IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SANDRA LITTLE COVINGTON, *et al.*, *Plaintiffs,* v. THE STATE OF NORTH CAROLINA, *et al.*, *Defendants.*	No. 1:15-cv-00399-TDS-JEP

BRIEF OF AMICUS CURIAE
NORTH CAROLINA STATE CONFERENCE OF THE NAACP
IN SUPPORT OF PLAINTIFFS' OBJECTIONS TO THE
ENACTED REMEDIAL REDISTRICTING PLANS

The North Carolina State Conference of the NAACP ("NC NAACP") submits this brief as amicus curiae in support of Plaintiffs' Objections to the Legislative Defendants' Proposed 2017 House and Senate Redistricting Plans, which were enacted on August 31, 2017 and filed with the Court on September 7, 2017.

STATEMENT OF INTEREST

The NC NAACP is a grassroots-based civil rights organization with the mission of ensuring the rights of all persons to political, educational, social, and economic equality, and eliminating racial discrimination. As the oldest and largest civil rights organization in the state,[1] the NC NAACP dedicates significant organizational resources to protecting and advancing hard-won equal voting rights and promoting voter and civic participation of African Americans, people of color, and other groups of people historically denied their constitutional rights in North Carolina. For decades, the NC NAACP has led the work of engaging and inspiring a non-partisan multi-racial coalition, or "fusion" electorate in the state. This fusion electorate in North Carolina reaches across racial lines and is based not on the color of voters' skin, but on the voters' common interests in the important issues of the day and on a shared commitment to racial justice and civic participation. The NC NAACP is thus uniquely situated to contextualize for the Court the Legislative Defendants' inadequate and racially unjust redistricting process and criteria, which has resulted in remedial maps that remain tainted with race discrimination.

[1] The NC NAACP was established in 1938 and today has over 20,000 members, the largest membership of any NAACP state conference in the South, and the second largest in the country. The NC NAACP has more than 100 active branches in urban centers and rural communities throughout the state of North Carolina.

As was previously noted in the NC NAACP's first amicus brief, the NC NAACP also has a special interest in this case because it is a plaintiff in consolidated state court case *Dickson v. Rucho*, 766 S.E.2d 238 (N.C. 2014), *vacated*, 135 S. Ct. 1843 (2015) (mem.), *remanded to* 781 S.E.2d 404 (N.C. 2015); *vacated and remanded*, 198 L. Ed. 2d 252 (U.S. 2017) (mem.), that raises parallel claims, both federal and state, challenging North Carolina's Rucho-Lewis 2011 legislative and congressional redistricting plans as unconstitutionally based on race and in violation of state constitutional requirements.[2] The North Carolina Supreme Court's 2015 decision in *Dickson* was vacated by the United States Supreme Court on May 30, 2017, and remanded for further consideration in light of *Cooper v. Harris*, 137 S. Ct. 1455 (2017). *Dickson v. Rucho*, 198 L. Ed. 2d 252 (U.S. 2017) (mem.). On August 28, 2017, the North Carolina Supreme Court heard oral argument in *Dickson*, and has not yet issued a decision on the matter.

ARGUMENT

The NC NAACP files this brief to highlight the constitutional inadequacy in the General Assembly's treatment of race in constructing a remedial redistricting plan for North Carolina Senate and House seats. While the General Assembly's process was riddled with numerous deficiencies that render the maps an inadequate remedy for the egregious constitutional violation at issue in this case, the critical error in the treatment of

[2] Much of the factual record that the NC NAACP developed in *Dickson* was relied upon by the Court in the present case. *See* First Joint Stipulation at 1-2, Nov. 5, 2015, ECF No. 28 (jointly stipulating that all testimony, documents, and other exhibits contained in the *Dickson* record be received into evidence in the present case).

race is sufficient, by itself, to justify this Court's rejection of the General Assembly's submitted maps.[3]

To cure the constitutional violation created by their 2011 racially-gerrymandered districts, the General Assembly should have examined race data in concert with other traditional redistricting principles to ensure that the purposeful unconstitutional racial gerrymander that has deprived black voters of their voting rights for six years is fully remedied and to draw fair districts that comport with federal and state constitutions and laws. Instead, the Legislative Defendants blithely claim that the mapdrawer and legislative enactors did not consider race in any step of the process. The Legislative Defendants have thus returned to the court following a "remedial" process that never directly addressed the race discrimination that infected its prior maps, indicating once again that, as this Court has noted, it "does not appreciate the need to move promptly to cure the unconstitutional racial gerrymanders in the 2011 districting plans." Order (July 31, 2017) at 7, ECF No. 180. The General Assembly cannot sufficiently demonstrate to this Court that the enacted plans cure their egregious purposeful racial gerrymander through the bare assertion that, by prohibiting any consideration of race data, they have created color-blind remedial maps with no explanation of how these maps actually cure the violations. The NC NAACP thus respectfully requests that the Court reject the General Assembly's proposed maps and appoint an independent special master to draw

[3] Numerous other irregularities and deficiencies in the General Assembly's belated redistricting process are laid out in more detail in the proposed amicus curiae brief submitted by Democracy North Carolina and the League of Women Voters of North Carolina. The NC NAACP will therefore not repeat them here.

fair remedial maps that properly consider race and fully remedy the violation in accordance with federal and state law.

I. The General Assembly's redistricting criteria, which prohibited any consideration of race whatsoever, were inherently flawed.

The General Assembly's decision to prohibit any consideration of race, in and of itself, is a critical error that demonstrates Defendants' failure to cure the constitutional violation. As Legislative Defendants would have it, because their constitutional violation of racial gerrymandering was committed by giving too much weight to race, declaring that race was given no weight means the violation is cured and they are home free. As set out below, this logic is severely flawed.

As part of its remedial redistricting process, the General Assembly's Joint Select Committee on Redistricting held a hearing on August 10, 2017 to consider and adopt redistricting criteria to be used in the drawing of remedial maps. Among other troubling redistricting criteria – including consideration of partisan advantage (under the euphemism "election data"), incumbency protection, and allowing arbitrary precinct-splitting – the Chair of the House Redistricting Committee, Republican David Lewis, proposed the criteria "no consideration of racial data," which was adopted by the committee in a split vote along party lines. Hearing on Redistricting Criteria Before the Joint Select Comm. on Redistricting ("Redistricting Criteria Hearing") Tr. at 148-165, ECF No. 184-9. Accordingly, the leadership of the General Assembly has submitted to

the Court proposed remedial maps that they claim were produced without any consideration of race whatsoever.[4]

Assuming arguendo that the General Assembly's "no consideration of race" criterion resulted in the actual exclusion of all influence of racial factors on the proposed plan, failing to give proper consideration of race in the redistricting process renders the map-drawing process and the proposed remedial maps that it produced inherently flawed. In its July 31, 2017 Order, this Court directed Legislative Defendants to draw remedial

[4] As a preliminary matter, Legislative Defendants' claim that race played no factor in the drawing of their proposed remedial maps strains credibility. The maps were created under the direction of some of the same legislators who produced the 2011 racially-gerrymandered maps, and were drawn by Thomas Hofeller, the same mapmaker who used his exhaustive knowledge of the state's racial demographics to draw the intricate boundaries that illegally packed and caged black voters in the racially-gerrymandered 2011 plans. The General Assembly's claim that Hofeller purged his knowledge of the state's racial demographics from memory when he drew this set of remedial maps is belied – to give just a few examples – by the striking resemblance that proposed Senate Districts 21 and 28 and proposed House Districts 21 and 57 bear to their 2011 racially-gerrymandered progenitors. The "redrawn" versions of these districts are marked by similarly odd shapes and, in the case of Senate District 21 and House District 21, appear, as they did in the now-invalidated 2011 plans, to reach into neighboring counties unnecessarily and without justification to grab black voters and absorb them into non-competitive districts. As such, it seems far more likely that the remedial maps were influenced by the mapmaker's well-documented, intimate knowledge of the state's racial makeup and that they continue to bear the vestiges of his previously-drawn racially-gerrymandered borders. *Cf. Harris v. McCrory*, 159 F.Supp.3d 600, 619-20 (M.D.N.C. 2016) (finding not credible Hofeller's testimony that he did not look at race at all when creating North Carolina congressional districts in congressional racial gerrymandering case); *Wilson v. Jones*, 130 F. Supp. 2d 1315, 1330 (S.D. Ala. 2000) ("Given [the mapmaker's] knowledge of the extent and location of the county's black population, and that of the others involved in the plan's production, the Court believed it unlikely that any subsequent plan could be guaranteed not to be based on the same over-emphasis on race. Thus, the Court concluded that a remedy for the over use of race would be more convincingly provided by someone who had no prior knowledge of the location and extent of the County's black population.").

districting plans that "remedy[] the constitutional deficiencies with the Subject Districts." Order (July 31, 2017) at 8. The subject 2011 districts segregated white and black voters by mechanically adding black voters to election districts in concentrations not authorized or compelled under the Voting Rights Act of 1965, thereby "bleaching" adjacent districts of voters of color and frustrating their ability to vote in alliance with a growing, multiracial fusion electorate that bridges racial divides and mitigates the effects of racially polarized voting. "[T]he overriding priority of the redistricting plan," as this Court found, "was to draw a predetermined race-based number of districts, each defined by race." *Covington v. North Carolina*, 316 F.R.D. 117, 135 (M.D.N.C. 2016), *aff'd*, 137 S. Ct. 1624 (2017) (per curiam). The Court held that "race was the predominant criterion in drawing all of the challenged districts." *Id.* at 141-42. This unjustified racial classification scheme, which infected at least 77 out of North Carolina's 100 counties, *see* Pls' Statement at 5-6, ECF No. 156 (citing Decl. of Thomas Hofeller, Oct. 28, 2016, ECF No. 136-1), thus denied millions of voters equal protection under the law, creating a governing majority wholly unresponsive to black voters.

As the Supreme Court has explained, racially-gerrymandered districts are "altogether antithetical to our system of representative democracy," and always inflict serious harm. *Shaw v. Reno* ("*Shaw I*"), 509 U.S. 630, 648 (1993). When districts are drawn "solely to effectuate the perceived common interests of one racial group, elected officials are more likely to believe that their primary obligation is to represent only the members of that group, rather than their constituency as a whole," *id.*, and this

"undermin[es] the electorate's confidence in its government as representative of a cohesive body politic in which all citizens are equal before the law," *Ala. Legislative Black Caucus v. Ala.*, 135 S. Ct. 1257, 1275 (2015) (Scalia, J., dissenting). The racial gerrymander in this case, indeed, created a governing body in North Carolina brimming with the very legislators against which the Supreme Court cautioned: legislators who believe their "'primary obligation is to represent only the members' of a particular racial group," *id.* at 1265, namely, white voters.[5]

Even if, hypothetically, it had been constitutionally permissible to exclude all consideration of race in the initial map drawing in 2011, once a constitutional race discrimination violation has occurred, the violator cannot simply start over as though the slate has been wiped clean. Remedial consideration of race is generally necessary in racial discrimination cases to ensure that the violation is cured "root and branch." *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971) (quoting *Green v. Cty. Sch. Bd. of New Kent Cty., Va.*, 391 U.S. 430, 438 (1968)); *see also United States v. Paradise*, 480 U.S. 149 (upholding court-imposed race conscious relief where it was narrowly tailored to cure the offending racial discrimination). Here, the improper and unconstitutional consideration of race was baked into the 2011 redistricting plans. Legislative Defendants' "incumbency protection" criterion, which protects the very

[5] As laid out in the NC NAACP's first Amicus Curiae Brief, the all-white Republican leadership caucus in control of this General Assembly, which used racially-gerrymandered apartheid-like districts to maneuver a veto-proof supermajority for itself, spent six years in power passing legislation that was tainted with racial discrimination and egregiously non-responsive to black voters and other voters of color. NC NAACP Amicus Brief at 6-11, ECF No. 164.

legislators elected under the racially-gerrymandered maps ensured that substantial vestiges of the original, unconstitutional plan were carried forward. To properly cure the violation, consideration of race was essential to ensure that black voters who were packed into the invalidated districts and denied the opportunity to influence elections in adjoining "bleached" districts are fully and properly "unpacked," and that other harms of the racial gerrymander have been completely remedied.[6] As the Supreme Court has noted, "considering race as a factor but not allowing it to predominate" is proper in remedying a racial gerrymander. *Abrams v. Johnson*, 521 U.S. 74, 86 (1997); *see also Personhuballah v. Acorn*, 155 F. Supp. 3d 552, 561-62, 564-65 (E.D. Va. 2016) (approving a remedial plan where the offending racial gerrymander was cured by first drawing the district guided by neutral criteria and then evaluating the BVAP to determine whether black voters' ability to elect representatives of choice was preserved).

[6] These include the dignitary harms inherent in unlawful and unjustified state-sponsored racial categorization, and the erosion of the public's confidence in their system of representative government. Indeed, recent polling of registered voters in North Carolina, shows that the General Assembly's approval rating is a mere 28.8%. ELON POLL, OPINION OF NORTH CAROLINA VOTERS ON STATE ISSUES at 3 (April 18-21, 2017), *available at* https://www.elon.edu/e/CmsFile/GetFile?FileID=850. Unsurprisingly, the recent process has done nothing to rehabilitate public confidence in the North Carolina legislature. Of the over 4,000 public comments submitted in response to the General Assembly's redistricting process, the overwhelming majority expressed strong opposition to the flawed process and deficient criteria. *See generally* Jeff Jackson, "Behold the smackdown of gerrymandering that are your 4,300 public comments to the redistricting committee," CHARLOTTE AGENDA (Sept. 5, 2017), *available at* https://www.charlotteagenda.com/102661/gerrymandering-jeff-jackson-north-carolina-public-comments/. The proposed amicus brief submitted by Democracy North Carolina and the League of Women Voters of North Carolina contains further details summarizing the public comments.

Instead of enlisting criteria that would advance the goal of ensuring that the excess packing of black voters and the suppression of their electoral influence would be adequately reversed, however, the leadership of the General Assembly adopted criterion *prohibiting* the consideration of race. Moreover, it did so while otherwise bolstering the political advantages it had gained through its prior discriminatory and unconstitutional use of race by adopting as substitute criteria "election data" (specifically, partisan data on how voters in the districts voted in past elections, *see* Redistricting Criteria Hearing Tr. at 138-39) and "incumbency protection," both of which protect the very lawmakers elected under the unlawful 2011 plans. The leadership of the General Assembly thus adopted criteria that would prohibit it from considering the racial consequences of the remedial districts, while maximizing its ability to lock in the partisan advantage it had secured through racially-gerrymandered maps.

Representative Lewis, who proposed the "no consideration of race" criterion, proffered only the flimsiest of rationales at the committee hearing, saying:

> Despite the voluminous record that was established by the General Assembly during the 2011 redistricting process, the three-judge panel in the Covington case said that this did not constitute substantial evidence that would justify using race to draw districts in compliance with the requirements of the VRA. Therefore, we do not believe it is appropriate, given the Court's order, in this case for these committees to consider race when drawing districts.

Redistricting Criteria Hearing Tr. at 149; *see also id.* at 152 (Rep. Lewis: "It's my understanding that the [court's] order speaks for itself that the evidence did not justify the use of race in drawing districts. Therefore, I'm recommending to this Committee that

race not be a criteria in drawing the 2017 House and Senate plans."). This reasoning, which was the only justification offered for excluding all consideration of race, is so unsupported by the actual text of the Court's August 11, 2016 Memorandum Opinion and its July 31, 2017 Order that it suggests a willful misreading of the Court's directives.

In its August 11, 2016 Memorandum Opinion, the Court was clear that its decision "should in no way be read to imply that majority-black districts are no longer needed in the state of North Carolina," and explicitly stated that the Defendants' error was not that it considered race at all, but that it *improperly* used race data as the "predominant" factor in drawing the contested maps, *Covington*, 316 F.R.D. at 124, such that "the overriding priority of the redistricting plan was to draw a predetermined race-based number of districts, each defined by race," *id.* at 178.

The Court's July 31, 2017 Order, furthermore, specifically ordered the General Assembly to provide, along with enacted remedial plans: both "the criteria . . . applied in drawing the districts in the new plans, including the extent to which race was a factor in drawing *any district in which the black voting age population ("BVAP") is greater than 50%*," and "*as to any district with a BVAP greater than 50%,* the factual basis upon which the General Assembly concluded that the Voting Rights Act obligated it to draw the district at greater than 50% BVAP." Order (July 31, 17) at 9 (emphases added). The Court's Order thus made clear that there was and is a proper place for the consideration of race in the drawing of redistricting plans, and provided the General Assembly with a roadmap for how to give race its due and lawful consideration in the redistricting process.

Yet, the General Assembly read into the Court's carefully reasoned and clearly worded rulings an instruction that it must forbid any consideration of race at all.[7]

Members of the Redistricting Committee objected to the "no consideration of race" criterion, pointing out that the Court had ordered the *proper consideration* of race, not the complete erasure of it, and warning that in prohibiting consideration of any race data, the General Assembly risked inflicting further injustice on black voters and voters of color and possibly running afoul of Section 2 of the Voting Rights Act. *See* Redistricting Criteria Hearing Tr. at 151 (Rep. Michaux: "Do you understand that by not using race, you're defeating your own purpose? Because if the districts were declared unconstitutional because of race, if you don't use race to correct it, how are you going to show the Court that they still are not unconstitutional?"); *id.* at 154 (Rep. Michaux: "[Y]ou're still short-changing race. You're still short-changing a group of people by not considering them. And that's where your big problem is. If you don't consider us – if you don't consider me, whether you say it or not, you are still considering race."); *id.* at 155-56 (Rep. Jackson: "[T]hat's not the way the Court wrote it in the *Covington* opinion.

[7] Legislative Defendants also failed to follow the Court's July 31, 2017 Order by not providing the additional information for those districts at greater than 50% BVAP that the Court ordered. The attachments to Legislative Defendants' Notice of Filing indicate that House Districts 23, 27, and 57 contain a BVAP greater than 50%, *see* Notice of Filing, Ex. 3 at 30-32, ECF No. 184-3, but Legislative Defendants have provided in their filings no factual basis for concluding that the Voting Rights Act required it to draw these districts at greater than 50%, as ordered by the Court. Instead, they claim that these districts occurred "naturally," without defining or explaining what specific "natural" factors led to these racial percentages. Notice of Filing at 10-11, ECF No. 184. If Legislative Defendants had, in good faith, considered race as a remedial factor, this inquiry very well may have led to further unpacking of the black population in these and other districts.

[The] Court said that Section 2 of the Voting Rights Act continues to play an important role in redistricting. . . . . Further, the Court said, our decision should in no way be read to imply that majority-black districts are no longer needed in the state of North Carolina. . . . . And so I would encourage members to vote against this criteria."); *id.* at 156 (Sen. Smith-Ingram: "[I]f this particular criterion passes, then what metric is going to be used to ensure that new districts [d]o not abridge or deny voters of color?"); *id.* at 159-60 (Sen. Lowe: "[W]e live in the South. When in the South has race not been a factor? Because what I'm hearing doesn't really add up."). These objections were ignored by the Majority members of the redistricting committee, who proceeded to pass the criteria in a party-line vote. *Id.* at 165.

Additionally, the NC NAACP, other groups, and members of the public denounced the flawed criteria in written testimony submitted to the Redistricting Committee before the remedial plans were enacted.[8] These, too, were ignored. The

[8] *See* NC NAACP Written Testimony Submitted at the Aug. 22, 2017 Public Hearing, Attachment 1 ("The redistricting criteria that the General Assembly adopted are racially unjust. Along party lines, the Redistricting Committee adopted criteria that ignores entirely considerations of race. This violates the Voting Rights Act, which requires the proper consideration of race in drawing legislative districts"); *see also* August 22, 2017 Public Hearing – Raleigh Site Tr. at 61-62, Notice of Filing, Ex. 10, ECF No. 184-10 (Barbara Bleiweis: "[W]e were appalled. . . . . [The maps] use criteria that – then that the net effect of it is disenfranchisement of groups of voters using partisanship as a veiled cover for race."); *id.* at 195, 198-99 (Jennifer Bremer: "Some of the Committee's nine criteria, such as more compactness and less precinct splitting, were welcome, but others have no place in drawing fair districts." "Exclusion of racial data also makes it impossible to say whether in all cases, minority voters have a reasonable chance to elect their preferred candidate, so we can't say whether the maps meet this core requirement in the Voting Rights Act."); *see also* Legislative Redistricting Public Comments, Plaintiffs' Objections, Ex. 2, ECF No. 187-2 at Row 353 (Dr. Susan Ortiz:

General Assembly leadership was thus fully on notice that the "no consideration of race" criterion was unjustified, and that it would doom any resultant remedial maps both because the maps would fail to cure the constitutional violation of racial gerrymandering, and because it could leave the maps vulnerable to further violating Section 2.[9]

To approve Legislative Defendants' proposed plan, this Court must be convinced that the plan fully remedies the racial violation and does not create any new federal or state violations. *See McGhee v. Granville Cty.*, 860 F.2d 110, 115 (4th Cir. 1988). If the Court accepts that Legislative Defendants have proven that all racial knowledge and factors were excluded from the remedial map-drawing process, that very fact prevents Legislative Defendants from proving their plan fully cures all of the harm caused by their constitutional violation. It was Legislative Defendants' task to propose to the Court an

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"Race can and should play a role as long as the intent is to address past racial discrimination and continued inclusion of the voices of communities of color."); *id.* at Row 362 (Mrs. Kathy Stilwell: "Base the method on Ohio's method . . . [where, among other factors,] [m]apmakers also give[n] guidance on how to create majority-minority districts that respect the Voting Rights Act."); *id.* at Row 625 (Ms. Patricia Rieser: "Criteria we would like to see used include: . . . Districts that are NOT established with the purpose of diluting the voting strength of any people, groups, or political parties.").

[9] As the Court well knows, when it served its interests in producing a veto-proof one-party supermajority in the General Assembly, the all-white Republican leadership caucus was quick to contort the race-protective measures prescribed by Section 2 and then-applicable Section 5 of the Voting Rights Act as *requiring* the mechanical caging of black voters into districts to form 50%-plus-one or greater black voting age population districts wherever possible – even where no district-specific analysis had been conducted to determine the likelihood of a Voting Rights Act violation. *Covington*, 316 F.R.D. at 130-31, 173. It is significant that this once-fervent commitment to avoiding imminent Voting Rights Act violations seems to have dissipated into thin air once the Court turned its watch on the General Assembly to ensure that race data was given its lawful and due consideration during this remedial process.

adequate constitutional remedy in the form of remedial maps that uproot and reverse all of the vestiges of that racial discrimination. In creating remedial maps tainted by willful "blindness" to race, General Assembly made it impossible to make such a showing.

The enactment of remedial plans based on defective, racially-unjust criteria, and the submission of those plans to the Court confirms the General Assembly's complete unwillingness to remedy the constitutional violations at issue in this case.

II. This Court should appoint an independent special master to draw fair remedial maps that comply with state and federal law.

In redistricting cases, once a court has provided the appropriate legislative body the first opportunity to devise an acceptable remedial plan, "the court's ensuing review and remedial powers are largely dictated by the legislative body's response." *McGhee*, 860 F.2d at 115. If the legislative body responds to the opportunity with a legally unacceptable remedy, it is up to the court to fashion a remedy. *See id.*; *see also Large v. Fremont Cty., Wyo.*, 670 F.3d 1133, 1148-49 (10th Cir. 2012) (affirming the district court's decision to reject the defendants' Section 2 remedial plan and craft its own remedial plan); *Harvell v. Blytheville Sch. Dist. No. 5*, 126 F.3d 1038, 1040 (8th Cir. 1997) (affirming the district court's rejection of the defendants' remedial plan because the court has a "duty to adopt a plan that would steer clear of racial gerrymandering and yet would vindicate the rights of the minority voters," and thus "need not defer to a state-proposed remedial plan . . . [that] does not completely remedy the violation").

Here, the Court provided the General Assembly an opportunity to remedy its racially-gerrymandered maps, and the General Assembly squandered it. Instead of

undertaking a good-faith remedial process, the leadership of the General Assembly opted once again to engage in game-playing to entrench unconstitutionally gained partisan advantage. The law is clear that once a legislative body fails to produce legally acceptable remedial plans, the court should move forward with implementing a remedy, rather than providing the legislature with multiple opportunities to get it right. *McGhee*, 860 F.2d at 115. This is doubly justified in this case where the General Assembly has consistently sought to delay the redistricting process and avoid remedying its egregious racial gerrymander. This Court has the obligation to assess the constitutionality of the proposed remedial plan to ensure that it both fully cures the illegal racial discrimination and complies with relevant federal and state constitutional and statutory provisions. *Id*. Legislative Defendants' claims that their process totally excluded race render these remedial maps grossly insufficient to meet this standard. The Court is thus justified in appointing an independent special master to expediently draw lawful remedial plans that vindicate the rights of North Carolinians severely harmed by more than six years of unconsistitutional elections.

CONCLUSION

For the foregoing reasons, NC NAACP respectfully asks that this Court reject the Legislative Defendants' Proposed 2017 House and Senate Redistricting Plans, enacted on August 31, 2017 and filed with the Court on September 7, 2017, and that the Court appoint an independent special master to draw remedial legislative maps that properly

consider race, fully remedy the constitutional violation, and comport with all federal and state constitutional and statutory requirements.

Dated: September 26, 2017

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

As required by Local Rule 7.3(d)(1) and (2), I certify that this document contains 4,667 words, excluding the parts of the document that are exempted by Local Rule 7.3(d)(1). The document therefore complies with with Local Rule 7.3(d)(1), which limits briefs in support of motions and responsive briefs to 9,000 words and reply briefs to 4,500 words.

This the 26th day of September, 2017.

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CERTIFICATE OF SERVICE

I certify that on this day, I filed the foregoing **Brief of Amicus Curiae in Support of Plaintiffs' Objections to the Enacted Remedial Redistricting Plans** with the clerk's office via the CM/ECF system, which will send notification of filing to the following counsel of record:

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This the 26th day of September, 2017.

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