STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

MARGARET DICKSON, *et al.*,

Plaintiffs

v.

ROBERT RUCHO, *et al.*,

Defendants.

Civil Action No. 11 CVS 16896

NORTH CAROLINA STATE CONFERENCE OF BRANCHES OF THE NAACP, *et al.*,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et al.*,

Defendants.

Civil Action No. 11 CVS 16940

(*Consolidated*)

JOINT PLAINTIFFS' EMERGENCY MOTION FOR RELIEF

I. INTRODUCTION

As predicted by Joint Plaintiffs in their December 4 and 12, 2017 briefing to this Court on remand and in argument on December 15, 2017, this case is not moot and this Court now must act in order to ensure that Joint Plaintiffs, who for more than six years now have suffered the harms of unconstitutional redistricting plans, finally have full relief and constitutional plans in place for the November 2018 state legislative elections.

Proceedings in a parallel federal court action, *Covington v. North Carolina*, 1:15-cv-399 (M.D.N.C.), resolved on January 19, 2018, with the federal district court ordering alterations to 9 of the 117 districts modified by the legislature in 2017 (hereinafter, the "2017 Enacted Plans" or "2017 Enacted Districts") in order to remedy the expansive racial gerrymandering found by the federal district court in 2016 and unanimously affirmed by the Supreme Court in 2017. Four of those districts were ordered to be altered on the basis that they failed to cure the racial gerrymandering; the other five districts (four in Wake County and one in Mecklenburg County) were ordered to be restored to their 2011 configurations because those districts did not need to be altered in order to remedy the racial gerrymandering in those counties and their alterations thereby violated the state constitution's prohibition on mid-decade redistricting. *See* App. A, Mem. Op. and Order, *Covington v. North Carolina,* No. 1:15-cv-00399 (M.D.N.C. Jan. 19, 2018), ECF No. 241. The *Covington* court ordered that the 9 districts drawn by the Special Master (who was appointed by that court) be implemented. *See id.* at 20.

On January 24, 2018, legislative defendants in that case filed an emergency stay application with the United States Supreme Court, asking the Supreme Court to halt the implementation of the Special Master's districts. On February 6, 2018, the Supreme Court granted that stay only in part, putting a hold solely on the district court's alterations to certain

House Districts in Wake and Mecklenburg Counties. That is, the Supreme Court allowed the district court's alterations to the 2017 Enacted Map based on federal law to be used in the upcoming elections, but did not allow the district court's alterations based on state law to be used. Because, as Legislative Defendants in *Covington* argued (*see, e.g.,* Leg. Defs.' Resp. to Special Master's Draft Report at 1-3, *Covington v. North Carolina,* No. 1:15-cv-00399 (M.D.N.C. Nov. 17, 2017), ECF No. 215 (asserting that the court is not empowered to determine whether the plans comply with state law)), the objections raised by both Joint Plaintiffs here and the *Covington* Plaintiffs with respect to House Districts in Wake and Mecklenburg Counties are based entirely on state law—that is, that Districts 36, 37, 40, 41, and 105 violate the state constitution—state courts are surely a correct place for these disputes to be resolved.

Based on its remand order from the North Carolina Supreme Court and briefing and argument heard on remand, this Court is adequately positioned to rule immediately on those remedial issues and order into effect a map that respects the state constitution. Thus, Joint Plaintiffs respectfully request that this Court order into effect the *Covington* Special Master's revisions to the 2017 Enacted House districts in Wake and Mecklenburg Counties.

II. PROCEDURAL BACKGROUND

These cases have been in litigation since 2011. Rulings by the North Carolina Supreme Court twice upholding the 2011 redistricting plans for state legislative and congressional districts against racial gerrymandering challenges were twice vacated by the United States Supreme Court. Following briefing and arguments on second remand from the United States Supreme Court, on October 9, 2017, the North Carolina Supreme Court ordered that this case be remanded to the trial court to make three determinations:

1. In light of *Cooper v. Harris* and *North Carolina v. Covington*, a controversy exists or if this matter is moot in whole or part;

2. There are other remaining collateral state and/or federal issues that require resolution; and
3. Any other relief that may be proper.

Dickson v. Rucho, No. 201PA12-4 (N.C. Oct. 9, 2017) (internal quotations omitted). In remand proceedings, Joint Plaintiffs argued that this case was not moot and depending on the outcome of the proceedings in *Covington*, this Court may be required to act quickly to ensure that Joint Plaintiffs were afforded the relief to which they were entitled. Yesterday's Supreme Court ruling has settled beyond dispute that the cases are not moot. This Court has not to date ruled on the questions it was instructed to answer by the North Carolina Supreme Court, but the matters are fully briefed and argued. Joint Plaintiffs are now entitled to a declaratory judgment that the challenged plans violated the constitution and are entitled relief in the form of the implementation of redistricting plans that fully comply with the state and federal constitutions.

As this Court knows, separate groups of plaintiffs filed lawsuits in federal court challenging many of the same congressional and state legislative districts. *See Harris v. McCrory,* 159 F.Supp. 3d 600, 609 (M.D.N.C. 2016); *Covington v. North Carolina,* 316 F.R.D. 117, 129 (M.D.N.C. 2016). In *Harris*, a three-judge federal court struck down Congressional Districts 1 and 12 as racial gerrymanders on February 6, 2016. *Harris*, 159 F. Supp. 3d at 609. In *Covington*, a three-judge federal court unanimously invalidated twenty-eight state legislative districts, the same ones challenged here, on August 11, 2016, again finding that the districts were unconstitutional racial gerrymanders. *See Covington,* 316 F.R.D. at 176. The United States Supreme Court noted probable jurisdiction and affirmed the decision in *Harris*. *See McCrory v. Harris,* 136 S. Ct. 2512 (2016) (probable jurisdiction noted); *Cooper v. Harris,* 581 U.S. ___, 137 S. Ct. 1455, 1482 (2017) (affirming judgment of the District Court). The Supreme Court unanimously affirmed the ruling in Covington. *North Carolina v. Covington,* 137 S. Ct. 2211

(2017).

Remedial proceedings in *Covington* only recently completed. The General Assembly was given the first opportunity to enact new state legislative districts that remedy the unconstitutional racial gerrymandering, and submitted newly drawn plans on September 7, 2017. *See* Notice of Filing and Enactment of House and Senate Districting Plans, *Covington v. North Carolina,* No. 1:15-cv-00399 (M.D.N.C. Sept. 7, 2017), ECF No. 184. The *Covington* plaintiffs objected to those remedial maps' adequacy not only in addressing the unconstitutional racial gerrymanders, but also in their compliance with the North Carolina Constitution. *See* Pls.' Obj. at 20, 33, *Covington v. North Carolina,* No. 1:15-cv-00399 (M.D.N.C. Sept. 15, 2017), ECF No. 187. Specifically, the Covington plaintiffs argued that the remedial maps in various places violated the state constitutional prohibition on mid-decade redistricting and violated the Whole County Provision. *Id.* at 35, 38. The district court agreed that plaintiffs raised legitimate concerns with respect to the failure to cure the racial gerrymandering and the mid-decade redistricting prohibition. The court appointed a special master to assist the court in assessing the adequacy of the General Assembly's proposed plans, and in drafting alternative remedial plans. *See* Order Appointing Special Master, *Covington v. North Carolina,* No. 1:15-cv-00399 (M.D.N.C. Oct. 26, 2017), ECF No. 202.

On January 19, 2018, the federal district court issued its final remedial order. *See* App. A. It declined to entertain the *Covington* plaintiffs' Whole County Provision objections, but sustained their objections with respect to the failure to cure the unconstitutional racial gerrymandering in Senate Districts 21 and 28 and House Districts 21 and 57, and their objections with respect to House Districts 36, 37, 40, 41 and 105 violating the state constitution. *Id.* at 59, 70. The federal court ordered that the Special Master's plan, designed to correct the sustained

objections, be immediately implemented for the 2018 election cycle. *Id.* at 92.

The first stages of the 2018 election cycle are imminent. Filing for state legislative seats opens on Monday, February 12, 2018 and closes on February 28, 2018. The primary elections for those seats will be conducted on May 8, 2018. Though significant election deadlines are rapidly approaching, there is still time for this Court to act to ensure that Joint Plaintiffs are finally afforded a full measure of justice.

Joint Plaintiffs seek relief now only on their claims that House Districts 36, 37, 40, 41 and 105 violate the state constitutional prohibition on mid-decade redistricting. Given the exigent circumstances of the upcoming elections, Joint Plaintiffs would defer proceedings with respect to state legislative districts that Joint Plaintiffs argue violate the Whole County Provision.

III. ARGUMENT

A. The Partial Stay Entered by the United States Supreme Court Does Not Deprive this Court of Jurisdiction to Act to Afford Joint Plaintiffs Relief or Rule on the State Constitutional Issues

The stay entered yesterday by the United States Supreme Court does not deprive this state court of the authority or duty to interpret the state constitution and to ensure that Joint Plaintiffs are afforded full constitutional relief. While there was no decision explaining the Court's reasoning, *see* App. B, Order, where the objections were based on state law, the order can only be explained on two possible bases: (1) the Supreme Court believed that the federal court likely did not have the authority to consider the pendent state constitutional issues; or (2) the *Covington* Plaintiffs did not have standing to assert complaints with respect to the "remedies" in those House Districts. Indeed, those are the only two complaints that Legislative Defendants raised in their briefing to the Supreme Court in *Covington* with respect to those state House Districts. Specifically, legislative defendants in *Covington* (the same legislative defendants here)

repeatedly argued that none of the *Covington* plaintiffs lived in any of the Wake and Mecklenburg House districts at issue and did not have standing to challenge the adequacy or constitutionality of the redrawing of those districts in the 2017 Enacted Plan. *See* Emergency Stay Application, *North Carolina v. Covington,* No. 17A790 at 2, 20, 21, 27 (U.S. Jan. 24, 2018) (available at https://www.supremecourt.gov/DocketPDF/17/17A790/29070/20180124115223674 _2018-0124%20Covington%20Stay%20 Application%20PDFA.pdf), Reply in Support of Emergency Stay Application, *North Carolina v. Covington,* No. 17A790 at 2 (U.S. Feb. 2, 2018) (available at https://www.supremecourt.gov/DocketPDF/17/17A790/34172/ 20180202115710148_ Coving ton%20Response.pdf).

Likewise, legislative defendants repeatedly argued that the federal court could not and should not rule on the question of whether the redrawing of those districts violated the state constitution. *See* Leg. Defs.' Resp. to Special Master's Draft Report, at 2-3, *Covington v. North Carolina*, No. 1:15-cv-00399 (M.D.N.C. Nov. 17, 2017), ECF No. 215 ("Neither the Court nor the special master has jurisdiction to consider state constitutional claims made against the State of North Carolina"); *id.* at 3 ("the special master has modified these districts based upon an erroneous interpretation of the North Carolina Constitution apparently adopted by the Court. Nothing under federal law would prevent the North Carolina General Assembly from adopting completely new, statewide districting plans at any time...Whether any such action would violate the North Carolina Constitution is a question reserved to the Supreme Court of North Carolina and should not be decided by the special master or the Court."); *see also* Leg. Defs.' Resp. to Pls.' Objs., at 51, *Covington v. North Carolina*, No. 1:15-cv-00399 (M.D.N.C. Sept. 22, 2017), ECF No. 192 (stating the federal court "is also foreclosed from ruling on tested issues of state law" and describing the state constitutional prohibition on mid-decade redistricting as an

"unsettled issue of state law...more appropriately directed to North Carolina courts"). Most importantly, neither of these two bases for the Supreme Court stay can or do impede this Court's resolution of the issues, because it is this Court's duty to interpret state law and because the Plaintiffs here undoubtedly have standing to raise those objections.

As a threshold matter, because some of the plaintiffs in these consolidated actions are membership-based organizations with substantial numbers of members in Wake and Mecklenburg Counties, these organizations have standing on behalf of their members to raise concerns that the districts at issue here unnecessarily alter districts in violation of the state constitutional prohibition on mid-decade redistricting. *See Creek Pointe Homeowner's Ass'n, Inc. v. Happ*, 146 N.C. App. 159, 165, 552 S.E.2d 220, 225 (2001). For example, the League of Women Voters of North Carolina has nearly three hundred members in Wake County, and multiple members live in each of the districts central to the inquiry here (Districts 36, 37, 40 and 41). *See* App. C, Affidavit of Janet Hoy. Likewise, the League has nearly two hundred members in Mecklenburg County, and multiple members live in House District 105. *Id.* The North Carolina NAACP, with thousands of members statewide also likely has members in each of the districts at issue here. Thus, given this expansive presence of members of the organizational plaintiffs, there can no longer be any reasonable dispute that Joint Plaintiffs have standing to assert objections to the "remedy" districts in Wake and Mecklenburg Counties.

More significantly, this Court can and must rule on state constitutional issues. This Court must ensure that the remedial plan does not embed other violations of the state constitution in the legislature's attempted remedy of federal constitutional violations. This Court is the only court that can now provide for elections under constitutional districts for the *first time this decade*. Joint Plaintiffs here are entitled to object to the adequacy of any potential relief, including

whether allegedly remedial maps create new state constitutional violations. "[T]he courts have power to fashion an appropriate remedy depending upon the right violated and the facts of the particular case." *Simeon v. Hardin*, 339 N.C. 358, 373, 451 S.E.2d 858, 869 (1994) (internal quotations omitted). It is not sufficient that the General Assembly simply enact new districts if these new districts also do not correct the constitutional flaws and comply with state and federal law. This Court can and must intervene if deficiencies are identified and left unaddressed. The North Carolina Supreme Court upheld this exact kind of intervention in *Stephenson v. Bartlett*, 357 N.C. 301, 305, 582 S.E.2d 247, 250 (2003) (*Stephenson II*), stating that "within the context of state redistricting and reapportionment disputes, it is well within the 'power of the judiciary of the State to require *valid* reapportionment or to formulate a *valid* redistricting plan.'" (quoting *Scott v. Germano*, 381 U.S. 407, 409 (2002)) (emphasis added).

In these exigent circumstances, this Court is the only forum to determine whether the remedial map complies with the state constitution, or at least to make that determination in time to impose constitutional plans for the 2018 elections. Absent this Court's prompt intervention, Plaintiffs in this case would be left with no recourse and despite having won twice in the United States Supreme Court, would still have inadequate relief for the 2018 election. And absent action by this Court, North Carolina's citizens would also continue to suffer a fourth election under an unconstitutional plan.

Finally, anticipating Legislative Defendants' arguments here, it is not the law that Joint Plaintiffs would have to file a new lawsuit in order to ensure that the legislature respects the state constitution in remedying proven racial gerrymandering. Joint Plaintiffs would be severely prejudiced by having to file a new lawsuit challenging the remedial districts on state constitutional grounds: it would be almost impossible to obtain any relief in that new litigation

for the 2018 elections; the cost to Joint Plaintiffs of creating a new record would be enormous and unnecessary; and judicial resources would be wasted by having these remedial issues determined by a court unfamiliar with the violations being remedied. Indeed, in *Stephenson v. Bartlett*, 357 N.C. 301, 307, 582 S.E.2d 247, 251 (2003) (*Stephenson* II), the North Carolina Supreme Court certainly did not suggest that new constitutional violations embedded in a remedial plan designed to address different constitutional violations required the filing of a new lawsuit. The *Stephenson I* plaintiffs had a constitutional remedy imposed by the court in *Stephenson II* when the legislature's attempt at a remedy created even more constitutional problems. The same result should be reached here.

B. House Districts 36, 37, 40, 41 and 105 Violate the Plain Language of the State Constitution, and Cannot be Appropriate Relief to Other Violations of the State Constitution

The state's 2017 Enacted Plans also contain several violations of the state constitution and, as such, cannot and should not be approved by this Court as an appropriate remedy. The North Carolina Constitution provides:

> When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

N.C. Const. art. II,§ 3(4).

> When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

N.C. Const. art. II, § 5(4). The plain language of these provisions forbids any redrawing of districts other than once per decade. Of course, under the Supremacy Clause, a violation of federal law trumps state law. Thus, *absent a court order*, the General Assembly is prohibited from redrawing districts mid-decade.

On August 11, 2016, the *Covington* court "ordere[ed] the North Carolina General Assembly to draw remedial districts…to correct the constitutional deficiencies in the Enacted Plans." 316 F.R.D. at 177. That order, however, did not, and could not, authorize the General Assembly to redraw districts not required to be redrawn to correct those federal constitutional deficiencies in violation of the state constitutional prohibition on mid-decade redistricting.

The Supreme Court of North Carolina has held that the State Constitution "enumerates several limitations on the General Assembly's redistricting authority," including the prohibition on mid-decade redistricting in Article II, section 5. *See Pender Cty. v. Bartlett*, 649 S.E.2d 364, 366 (N.C. 2007), *judgment aff'd sub nom. Bartlett v. Strickland*, 556 U.S. 1 (2009). "Those constitutional limitations are binding upon the General Assembly except to the extent superseded by federal law." *Id.* (quoting *Stephenson v. Bartlett*, 562 S.E.2d 377, 389 (N.C. 2002)). This is the case because "where [a jurisdiction's] remedial plan contravenes state laws that have not been remedially abrogated by the Supremacy Clause," remedial plans offered by a legislative body must still respect the policy choices that sovereign state constitutional law demands. *Large v. Fremont Cty.*, 670 F.3d 1133 (10th Cir. 2012); *Bodker v. Taylor*, Civ. A. No. 1:02-cv-999ODE, 2002 U.S. Dist. LEXIS 27447, at *5 (N.D. Ga. 2002) (court would not order a jurisdiction's preferred redistricting plan when ordering implementation of that plan would contravene state law). *See also Cleveland Cty. Ass'n for Gov't by the People v. Cleveland Cty. Bd. of Comm'rs*, 142 F.3d 468, 477 (D.C. Cir. 1998) ("[I]f a violation of federal law necessitates a remedy barred by state law, the state law must give way; if no such violation exists, principles of federalism dictate that state law governs."). Here, the General Assembly is not authorized to disregard the state policies inherent in, and commanded by, the state constitution and cannot disregard those commands unless specifically abrogated by the *Covington* court's order

identifying a violation of federal law and directing a remedy.

Where, by alternate maps like those submitted by the *Covington* plaintiffs and developed by the Special Master in that case, Joint Plaintiffs can demonstrate that it is not necessary to abrogate compliance with the state constitution to remedy the federal constitutional violations identified, this Court should not allow a remedial plan that unnecessarily disregards that ultimate designation of state policy choice—the North Carolina Constitution. Here, there are 2 sets of alternative maps showing that it was not necessary to redraw HD 36, 37, 40, 41, and 105. *See* App. D, Special Master's Report and Exhibit 1 thereto (documenting how the districts at question in Wake and Mecklenburg Counties did not need to be changed), *Covington*, 1:13-cv-00399, ECF 220, 220-1; App. E, Excerpt from Ex. 7 to Covington Pls.' Obj. (Gilkeson Declaration and Exhibit A thereto) (offering alternative plans for Wake and Mecklenburg Counties), *Covington*, 1:13-cv-00399, ECF 187-7.

Specifically, Article II, Sections 3 and 5 of the North Carolina Constitution lay out the restrictions imposed upon the General Assembly when engaging in state legislative redistricting. Sections 3(4) and 5(4) explicitly prohibit the legislature from redrawing state legislative districts, once enacted, until after the next decennial census. N.C. CONST. Article II, Sections 3(4) and 5(4). The 2017 Enacted Plans violate these provisions, going far beyond the necessary abrogation of the state constitution by the *Covington* court's August 11, 2016 order, 316 F.R.D. 117, and must thus be rejected.

The plain language of the state constitution on this matter precludes any serious dispute over its interpretation. In the only case where the North Carolina Supreme Court has interpreted this constitutional provision, its plain meaning was so obvious that the court held the mid-decade prohibition took precedence over another constitutional provision. *Comm'rs of Granville Co. v.*

Ballard, 69 N.C. 18 (1873). Plaintiffs in that case challenged a state statute that changed the boundaries between Franklin and Granville Counties, arguing that the statute violated Article II, Section 5, because it would have the effect of transferring part of Granville County from SD 21 to SD 7. *Id.* at 19. The North Carolina Supreme Court said that violation of the mid-decade redistricting prohibition could be avoided by interpreting the statute to mean that while Granville residents would now be residents in Franklin County, they would continue to vote in SD 21. The plaintiffs had urged against such a construction, arguing that it would then violate Article II, Section 5(3), which requires whole counties be used in the construction of Senate districts. *Id.* at 20. But in rejecting the plaintiffs' arguments, the Supreme Court, relying on the plain language, established the supremacy of that prohibition against mid-decade redistricting. *Id.* This Court can and should respect that unambiguous state constitutional rule.

Here, in both Wake and Mecklenburg Counties, the General Assembly has violated Art. II, Sections 3(4) and 5(4) by unnecessarily altering districts mid-decade. House Districts 36, 37, 40 and 41 in Wake County were not declared unconstitutional, they do not touch a district that was ruled unconstitutional, and it was not necessary to redraw them to cure the unconstitutional districts. The same is true for House District 105 in Mecklenburg County. These districts are modified in the enacted remedial House plan in those counties, but it is not necessary to alter those districts in order to correct the two districts in Wake County (33 and 38) and the three districts in Mecklenburg County (99, 102 and 107) that were declared unconstitutional. *See* App. A at 62.

Defendants will likely argue that the "ripple" effect of redrawing HD 33, 38, 99, 102, and 107 necessitated that HD 36, 37, 40, 41, and 105 be redrawn, but alternative maps prove the "ripple effect" theory is erroneous. Indeed, the *Covington* plaintiffs have demonstrated that with

their proposed alternative map introduced at the public hearing on August 22, 2017, and the Special Master's map confirms that altering those districts was unnecessary. *Id.*

The federal court's order invalidating only certain house districts in Wake and Mecklenburg County does not mandate or allow abrogation of the state constitutional prohibition against mid-decade redistrict except insofar as absolutely necessary to remedy the violation. Importantly, partisan goals cannot trump state constitutional compliance. *Compare* Rep. Jackson Amendment at 40-51, *Covington v. North Carolina,* No. 1:15-cv-00399 (M.D.N.C. Sept. 7, 2017), ECF No. 184-28 *with* Stat Pack for 2017 House Redistricting Plan at 4-15, *Covington v. North Carolina,* No. 1:15-cv-00399 (M.D.N.C. Sept. 7, 2017), ECF No. 184-2 (HD 40, currently represented by a Democrat, is altered to become Republican-performing district). The General Assembly has already redrawn HD 40 and the other identified districts once this decade—its 2011 unconstitutional acts cannot now justify a complete disregard of the state constitution's prohibition on mid-decade redistricting. Thus, because the Special Master's and *Covington* plaintiffs' proposed maps in these counties remedy the racial gerrymandering violation without affecting House Districts 36, 37, 40, 41 and 105, it is clear that the enacted Wake and Mecklenburg County House district configurations violate the state constitutional prohibition on mid-decade redistricting and cannot be enacted or approved by this Court.

C. The Equities Demand this Court's Immediate Action

Finally, the unique procedural posture of this case dictates that equitable concerns weigh heavily in favor of this Court's immediate action. There is already in all parties' hands a plan that remedies the state constitutional violations briefed in December and here: the Special Master's Wake and Mecklenburg House District configurations from *Covington.* This Court will not have to develop its own remedial maps, and the Special Master's districts can be ordered into

effect immediately, with no or minimal impact on filing (depending on when this Court entered its order).

Likewise, the immediacy of the 2018 election cycle obviates the need for this Court to afford the legislature yet another chance to remedy its persisting constitutional violations. *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978) (legislature is entitled to "a reasonable opportunity . . . to meet constitutional requirements by adopting a substitute measure," insofar as this is "*practicable*.") (emphasis added). This Court is authorized and required to ensure that the state constitution is fully heeded, and that duty requires action here. And such action will ensure that voters in North Carolina finally have fully constitutional state legislative districts in 2018.

IV. CONCLUSION

For all the foregoing reasons, Joint Plaintiffs respectfully request that this Court:

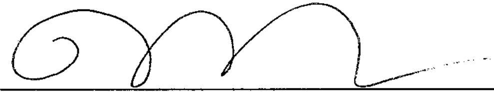
1. Issue a ruling that these consolidated cases are not moot and that judgment is entered in favor of Joint Plaintiffs;
2. Declare that the 2017 Enacted House Districts 36, 37, 40, 41, and 105 violate the state constitutional prohibition on mid-decade redistricting;
3. Enjoin Defendants from conducting elections under the 2017 enacted House plan's configurations of the Wake and Mecklenburg County districts;
4. Order that the configurations of Wake and Mecklenburg County House districts designed by the Special Master in *Covington*, which do not violate the state constitutional prohibition on mid-decade redistricting, be ordered into effect for the 2018 election cycle; and
5. Order that any citizen residing in a House district modified by the Court's order as of the closing day of the filing period for the 2018 election be qualified to serve as a

Representative if elected to that office, notwithstanding the requirements of Section 7 of Article II of the North Carolina Constitution.

Joint Plaintiffs' position is that these issues have been fully briefed before this Court and a hearing is unnecessary, but should the Court desire further argument, Joint Plaintiffs respectfully request that such arguments be scheduled this week so as to provide clarity before the opening of filing for state legislative races on Monday, February 12, 2018.

Respectfully submitted, this the 7th day of February, 2018.

POYNER SPRUILL LLP



Edwin M. Speas, Jr.
N.C. State Bar No. 4112
espeas@poynerspruill.com
Caroline P. Mackie
N.C. State Bar No. 41512
cmackie@poynerspruill.com
Post Office Box 1801
Raleigh, NC 27602-1801
Telephone: (919) 783-6400
Facsimile: (919) 783-1075

Attorneys for *Dickson* Plaintiffs

SOUTHERN COALITION FOR SOCIAL JUSTICE

Allison J. Riggs
N.C. State Bar #40028
Jaclyn A. Maffetore
N.C. State Bar #50849
1415 Highway 54, Suite 101
Durham, NC 27707
Telephone: 919-323-3380 ext. 117
Facsimile: 919-323-3942
E-mail: allison@southerncoalition.org

Attorney for the *NC NAACP* Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing JOINT PLAINTIFFS' EMERGENCY MOTION FOR RELIEF in the above-titled action upon all other parties in this consolidated cause by:

[ ] Hand delivering a copy hereof to each said party or to the attorney thereof;

[ ] Transmitting a copy hereof to each said party via facsimile transmittal;

[x] By email transmittal to the email addresses indicated below;

[x] Depositing a copy hereof, first class postage pre-paid in the United States mail, properly addressed to:

Alexander McC. Peters
James Bernier
NC Department of Justice
P. O. Box 629
Raleigh, NC 27602
apeters@ncdoj.gov
jbernier@ncdoj.gov

Philip J. Strach
Michael McKnight
Ogletree, Deakins, Nash, Smoak & Stewart, PC
4208 Six Forks Road, Suite 1100
Raleigh, NC 27622
Phil.Strach@ogletreedeakins.com
Michael.mcknight@ogletreedeakins.com

Counsel for Defendants

This the 7th day of February, 2018.

Caroline P. Mackie