

STRAFFORD COUNTY

STATE OF NEW HAMPSHIRE

SUPERIOR COURT

219-2022-CV-00224

CITY OF DOVER,
CITY OF ROCHESTER,
DEBRA HACKETT,
ROD WATKINS,
KERMIT WILLIAMS,
EILEEN EHLERS,
JANICE KELBLE,
ERIK JOHNSON,
DEBORAH SUGERMAN,
SUSAN RICE,
DOUGLAS BOGEN, and
JOHN WALLACE

v.

DAVID M. SCANLAN,
in his official capacity as the New Hampshire Secretary of State

&

THE STATE OF NEW HAMPSHIRE

DEFENDANTS' STATEMENT OF MATERIAL FACTS
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

The Defendants, David Scanlan, in his official capacity as the New Hampshire Secretary of State, and the State of New Hampshire, through counsel, submit this separate statement of material facts in support of the Defendants' Motion for Summary Judgment. See Super. Ct. R. 12(g)(2).

A. Defendants' Statement of Material Facts:

1. The New Hampshire Legislature reapportioned the 400 State House of Representatives districts following the 2020 federal Census through House Bill 50 ("HB 50"). See RSA 662:5 (eff. Mar. 23, 2022); see also *Bill Docket – HB50*, N.H. Gen. Court, *available at*

http://gencourt.state.nh.us/bill_Status/billinfo.aspx?id=610&inflect=2.

2. The individual plaintiffs reside in the City of Dover Ward 4, the City of Rochester Ward 5, the Town of Barrington, the Town of Hooksett, the Town of Lee, the Town of New Ipswich, or the Town of Wilton. See Pls. Compl., ¶¶6-15.

3. RSA 662:5, as amended by HB 50, does not provide a single-member district to Dover Ward 4, Rochester Ward 5, Barrington, Hooksett, Lee, New Ipswich, or Wilton. See RSA 662:5 (eff. Mar. 23, 2022).

4. According to the United States Census for 2020, Dover Ward 4 had a population of 5,439. Pls. Compl., ¶60; Defs. Ans., ¶60.

5. According to the United States Census for 2020, Rochester Ward 5 had a population of 5,419. Pls. Compl., ¶62; Defs. Ans., ¶62.

6. According to the United States Census for 2020, Lee had a population of 4,520. Pls. Compl., ¶64; Defs. Ans., ¶64.

7. According to the United States Census for 2020, Barrington had a population of 9,326. Pls. Compl., ¶66; Defs. Ans., ¶66.

8. According to the United States Census for 2020, New Ipswich had a population of 5,204. Pls. Compl., ¶70; Defs. Ans., ¶70.

9. According to the United States Census for 2020, Wilton had a population of 3,896. Pls. Compl., ¶72; Defs. Ans., ¶72.

10. According to the United States Census for 2020, Hooksett had a population of 14,871. Pls. Compl., ¶77; Defs. Ans., ¶77.

11. According to the United States Census for 2020, the State of New Hampshire had a population of 1,377,529. See Defs. App'x at 14.

12. The Plaintiffs “have not asserted a stand-alone cause of action on” the basis of “the population deviation of the enacted plan exceed[ing] 10%.” Defs. App’x at 70-71.
13. The Plaintiffs’ Complaint included proposed redistricting maps created by Map-A-Thon (the “Map-a-Thon Redistricting Plan”). See Defs. App’x at 12-33.
14. The Map-a-Thon Redistricting Plan generated redistricting maps county by county. Defs. App’x at 62.
15. No county map in the Map-a-Thon Redistricting Plan depended on the maps for other counties. Defs. App’x at 62-63).
16. HB 50 did not provide a single-member district to every town and city ward with a population greater than or within a reasonable deviation of 3,444. See Defs. App’x at 34-55.
17. The Map-a-Thon Redistricting Plan did not provide a single-member district to every town and city ward with a population greater than or within a reasonable deviation of 3,444. See Defs. App’x at 12-33.
18. It is not possible to create a New Hampshire House of Representatives redistricting map that provides at least one single-member district to every town or ward with a population greater than or within a reasonable deviation of 3,444. Defs. App’x at 68, Line 11 to 69, Line 4.
19. Under HB 50, each of Dover Ward 4, Rochester Ward 5, Barrington, Hooksett, Lee, New Ipswich, and Wilton did not receive a single-member district. See Defs. App’x at 46 (Hillsborough County), 49 (Merrimack County), 56 (Strafford County).
20. Under the Map-a-Thon Redistricting Plan, Dover Ward 4, Rochester Ward 5, Barrington, Hooksett, Lee, New Ipswich, and Wilton each received a single-member district. See Defs. App’x at 24 (Hillsborough County), 27 (Merrimack County), 32 (Strafford County).

21. The Map-a-Thon Redistricting Plan did not provide a single-member district to every municipality that had a single-member district under HB 50. Compare Defs. App’x at 21, 32 (Map-a-Thon Redistricting Plan does not provide Durham (population of 15,490) or Campton (population of 3,343) with single-member districts) with Defs. App’x at 43, 54 (HB 50 provides Durham and Campton with single-member districts).

22. According to the United States Census for 2020, Durham had a population of 15,490. Defs. App’x at 54.

23. Durham’s 2020 population of 15,490 is more than 60% bigger than the next most populous town or ward in Strafford County. See Defs. App’x at 32, 54.

Respectfully submitted,

DAVID SCANLAN, SECRETARY OF STATE

and

THE STATE OF NEW HAMPSHIRE

By their attorneys,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: January 10, 2024

/s/ Brendan A. O’Donnell
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was served on all counsel of record through the Court's electronic-filing system.

Date: January 10, 2024

/s/ Brendan A. O'Donnell
Brendan A. O'Donnell

CERTIFICATE OF COMPLIANCE WITH SUPERIOR COURT RULE 12(g)(2)(b)

I hereby certify that a Microsoft Word copy of this pleading was sent by e-mail to all counsel of record.

Date: January 10, 2024

/s/ Brendan A. O'Donnell
Brendan A. O'Donnell