

SUPREME COURT OF NORTH CAROLINA

NORTH CAROLINA LEAGUE OF)
 CONSERVATION VOTERS, INC., et al.,)
 Plaintiffs-Appellants,)
)
 REBECCA HARPER, et al.,)
 Plaintiffs-Appellants, and)
)
 COMMON CAUSE,)
 Plaintiff-Intervenor-Appellant,)
)
 v.)
)
 REPRESENTATIVE DESTIN HALL, in his)
 official capacity as Chair of the House)
 Standing Committee on Redistricting, et al.,)
)
 Defendants-)
 Appellees.)

From Wake County
 21 CVS 015426
 21 CVS 500085

LEGISLATIVE DEFENDANTS' MOTION TO DISMISS APPEAL

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TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

NOW COMES President *Pro Tempore* Philip E. Berger, Senator Warren Daniel, Senator Ralph Hise, Senator Paul Newton, Representative Destin Hall, and Speaker Timothy K. Moore in their official capacities (collectively, “Legislative Defendants”) through counsel, pursuant to N.C. R. App. P. 37(e) and hereby respectfully move to dismiss their appeal of the trial court’s rulings on the remedial Congressional Plan and Legislative Defendants’ Motion to Disqualify. In support of this motion, Legislative Defendants show the Court as follows:

1. On 23 February 2022 all Plaintiffs and Legislative Defendants filed notices of appeal from the trial court’s 23 February 2022 order. Plaintiffs appealed from the trial court’s order upholding one or both of the remedial House and Senate Redistricting Plans. Legislative Defendants filed a notice of appeal from two trial court orders: (1) striking down the remedial Congressional Redistricting Plan and replacing it with a plan drawn by an Assistant to the Special Masters; and (2) denying Legislative Defendants’ Motion to Disqualify Special Master Assistants Wang and Jarvis.

2. On 26 May 2022, the Parties filed their joint record on appeal.

3. Since filing the record on appeal the Plaintiffs have engaged in additional motions practice. First, Plaintiff Intervenor, Common Cause, sought to suspend the Appellate Rules and expedite briefing and oral arguments in this case. Secondly, Plaintiffs and State Defendants have provided their position on what effect

the grant of certiorari by the Supreme Court of the United States in *Moore v. Harper* (21-1871) has on the posture of this matter.

4. Based on the filings to date in this Court, it is clear that all parties agree that nothing in the outcome of this appeal will disturb the maps currently in place for the 2022 election cycle. That is because the remedial Congressional Map ordered by the trial court is only applicable to the 2022 election, and that map will apply to the 2022 election regardless of the outcome of the appeal in this Court. Accordingly, in several portions of these filings, parties point out that the Congressional Maps ordered by the trial court are only valid for the 2022 election. See 8 July 2022 Filing of State Board, p. 2-3; 8 July 2022 Joint Filing of NCLCV and Harper Plaintiffs, p 5; 8 July 2022 Filing of Plaintiff Intervenor Common Cause p 2.

5. Because the remedial Congressional Map ordered by the trial court will apply in 2022, and because 2022 is the only election to which the remedial Congressional Map will apply, in an effort to avoid further cost and confusion to the taxpayers and voters of North Carolina, Legislative Defendants' seek to dismiss the entirety of their portion of this cross-appeal.¹

6. Legislative Defendants have consulted with the other Parties in this matter pursuant to Rule 37(e). As part of the consultation, Legislative Defendants offered to pay the taxable appellate costs related to the Congressional appeal, not

¹ As indicated in the notice of appeal Legislative Defendants appealed from the trial court's 23 February 2022 orders rejecting the General Assembly's Remedial Congressional Plan and adopting a plan drawn by Special Masters and the order denying Legislative Defendants' motion to disqualify Special Master Assistants Wang and Jarvis. (R pp 5143-44).

already paid by Legislative Defendants. Counsel for the State Board of Elections take no position on this motion. Counsel for *Harper, Common Cause*, and *NCLCV* indicated that they would file a response after seeing this motion.

WHEREFORE, Legislative Defendants request that the entirety of their portion of the cross appeal in the instant matter be dismissed, with appellate costs related to the Congressional appeal incurred thus far to be taxed to Legislative Defendants.

Respectfully submitted, this the 13th day of July, 2022.

**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 13th day of July, 2021, the foregoing was served on the individuals below by email:

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