

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
No. 21 CVS 015426

NORTH CAROLINA LEAGUE OF CONSERVATION  
VOTERS, INC., *et al.*,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL  
CAPACITY AS SENIOR CHAIR OF THE HOUSE  
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

***HARPER AND COMMON  
CAUSE PLAINTIFFS’  
RESPONSE TO  
LEGISLATIVE  
DEFENDANTS’ PROPOSED  
SPECIAL MASTER  
(JOHN MORGAN)***

Pursuant to this Court’s February 9, 2022 Order for Responses to Special Master Candidates, *Harper and Common Cause* Plaintiffs jointly submit this response to Legislative Defendants’ nomination of John Morgan to serve as Special Master. Special masters must be neutral arbiters, but no reasonable observer could believe that Mr. Morgan—the self-described “Republican demographer” retained by North Carolina Republican leaders to gerrymander the state Senate map in 2011—could be neutral. Dep. of John Morgan at 21:9-12, 29:25-37:11, *Dickson v. Rucho*, No. 201PA12-3 (June 20, 2012) (excerpts attached as Exhibit A). Mr. Morgan’s long history of unlawful gerrymandering in North Carolina and elsewhere, not to mention his complete lack of experience serving as a special master, disqualifies him.

A special master is a “judicial officer[] and a *neutral* arbiter [who] ha[s] no stake in the outcome” of the matter in which they serve. *In re Search Warrant Issued June 13, 2019*, 942 F.3d 159, 181 (4th Cir. 2019) (emphasis in original). Special masters are extensions of the court

they serve, appointed to assist the court in lending some technical or other specialized expertise. For this reason, special masters are generally held to the same ethical standards as judges. *See* Fed. R. Civ. P. 53(a)(2) (“A master must not have a relationship to the parties, attorneys, action, or court that would require disqualification of a judge.”). Like judges, a special master is disqualified from participating in a matter if an “informed observer” would “reasonably ... question [their] impartiality.” *In re Brooks*, 383 F.3d 1036, 1046 (D.C. Cir. 2004).

Mr. Morgan is far too bound up with Legislative Defendants specifically and pro-Republican gerrymandering generally to even plausibly be considered “neutral.” Since 2007, Mr. Morgan has been President of Applied Research Coordinates, advertised in a recent bid as “the top Republican map drawing firm.”<sup>1</sup> True to that billing, Mr. Morgan has a wealth of experience with pro-Republican partisan gerrymandering, including in North Carolina. He first worked on North Carolina maps during the 2001 cycle, on behalf of the North Carolina Republican Party. *See* Exhibit A at 22:4-11. Then, during the 2011 cycle, Legislative Defendants’ counsel in this case, Mr. Farr, retained Mr. Morgan on behalf of Senator Rucho. *Id.* at 29:25-37:11. Mr. Morgan proceeded to draw a state Senate map that Republican leaders—including several of the Legislative Defendants in this case—later admitted was “designed to ensure [a] Republican majorit[y].” Defs.’-Appellees’ Br. on Remand, *Dickson v. Rucho*, 2015 WL 4456364, at \*55 (N.C. July 13, 2015). Many of the 2011 Senate (and House) districts were later struck down as unconstitutional racial gerrymanders. *Covington v. North Carolina*, 316 F.R.D. 176, 176-78 (M.D.N.C. 2016), *aff’d*, 137 S. Ct. 2211 (2017). Other 2011-drawn Senate (and House) districts were then struck down as unconstitutional partisan gerrymanders. *Common Cause v. Lewis*, 2019 WL 4569584, at \*43-55 (N.C. Super. Ct. Sept. 3, 2019). Mr. Morgan focused on particular areas of the State for which the districts in this case have been found to

---

<sup>1</sup> [https://www.michigan.gov/documents/sos/MICRC\\_Election\\_Data\\_Services\\_717054\\_7.pdf](https://www.michigan.gov/documents/sos/MICRC_Election_Data_Services_717054_7.pdf).

exhibit intentional partisan bias, including in Mecklenburg, Wake, Forsyth, and Guilford counties, and in the Durham, Fayetteville, and Goldsboro areas. Ex. A at 31:9-17.<sup>2</sup>

Mr. Morgan's extensive experience with partisan gerrymandering is not limited to North Carolina. Over the past 40 years, Mr. Morgan has drawn maps for Republican legislators across the country, at least several of which have been found to be unlawful gerrymanders. *See* Exhibit A at 17:12-16, 17:25-18:5, 19:21-20:4 (describing experience working for Republican leadership in New Jersey, Indiana, and South Carolina); Morgan CV (Ex. A to Legislative Defendants' February 9 submission). He also has worked as a litigation expert for Republicans, including at the direction of Legislative Defendants' counsel in this case. *See, e.g., Page v. Virginia State Bd. of Elections*, 2015 WL 3604029, at \*9 (E.D. Va. June 5, 2015). Legislative Defendants' counsel also have defended Mr. Morgan's maps against partisan and racial gerrymandering challenges. *See Ohio A. Philip Randolph Inst. v. Householder*, 373 F. Supp. 3d 978, 996-97 (S.D. Ohio), *vacated and remanded*, 140 S. Ct. 102 (2019); *Bethune-Hill v. Virginia State Bd. of Elections*, 326 F. Supp. 3d 128, 136, 151 (E.D. Va. 2018). And courts have found several of these maps to be unlawful gerrymanders. *See Bethune-Hill*, 326 F. Supp. 3d at 181 (invalidating 2011 Virginia House of Delegates map substantially drawn by Mr. Morgan as unlawful racial gerrymander); *Householder*, 373 F. Supp. 3d at 1168 (finding that 2011 Ohio congressional map drawn with input from Mr. Morgan was gerrymandered for extreme Republican advantage). Although not noted on his CV submitted by Legislative Defendants, Mr. Morgan recently worked as a consultant to the lead Republican mapdrawer who constructed Ohio's 2021 maps that were struck down as unlawful partisan gerrymanders. *League of Women Voters of Ohio v. Ohio*

---

<sup>2</sup> Mr. Morgan has done additional work for Legislative Defendants' counsel. He was retained by Mr. Farr for map-drawing in Sampson County in 2011 (Ex. A at 26:10-20), and for the Craven County Board of Commissioners (*id.* at 28:3-9). Mr. Morgan also worked last cycle with Nathan Babcock, who now works for Defendant Senator Hise, on drawing Senate districts. *See Hise Dep.*, PX-146, at 35:1-38:16, 233:4-234:10 (Dec. 29, 2021).

*Redistricting Comm’n*, 2022 WL 110261, at \*28 (Ohio Jan. 12, 2022); *see id.* at \*36 (Brunner, J., concurring).

Were any additional basis to reject his nomination needed, courts who have heard Mr. Morgan testify have found him to be “wholly lacking in credibility,” *Bethune-Hill*, 326 F. Supp. 3d at 173-74, and have rejected his analyses as “based upon several pieces of mistaken data, a critical error,” *Page*, 2015 WL 3604029, at \*9. And it appears that Mr. Morgan, who holds no advanced degree, has never served as a special master to any court, ever. *See Morgan CV* at 2. This case should not be his first.

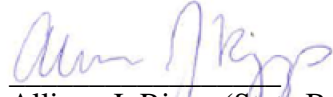
Respectfully submitted, this the 10th day of February, 2022.

By: /s/ Narendra K. Ghosh

**PATTERSON HARKAVY LLP**

Burton Craige, NC Bar No. 9180  
Narendra K. Ghosh, NC Bar No. 37649  
Paul E. Smith, NC Bar No. 45014  
100 Europa Dr., Suite 420  
Chapel Hill, NC 27517  
(919) 942-5200  
bcraige@pathlaw.com  
nghosh@pathlaw.com  
psmith@pathlaw.com

*Counsel for Harper Plaintiffs*



Allison J. Riggs (State Bar No. 40028)  
allison@southerncoalition.org  
Hilary H. Klein (State Bar No. 53711)  
hilaryhklein@scsj.org  
Mitchell Brown (State Bar No. 56122)  
Mitchellbrown@scsj.org  
Katelin Kaiser (State Bar No. 56799)  
Katelin@scsj.org  
Jeffrey Loperfido (State Bar No. 52939)  
jeffloperfido@scsj.org

SOUTHERN COALITION FOR SOCIAL JUSTICE  
1415 W. Highway 54, Suite 101  
Durham, NC 27707  
Telephone: 919-323-3909  
Facsimile: 919-323-3942

J. Tom Boer\* (D.C. Bar No. 469585;  
CA Bar. No. 199563)  
tom.boer@hoganlovells.com  
Olivia T. Molodanof\* (CA Bar No. 328554)  
olivia.molodanof@hoganlovells.com  
\* Admitted Pro Hac Vice

HOGAN LOVELLS US LLP  
3 Embarcadero Center, Suite 1500  
San Francisco, California 94111  
Telephone: 415-374-2300  
Facsimile: 415-374-2499

*Counsel for Plaintiff Common Cause*

**ELIAS LAW GROUP LLP**

Abha Khanna\*  
1700 Seventh Avenue, Suite 2100  
Seattle, Washington 98101  
Phone: (206) 656-0177  
Facsimile: (206) 656-0180  
AKhanna@elias.law

Lalitha D. Madduri\*  
Jacob D. Shelly\*  
Graham W. White\*  
10 G Street NE, Suite 600  
Washington, D.C. 20002  
Phone: (202) 968-4490  
Facsimile: (202) 968-4498  
LMadduri@elias.law  
JShelly@elias.law  
GWhite@elias.law

**ARNOLD AND PORTER  
KAYE SCHOLER LLP**

Elisabeth S. Theodore\*  
R. Stanton Jones\*  
Samuel F. Callahan\*  
601 Massachusetts Avenue NW  
Washington, DC 20001-3743  
(202) 954-5000  
elisabeth.theodore@arnoldporter.com

*Counsel for Harper Plaintiffs*  
\* Admitted Pro Hac Vice

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing *by email*, addressed to counsel for all other parties.

This the 10th day of February, 2022.

/s/ Narendra K. Ghosh  
Narendra K. Ghosh, NC Bar No. 37649