

STRAFFORD COUNTY

STATE OF NEW HAMPSHIRE

SUPERIOR COURT

City of Dover et. al.

v.

David Scanlan, Secretary of State for New Hampshire et. al.

Docket No. 219-2022-CV-00224

**PLAINTIFFS' STATEMENT OF UNDISPUTED FACTS IN  
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

The plaintiffs, City of Dover, New Hampshire (“Dover”), City of Rochester, New Hampshire (“Rochester”), Debra Hackett, Rod Watkins, Kermit Williams, Eileen Ehlers, Janice Kelble, Erik Johnson, Deborah Sugerman, Susan Rice, Douglas Bogen, and John Wallace, by and through their undersigned counsel, respectfully submits the following Statement of Facts in support of their Motion for Summary Judgment, with citation below to the record and exhibits attached to the plaintiffs’ summary judgment memorandum of law.

1. In 2021, the House of Representatives (“House”) redistricting process began with the introduction of House Bill 50. *See* docket for House Bill 50.
2. The House redistricting legislative process continued into and concluded in March 2022, when the Governor signed House Bill 50, thereafter chaptered as Laws 2022, ch. 9 and codified as RSA 662:5. *See* docket for House Bill 50.
3. For House redistricting, the first step in calculating the ideal population is to identify the total population of New Hampshire according to the census, which for 2020 is

1,377,529.<sup>1</sup> See Ex. 2 to Plfs’ Mem. of Law, State’s Response to Requests for Admission (“RFAs”), Request 1.

4. The second step is to divide that total population number by 400 House seats to yield the ideal population of 3,444 (rounded) for a House seat. See *id.* at Request 2 & Request 11 (tacitly admitting this by admitting that statewide population deviation was calculated using this figure).

5. The New Hampshire statewide population deviation of the enacted House plan in Laws 2022, ch. 9 is 10.13%. See Andrews Affidavit to Plfs’ Mem. of Law as Ex. 1 (hereinafter “Andrews Aff.”) and Ex. G to same; see also Ex. 2 to Plfs’ Mem. of Law, Request #11.

6. By way of explanation, that 10.13% figure is derived by first ascertaining the degree to which each House district deviates from the ideal figure (3,444). See Ex. 1 to Plfs’ Mem. of Law, Andrews Aff. at Ex. G.

7. Next, statewide population deviation is calculated as the numerical difference between the House district with the lowest deviation district in the State (Nashua Ward 7 in Hillsborough County, -4.95%) and the highest deviation across the State (Keene Ward 5 in Cheshire County, 5.18%). See *id.*

8. The following 55 towns/wards met or exceeded the ideal House seat population (3,444), but were not provided a dedicated House seat by Laws 2022, ch. 9:

County	Town or Ward	2020 Census Population
Belknap	Tilton	3962
Belknap	Gilford	7699
Belknap	Gilmanton	3945
Belknap	Alton	5894

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<sup>1</sup> Available at: <https://www.census.gov/quickfacts/fact/table/NH/PST045222>. The census is susceptible to judicial notice, see *N.H. R. Ev.* 201; see generally *Burling v. Chandler*, 148 N.H. 143 (2002) (citing to census data and providing link to federal government website).

Belknap	Barnstead	4915
Carroll	Moultonborough	4918
Carroll	Wakefield	5201
Carroll	Wolfeboro	6416
Cheshire	Walpole	3633
Cheshire	Chesterfield	3552
Cheshire	Hinsdale	3948
Cheshire	Swanzey	7270
Cheshire	Jaffrey	5320
Grafton	Littleton	6005
Grafton	Haverhill	4585
Grafton	Plymouth	6682
Grafton	Canaan	3794
Grafton	Hanover	11870
Hillsborough	Hillsborough	5939
Hillsborough	New Ipswich	5204
Hillsborough	Wilton	3896
Hillsborough	Peterborough	6418
Hillsborough	Brookline	5639
Hillsborough	New Boston	6108
Merrimack	Loudon	5576
Merrimack	New London	4400
Merrimack	Henniker	6185
Merrimack	Bow	8229
Merrimack	Hopkinton	5914
Merrimack	Hooksett	14871
Merrimack	Pittsfield	4075
Rockingham	Northwood	4641
Rockingham	Nottingham	5229
Rockingham	Auburn	5946
Rockingham	Candia	4013
Rockingham	Deerfield	4855
Rockingham	Newmarket	9430
Rockingham	Kingston	6202
Rockingham	Newton	4820
Rockingham	Plaistow	7830
Rockingham	Portsmouth Ward 1	4276
Rockingham	Portsmouth Ward 5	4087
Rockingham	Greenland	4067
Rockingham	Rye	5543
Strafford	Milton	4482

Strafford	Rochester Ward 5	5419
Strafford	Barrington	9326
Strafford	Strafford	4230
Strafford	Dover Ward 4	5439
Strafford	Lee	4520
Sullivan	Charlestown	4806
Sullivan	Newport	6299
Sullivan	Claremont Ward 1	4461
Sullivan	Claremont Ward 2	4491
Sullivan	Claremont Ward 3	3997

Compare U.S. Census Data<sup>2</sup>, with RSA 662:5 (codification of Laws 2022, ch. 9); see also Ex. 1 to Plfs’ Mem. of Law., Andrews Aff. at Exhibits F & G; see also Ex. 2 to Plfs’ Mem. of Law, State RFAs, Request #3.

9. During the legislative process that preceded the enactment of Laws 2022, ch. 9, a non-partisan coalition called “Map-a-Thon” submitted proposed House redistricting districts/maps to the legislature. See Ex. 1 to Plfs’ Mem. of Law, Andrews Aff. at ¶¶ 5-7.

10. Map-a-Thon’s House redistricting criteria is summarized in Exhibit B to the Andrews Affidavit. See Ex. 1 to Plfs’ Mem. of Law, Ex. B.

11. Map-a-Thon’s proposed House districts/maps used the same legal and other redistricting criteria as used by the legislature and in Laws 2022, ch. 9,<sup>3</sup> but illustrated how to reduce the deprivations of a dedicated House seat by net of 14 (or 41 in total; a 25% reduction), see Ex. 1 to Plfs’ Mem. of Law, Andrews Aff. at ¶ 4 and Exhibits F & G.

12. Map-a-Thon’s final House redistricting proposal illustrated how to accord the following fifteen towns and wards (net gain of 14 total) with a dedicated House seat:

Town/Ward	Population
Barrington	9326

<sup>2</sup> Available at: <https://www.census.gov/quickfacts/fact/table/NH/PST045222>. The census is susceptible to judicial notice, see *N.H. R. Ev.* 201; see generally *Burling v. Chandler*, 148 N.H. 143 (2002) (citing to census data and providing link to federal government website).

Bow	8229
Canaan	3794
Chesterfield	3552
Dover Ward 4	5439
Hanover	11870
Hinsdale	3948
Hooksett	14871
Milton	4482
New Ipswich	5204
Newton	4820
Lee	4520
Plaistow	7830
Rochester Ward 5	5419
Wilton	3896

See Ex. 1 to Plfs’ Mem. of Law, Andrews Aff. at Exhibits F & G. The foregoing fifteen towns and wards are referred to hereinafter as the “Affected Towns/Wards.”

13. Map-a-Thon highlighted its ability to increase in dedicated House districts in a summary comparison between its proposed House districts/maps and the legislation under review:

2. Map Comparison Summary

Enacted Maps vs. Map-a-Thon Proposed Maps Summary					
County	# Reps	Enacted Map Deviation	Proposed Map Deviation	Enacted Map Violations	Proposed Map Violations
Belknap	18	8.27%	8.27%	5	5
Carroll	15	6.48%	6.48%	3	3
Cheshire	22	9.81%	7.62%	5	3
Coos	9	8.74%	8.68%	0	0
Grafton	26	8.44%	9.86%	5	3
Hillsborough	123	9.75%	9.49%	6	4
Merrimack	45	9.22%	8.57%	7	5
Rockingham	91	9.80%	9.80%	13	11
Strafford	38	9.13%	9.48%	6	2
Sullivan	13	3.73%	3.73%	5	5
Total	400	10.13%	9.94%	55	41

See Ex. 1 to Plfs’ Mem. of Law, Andrews Aff. at Exhibits F & G.

14. The Map-a-Thon House plan’s statewide population deviation is 9.94%. See Ex. 1 to Plfs’ Mem. of Law, Andrews Aff. at Ex. G (lowest deviation: Nashua Ward 7 in Hillsborough

County, -4.95%; highest deviation: GR-10 in Grafton County and BE-4 in Belknap County; each 4.99%).

15. A narrative list of Map-a-Thon’s districts, formatted the same as Laws 2022, ch. 9, is attached to the supplemental affidavit of David Andrews. *See* Ex. 3 to Plfs’ Mem. of Law, Supplemental Affidavit of David Andrews at ¶ 3 & Ex. to same.

16. The legislature did not adopt Map-a-Thon’s proposed House maps. *See* Legislative History of House Bill 50.

17. Map-a-Thon’s House maps would have increased the total population in single-seat House districts by over 60,000:

	Enacted Maps	Map-a-thon Proposed Maps
Number of single member districts	97	110
Population (of all single-member districts)	843,536	917,053

*See* Ex. 3 to Plfs’ Mem. of Law, Supplemental Affidavit of David Andrews.

18. In discovery, the State’s discovery responses did not answer the specific basis for Laws 2022, ch. 9’s 55 instances of denying a town/ward with sufficient population, pursuant to the 2020 census, a dedicated House seat. *See* Ex. 4 to Plfs’ Mem. of Law, State’s Responses to Interrogatories (without attachments), Interrogatories #2 and #3.

19. Also in discovery, the State disclosed no expert witness. *See* Discovery Record.

Respectfully submitted,

**THE CITY OF DOVER, NEW HAMPSHIRE**

Dated: January 9, 2024

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served on all counsel of record through the Court's electronic filing system. A Word version copy of the foregoing statement of material facts is also being emailed this day directly to counsel of record for the defendants.

Dated: January 9, 2024

By:  /s/ Joshua M. Wyatt

Joshua M. Wyatt, Esquire