

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

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

Defendants.

Civil Action No. 1:23-cv-01057-TDS-  
JLW

**MEMORANDUM IN OPPOSITION TO LEGISLATIVE DEFENDANTS'  
MOTION TO CONSOLIDATE**

Consolidation makes sense where it helps streamline litigation, not complicate it. Here, Legislative Defendants ask this Court to consolidate two cases—*Williams v. Hall*, No. 1:23-cv-1057, and *North Carolina State Conference of NAACP v. Berger*, No. 1:23-cv-1104—on the basis that the two “involve common questions of law and fact,” Mem. in Supp. of Legis. Defs.’ Mot. to Consolidate at 4, ECF No. 25 (“Mem.”), and “substantially similar claims,” *id.* at 12. But while both cases involve challenges to North Carolina’s congressional map, the claims vary significantly. *Williams* is a far narrower case than *NC NAACP*: *NC NAACP* involves both constitutional and statutory challenges to congressional, state house, and state senate maps, whereas *Williams* consists of only

constitutional challenges to the congressional map. Specifically, among the 28 discrete challenges alleged in both Complaints, only *one* is overlapping.<sup>1</sup>

Rather than promote judicial economy, consolidating these two cases would only add unnecessary expense, delay, and confusion to the litigation. Despite Legislative Defendants' assertions, there is little to no risk of inconsistent adjudications absent consolidation. Moreover, Legislative Defendants fail to consider that there are more targeted judicial tools available—for instance, coordinating discovery among the parties, as *Williams* and *NC NAACP* Plaintiffs have already offered to facilitate.

This Court should deny Legislative Defendants' motion to consolidate.

#### **LEGAL STANDARD**

Rule 42(a) of the Federal Rules of Civil Procedure provides that “[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.” Fed. R. Civ. P. 42(a). If a motion to consolidate “meet[s] the threshold requirement of involving ‘a common question of law or fact,’ . . . then whether to grant the motion becomes an issue of judicial discretion.” *Pariseau v. Anodyne Healthcare Mgmt., Inc.*, No. 3:04-cv-630, 2006 WL 325379, at \*1 (W.D.N.C. Feb. 9, 2006) (citing *Arnold v. E. Air Lines, Inc.*, 681 F.2d 186, 193 (4th Cir.

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<sup>1</sup> The single overlapping claim is an Intentional Discrimination Claim against the 2023 Congressional Plan under the Fourteenth and Fifteenth Amendments. *Williams* Compl. at 28, ECF No. 1 (Count II); *NC NAACP* Compl. at 84–85, *N.C. State Conf. of NAACP v. Berger*, No. 1:23-cv-1104 (M.D.N.C. Dec. 19, 2023), ECF No. 1 (Count 12).

1982)). In exercising this discretion, “the court should weigh the risk of prejudice and possible confusion versus the possibility of inconsistent adjudication of common factual and legal issues, the burden on the parties, witnesses, and judicial resources by multiple lawsuits, the length of time required to try multiple suits versus a single suit, and the relative expense required for multiple suits versus a single suit.” *In re Cree, Inc., Sec. Litig.*, 219 F.R.D. 369, 371 (M.D.N.C. 2003) (citing *Arnold*, 681 F.2d at 193). These factors weigh against consolidating *Williams* and *NC NAACP*.

## ARGUMENT

### **I. Consolidation would add unnecessary delay, expense, and complication.**

The claims and challenged districts in *Williams* and *NC NAACP* vary significantly. *Williams* is a narrow, targeted case: it challenges only the congressional map, and on constitutional grounds alone. *Williams* Compl. at 26–30 (Counts I and II). In contrast, *NC NAACP* is a far more complex and sprawling action: it challenges three different maps (congressional, state senate, and state house) on both constitutional and statutory grounds. *NC NAACP* Compl. at 73–85 (Counts 1 to 12).

Consolidation would prejudice *Williams* Plaintiffs by adding substantial, unnecessary expense to litigating their claims. *NC NAACP* Plaintiffs’ VRA Section 2 claims, for example, will require the Court to “conduct ‘an intensely local appraisal’” of 10 state legislative districts that the *Williams* Plaintiffs do not challenge. *See Allen v. Milligan*, 599 U.S. 1, 19 (2023) (quoting *Thornburg v. Gingles*, 478 U.S. 30, 79 (1986)). If the two matters are tried together, the *NC NAACP* parties will present a substantial

amount of evidence from fact and expert witnesses that is at best tangential to *Williams* Plaintiffs' claims. Requiring *Williams* Plaintiffs to participate in all aspects of *NC NAACP*'s litigation would be an inefficient use of both the *Williams* Plaintiffs' resources and the Court's resources, while at the same time complicating the litigation for all parties given the different evidentiary issues underlying *Williams* Plaintiffs' and *NC NAACP* Plaintiffs' claims.

Legislative Defendants' concerns about overlapping discovery obligations can easily be addressed short of consolidation. Both the *Williams* Plaintiffs and *NC NAACP* Plaintiffs have expressed their willingness to streamline and coordinate any discovery-related issues that may arise in the two cases, including by ensuring that none of Defendants' witnesses are forced to sit for depositions twice. *See* Decl. of J. Jasrasaria Exs. A, B (emails of counsel for *Williams* Plaintiffs and *NC NAACP* Plaintiffs to Legislative Defendants). Rather than responding to or engaging with this offer from Plaintiffs, Legislative Defendants instead filed the present motion to consolidate.

Even *Singleton v. Merrill*, 582 F. Supp. 3d 924 (N.D. Ala. 2022), which Legislative Defendants regard as a "good, recent example of the benefit that can come from consolidation," Mem. at 12, only partially consolidated the cases at issue. *Singleton* involved three sets of plaintiffs (*Singleton* Plaintiffs, *Milligan* Plaintiffs, and *Caster* Plaintiffs) and only one map (Alabama's congressional map). 582 F. Supp. 3d at 935. Like *Williams* Plaintiffs and *NC NAACP* Plaintiffs here, both the *Singleton* Plaintiffs and *Caster* Plaintiffs "filed documents expressing their concern" about consolidation but "indicated

that they had no objection to consolidating *Singleton* and *Milligan* only for the limited purposes of preliminary injunction discovery and a preliminary injunction hearing.” *Id.* at 941. Meanwhile, “the *Caster* plaintiffs indicated that they had no objection to participating in the preliminary injunction hearing(s) that would occur in *Singleton* and *Milligan* and coordinating discovery with the parties in those cases[.]” *Id.* Consistent with the positions of the parties in those cases, the Court consolidated *Singleton* and *Milligan* “for the limited purposes of preliminary injunction discovery and a preliminary injunction hearing” and “denied the motion to consolidate *Caster*.” *Id.* Contrary to Legislative Defendants’ suggestion, the *Singleton* court did not fully consolidate the cases, but rather granted consolidation only to the extent necessary and consistent with plaintiffs’ agreement.

Notably, all of the redistricting cases cited by Legislative Defendants are readily distinguishable. Consolidation was unopposed by plaintiffs in *Robinson v. Ardoin*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. 2023)<sup>2</sup> and *Petteway v. Galveston County*, No. 3:22-cv-00057 (S.D. Tex. 2023).<sup>3</sup> Likewise, plaintiffs did not oppose consolidation of their identical constitutional challenges in *Georgia State Conference of the NAACP v. Georgia*, No. 1:21-cv-5338-ELB-SCJ-SDG, 2023 WL 7093025 (N.D. Ga. Oct. 26, 2023).<sup>4</sup> And in *League of United Latin Am. Citizens v. Abbott*, No. EP-21-CV-259-DCG-JES-JVB, 2021

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<sup>2</sup> Order, *Robinson*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Apr. 12, 2022), ECF No. 27.

<sup>3</sup> Order, *Petteway*, No. 3:22-cv-00057 (S.D. Tex. June 1, 2022), ECF No. 45.

<sup>4</sup> Order, *Georgia State Conference of the NAACP*, No. 1:21-cv-5338-ELB-SCJ-SDG, 2023 WL 7093025, ECF No. 40. Although the *Georgia* court ultimately consolidated statutory claims over plaintiffs’ opposition as well, here, even the constitutional challenges at issue are distinct.

WL 5417402, at \*1 & n.2 (W.D. Tex. Nov. 19, 2021), only *one of six* plaintiffs opposed consolidation. By contrast, here, *all* plaintiffs in the cases at issue oppose consolidation on all claims.

## **II. There is little to no risk of inconsistent adjudications absent consolidation.**

Legislative Defendants' fear of inconsistent adjudications or relief is overstated. At the outset, by definition, there is only one overlapping claim on which the courts could reach different conclusions. And there too, Plaintiffs' claims in the two cases are complementary, not conflicting. Plaintiffs in both cases allege that the congressional map is unconstitutional because it was passed with discriminatory intent as a motivating factor. *Williams* Compl. at 28 (Count II); *NC NAACP* Compl. at 84 (Count 12). There is no reason to believe that these complementary allegations will produce conflicting rulings.

In any event, courts are well-equipped to manage their dockets to avoid conflicting rulings and judicial inefficiency. For instance, after a single-judge federal district court enjoined use of Georgia's congressional and state legislative maps under Section 2 of the Voting Rights Act, *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, No. 1:21-CV-05337-SCJ, 2023 WL 7037537, at \*2 (N.D. Ga. Oct. 26, 2023), a pending case challenging the same maps before a three-judge court was held in abeyance to conserve judicial resources, *see* Order, *Ga. State Conf. of the NAACP v. Georgia*, No. 1:21-cv-05338-ELB-SCJ-SDG (N.D. Ga. Nov. 1, 2023), ECF No. 204. Here too, communication among the parties and with the Court will lead to the most efficient way to allocate resources in both cases on their way to resolution.

## CONCLUSION

For these reasons, Plaintiffs respectfully request that the Court deny Legislative Defendants' motion to consolidate or, in the alternative, grant Legislative Defendants' motion to consolidate only insofar as it pertains to consolidating discovery. *See, e.g., Pariseau*, 2006 WL 325379, at \*3 (limiting consolidation "for the purpose of discovery matters and pre-trial matters only").

Dated: February 15, 2024

By: /s/ Abha Khanna

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*\* Special Appearance pursuant to  
Local Rule 83.1(d)*

## **CERTIFICATE OF WORD COUNT**

I certify that this brief complies with the requirements of Local Rule 7.3. This response contains 1,497 words exclusive of the caption, signature lines, and this certificate.

Dated: February 15, 2024

By: /s/ Abha Khanna