

SUPREME COURT OF NORTH CAROLINA

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

REBECCA HARPER, et al.,
Plaintiffs, and

COMMON CAUSE,
Plaintiff-Intervenor,

v.

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

Defendants.

From Wake County
No. 21 CVS 015426
No. 21 CVS 500085

**NCLCV PLAINTIFFS-APPELLANTS' RESPONSE TO MOTIONS
SEEKING THE RECUSAL OF JUSTICE ERVIN, JUSTICE EARLS,
AND JUSTICE BERGER**

TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

The NCLCV Plaintiffs-Appellants respectfully submit this response to
the Motions seeking the recusals of Justice Ervin, Justice Earls, and Justice
Berger.

This case raises urgent issues of statewide importance concerning the lawfulness of the redistricting maps the General Assembly enacted in November 2021. The NCLCV Plaintiffs-Appellants hope that, on a matter of such great consequence, every judicial officer who can participate—while respecting the constraints of the North Carolina Code of Judicial Conduct and other applicable standards—will do so. Indeed, there is a substantial “negative impact [from] the unnecessary disqualification of even one Justice” in cases, like this one, before a court of last resort, where “unlike the situation in a [lower court,] there is no way to replace a recused Justice.” *Microsoft Corp. v. United States*, 530 U.S. 1301, 1303 (2000) (statement of Rehnquist, C.J.).

Respectfully submitted this 19th day of January, 2022.

**ROBINSON, BRADSHAW & HINSON,
P.A.**

Electronically Submitted

Stephen D. Feldman

North Carolina Bar No. 34940

ROBINSON, BRADSHAW & HINSON, P.A.

434 Fayetteville Street

Suite 1600

Raleigh, NC 27601

(919) 239-2600

sfeldman@robinsonbradshaw.com

N.C. R. App. 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:

Adam K. Doerr
North Carolina Bar No. 37807
ROBINSON, BRADSHAW & HINSON, P.A.
101 North Tryon Street
Suite 1900
Charlotte, NC 28246
(704) 377-2536
adoerr@robinsonbradshaw.com

Erik R. Zimmerman
North Carolina Bar No. 50247
ROBINSON, BRADSHAW & HINSON, P.A.
1450 Raleigh Road
Suite 100
Chapel Hill, NC 27517
(919) 328-8800
ezimmerman@robinsonbradshaw.com

JENNER & BLOCK LLP

Sam Hirsch*

Jessica Ring Amunson*

Zachary C. Schauf*

Urja Mittal*

Karthik P. Reddy*

JENNER & BLOCK LLP

1099 New York Avenue NW

Suite 900

Washington, D.C. 20001

(202) 639-6000

shirsch@jenner.com

jamunson@jenner.com

zschauf@jenner.com

umittal@jenner.com

kreddy@jenner.com

*Counsel for NCLCV Plaintiffs-
Appellants*

**Pro hac vice application pending*

CERTIFICATE OF SERVICE

Pursuant to Rule 26 of the North Carolina Rules of Appellate Procedure, I hereby certify that the foregoing document has been filed with the Clerk of the North Carolina Supreme Court by electronic submission. I further certify that a copy of this document has been duly served upon the following counsel of record by electronic mail:

Burton Craige
Narendra K. Ghosh
Paul E. Smith
PATTERSON HARKAVY LLP
100 Europa Drive, Suite 420
Chapel Hill, NC 27517
bcraige@pathlaw.com
nghosh@pathlaw.com
psmith@pathlaw.com

Lalitha D. Madduri
Jacob D. Shelly
Graham W. White
ELIAS LAW GROUP LLP
10 G Street NE, Suite 600
Washington, DC 20002
lmadduri@elias.law
jshelly@elias.law
gwhite@elias.law

Abha Khanna
ELIAS LAW GROUP LLP
1700 Seventh Avenue, Suite 2100
Seattle, WA 98101
akhanna@elias.law

Phillip J. Strach
Thomas A. Farr
Gregory P. McGuire
D. Martin Warf
John E. Branch III
Alyssa M. Riggins
Nathaniel J. Pencook
NELSON MULLINS RILEY &
SCARBOROUGH LLP
4140 Parklake Avenue, Suite 200
Raleigh, NC 27612
phillip.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
greg.mcguire@nelsonmullins.com
martin.warf@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
nate.pencook@nelsonmullins.com

Mark E. Braden
Katherine McKnight
BAKER HOSTETLER LLP
1050 Connecticut Avenue NW,
Suite 1100
Washington, DC 20036
mbraden@bakerlaw.com
kmcknight@bakerlaw.com

Elisabeth S. Theodore
R. Stanton Jones
John Cella
Samuel F. Callahan
ARNOLD & PORTER KAYE SCHOLER
LLP
601 Massachusetts Avenue NW
Washington, DC 20001-3743
elisabeth.theodore@arnoldporter.com
john.cella@arnoldporter.com
stanton.jones@arnoldporter.com
samuel.callahan@arnoldporter.com

*Counsel for Plaintiffs Rebecca
Harper, et al.*

Allison J. Riggs
Hilary H. Klein
Mitchell Brown
Katelin Kaiser
Jeffrey Loperfido
Noor Taj
SOUTHERN COALITION FOR SOCIAL
JUSTICE
1415 W. Highway 54, Suite 101
Durham, NC 27707
allison@southerncoalition.org
hilaryhklein@scsj.org
mitchellbrown@scsj.org
katelin@scsj.org
jeffloperfido@scsj.org
noor@scsj.org

*Counsel for Plaintiffs Representative
Destin Hall, Senator Warren Daniel,
Senator Ralph E. Hise, Jr., Senator
Paul Newton, Representative
Timothy K. Moore, and Senator
Phillip E. Berger*

Terence Steed
Stephanie Brennan
Amar Majmundar
Mary Carla Babb
N.C. DEPARTMENT OF JUSTICE
Post Office Box 629
Raleigh, NC 27502-0629
tsteed@ncdoj.gov
sbrennan@ncdoj.gov
amajmundar@ncdoj.gov
mcbabb@ncdoj.gov

*Counsel for Defendants North
Carolina State Board of Elections,
Damon Circosta, Stella Anderson,
Jeff Carmon III, Stacy Eggers IV,
Tommy Tucker, Karen Brinson Bell;
and the State of North Carolina*

J. Tom Boer
Olivia T. Molodanof
HOGAN LOVELLS US LLP
3 Embarcadero Center, Suite 1500
San Francisco, CA 94111
tom.boer@hoganlovells.com
olivia.molodanof@hoganlovells.com

Counsel for Plaintiff Common Cause

This the 19th day of January, 2022.

Electronically Submitted
Stephen D. Feldman
Robinson, Bradshaw & Hinson, P.A.
Attorney for NCLCV Plaintiffs-Appellants