

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 015426, 21 CVS 500085

NORTH CAROLINA LEAGUE OF
CONSERVATION VOTERS, INC.;
HENRY M. MICHAUX, JR., et al.,

Plaintiffs,

REBECCA HARPER, et al.,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in
his official capacity as Chair of the House
Standing Committee on Redistricting, et al.,

Defendants.

**NCLCV PLAINTIFFS' RESPONSE
TO FEBRUARY 8, 2022 ORDER
REGARDING APPOINTMENT OF
SPECIAL MASTER**

Pursuant to this Court's February 8, 2022 Order on Submission of Remedial Plans for Court Review, the NCLCV Plaintiffs hereby submit the names and qualifications of suggested Special Masters.

In the NCLCV Plaintiffs' view, the two most experienced redistricting special masters in the Nation—who would be extraordinarily well-qualified to assist the Court in reviewing or developing redistricting plans—are:

- **Professor Nathaniel Persily**, the James B. McClatchy Professor of Law at Stanford Law School (<https://law.stanford.edu/directory/nathaniel-persily, npersily@stanford.edu>, 917-570-3223). Professor Persily is one of the Nation's foremost redistricting experts and has been appointed as the special master for redistricting by the Superior Court panel in *Common Cause v. Lewis*, No. 18-CVS-014001 (N.C. Super. Ct. Sept 13, 2019), and by the U.S. District Court for the Middle

District of North Carolina in *Covington v. North Carolina*, 283 F. Supp. 3d 410 (M.D.N.C. 2018), as well as by the Supreme Court of Connecticut (2021, 2012), the Supreme Court of Pennsylvania (2018), the U.S. District Court for the Eastern District of New York (2012), the U.S. District Court for the Northern District of Georgia (2004), the Maryland Court of Appeals (2002), and the U.S. District Court for the Southern District of New York (2002). He has also served as a consultant to the redistricting commissions of Maryland (2021) and Utah (2011), as well as to the Chief Justice of Puerto Rico (2022, 2011). His work has been cited in seven U.S. Supreme Court opinions.¹

- **Professor Bernard Grofman**, the Jack W. Peltason Endowed Chair and Distinguished Professor of Political Science at the University of California at Irvine (<http://www.socsci.uci.edu/~bgrofman>, bgrofman@uci.edu). Professor Grofman is also one of the Nation's foremost redistricting experts and has been appointed as a special master in numerous redistricting cases, including in Virginia (2021, 2019, 2016), Georgia (2019), and Utah (2017). His work has been cited in thirteen U.S. Supreme Court opinions.²

¹ See, e.g., *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 794, 823 (2015); see also, e.g., Nathaniel Persily, *When Judges Carve Democracies: A Primer on Court-Drawn Redistricting Plans*, 73 GEO. WASH. L. REV. 1131 (2005).

² See, e.g., *Thornburg v. Gingles*, 478 U.S. 30, 47–49, 52–53, 58, 62, 68 (1986); see also, e.g., Bernard Grofman & Gary King, *The Future of Partisan Symmetry as a Judicial Test for Partisan Gerrymandering after LULAC v. Perry*, 6 ELECTION L.J. 2 (2007); Bernard Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L. REV. 77 (1985).

In addition, the following six professors are amply qualified to assist the Court in reviewing or developing redistricting plans:

- **Professor Tyler J. Jarvis**, Professor of Mathematics at Brigham Young University, and Director of the Brigham Young University Applied and Computational Mathematics Emphasis (<http://www.math.byu.edu/~jarvis>, jarvis@math.byu.edu, 801-420-8195). Professor Jarvis has been retained by the Utah Independent Redistricting Commission to analyze redistricting maps (2021).
- **Professor Jonathan Cervas**, Postdoctoral Fellow at the Institute for Politics and Strategy, Carnegie Mellon University (<https://www.cmu.edu/ips/people/postdoctoral-fellows/jonathan-cervas.html>, cervas@cmu.edu). Professor Cervas was selected by the Pennsylvania General Assembly to serve as the map consultant to the Legislative Reapportionment Commission for redistricting in 2021 and has assisted special masters in drawing remedial redistricting maps in federal courts in Utah (2017), Virginia (2018–2019), and Georgia (2019–2020).³
- **Professor John F. Nagle**, Professor Emeritus of Physics and Biological Sciences at Carnegie Mellon University (<https://www.cmu.edu/physics/people/faculty/nagle.html>, nagle@cmu.edu, 412-268-2764). Professor Nagle has applied mathematics and computational-redistricting tools to analyze redistricting plans, including in Pennsylvania, and has published multiple peer-reviewed articles on redistricting and the measurement of partisan bias.⁴

³ See, e.g., Jonathan Cervas & Bernard Grofman, *Tools for Identifying Partisan Gerrymandering with an Application to Congressional Redistricting in Pennsylvania*, 76 POLITICAL GEOGRAPHY 1 (2020).

⁴ E.g., John F. Nagle & Alec Ramsay, *On Measuring Two-Party Partisan Bias in Unbalanced States*, 20 ELECTION L.J. 116 (2021); John F. Nagle, *What Criteria Should Be Used for*

- **Professor Jonathan Rodden**, Professor of Political Science at Stanford University, and Senior Fellow at the Hoover Institution and at the Stanford Institute for Economic Policy Research (<https://politicalscience.stanford.edu/people/jonathan-rodden>, jrodden@stanford.edu, 650-723-5219).⁵ Professor Rodden has published extensively on the application of mathematics and computer science to redistricting and served as an expert witness in redistricting cases.⁶
- **Professor Jeanne N. Clelland**, Professor of Mathematics at the University of Colorado at Boulder (<https://www.colorado.edu/math/jeanne-clelland>, jeanne.clelland@colorado.edu, 303-492-7083). Professor Clelland has published on the application of mathematics and computer science to redistricting and has conducted expert analyses of redistricting plans for the Colorado Independent Legislative Redistricting Commission (2021) and in Wisconsin (2021).⁷
- **Professor Larry M. Bartels**, the May Werthan Shayne Chair of Public Policy and Social Science at Vanderbilt University (<https://www.vanderbilt.edu/political-science/bio/larry-bartels>, larry.bartels@vanderbilt.edu, 615-322-6227). Professor

Redistricting Reform?, 18 ELECTION L.J. 63 (2019); John F. Nagle, *Measures of Partisan Bias for Legislating Fair Elections*, 14 ELECTION L.J. 346 (2015).

⁵ Counsel for the NCLCV Plaintiffs understand that in pending litigation in Ohio and Pennsylvania, Professor Jonathan Rodden submitted reports for parties represented by counsel for the *Harper* Plaintiffs. Counsel for the NCLCV Plaintiffs are not otherwise aware that the special master candidates noted herein are performing litigation-related work for any of the parties in this litigation or their counsel.

⁶ See, e.g., Daryl R. DeFord, Nicholas Eubank & Jonathan Rodden, *Partisan Dislocation: A Precinct-Level Measure of Representation and Gerrymandering*, 29 POLITICAL ANALYSIS 1 (2021).

⁷ See, e.g., *In re Colorado Indep. Legislative Redistricting Comm'n*, No. 21SA305, 2021 WL 5294962, ¶ 59 (Colo. Nov. 15, 2021).

Bartels has published on redistricting issues and served as the nonpartisan chair of the New Jersey Apportionment Commission (2001).⁸

Dated: February 9, 2022

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Respectfully submitted,

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⁸ See, e.g., *Page v. Bartels*, 144 F. Supp. 2d 346 (D.N.J. 2001) (three-judge court); *Robertson v. Bartels*, 148 F. Supp. 2d 443 (D.N.J. 2001) (three-judge court), *summarily aff'd*, 534 U.S. 1110 (2002).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon each of the parties to this action by electronic mail to counsel at the e-mail addresses indicated below, in accordance with North Carolina Rule of Civil Procedure 5(b)(1)(a):

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This 9th day of February, 2022.

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