters.

1. Ohio A. Philip Randolph Institute

44. Ohio A. Philip Randolph Institute ("APRI") is the Ohio chapter of the A. Philip Randolph Institute.

45. It has eight chapters across Ohio—in Columbus, Cleveland, Cincinnati, Toledo, Warren, Youngstown, Akron/Canton, and Dayton, seven of which are currently active.

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46. Andre Washington has been the President of APRI for ten years and was the organization's Rule 30(b)(6) designee.

2. League of Women Voters of Ohio

47. League of Women Voters of Ohio ("LWVO" or "the League") is the Ohio chapter of the League of Women Voters of the United States, founded in May 1920.

48. LWVO Executive Director Jennifer Miller was designated as the group's Rule 30(b)(6) witness.

49. The LWVO supported Ballot Issue 1.

3. Northeast Ohio Young Black Democrats

50. Plaintiff Northeast Ohio Young Black Democrats ("NEOYBD") is a regional organization dedicated to "mentor, empower and recruit the next generation of young people of color who want to be involved in the political process" in Northeast Ohio.

51. NEOYBD supported Ballot Issue 1 and canvassed to get it on the ballot in 2017.

4. Hamilton County Young Democrats

52. Hamilton County Young Democrats is a Democratic organization that engages young people to be involved in politics and elections.

53. Nathaniel Simon has been the President of the Hamilton County Young Democrats since 2017 and was the organization's Rule 30(b)(6) designee.

5. The Ohio State University Democrats

54. The Ohio State University College Democrats ("OSU College Democrats") is a student organization at the Ohio State University whose aim is to "advocate, educate, and engage people on the Ohio State campus in alignment with the [Democratic] party platform."

55. The OSU College Democrats is chartered with the Ohio Democratic Party, Ohio College Democrats, and College Democrats of America.

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56. Alexis Oberdorf was the President of the OSU College Democrats from December 2017 to December 2018 and was the organization's Rule 30(b)(6) designee.

6. Individual Plaintiffs

57. Linda Marcy Goldenhar resides in the 1st District.

58. Dr. Goldenhar is a U.S. citizen registered to vote in Ohio and is an active voter who has voted in every congressional and presidential election since moving to and registering to vote in Ohio in 1992.

59. Under the Proposed Remedial Plan, Dr. Goldenhar would be placed in the 1st Congressional District.

60. Douglas John Burks resides in the 2nd District.

61. Dr. Burks is a U.S. citizen registered to vote in Ohio and is an active voter.

62. In the almost 40 years Dr. Burks has resided at his current address, he has been in both the 1st and 2nd Districts.

63. Steve Chabot, incumbent Representative for District 1, represented Dr. Burks in the 2000s.

64. Under the Proposed Remedial Plan, Dr. Burks is placed in the 1st Congressional District.

65. Sarah Marie Inskeep resides in the 3rd District.

66. Ms. Inskeep is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every congressional election since 2012.

67. Under the Proposed Remedial Plan, Ms. Inskeep remains in the 3rd Congressional District.

68. Cynthia Libster resides in the 4th District.

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69. Ms. Libster is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in almost every election she can recall, including elections for U.S. Congress.

70. Ms. Libster's current representative is Republican Jim Jordan.

71. Under the Proposed Remedial Plan, Ms. Libster remains in the 4th Congressional District.

72. Kathy Deitsch resides in the 5th District.

73. Ms. Deitsch is a U.S. citizen registered to vote in Ohio and is an active voter.

74. Ms. Deitsch's current representative is Republican Bob Latta.

75. Under the Proposed Remedial Plan, Ms. Deitsch would be placed in the 4th Congressional District.

76. LuAnn Boothe resides in the 6th District.

77. Ms. Boothe is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every election she can recall including elections for U.S. Congress.

78. Ms. Boothe's current representative is Republican Bill Johnson.

79. Under the Proposed Remedial Plan, Ms. Boothe is placed in the 6th Congressional District.

80. Mark John Griffiths resides in the 7th District.

81. Mr. Griffiths is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every congressional election since 2012 except for 2014 when the Republican congressional candidate Bob Gibbs was unopposed.

82. Under the Proposed Remedial Plan, Mr. Griffiths is placed in the 9th Congressional District.

83. Larry Nadler resides in the 8th District.

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84. Mr. Nadler is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every election he can recall including elections for U.S. Congress.

85. Mr. Nadler's current representative is Republican Warren Davidson.

86. Under the Proposed Remedial Plan, Mr. Nadler remains in the 8th Congressional District.

87. Chitra Muliyl Walker resides in the 9th District.

88. Ms. Walker is a U.S. citizen registered to vote in Ohio and is an active voter; she believes she has voted in every congressional election since 2008 except when she was out of the country.

89. Under the Proposed Remedial Plan, Ms. Walker is placed in the 9th Congressional District.

90. Tristan Rader resides in the 9th District.

91. Mr. Rader is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every congressional election at least since moving to his current residence in October 2013.

92. Under the Proposed Remedial Plan, Mr. Rader is placed in the 9th Congressional District.

93. Ria Megnin lives in the 10th District.

94. Ms. Megnin is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every election she can recall including elections for U.S. Congress.

95. Ms. Megnin's U.S. congressional Representative is Republican Michael Turner.

96. Under the Proposed Remedial Plan, Ms. Megnin remains assigned to the 10th Congressional District.

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97. Andrew Harris has resided, during the last 10 years, at 3 addresses in the 11th District.

98. Mr. Harris is a U.S. citizen registered to vote in Ohio and is an active voter. He registered to vote in the State of Ohio when he turned 18 in 2008. He is an active Ohio voter.

99. Under the Proposed Remedial Plan, Mr. Harris remains in the 11th Congressional District.

100. Aaron Dages resides in the 12th District; he is a U.S. citizen registered to vote in Ohio and is an active voter.

101. Mr. Dages registered to vote in the State of Ohio in 1997.

102. Under the Proposed Remedial Plan, Mr. Dages remains in the 12th Congressional District.

103. Liz Myer lives in the 13th District.

104. Dr. Myer is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every election she can recall including elections for U.S. Congress.

105. Dr. Myer's U.S. Congressional Representative is Democrat Tim Ryan.

106. Under the Proposed Remedial Plan, Dr. Myer remains in the 13th Congressional District.

107. Beth Ann Blewitt Hutton resides in the 14th District.

108. Ms. Hutton is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every single election since registering to vote around 1971. With the exception of Representative Steve LaTourette, Ms. Hutton has always voted for Democratic candidates at the federal level.

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109. Under the Proposed Remedial Plan, Ms. Hutton is placed in the 13th Congressional District.

110. Terri Thobaben lives in Clinton County in the 15th District.

111. Ms. Thobaben is a U.S. citizen registered to vote in Ohio and is an active voter, having voted in every election she can recall including elections for U.S. Congress.

112. Ms. Thobaben's Congressional Representative is Republican Steve Stivers.

113. Under the Proposed Remedial Plan, Ms. Thobaben is placed in the 2nd Congressional District.

114. Constance Rubin has resided, during the last 10 years, at two addresses in the 16th District.

115. Ms. Rubin is a U.S. citizen registered to vote in Ohio and is an active voter. She registered to vote in Ohio in 1973.

116. Under the Proposed Remedial Plan Ms. Rubin is placed in the 14th Congressional District.

Defendants

117. Representative Ryan Smith was the Speaker of the Ohio House of Representatives at the time Plaintiffs' Second Amended Complaint was filed and was sued in his official capacity. On January 7, 2019, the Ohio House of Representatives elected Defendant Representative Larry Householder as Speaker of the Ohio House of Representatives. In his official capacity, Speaker Householder has been automatically substituted for Mr. Smith pursuant to the operation of Fed. R. Civ. P. 25(d).

118. Defendant Larry Obhof is the President of the Ohio State Senate and is sued in his official capacity.

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119. Jon Husted was the Ohio Secretary of State at the time this action was filed and was sued in his official capacity. In the November 6, 2018 general election, Jon Husted was elected Ohio's Lieutenant Governor, and Frank LaRose was elected as the Ohio Secretary of State and currently serves in that role. In his official capacity, Mr. LaRose has been automatically substituted for Jon Husted pursuant to the operation of Fed. R. Civ. P. 25(d).

120. Mr. LaRose is the chief election officer in Ohio responsible for overseeing election administration pursuant to Ohio Rev. Code Ann. § 3501.04.

Intervenors

121. Intervenor Steve Chabot is a United States Congressman who has represented Ohio's First Congressional District from 1995-2009 and 2011 to the present.

122. Intervenor Brad Wenstrup is a United States Congressman who has represented Ohio's Second Congressional District since 2013.

123. Intervenor Jim Jordan is a United States Congressman who has represented Ohio's Fourth Congressional District since 2007.

124. Representative Jordan has participated in a number of bi-partisan debates during his tenure representing the 4th Congressional District.

125. Intervenor Bob Latta is a United States Congressman who has represented Ohio's Fifth Congressional District since 2007.

126. Intervenor Bill Johnson is a United States Congressman who has represented Ohio's Sixth Congressional District since 2011.

127. Intervenor Bob Gibbs is a United States Congressman who has represented Ohio's Seventh Congressional District since 2013. Representative Gibbs previously represented Ohio's Eighteenth Congressional District from 2011-2013.

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128. Intervenor Warren Davidson is a United States Congressman who has represented Ohio's Eighth Congressional District since 2016.

129. Intervenor Mike Turner is a United States Congressman who has represented Ohio's Tenth Congressional District since 2013 and previously represented Ohio's Third Congressional District from 2003-2013.

130. Intervenor David Joyce is a United States Congressman who has represented Ohio's Fourteenth Congressional District since 2013.

131. Intervenor Steve Stivers is a United States Congressman who has represented Ohio's Fifteenth Congressional District since 2011.

132. Intervenor Robert F. Bodi is a resident of Westlake, Ohio, within Ohio's 16th Congressional District.

133. Intervenor Roy Palmer III is a resident of Toledo, Ohio, within Ohio's 9th Congressional District.

134. Intervenor Charles Drake is a resident of Cleveland Heights, Ohio, within Ohio's 11th Congressional District.

135. Intervenor Nathan Aichele is a resident of Columbus, Ohio, within Ohio's 3rd Congressional District.

136. Intervenor, the Republican Party of Cuyahoga County ("RPCC"), is the local Republican Party in Cuyahoga County.

137. Intervenor, the Franklin County Republican Party ("FCRP"), is the local Republican Party in Franklin County.

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Respectfully submitted,

/s/ Freda J. Levenson

Freda J. Levenson (0045916) (Trial Attorney)
American Civil Liberties Union of Ohio Foundation
4506 Chester Avenue
Cleveland, Ohio 44103
Tel.: (614) 586-1958
flevenson@acluohio.org
Counsel for Plaintiffs

/s/ Phillip J. Strach

Phillip J. Strach (Trial Attorney)
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, NC 27609
Tel.: (919) 787-9700
phil.strach@ogletree.com
Counsel for Defendants

/s/Patrick T. Lewis

Patrick T. Lewis (0078314) (Trial Attorney)
Baker Hostetler LLP
127 Public Square, Suite 2000
Cleveland, Ohio 44114
Tel.: (216) 621-0200
plewis@bakerlaw.com
Counsel for Intervenors