

SUPREME COURT OF NORTH CAROLINA

NORTH CAROLINA STATE)
CONFERENCE OF THE NAACP,)
COMMON CAUSE, MARILYN HARRIS,)
GARY GRANT, JOYAH BULLUCK, and)
THOMASINA WILLIAMS,)

Plaintiffs-Appellants,)

vs.)

PHILIP E. BERGER *in his official capacity*)
as President Pro Tempore Carolina Senate;)
TIMOTHY K. MOORE *in his official*)
capacity as Speaker of the North Carolina)
House of Representatives; RALPH E. HISE,)
JR., WARREN DANIEL, PAUL NEWTON,)
in their official capacities as Co-Chairmen)
of the Senate Committee on Redistricting)
and Elections; DESTIN HALL, *in his*)
official capacity as Chairman of the House)
Standing Committee on Redistricting; THE)
STATE OF NORTH CAROLINA; THE)
NORTH CAROLINA STATE BOARD OF)
ELECTIONS; DAMON CIRCOSTA, *in his*)
official capacity as Chair of the State Board)
of Elections; STELLA ANDERSON, *in her*)
official capacity as Secretary of the State)
Board of Elections; STACY EGGERS IV, *in*)
his official capacity as Member of the State)
Board of Elections; JEFF CARMON III, *in*)
his official capacity as Member of the State)
Board of Elections; TOMMY TUCKER, *in*)
his official capacity as Member of the State)
Board of Elections; KAREN BRINSON)
BELL, *in her official capacity as Executive*)
Director of the State Board of Elections,)

From Wake County

No. 21 CVS 014476

Defendants-Appellees.)

**LEGISLATIVE DEFENDANTS-APPELLEES’
NOTICE OF INTENT TO RESPOND**

On 30 November 2021 Petitioners’ Motion for Preliminary Injunction to enjoin the 6 December 2021 candidate filing period was orally denied, and Petitioners’ Complaint was dismissed pursuant to Rules 12(b)(1) and 12(b)(6) of the North Carolina Rules of Civil Procedure. A written order confirming these rulings was served 3 December 2021. Plaintiffs’ filed their notice of appeal on 6 December 2021. On 6 December 2021 after 11:00 p.m, Petitioners filed a Petition for Discretionary Review with this Court.

This petition came after Plaintiffs in *NCLCV v. Hall* appealed to the Court of Appeals (and sought discretionary review by this Court on the same day) and after the Plaintiffs in *Harper v. Hall* filed for discretionary review by this Court.¹ Although each Petitioner goes about it in a different manner, all three petitioners seek reversal of trial court orders in order to enjoin the now-open candidate filing period. *NAACP* Petitioners and *Hall* Petitioners also suggest through recusal motions which justices of this Court should and should not hear those matters for extraordinary relief.

But the similarities between the *Harper/ NCLCV* petitions and the *NAACP* petitions ends there. Whereas, the *Harper/ NCLCV* Petitioners challenge the 2021 Legislative and Congressional Redistricting plans as partisan gerrymanders under

¹This is especially surprising considering that the trial court consolidated the *Harper* case with the *North Carolina League of Conservative Voter* case in an order not appealed by any party, (designating the NCLCV case as the lead case).

novel theories of the North Carolina State Constitution, the *NAACP* Petitioners bring race-based claims in a challenge to the process used by the General Assembly to create the 2021 Plans. The *NAACP* Petitioners have made clear that this action does not the Plans themselves.

Legislative Defendants are preparing to respond to the *NCLCV* Petition for Writ of Supersedeas or Prohibition at the Court of Appeals, and today at noon responded to a number of filings by *NCLCV* and *Harper* Petitioners in this Court (see docket no. 413P21). Those filings to which Legislative Defendants' responded to include, but are not limited to the *NCLCV* and *Harper* Petitioners' petitions for discretionary review prior to the Court of Appeals review, petitions for writ of supersedeas, motion to recuse Justice Berger, and other miscellaneous filings. Legislative Defendants are also preparing to respond to both the Petition made by *NAACP* Petitioners and their recusal motion by tomorrow, 9 December 2021 by 5:00 p.m.

Therefore, Legislative Defendants respectfully request that this Court allow the Court of Appeals to proceed and review Defendants filings on or before Thursday 9 December 2021 at 5:00 p.m. before considering any relief.

Respectfully submitted this the 8th day of December, 2021.

NELSON MULLINS RILEY &
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Electronically Submitted

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N.C. R. App. P. 33(b) Certification:
I certify that all of the attorneys listed below
have authorized me to list their names on this
document as if they had personally signed it.

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CERTIFICATE OF SERVICE

It is hereby certified that on this the 8th day of December, 2021, the foregoing was served on the individuals below by email:

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/s/ electronically submitted
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