

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP,

and

TAIWAN SCOTT, on behalf of himself and all
other similarly situated persons,

Plaintiffs,

v.

HENRY D. MCMASTER, in his official
capacity as Governor of South Carolina;
THOMAS C. ALEXANDER, in his official
capacity as President of the Senate;
LUKE A. RANKIN, in his official capacity as
Chairman of the Senate Judiciary Committee;
JAMES H. LUCAS, in his official capacity as
Speaker of the House of Representatives;
CHRIS MURPHY, in his official capacity as
Chairman of the House of Representatives
Judiciary Committee; WALLACE H.
JORDAN, in his official capacity as Chairman
of the House of Representatives Elections Law
Subcommittee; HOWARD KNAPP, in his
official capacity as interim Executive Director
of the South Carolina State Election
Commission; JOHN WELLS, Chair,
JOANNE DAY, CLIFFORD J. ELDER,
LINDA MCCALL, and SCOTT MOSELEY,
in their official capacities as members of the
South Carolina State Election Commission,

Defendants.

Case No. 3:21-cv-03302-JMC-TJH-RMG

**ANSWER TO AMENDED COMPLAINT
BY HOUSE DEFENDANTS JAMES H.
LUCAS, CHRIS MURPHY AND
WALLACE H. JORDAN**

Speaker of the South Carolina House of Representatives James H. Lucas, Chairman of the South Carolina House of Representatives Judiciary Committee Chris Murphy, and Chairman of the South Carolina House of Representatives Redistricting Ad Hoc Committee Wallace H. Jordan, in their official capacities (collectively, the “House Defendants”) hereby answer and otherwise respond to the First Amended Complaint for Injunctive and Declaratory Relief (ECF No. 84) (“**Amended Complaint**”) filed by the South Carolina State Conference of the NAACP (“**SC NAACP**”) and Taiwan Scott (collectively, the “Plaintiffs”). Except as expressly and specifically admitted, qualified, or explained herein below, the House Defendants deny each and every allegation (in each and every paragraph, image, and footnote) in the Amended Complaint and demand strict proof thereof. With respect to the numbered paragraphs of the Amended Complaint, the House Defendants respond as follows:

FOR A FIRST DEFENSE

INTRODUCTION

1. Paragraph 1 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraph 1 contains factual allegations to which a response is necessary, the House Defendants deny the allegations.

2. Paragraph 2 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. Responding to the factual allegations set forth in Paragraph 2, the House Defendants admit the Legislature passed legislation for new state House districts that Governor McMaster signed into law. As to the remaining factual allegations in Paragraph 2 to which a response is necessary, the

House Defendants deny the allegations. Footnote 1 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 1 is deemed to require a response, the House Defendants deny the allegations.

3. Paragraph 3 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, generalizations about complex issues, and mischaracterizations of both law and fact with regard to the redistricting process in South Carolina since Congress enacted the Voting Rights Act of 1965 (“**VRA**”) and the need for judicial review. To the extent that Paragraph 3 contains factual allegations to which a response is necessary, the House Defendants deny the allegations.

4. Paragraph 4 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. Other than the single uncontroverted fact that House Bill 4493 (“**H. 4493**”) enacted state legislative districts into law, the House Defendants deny the factual allegations in Paragraph 4 to which a response is necessary.

5. Paragraph 5 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. Responding to Paragraph 5, the House Defendants admit the consideration of race in drawing district lines is permissible and necessary in many areas of South Carolina to ensure compliance with Section 2 of the VRA. As to the remaining factual allegations in Paragraph 5 to which a response is necessary, the House Defendants deny the allegations.

6. The factual allegations in Paragraph 6 of the Amended Complaint are denied.

7. To the extent the image and descriptor between Paragraph 6 and Paragraph 7 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

8. The factual allegations in Paragraph 7 of the Amended Complaint are denied. To the extent Paragraph 7 contains allegations about another defendant, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

9. Paragraphs 8 and 9 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraphs 8 and 9 contain factual allegations to which a response is necessary, the House Defendants deny the allegations.

10. Paragraph 10 of the Amended Complaint consists of legal conclusions, arguments, and unwarranted inferences about complex issues. To the extent Paragraph 10 contains factual allegations to which a response is necessary, the House Defendants deny the allegations.

11. Paragraph 11 of the Amended Complaint is denied. Further answering, the House Defendants have not *failed* to reapportion and redraw South Carolina's U.S. Congressional districts given the uncontroverted fact that the House Defendants are *currently* in the process of redistricting South Carolina's U.S. Congressional districts. The remainder of Paragraph 11 of the Amended Complaint consists of legal conclusions, to which no response is required.

12. Paragraph 12 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. Moreover, the alleged bad act of "continued delay" is facially inconsistent and contrary to the alleged wrongdoing of "insufficient time and opportunity" also claimed by Plaintiffs. To the extent that Paragraph 12 contains factual allegations to which a response is necessary, the House Defendants deny the allegations upon information and belief and demand strict proof thereof.

13. The factual allegations in Paragraph 13 are denied.

PARTIES

14. Paragraphs 14 through 17 of the Amended Complaint contain assertions about the SC NAACP's background, mission, structure, and membership and do not contain allegations against the House Defendants requiring a response. To the extent Paragraphs 14 through 17 are construed to include factual allegations to which a response is required, the House Defendants deny the allegations upon information and belief that "[t]he South Carolina State Conference of the NAACP" is a South Carolina nonprofit, nonpartisan membership organization, and the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding the background, mission, structure, and membership of the SC NAACP. In all other regards, the allegations of Paragraphs 14 through 17 are denied.

15. Paragraph 18 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraph 18 contains factual allegations to which a response is necessary regarding where persons who are not parties to this proceeding currently reside, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. As to the remaining allegations in Paragraph 18, the allegations are denied.

16. To the extent that Paragraph 19 of the Amended Complaint contains factual allegations to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

17. To the extent that Paragraph 20 of the Amended Complaint and its subparts contains factual allegations to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

18. To the extent that Paragraph 21 of the Amended Complaint contains factual allegations to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

19. Paragraph 22 of the Amended Complaint describes the background of the Plaintiff Taiwan Scott. The House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Amended Complaint.

20. Paragraphs 23 through 30 of the Amended Complaint contain legal conclusions about whether various defendants to this action sued in their official capacity are proper defendants. Responding individually to Paragraph 28, Defendant Wallace H. Jordan is not the Chairman of the Election Laws Subcommittee, but he is the Chairman of the Redistricting Ad Hoc Committee (the “Ad Hoc Committee”). To the extent any remaining allegations in Paragraphs 23 through 30 are construed to make allegations against any of the House Defendants to which a response is required, the House Defendants crave reference to the cited constitutional and statutory provision(s) and H. 4493, and deny any allegations or mischaracterizations inconsistent therewith. To the extent any further response is required, the allegations are denied.

JURISDICTION AND VENUE

21. Paragraph 31 of the Amended Complaint asserts a legal conclusion regarding the constitutional basis of this action to which a response is not required. To the extent a response is deemed to be required, the allegations are denied.

22. Paragraph 32 of the Amended Complaint asserts a legal conclusion regarding subject matter jurisdiction and does not require a response. To the extent a response is deemed to be required, the allegations are denied.

23. The House Defendants deny Paragraph 33 of the Amended Complaint as it pertains to the apportionment of congressional districts for the reasons set forth in the previously filed Response and Memorandum in Opposition to Plaintiffs' Motion for Appointment of Three-Judge Panel. (ECF No. 18). To the extent further response is deemed required, the allegations are denied.

24. Paragraph 34 of the Amended Complaint asserts a legal conclusion on venue and does not require a response. To the extent a response is deemed to be required, the allegations are denied.

25. Paragraph 35 of the Amended Complaint asserts legal conclusions on personal jurisdiction and do not require a response. To the extent a response is deemed to be required, the allegations are denied.

STATEMENT OF FACTS

26. Paragraph 36 of the Amended Complaint is admitted to the extent it alleges that on December 10, 2021, Governor Henry McMaster signed into law H. 4493, which redistricted the South Carolina State House of Representatives and State Senate districts for the next decade as Act No. 117. As to the remaining allegations in Paragraph 36, the House Defendants deny the allegations.

27. To the extent the unnumbered subheading between Paragraph 36 and Paragraph 37 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

28. Paragraph 37 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. The House Defendants deny the factual allegation in Paragraph 37 that "H. 4493 is the latest iteration of South Carolina's long pattern of official acts of racial discrimination including its enactment of various

discriminatory voting rules that deny and abridge the voting rights of Black South Carolinians.”

As to any remaining factual allegations in Paragraph 37 to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. Footnotes 2, 3, and 4 of the Amended Complaint do not require a response from the House Defendants. To the extent Footnotes 2, 3, and 4 are deemed to require a response, the House Defendants crave reference to the cited cases and publications and deny any allegations or mischaracterizations inconsistent therewith.

29. To the extent that Paragraph 38 of the Amended Complaint contains factual allegations to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

30. Paragraph 39 of the Amended Complaint consists of arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent Paragraph 39 contains factual allegations to which a response is necessary, the House Defendants deny the allegations.

31. Paragraph 40 of the Amended Complaint consists of arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraph 40 contains factual allegations to which a response is necessary, the House Defendants deny the allegations. Footnote 5 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 5 is deemed to require a response, the House Defendants crave reference to the cited website, publication, and statute and deny any allegations or mischaracterizations inconsistent therewith.

32. Paragraph 41 of the Amended Complaint consists of arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that

Paragraph 41 contains factual allegations to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

33. Paragraph 42 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. Paragraph 42 also contains allegations regarding persons or entities that are not parties to this proceeding. To the extent that Paragraph 42 contains factual allegations to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

34. Paragraph 43 of the Amended Complaint consists of mischaracterizations regarding the S.C. redistricting process since Congress enacted the VRA and the need for judicial review. To the extent that Paragraph 43 is construed to allege there was a *need* for judicial review of South Carolina's redistricting maps for the last five redistricting cycles, the House Defendants crave reference to the cited cases and deny any allegations or mischaracterizations inconsistent therewith. Otherwise, the House Defendants deny the allegations in Paragraph 43.

35. Paragraph 44 of the Amended Complaint consists of a mischaracterization of judicial precedent by quotation from *Burton on Behalf of Republican Party v. Sheheen*, 793 F. Supp. 1329, 1337 (D.S.C. 1992), *vacated sub nom. Statewide Reapportionment Advisory Comm. v. Theodore*, 508 U.S. 968 (1993), and *vacated sub nom. Campbell v. Theodore*, 508 U.S. 968 (1993), in that Plaintiffs fail to acknowledge or reference the attendant Footnote 11, which reads: "In respect to the reapportionment of the House of Representatives, South Carolina's General Assembly is one of those which has faithfully complied with its constitutional obligations." *Id.* (citing *O'Shields v. McNair*, 254 F. Supp. 708, 717 (D.S.C. 1966)). In this and all other respects, the House Defendants crave reference to the cited case law and deny any allegations

or mischaracterizations inconsistent therewith. To the extent that Paragraph 44 contains factual allegations to which a response is necessary, the House Defendants deny the allegations.

36. To the extent the unnumbered subheadings between Paragraph 44 and Paragraph 45 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

37. Responding to Paragraph 45 of the Amended Complaint, the House Defendants admit the Ad Hoc Committee adopted redistricting guidelines on August 3, 2021, and that the guidelines and criteria were adopted without holding a separate public hearing in advance of their adoption. The remaining allegations in Paragraph 45 are denied. Footnote 6 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 6 is deemed to require a response, the House Defendants crave reference to the cited redistricting guidelines and criteria document and deny any allegations or mischaracterizations inconsistent therewith.

38. Paragraphs 46 through 49 and 51 through 55 of the Amended Complaint purport to restate the 2021 Guidelines and Criteria for Congressional and Legislative Redistricting (the “redistricting guidelines”), adopted by the Ad Hoc Committee on August 3, 2021. In response to the allegations in Paragraphs 46 through 49 and 51 through 55, the House Defendants crave reference to the adopted guidelines and deny any allegations or mischaracterizations inconsistent therewith.

39. Paragraph 50 of the Amended Complaint consists of arguments and a misstatement of the law. The House Defendants admit the Ad Hoc Committee declined to amend the redistricting guidelines to increase the overall range of population deviation to 10%, or plus or minus 5% of the mathematical mean, and the House Defendants deny that a population deviation of 10% overall is

“consistent with federal law.” “[T]he Supreme Court has not created a 10% maximum population deviation threshold, below which all redistricting decisions are inherently constitutional.” *Wright v. North Carolina*, 787 F.3d 256, 267 (4th Cir. 2015). As to the attendant allegations contained in Footnote 7 of the Amended Complaint, the House Defendants would state that the House’s redistricting guidelines were drawn in part from prior redistricting cycles, the jurisprudence from *Colleton County Council v. McConnell* and *Backus v. South Carolina*, as well as other court decisions and public input throughout these and similar proceedings.

40. To the extent the unnumbered subheading between Paragraph 55 and Paragraph 56 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

41. Paragraphs 56 through 66 of the Amended Complaint do not contain factual allegations directed to the House Defendants requiring a response, but do contain generalized assertions and characterizations about the timing and status of the South Carolina Senate’s legislative process for congressional redistricting. To the extent Paragraphs 56 through 66 are construed to contain allegations directed to the House Defendants to which a response is required, the allegations are denied. To the extent Paragraphs 56 through 66 contain allegations about another defendant or another person or entity that is not a party to these proceedings, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. Footnote 8 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 8 is deemed to require a response, the House Defendants crave reference to the cited cases and deny any allegations or mischaracterizations inconsistent therewith.

42. To the extent the unnumbered subheading between Paragraph 66 and Paragraph 67 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

43. Paragraphs 67 and 68 of the Amended Complaint consist of arguments, unverifiable assumptions, and mischaracterizations of fact. The House Defendants admit only so much of the allegations as may be construed to allege that the Ad Hoc Committee held numerous public hearings throughout the State in the evenings over several weeks, the last two of which (on September 28 and October 4) provided for remote participation and virtual testimony. As to the remaining allegations in Paragraphs 67 and 68, the House Defendants deny the allegations.

44. In response to Paragraphs 69 and 70 of the Amended Complaint, the House Defendants crave reference to the identified letters for what matters were raised and how the issues were conveyed, and further state that much of the writings are legal posturing and mischaracterization of judicial precedent. Further answering the allegations, the House Defendants deny that the redistricting process was not transparent and that it lacked opportunities for meaningful public participation, as the contrary is evidenced by Plaintiff SC NAACP's own participation throughout. In all other regards, the allegations of Paragraphs 69 and 70 are denied.

45. In response to Paragraphs 71 and 72 of the Amended Complaint, the House Defendants crave reference to the identified letter for what matters were raised and how the issues were conveyed, and further state that much of the writing was regurgitation of the earlier legal posturing and mischaracterization of judicial precedent. Further answering the allegations, the House Defendants deny that the plans submitted "corrected for population disparities . . . , among other considerations and requirements that complied with the House Committee's criteria and the

U.S. Constitution and other federal law.” In all other regards, the allegations of Paragraphs 71 and 72 are denied.

46. Paragraph 73 of the Amended Complaint is admitted to the extent that Plaintiffs allege that an RPV analysis demonstrates racially polarized voting patterns. For the remaining allegations in Paragraph 73, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, as there are many reasons other than lack of white cross-over voting that could cause Black voter-supported candidates to be defeated.

47. Paragraph 74 of the Amended Complaint is admitted except to the extent that Plaintiffs allege that after the October 8 submission deadline, the Ad Hoc Committee provided no information about when it would release maps or deliberate further, until November 8, which is denied.

48. Paragraph 75 of the Amended Complaint is admitted to the extent that the Ad Hoc Committee held a public meeting on November 10. For the remaining allegations in Paragraph 75, the House Defendants crave reference to the public record of testimony from that November 10 public meeting available at <https://www.scstatehouse.gov/video/archives.php> and deny any allegations or mischaracterizations inconsistent therewith.

49. The House Defendants deny the false accusations and misrepresentations made in Paragraphs 76 through 80 of the Amended Complaint with regard to the statements and testimony offered during the November 10 public hearing, and further crave reference to the recorded version of the November 10 public meeting available at <https://www.scstatehouse.gov/video/archives.php> for a complete and accurate representation of the facts. The arguments, unwarranted inferences, conjecture, and legal conclusions contained in Paragraphs 76 through 80 of the Amended Complaint, regardless of their inaccuracy do not require a response.

50. Paragraph 81 of the Amended Complaint is admitted only to the extent it alleges the Ad Hoc Committee met again to discuss its state House Staff Plan on November 16, 2021. The remaining allegations in Paragraph 81 are denied.

51. Paragraph 82 of the Amended Complaint is admitted only to the extent it alleges the Ad Hoc Committee approved an amendment to H. 4493 to incorporate its amended plan and voted to give it a favorable report to the House Judiciary Committee. For the remaining allegations in Paragraph 82, much of which is argumentative and conjecture, the House Defendants crave reference to the public record of testimony from that November 16 public meeting available at <https://www.scstatehouse.gov/video/archives.php> and deny any allegations or mischaracterizations inconsistent therewith.

52. Paragraphs 83 and 84 of the Amended Complaint are admitted only to the extent as may be construed to allege that the House Judiciary Committee convened to meet as publicly noticed the same day as the Ad Hoc Committee to consider the Ad Hoc Committee's report, and that the Judiciary Committee voted to adopt the recommendation of the Ad Hoc Committee with certain amendments as presented and discussed during the meeting. A recording of the Judiciary Committee meeting is publicly available at <https://www.scstatehouse.gov/video/archives.php>, and the amendments addressed at <https://redistricting.schouse.gov/amendments.html>, and the House Defendants crave reference to the records of the proceeding, denying any allegations or mischaracterization inconsistent therewith.

53. Paragraphs 85 and 86 of the Amended Complaint are denied.

54. Paragraph 87 of the Amended Complaint is admitted to the extent it may be construed to allege that H. 4493 was read and debated on December 2, 2021, with several amendments raised and either adopted or tabled, two of which were proposed by Rep. Wendy

Brawley. The remaining allegations in Paragraph 87 purport to represent testimony of third parties, in response to which the House Defendants crave reference to the public records and deny any allegations or mischaracterization inconsistent therewith.

55. Paragraph 88 of the Amended Complaint is denied because Plaintiffs' quotation of Defendant Wallace H. Jordan is intentionally incomplete so as to be misleading and consequently renders the allegations of Paragraph 88 of the Amended Complaint inaccurate. Footnote 9 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 9 is deemed to require a response, the House Defendants crave reference to the cited video recording and deny any allegations or mischaracterizations inconsistent therewith.

56. The allegations in Paragraph 89 of the Amended Complaint are argumentative and misleading, and include an imprecise representation of the law. Further answering, the House Defendants admit only so much of the allegations in Paragraph 89 as may be construed to allege that the amendment proposing to substitute the public map submission from the League of Women Voters was tabled and that in addressing the amendment, Rep. Jordan identified the 10% deviation standard as a "big issue" with the submission.

57. Responding to the allegations in Paragraphs 90 through 92 of the Amended Complaint, the House Defendants crave reference to the recording of the December 2, 2021 South Carolina House of Representatives public legislative session available at <https://www.scstatehouse.gov/video/archives.php> as opposed to the Plaintiffs' incomplete, argumentative and biased representations of testimony, and deny any allegations or mischaracterizations of the Amended Complaint inconsistent therewith. Footnote 10 of the Amended Complaint does not require a response from the House Defendants. To the extent

Footnote 10 is deemed to require a response, the House Defendants crave reference to the cited video recording and deny any allegations or mischaracterizations inconsistent therewith.

58. Responding to the allegations in Paragraph 93 of the Amended Complaint, the House Defendants would correct the Plaintiffs' misunderstanding or misrepresentation of legislative history, in that H. 4493 was subject to a third reading on December 6, 2021, not second. As to the remaining allegations in Paragraph 93, the House Defendants crave reference to the recording of the December 6, 2021 South Carolina House of Representatives public legislative session available at <https://www.scstatehouse.gov/video/archives.php> as opposed to the Plaintiffs' incomplete, argumentative and biased representations of testimony, and deny any allegations or mischaracterizations of the Amended Complaint inconsistent therewith.

59. Paragraphs 94 and 95 of the Amended Complaint are admitted.

60. To the extent the unnumbered subheading between Paragraph 95 and Paragraph 96 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

61. Paragraph 96 of the Amended Complaint is admitted only to the extent the allegations may be construed to allege that the House is actively engaged in the process of redistricting the U.S. Congressional districts in South Carolina, and that a first meeting dedicated exclusively to the U.S. Congressional plans was held on December 16, and a second meeting was held on December 29, 2021. The remaining allegations of Paragraph 96 to the extent inconsistent or merely argumentative as to the foregoing facts are denied.

62. Paragraph 97 of the Amended Complaint is admitted.

63. Paragraph 98 of the Amended Complaint is admitted to the extent the allegations are construed to allege that over the last 50 years of redistricting cycles in South Carolina, federal

litigation challenging the legislative redistricting process have taken months to assess complaints questioning the validity and constitutionality of proposed plans, not all of which were favorable outcomes for the complaining plaintiffs. The remaining allegations in Paragraph 98 are denied.

64. The House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 99 of the Amended Complaint, as use of the pronoun “it” is unclear as to whom the allegation is directed. Further answering, the House Defendants are actively engaged in consideration of a U.S. Congressional map as clearly acknowledged by Plaintiffs in Paragraph 96 of the Amended Complaint.

65. The allegations in Paragraph 100 of the Amended Complaint are conclusory and unsupported by nothing other than speculative conjecture. As such, the same are denied.

66. Paragraph 101 of the Amended Complaint appears to allege that Plaintiffs are unable to seek judicial review of maps, despite quite literally currently embroiling the South Carolina Governor, Senate, and these House Defendants in judicial review of maps. As the allegations in Paragraph 101 are arguments, unwarranted inferences, editorial comments, and generalizations about complex issues, the same are denied.

67. Paragraphs 102, 103 and 104 of the Amended Complaint are denied.

68. To the extent the unnumbered subheading between Paragraph 104 and Paragraph 105 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

69. Paragraph 105 of the Amended Complaint is denied to the extent the legal conclusion therein is construed to be an allegation of fact.

70. Paragraph 106 of the Amended Complaint is admitted to the extent that Plaintiffs allege South Carolina’s population grew by 10.7% between 2010 and 2020 and that the Black

population shifted within the State, leading to significant population disparities between legislative districts that needed to be addressed. As to the remaining allegations in Paragraph 106, the allegations are denied upon information and belief.

71. Paragraph 107 of the Amended Complaint is admitted with the exception of the word “purportedly,” which falsely implies the House did not endeavor as it in fact did.

72. Paragraphs 108 and 109 of the Amended Complaint are denied.

73. The House Defendants admit only so much of the allegations in Paragraph 110 of the Amended Complaint as may be construed to allege that Plaintiff SC NAACP submitted a map with more districts wherein Black voters would be between 30-50% of the voting age population. As to the remaining allegations in Paragraph 110, the House Defendants deny the allegations.

74. Paragraph 111 of the Amended Complaint is denied.

75. To the extent the unnumbered subheadings between Paragraph 111 and Paragraph 112 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

76. To the extent the legal conclusion in Paragraph 112 of the Amended Complaint is construed as a factual allegation, the Paragraph is denied.

77. Paragraph 113 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. Further answering, the House Defendants admit only so much of the allegations in Paragraph 113 as may be construed to allege that one precinct between Districts 7 and 11, one precinct between Districts 8 and 11, and at least two precincts between Districts 7 and 9 have been split. The remaining allegations are denied.

78. Paragraph 114 of the Amended Complaint consists of argumentative commentary, and generalizations about complex issues. To the extent that Paragraph 114 contains factual allegations to which a response is necessary, the House Defendants deny the allegations. Footnote 11 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 11 is deemed to require a response, the House Defendants deny the allegations.

79. To the extent the image between Paragraph 114 and Paragraph 115 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

80. Paragraph 115 of the Amended Complaint is denied.

81. Paragraphs 116 and 117 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraphs 116 and 117 contain factual allegations to which a response is necessary, the House Defendants deny the allegations. Footnote 12 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 12 is deemed to require a response, the House Defendants deny the allegations.

82. To the extent the image between Paragraph 117 and Paragraph 118 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

83. Responding to the allegations in Paragraph 118 of the Amended Complaint, the House Defendants crave reference to the cited letter for what matters were raised and how the issues were conveyed, and deny any allegations or mischaracterizations inconsistent therewith. Footnote 13 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 13 is deemed to require a response, the House Defendants crave reference to the cited letter and deny any allegations or mischaracterizations inconsistent therewith.

84. Paragraphs 119 through 121 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraphs 119 through 121 contain factual allegations to which a response is necessary, the House Defendants deny the allegations.

85. To the extent that Paragraph 122 of the Amended Complaint contains factual allegations to which a response is necessary, the House Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, as the voting analysis referred to by Plaintiffs is presumably their own and was not submitted to or shared with the House Defendants during the redistricting process, not even with the numerous critiques or commentaries that were provided many of which have been described herein.

86. To the extent the legal conclusion in Paragraph 123 of the Amended Complaint is construed as an allegation of fact, the Paragraph is denied.

87. To the extent the unnumbered subheadings between Paragraph 123 and Paragraph 124 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

88. To the extent the legal conclusion in Paragraph 124 of the Amended Complaint is construed as an allegation of fact, the Paragraph is denied.

89. Paragraph 125 of the Amended Complaint consists of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. Further answering, the House Defendants admit only so much of the allegations as may be construed to allege that eight precincts across Districts 41 and 43 have been split. The remaining allegations are denied.

90. Paragraph 126 of the Amended Complaint is denied.

91. Paragraph 127 of the Amended Complaint consists of argumentative commentary, and generalizations about complex issues. To the extent a response is required, the allegations are denied. Footnote 14 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 14 is deemed to require a response, the House Defendants deny the allegations.

92. To the extent the image between Paragraph 127 and Paragraph 128 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

93. To the extent the legal conclusion in Paragraph 128 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

94. To the extent the unnumbered subheadings between Paragraph 128 and Paragraph 129 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

95. To the extent the legal conclusion in Paragraph 129 of the Amended Complaint is construed as an allegation of fact, the Paragraph is denied.

96. Paragraphs 130 through 132 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraphs 130 through 132 contain factual allegations to which a response is necessary, the House Defendants deny the allegations. Footnote 15 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 15 is deemed to require a response, the House Defendants deny the allegations.

97. To the extent the image between Paragraph 131 and Paragraph 132 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

98. To the extent the legal conclusion in Paragraph 133 of the Amended Complaint is construed as an allegation of fact, the House Defendants deny the allegation.

99. To the extent the unnumbered subheadings between Paragraph 133 and Paragraph 134 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

100. To the extent the legal conclusion in Paragraph 134 of the Amended Complaint is construed as an allegation of fact, the House Defendants deny the allegation.

101. Paragraphs 135 through 139 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraphs 135 through 139 contain factual allegations to which a response is necessary, the House Defendants deny the allegations and further reiterate that the Plaintiffs have not at any time prior to or since initiation of these legal proceedings shared any voting or compactness analysis in their efforts to supposedly ensure legally compliant redistricting plans. Footnotes 16 and 17 of the Amended Complaint do not require a response from the House Defendants. To the extent Footnotes 16 and 17 are deemed to require a response, the House Defendants deny the allegations.

102. To the extent the image between Paragraph 136 and Paragraph 137 and the image between Paragraph 139 and Paragraph 140 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

103. To the extent the legal conclusion in Paragraph 140 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

104. To the extent the unnumbered subheadings between Paragraph 140 and Paragraph 141 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

105. To the extent the legal conclusion in Paragraph 141 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

106. Paragraph 142 of the Amended Complaint is admitted only to the extent it may be construed to allege that the city of Florence is split among three districts (Districts 59, 60, and 63) and the border between Districts 59 and 60 splits one precinct, the border between Districts 60 and 63 splits at least three precincts, and the border between Districts 59 and 63 splits at least seven precincts. As to the remaining allegations in Paragraph 142, the allegations are denied.

107. Paragraph 143 of the Amended Complaint is denied. Footnote 18 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 18 is deemed to require a response, the House Defendants deny the allegations.

108. To the extent the image between Paragraph 143 and Paragraph 144 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

109. As to the allegations in Paragraph 144 of the Amended Complaint referencing contents of letters submitted by Plaintiff SC NAACP on October 8, November 15, and November 30, the House Defendants crave reference to those cited letters for what matters were raised and how the issues were conveyed, and deny any allegations or mischaracterizations inconsistent therewith. Footnotes 19 and 20 of the Amended Complaint do not require a response from the House Defendants. To the extent Footnotes 19 and 20 are deemed to require a response,

the House Defendants crave reference to the cited redistricting guidelines and criteria document and letter and deny any allegations or mischaracterizations inconsistent therewith.

110. To the extent the legal conclusion in Paragraph 145 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

111. Paragraph 146 of the Amended Complaint is denied. Footnote 21 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 21 is deemed to require a response, the House Defendants deny the allegations.

112. To the extent the image between Paragraph 146 and Paragraph 147 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

113. To the extent the legal conclusion in Paragraph 147 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

114. To the extent the unnumbered subheadings between Paragraph 147 and Paragraph 148 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

115. To the extent the legal conclusion in Paragraph 148 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

116. Paragraphs 149 through 153 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, and generalizations about complex issues. To the extent that Paragraphs 149 through 153 contain factual allegations to which a response is necessary, the House Defendants deny the allegations with the sole two exceptions being that

Richland County now has one less state House seat and the border between Districts 72 and 74 splits three voting precincts. Footnotes 22 and 23 of the Amended Complaint do not require a response from the House Defendants. To the extent Footnotes 22 and 23 are deemed to require a response, the House Defendants deny the allegations.

117. To the extent the images between Paragraph 149 and Paragraph 151, between Paragraph 151 and Paragraph 152, between Paragraph 152 and Paragraph 153, and between Paragraph 153 and Paragraph 154 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

118. To the extent the legal conclusion in Paragraph 154 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

119. To the extent the unnumbered subheadings between Paragraph 154 and Paragraph 155 of the Amended Complaint are deemed to require a response, the House Defendants deny the allegations.

120. To the extent the legal conclusion in Paragraph 155 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations.

121. Paragraphs 156 through 158 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, and generalizations about complex issues. To the extent that Paragraphs 156 through 158 contain factual allegations to which a response is necessary, the House Defendants deny the allegations.

122. To the extent the image between Paragraph 157 and Paragraph 158 of the Amended Complaint is deemed to require a response, the House Defendants deny the allegations.

123. To the extent the legal conclusion in Paragraph 159 of the Amended Complaint is considered to be factual allegations to which a response is necessary, the House Defendants deny the allegations. Footnote 24 of the Amended Complaint does not require a response from the House Defendants. To the extent Footnote 24 is deemed to require a response, the House Defendants crave reference to the cited audio transcription and deny any allegations or mischaracterizations inconsistent therewith.

FURTHER ANSWERING AS TO CAUSES OF ACTION
COUNT ONE (Racial Gerrymandering in Violation of the Fourteenth Amendment)

124. In response to Paragraph 160 of the Amended Complaint, the House Defendants repeat, re-allege, and incorporate by reference all the foregoing paragraphs as if fully set forth herein verbatim.

125. Paragraph 161 of the Amended Complaint contains an excerpt of the Fourteenth Amendment of the U.S. Constitution. To the extent a response is necessary, the House Defendants crave reference to the cited constitutional amendment and deny any allegations or mischaracterizations inconsistent therewith.

126. Paragraph 162 of the Amended Complaint consists of an imprecise recital of the law regarding racial classifications and the U.S. Constitution. To the extent a response is necessary, the allegations are denied.

127. Paragraphs 163 through 165 of the Amended Complaint consist of legal conclusions and unsupported speculative conjecture. To the extent that Paragraphs 163 through 165 are construed to include factual allegations to which a response is necessary, the House Defendants deny the allegations.

128. Paragraph 166 of the Amended Complaint consists of legal conclusions. To the extent that Paragraph 166 is construed to include factual allegations to which a response is necessary, the House Defendants deny the allegations.

129. Paragraph 167 of the Amended Complaint is denied.

COUNT TWO (Intentional Discrimination in Violation of the Fourteenth and Fifteenth Amendments of the U.S. Constitution)

130. In response to Paragraph 168 of the Amended Complaint, the House Defendants repeat, re-allege, and incorporate by reference all the foregoing paragraphs as if fully set forth herein verbatim.

131. Paragraph 169 of the Amended Complaint consists of an imprecise recital of the law regarding the Fifteenth Amendment of the U.S. Constitution. To the extent a response is necessary, the allegations are denied.

132. Paragraphs 170 through 172 of the Amended Complaint consist of legal conclusions, arguments, unwarranted inferences, editorial comments, and generalizations about complex issues. To the extent that Paragraphs 170 through 172 contain factual allegations to which a response is necessary, the House Defendants deny the allegations and demand strict proof thereof.

133. Paragraph 173 of the Amended Complaint is denied.

COUNT THREE (Violation of the First and Fourteenth Amendments of the U.S. Constitution)

134. Paragraph 174 of the Amended Complaint generally describes associational protections under the First Amendment and Fourteenth Amendment of the U.S. Constitution. To the extent a response is necessary, the House Defendants crave reference to the cited congressional amendments and law and deny any allegations or mischaracterizations inconsistent therewith.

135. Paragraphs 175 through 178 of the Amended Complaint are denied.

FURTHER ANSWERING AS TO THE RELIEF REQUESTED

136. The unnumbered Paragraph beginning with WHEREFORE does not require a response. To the extent a response is deemed to be required, the House Defendants deny that Plaintiffs are entitled to the relief listed in that Paragraph and specifically deny that Plaintiffs are entitled to attorneys' fees or costs from the House Defendants.

FOR A SECOND DEFENSE

137. Plaintiffs' Amended Complaint should be dismissed under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted for numerous reasons, including because the law in question is constitutionally compliant.¹

FOR A THIRD DEFENSE

138. Plaintiffs' claim for injunctive and declaratory relief fails because they raise nonjusticiable political questions and seek relief that violates the doctrines of separation of powers, federalism, and comity. Moreover, partisan gerrymandering claims disguised as racial

¹ The House Defendants have elected to file a Motion to Dismiss Plaintiffs' Amended Complaint simultaneously with the filing of this Answer. The House Defendants do so based on the comments of at least one member of the assigned Panel during the status hearing held on December 22, 2021. *See* ECF No. 85 at 18:19-19:13 ("Judge Childs: [filing a parallel motion to dismiss and answer] would be great to just know what the position [is]."). As noted by counsel at that hearing, while the House Defendants are mindful that the Court wishes this litigation to proceed expeditiously, the House Defendants nevertheless believe the Motion to Dismiss Plaintiffs' Amended Complaint has substantial merit and cannot waive the arguments made therein or fail to preserve the issues for appeal. These responsive pleadings are filed simultaneously in furtherance of a most expeditious resolution of this case as discussed with the Court. Plaintiffs' counsel has agreed that filing an Answer does not waive any arguments or privileges asserted in the Motion to Dismiss Plaintiffs' Amended Complaint.

gerrymandering claims for the purpose of securing subject-matter jurisdiction in this Court are not subject to federal court review because they present nonjusticiable political questions.

FOR A FOURTH DEFENSE

139. Plaintiffs lack individual, organizational, and representational standing to bring the instant action.

FOR A FIFTH DEFENSE

140. The claims asserted regarding South Carolina's U.S. Congressional districts and redistricting plan, which is in the process of being completed, are not yet ripe; the claims asserted regarding South Carolina's current U.S. Congressional districts and redistricting plan are moot.

FOR A SIXTH DEFENSE

141. Plaintiffs are not entitled to injunctive relief of any kind because they are not likely to succeed on the merits, they cannot demonstrate irreparable harm, the balance of the equities does not tip in their favor, and an injunction would not be in the public interest.

FOR A SEVENTH DEFENSE

142. The House Defendants are entitled to legislative immunity and, as such, are shielded from any award of damages or prospective relief, and cannot be put to the burden of defending themselves.

FOR AN EIGHTH DEFENSE

143. Any consideration of race in drawing redistricting lines was to ensure compliance with Section 2 of the VRA.

FOR A NINTH DEFENSE

144. Plaintiffs cannot overcome the presumption that the legislative redistricting plan enacted by Act No. 117 was the result of a good faith effort by the House Defendants.

FOR A TENTH DEFENSE

145. The House Defendants expressly adopt and incorporate by reference any and all applicable defenses asserted by other Defendants that are not otherwise specifically set forth herein. The House Defendants expressly reserve the right to amend their Answer and assert any further affirmative defenses at such time and to the extent warranted before, during, or after discovery or based on their investigation of the case or other relevant factual developments, and they hereby give notice of their intent to do so at the appropriate time.

DEMAND FOR JUDGMENT

WHEREFORE, having fully answered and otherwise responded to Plaintiffs' Amended Complaint, the House Defendants respectfully request that the Court dismiss Plaintiffs' Amended Complaint or otherwise deny the relief sought therein, enter judgment in Defendants' favor on all counts, and award the House Defendants and the remaining Defendants any relief that the Court deems equitable, just, and proper.

[Signature page follows]

Respectfully submitted,

s/ William W. Wilkins

William W. Wilkins (Fed. ID No. 4662)
Andrew A. Mathias (Fed. ID No. 10166)
NEXSEN PRUET, LLC
104 S. Main Street, Suite 900 (29601)
Post Office Box 10648
Greenville, SC 29603-0648
Telephone: 864.370.2211
bwilkins@nexsenpruet.com
amathias@nexsenpruet.com

Mark C. Moore (Fed. ID No. 4956)
Jennifer J. Hollingsworth (Fed. ID No. 11704)
Hamilton B. Barber (Fed. ID No. 13306)
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, SC 29202
Telephone: 803.771.8900
MMoore@nexsenpruet.com
JHollingsworth@nexsenpruet.com
HBarber@nexsenpruet.com

*Attorneys for James H. Lucas, Chris Murphy, and
Wallace H. Jordan*

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Greenville, South Carolina