

EXHIBIT 16

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

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

REPRESENTATIVE HUGH BLACKWELL, in his
official capacity as Chair of the House Standing
Committee on Elections, et al.,

Defendants.

Civil Action No. 23 CV 1057

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

Plaintiffs,

v.

PHILIP BERGER, in his official capacity as the
President Pro Tempore of the North Carolina Senate, et
al.,

Defendants.

Civil Action No. 23 CV 1104

SUPPLEMENTAL EXPERT REBUTTAL REPORT OF DR. ALLAN J. LICHTMAN

I. Statement Of Purpose

I previously filed an initial report in this litigation using the Arlington Heights framework, which follows standard methodology. This reply report responds to defendant expert Dr. Michael J. Barber's November 14, 2025, report regarding whether intentional discrimination against African Americans played a role in the enactment of SB 249. Both of my reports aim to determine whether a racially discriminatory purpose helped motivate North Carolina's 2025 congressional redistricting plan (SB 249).

II. Summary of Opinions

1. Dr. Barber's report critiques only a narrow portion of my initial report and does not engage with most of the Arlington Heights factors I analyzed. It therefore fails to provide a comprehensive assessment of discriminatory intent in the adoption of SB 249.
2. Where Dr. Barber directly addresses my work, he focuses principally on Table 2 (split units) and Table 3 (racial and political transfers between CD1 and CD3).
3. Even if one were to accept Dr. Barber's criticisms for the sake of argument, his analysis does not undermine my conclusions; it instead confirms and reinforces the findings of my initial report.
4. Dr. Barber's specific criticisms of Tables 2 and 3 are unsound and do not withstand closer scrutiny.
5. In sum, Dr. Barber's analyses, taken in full, support, rather than contradict, the conclusion that intentional racial discrimination was a factor in the enactment of SB 249.

III. SB 249 Violates Traditional Redistricting Principles Acknowledged by the General Assembly Re: Unit Splits and Protection of Communities of Interest

In my initial report, I explained that the General Assembly adopted avoiding political subdivision splits as a traditional redistricting criterion guiding the 2025 cycle. I compared unit splits in SB 249 to the 2022 congressional plan rather than to the 2023 plan, which is currently challenged as racially discriminatory. That choice was deliberate: the appropriate baseline for evaluating compliance with the avoidance-of-unit-splits principle is the lawful 2022 plan, regardless of who drew it, not the challenged 2023 plan, which the 2025 plan perpetuates outside of CDs 1 and 3. My comparison shows that SB 249 introduced additional splits of municipalities and VTDs, contrary to the General Assembly's stated strictures. Barber does not dispute these results; he instead challenges the choice of baseline. That challenge misunderstands the analytic purpose of the comparison.

Even if one accepts Dr. Barber's suggested baseline (the 2023 plan), his own data sustains my findings. Dr. Barber's Table 1 (p. 5) shows that SB 249 increases splits for counties and VTDs relative to the 2023 Plan, while municipality splits remain the same. In short, Dr. Barber's analysis reaffirms that the General Assembly's 2025 redraw of CDs 1 and 3 introduced more political subdivision splits than the 2023 Plan.

Dr. Barber's September 2024 report expressly recognized "communities of interest" as a traditional redistricting principle. Keeping communities of interest together is also a consideration commonly considered by experts and mapdrawers. The General Assembly has

included communities of interest in its redistricting criteria in the past, and Republicans in the House identified that communities of interest is an important consideration during floor debates on October 22, 2025, the day on which the state legislature adopted SB 249, explaining that their retained mapdrawer was permitted to consider “an incumbent state members' knowledge of communities of interest.”¹ Yet Dr. Barber’s November 14, 2025 report omits any analysis of communities of interest.

Dr. Barber’s omission is significant: treating the Black Belt’s African American population as a discrete community of interest—and assessing whether SB 249 preserves or fragments that community—is directly relevant to assessing the racial intent of SB 249. Dr. Barber’s September 2024 report confirms that African Americans in North Carolina’s Black Belt constitute a community of interest on criteria other than race.

“Race is highly correlated with a number of factors that are **essential** to the redistricting process. These include not only partisanship, but also geographic location, population density, historical trends in employment, migration, transportation, and even the type of soil in the area—something that was determined millions of years before humans were ever here.” (Barber, September 2024 Report, pp. 24-25, emphasis added).

In his scholarship cited in support of this finding, Dr. Barber concludes, “These differences across racial groups show how it is essential to consider race in theories of realignment, particularly because of the different experiences across racial groups.”² Another source that Dr. Barber cites emphasizes how the distinct historical experiences of African Americans create local communities of interest, distinct from White communities: “Social and political behaviors are passed down from one generation to the next through parent-child socialization and socialization within communities, schools, churches, and other kinds of local networks.”³

By cracking Black communities of interest in CD1 and splitting them between two White-dominated districts, SB 249 violated the redistricting principle of respect for communities of interest. The drafter of SB 249, Senator Hise—an experienced map drawer and long-time member and chair of the Senate Redistricting Committee with prior involvement in CD1’s racial composition—acknowledged that he knew of the significant minority population in CD1 and could not reasonably have been unaware that the plan fractured these Black communities.⁴

Critics of SB 249 in legislative debate repeatedly underscored that it deliberately fractured established communities of interest. For example, African American Democratic Senator Paul Lowe warned, “You are breaking apart communities bound by faith, by history and by shared struggle.”⁵ African American Democratic Representative Rodney Pierce said that SB

¹ House Floor Session, 10.22.2025, Audio, 00:07:59.

² Michael Barber and Jeremy C. Pope, “The Crucial Role of Race in Twenty-First Century US Political Realignment,” *Public Opinion Quarterly*, 88, no. 1 (2024), 1.

³ Avidit Acharya, Matthew Blackwell, and Maya Sen, *Deep Roots: How Slavery Still Shapes Southern Politics* (Princeton University Press: 2018), 21-22.

⁴ Senate Elections Committee, 10.20.25, 01:22:50.

⁵ Senate Floor Session, 10.20.2025, at 01:56:53.

249 “fractures communities, it pulls together counties that have little in common in geography, economy and daily life. It ties our inland agricultural communities where families are working generations deep in the soil to coastal areas driven by tourism, property and development. These are different economies, different priorities, different needs.”⁶

IV. Dr. Barber’s Analysis of Population Swaps Between CD1 and CD3 in SB 249 Confirms and Reinforces My Findings

Dr. Barber challenges my use of 2024 population figures and the 2024 presidential election returns for analyzing population transfers between CD1 and CD3. I address the methodological points below. Critically, however, substituting Dr. Barber’s alternative data does not alter the substantive result: both analyses reach the same conclusion. As shown in Table R1, the percentage of transfers differentiated by race, in both sets of analyses, is roughly double that differentiated by partisan voting measures, approximately 20% versus approximately 10%, confirming that racial factors played a far larger role in the swaps between CD1 and CD3.

**TABLE R1
POPULATION SWAPS CD1 AND CD3, SB 249, LICHTMAN AND BARBER RESULTS**

| COUNTIES REMOVED FROM CD1 | | | |
|---|----------------|-----------------------|---------------------|
| Lichtman Black % | Barber Black % | Lichtman Republican % | Barber Republican % |
| 37.2% | 36.1% | 54.3% | 52.1% |
| COUNTIES ADDED TO CD1 | | | |
| Lichtman Black % | Barber Black % | Lichtman Republican % | Barber Republican % |
| 16.5% | 14.4% | 63.4% | 63.6% |
| DIFFERENTIAL RACIAL AND PARTISAN MEASURES | | | |
| +20.7% | +21.7% | -9.1% | -11.5% |
| Sources: Lichtman Initial Report, Table 3; Barber Rebuttal Report, p. 14. | | | |

V. Dr. Barber’s Critique of my Demographic and Partisan Measures Does Not Withstand Scrutiny (Barber Report, pp. 21-22)

Dr. Barber criticizes my use of the 2024 presidential results to assess the partisan leanings of counties, arguing instead for long-term averages. That is another approach that can be used, but the 2024 presidential results are the most recent and directly probative measure of voting

⁶ House Floor Session, 10.22.2025, Audio, 00:15:02.

behavior in federal elections. Moreover, even if we use Dr. Barber's alternative partisan results, it makes no consequential difference: we see the same pattern of racial versus partisan swaps.

Dr. Barber also faults my reliance on 2024 population and demographic data rather than 2020 Census figures. I used the most recent available data, which reflects current demography. This methodological disagreement underscores a central problem with mid-decade redistricting: it depends on stale data and therefore risks misrepresenting one-person-one-vote conditions and the current racial composition of transfers between districts. My initial report documents that mid-decade congressional redistricting is an unusual procedural departure, unprecedented in North Carolina.⁷

Contrary to Dr. Barber's critique, I was consistent in explaining that the plan transferred majority-minority counties with substantial Black populations from CD1 to CD3. Table 3 of my initial report shows these counties contained substantial Black populations without being majority-Black. While I also reported overall minority figures (three of the four removed counties were majority-minority), my analyses in Tables 3 and R1 focus on transfers of Black and White populations and their racial implications.

Dr. Barber's dismissal of non-Black minorities misses their practical importance for Black voters' ability to elect their preferred candidates. Non-Black minority voters align more closely with Black voters than non-Hispanic White voters and thus materially affect Black voter opportunity. North Carolina exit polls show this pattern: in 2024, 88% of Black voters supported the Democratic presidential ticket, compared with 51% of non-Black minorities and 37% of non-Hispanic Whites; 2020 exit polls show a similar, even larger disparity (56% of non-Black minorities and 33% of non-Hispanic Whites). Removing majority-minority populations from CD1 therefore significantly reduces the district's capacity to form effective cross-racial coalitions and allow Black voters to elect their preferred candidate.⁸

VI. Even if We Accept Everything in the Barber Report as True, It Does Not Refute the Central Findings of My Original Report

Dr. Barber's Report, even if accepted in full, does not refute the finding of disparate impact, as considered by the *Arlington Heights* test. Instead, Dr. Barber asks the wrong substantive question. Dr. Barber repeatedly frames his analysis in terms of whether race "predominated" in the 2025 drawing of the lines between CD1 and CD3 (pp. 8, 18, 20, 23). Yet, whether race predominated in line drawings is not the correct inquiry identified by *Arlington Heights*, which considers disparate impact.

Dr. Barber's report overlooks that the drafters of SB-249 acted to diminish Black electoral opportunity by eliminating CD1 as an effective Black-opportunity district. And because Dr. Barber did not perform an *Arlington Heights* factors intent analysis, he fails to grapple with the record evidence related to those factors. That evidence includes: documented prior efforts to

⁷ I also footnoted my source for demographic information and indicated that I was using the 2024 estimates.

⁸ CNN Exit Poll, 2024 President, North Carolina, <https://www.cnn.com/election/2024/exit-polls/north-carolina/general/president/0>, and 2020 President, North Carolina, <https://www.cnn.com/election/2020/exit-polls/president/north-carolina>.

disadvantage African Americans in redistricting involving the same leadership of Senator Ralph Hise; past deceptions tied to recent redistricting cycles (e.g., false statements about map availability for a special election and false claims that redistricting software contained no racial data); significant procedural and substantive departures from ordinary redistricting practices; and disingenuous, misleading assertions by decision-makers that the process was color-blind. Expert Report of Allan J. Lichtman, Oct. 31, 2025, at 4-18. That evidence also includes the plan's disregard for traditional redistricting principles—such as avoiding political subdivision splits and preserving communities of interest—which, taken together with the other record evidence, supports an inference of discriminatory intent.

Critically, as further evidence of bad faith and effort, decision-makers turned a blind eye to any meaningful assessment of whether SB-249 would discriminate against Black voters. They performed no racial-impact analysis and ignored repeated warnings offered in public comment and legislative debate. Senator Hise, who had prior Supreme Court guidance recognizing CD1 as an effective Black-opportunity district and who played a leading role in earlier redistricting battles over the racial composition of Northeast North Carolina, would have known that targeting the redrawing of CD1 that significantly lowers the BVAP would dismantle that opportunity and materially impair Black voters' ability to elect their preferred candidates. Expert Report of Allan J. Lichtman, Oct. 31, 2025, at 14-17. That foreknowledge helps explain the truncated 2025 process and the significant procedural and substantive departures from ordinary redistricting practice. *Id.* at 7-11.

Dr. Barber's Report actually confirms this analysis. Barber evaluates the particular county exchanges, but acknowledges that "any district change that alters partisan balance will also alter the district's racial composition" (p. 18). But he does not dispute that such racial shifts produce vote-dilutionary effects (or that those racial effects are larger than the partisan impact). Critically, his report never engages with those effects at all.


VII. Conclusion

Dr. Barber's Report overlooks a central issue in this litigation: before drafting the bill's details, Republican decision-makers intentionally sought to dismantle CD1, which was an effective Black-opportunity district that had enabled Black voters in northeastern North Carolina to elect candidates of their choice since 1992. As the architect of SB 249 and a leader of prior redistricting cycles centered on racial issues, Senator Hise knew this dismantling of CD1 would have the discriminatory effect of diluting Black voting strength, depriving those voters of the opportunity to elect their preferred candidates to Congress. The General Assembly then engaged in procedural and substantive deviations, as well as disingenuous, misleading statements during the redistricting process. They did not fool legislative opponents or the many members of the public who criticized SB 249 as racially discriminatory; they simply ignored them.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Executed on: 18 November 2025


Allan J. Lichtman