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Applying Movement Lawyering Principles to the Redistricting Movement

Lavanya Prabhakar*

ABSTRACT

Despite national attention to unfair congressional district maps, efforts to make maps more representative through litigation have felt futile. However, despite unfavorable Supreme Court rulings, organizing around redistricting has seen wins on the state level, through the creation of independent redistricting commissions and map redraws. First, this Note reviews the history of race-based and partisan gerrymandering and the volatile swings of redistricting litigation. Then, it considers the role of organizing in redistricting, focusing on case studies from Ohio and North Carolina. Finally, relying on firsthand interviews and available data, this Note argues that organizing and litigation must work together under the principles of movement lawyering to inform and guide the direction of redistricting action. Lawyers must take the lead from community organizers to determine how to fight unfair maps, be it through legislative advocacy, political advocacy, or traditional litigation.

Keywords: redistricting, movement lawyering, gerrymandering, organizing

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Table of Contents

INTRODUCTION

A. *What is Movement Lawyering?*

I. REDISTRICTING LITIGATION

A. *Doctrinal Definitions*

B. *Racial Gerrymandering*

C. *Partisan Gerrymandering*

II. REDISTRICTING ORGANIZING

A. *North Carolina*

B. *Ohio*

C. *Takeaways from Organizing in North Carolina and Ohio*

III. THE TRADITIONAL RELATIONSHIP BETWEEN LAWYERS AND ORGANIZERS

IV. APPLYING MOVEMENT LAWYERING PRINCIPLES TO REDISTRICTING

A. *Gomillion Case Study*

B. *Michigan Case Study*

C. *Lessons from Gomillion and Michigan's Independent Redistricting Commission*

CONCLUSION

INTRODUCTION

At the heart of every redistricting lawsuit are lines. State legislators allocate residents for state and congressional districts based on these lines, determining the party representation of elected officials. However, lines are not the only things at issue when considering district maps. Communities are at the crux of every redistricting battle. Which people belong in which district? How do different district lines affect people on the ground? How do people advocate for fair maps?

Since the first major redistricting case in 1960, lawyers have typically dominated the redistricting conversation, challenging district lines in court. As a solution, they ask for fair maps, which typically embody representational fairness. Representational fairness happens when the party affiliation of elected officials reflects the voting behavior of the electorate.¹ The strategy to achieve fair maps through litigation has constantly evolved since the 1990s in response to rulings handed down by the Supreme Court. Furthermore, litigation avenues have been closing, particularly on the federal level. However, most recently, the Supreme Court decided *Allen v. Milligan*, where lawyers challenged the drawing of congressional

¹ James Fox, *Fair and Square Redistricting 2* (Am. Pol. Sci. Ass'n, Working Paper No. 13, 2022).

districts in Alabama.² In a surprise move, the Court rejected the voting map, holding that it diluted Black voters' power.³ In essence, elected officials in Alabama did not reflect the choices of Black voters. Since then, federal judges in Alabama picked a new congressional map for the state that would give greater electoral power to Black voters.⁴

Lawyers are not the only actors capable of achieving fair maps in the redistricting space. Activists have organized around redistricting primarily at the state level, arguing against the drawing of certain maps that dilute voting power based on social identity or location. As a solution, they have campaigned for redistricting reform through the establishment of independent redistricting commissions. Organizers have found success, organizing winning ballot initiatives, volunteer drives, and local movements fighting against unfair maps.⁵ These community-based efforts more closely reflect the opinions and ideas of voters directly impacted by district lines.

Unfair maps will continue to be a problem across the country if racial and partisan gerrymandering are not struck down by the courts. Isolated litigation focused only on district lines will no longer be an effective strategy in the federal courts if it does not adequately incorporate the goals of the communities at stake. In this Note, I argue that litigators must focus instead on grassroots organizing to guide the direction of the fight for fair maps, rather than solely focus on litigation. By allowing impacted communities to have a say in the direction of the movement, this new strategy provides more opportunities in the policymaking and litigation spaces to make district lines work better for the people who live in them. Future redistricting movements should focus on the needs of the impacted people in the states where unfair redistricting is taking place, with lawyers acting as facilitators for change, rather than front-seat drivers.

After laying out background on movement lawyering history and redistricting, I use firsthand interviews with litigators and organizers and an analysis of academic scholarship to recommend that redistricting efforts should take a bottom-up, organizer-centric approach, with lawyers taking direction from organizers about how to, if at all, bring litigation. In this approach, litigation is not the end goal of an organizing effort, but one tool of many in the fight for fair maps.

A. What is Movement Lawyering?

There is no set definition to movement lawyering.⁶ Legal organizations and scholars attribute to movement lawyering the practice of taking direction from impacted

² Adam Liptak, *Supreme Court Rejects Voting Map That Diluted Black Voters' Power*, N.Y. TIMES (June 8, 2023), <https://www.nytimes.com/2023/06/08/us/supreme-court-voting-rights-act-alabama.html> [<https://perma.cc/M6SS-HHKL>]; *Allen v. Milligan*, 599 U.S. 1 (2023).

³ Liptak, *supra* note 2.

⁴ Zach Montellaro & Madison Fernandez, *Court Picks New Alabama Congressional Map That Will Likely Flip One Seat to Democrats*, POLITICO (Oct. 5, 2023, 12:57 PM), <https://www.politico.com/news/2023/10/05/court-picks-alabamas-new-congressional-map-00120129> [<https://perma.cc/7MYH-GB9A>].

⁵ See, e.g., Zoom Interview with Katy Shanahan, Advisor, Equal Districts (Mar. 13, 2023); Zoom Interview with Lekha Shupeck, State Outreach Dir., Documented (Mar. 9, 2023); Riley Beggin, *One Woman's Facebook Post Leads to Michigan Vote Against Gerrymandering*, BRIDGE MICH. (Nov. 7, 2018), <https://www.bridgemi.com/michigan-government/one-womans-facebook-post-leads-michigan-vote-against-gerrymandering> [<https://perma.cc/VMY5-P5TQ>].

⁶ Betty Hung, *Movement Lawyering as Rebellious Lawyering: Advocating with Humility, Love and Courage*, 23 CLINICAL L. REV. 663, 664 (2017).

communities and building their power, rather than imposing the power of legal advocates on them.⁷ Movement lawyering grew out of the traditional public interest lawyering strategy where lawyers primarily sought legal reform through the courts. Although traditional lawyering achieved important social change in areas like civil rights and voting rights, movement lawyering evolved in response to certain social justice lawyers putting their “vision of the public good” ahead of clients’ interests and the general public’s disillusionment in the efficacy of relying solely on the courts for progressive social change.⁸ By using litigation as one of many tools to achieve social change, “movement lawyering aspires to broad and deep reform that moves beyond ‘law on the books’ to embed change in social practice and culture.”⁹

The relationship between lawyers and clients operates differently in the practice of movement lawyering. Clients have political and social capital in their communities, with the capacity to disrupt and influence politics. Recognizing their clients’ power, movement lawyers commit to a “holistic strategy to influence policy and social outcomes while building movement power.”¹⁰ This is a direct rebuke of traditional public interest lawyering that can put social goals above the interests of clients.¹¹ The power structure between the lawyer and client that centers power on the client allows the client to hold their lawyer accountable and puts them in a better position to resist lawyer domination.¹²

Movement lawyering strategies encompass far more than the traditional lawyering model, which focuses solely on litigation. Advocates do not abandon litigation, but rather deemphasize its role in achieving social change. Lawyers exercise more than technical legal skill, and instead expand to the “broader art of persuasion.”¹³ Movement lawyers tend to tell compelling stories about their clients and impacted communities to decision makers, exerting pressure and building support for broader social, political, and cultural change. Rich stories do more than just give judges and legislators information to make their decisions. These stories “humanize” and “emphasize our differences in ways that can bring us closer together.”¹⁴ Narratives work to break down misperceptions, stereotypes, and assumptions of those in power to shift focus onto impacted communities.¹⁵ Working within a community, building trust, and advocating on behalf of clients’ interests and objectives has the possibility of galvanizing grassroots action, breaking down legal issues into

⁷ See, e.g., Law for Black Lives, *Movement Lawyering in Moments of Crisis: Some Things White Allies (and Others) Can Do*, HUM. RTS., Jan. 11, 2021, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/movement-lawyering-in-moments-of-crisis/ [<https://perma.cc/5QJU-2LJ6>]; Scott L. Cummings, *Movement Lawyering*, 2017 U. ILL. L. REV. 1645, 1654 (2017); Hung, *supra* note 6, at 664.

⁸ Cummings, *supra* note 7, at 1655.

⁹ *Id.* at 1658.

¹⁰ *Id.* at 1691.

¹¹ *Id.* at 1655 (“Derrick Bell articulated this problem most forcefully when he argued that NAACP lawyers pursuing integration were doing so in response to elite funders and organizational supporters—in conflict with the interests of African American community members who preferred quality schools even if they remained segregated.”).

¹² *Id.* at 1691–92.

¹³ *Id.* at 1703.

¹⁴ Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2440 (1988).

¹⁵ *Id.* at 2413. See generally Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1 (1990) (describing using narrative and humanizing stories to portray her client’s needs at an AFDC repayment hearing).

understandable terms for people on the ground, effectively communicating the stakes, and inspiring future and sustained action around the issue.

Scholars have analyzed the use of movement lawyering principles across a wide range of social movements, both nationally and internationally. For example, Jennifer Gordon analyzed lawyers' role in the organizing efforts of the United Farm Workers (UFW) in the 1960s and 1970s.¹⁶ Gordon argued that lawyers and organizers successfully worked together because lawyers came in only after the UFW had a clear organizing strategy and "several victories under its belt."¹⁷ Additionally, litigation was only considered if it directly or indirectly built power.¹⁸ For example, lawsuits were typically only pursued to defend union workers from backlash from protesting, push for expanded organizers' rights, and put pressure on the union's opponents.¹⁹ In each of these areas, lawyers followed the lead from UFW organizers in how to litigate. UFW organizers had the power and lawyers took direction from them. Another example of movement lawyering applied to the mobilization of undocumented young people during the Bush and Obama administrations.²⁰ Sameer Ashar detailed the relationship between lawyers, leaders, activists, and constituents, stating that lawyers had an "internalized commitment . . . to accept clients' methods and goals and a corresponding trust and openness on the part of activists toward their lawyer-collaborators."²¹

The redistricting movement has similar players as the farm workers and undocumented youth movements. All three movements feature motivated organizer-clients with specific goals they would like to achieve in their campaigns. Additionally, they all have lawyers ready to act in their respective movements. What differs between the UFW and undocumented immigration movements and the redistricting movement is the lead decision-maker. In the UFW example, lawyers took a secondary role and only considered litigation if it built power. The undocumented youth movement had a similar dynamic. However, it is not clear who is taking the lead in the redistricting space. Both the availability of actors (organizers, activists, and lawyers) and environments ready for organizing campaigns and potential litigation (states with unfair maps) make redistricting advocacy amenable to the application and use of movement lawyering principles to center the power of redistricting organizers.

I. REDISTRICTING LITIGATION

In the following part, I lay out the doctrinal background and history behind both racial and partisan gerrymandering, while also describing the litigation strategies for both theories.

¹⁶ See generally Jennifer Gordon, *Law, Lawyers, and Labor: The United Farm Workers' Legal Strategy in the 1960s and 1970s and the Role of Law in Union Organizing Today*, 8 U. PA. J. LAB. & EMP. L. 1 (2005).

¹⁷ *Id.* at 47.

¹⁸ *Id.* at 48.

¹⁹ *Id.* at 17–23. At the direction of UFW organizers, lawyers defended protesters who were arrested for civil disobedience. Simultaneously, lawyers pushed for expanded rights for UFW protesters, like the right to use bullhorns and to boycott. Finally, Union lawyers used legal action to pressure government actors to pass union-friendly legislation and gather information on opponents like ranch owners. *Id.*

²⁰ See generally Sameer M. Ashar, *Movement Lawyers in the Fight for Immigrant Rights*, 64 UCLA L. REV. 1464 (2017).

²¹ *Id.* at 1504.

A. Doctrinal Definitions

This Note uses the definition of redistricting used by the United States Census Bureau: “the process of revising any geographic area that elects representatives based on census population distribution.”²² Redistricting rules vary from state to state and district lines are determined either by state legislatures or state redistricting commissions.²³ The United States Constitution requires states to redraw district lines to reflect population shifts and growths after each census count.²⁴

Redistricting cases have fallen into two main categories: race-based gerrymandering and partisan gerrymandering. Gerrymandering in general occurs when mapmakers intentionally manipulate district lines to benefit one group over another.²⁵ Racial gerrymandering is when district lines are manipulated to disadvantage certain racial groups, while partisan gerrymandering happens when district lines are manipulated to disadvantage voters from a particular political party.²⁶

B. Racial Gerrymandering

The first landmark gerrymandering case was *Gomillion v. Lightfoot* in 1960, where the Court found unconstitutional Alabama’s redrawing of the City of Tuskegee into an “uncouth” twenty-eight-sided “sea dragon.”²⁷ The Alabama State Legislature redrew the city boundaries to strategically cut Black residents out of Tuskegee.²⁸ No white voters were drawn out of the city, resulting in Black residents not being able to vote in any municipal Tuskegee election.²⁹ The redraw was so egregious that the famous Tuskegee Institute, a historically Black college, was drawn out of the city.³⁰ The Court held that the state legislature racially discriminated against the Black residents of Tuskegee, violating the Equal Protection Clause of the Fourteenth Amendment, and also denied them the right to vote in violation of the Fifteenth Amendment.³¹ There was a clear discriminatory impact that could not be explained “on grounds other than race.”³²

The Supreme Court finally came to a discernable test for racial gerrymandering in 1993 in *Shaw v. Reno*, where the Court decided that North Carolina violated the Fourteenth Amendment because its congressional reapportionment plan created a district that was so bizarrely shaped that it could not have been explained by anything outside of an interest in

²² *Redistricting*, U.S. CENSUS BUREAU, <https://www.census.gov/glossary/?term=Redistricting> [https://perma.cc/4ZGU-28AC] (last visited July 23, 2023).

²³ *Redistricting: An Academic and Legal Perspective*, U.S. DEP’T OF STATE (Dec. 3, 2021, 11:00 AM), <https://www.state.gov/redistricting> [https://perma.cc/VJ6S-6YPJ].

²⁴ *What is Redistricting and Why Should We Care?*, ACLU (Aug. 23, 2021), <https://www.aclu.org/news/voting-rights/what-is-redistricting-and-why-should-we-care> [https://perma.cc/KNG9-XA42].

²⁵ *Redistricting Definitions*, UCLA LATINO POL’Y & POL. INST., <https://latino.ucla.edu/redistricting-definitions/> [https://perma.cc/WR9D-FFKK] (last visited July 23, 2023).

²⁶ *Id.*

²⁷ Jo Desha Lucas, *Dragon in the Thicket: A Perusal of Gomillion v. Lightfoot*, 1961 SUP. CT. REV. 194, 198 (1961); see also *Gomillion v. Lightfoot*, 364 U.S. 339, 341 (1960).

²⁸ Lucas, *supra* note 27, at 198.

²⁹ *Id.* at 196, 211.

³⁰ *Id.* at 195–96.

³¹ *Gomillion*, 364 U.S. at 342–43.

³² *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977).

race.³³ Additionally, by the time *Shaw* came to the Court, proving racial discrimination under the Fourteenth Amendment required a showing of discriminatory intent, a stark difference from the lower disparate impact standard in *Gomillion*.³⁴ Unlike in *Gomillion*, there was no obvious discriminatory impact unexplainable by anything other than race in *Shaw*.³⁵ Because of this, the *Shaw* Court could not clearly identify the exact injury the plaintiffs suffered.³⁶ Was the weird district shape itself expressive of the harm plaintiffs felt from gerrymandered districts?

Just two years later, the Supreme Court answered that question in *Miller v. Johnson*, when it decided that district shape was in fact evidence of the harm from gerrymandered districts.³⁷ The *Miller* Court also set a new standard for redistricting: if race was found to be a primary consideration in reapportionment, the district should be analyzed under strict scrutiny.³⁸ This was because race-based decision making was “inherently suspect.”³⁹ Bizarre district shape, according to the Court, was evidence that race was a consideration in redistricting.⁴⁰ Applying its new test, the Court held that Georgia’s Eleventh Congressional District lines were unconstitutional because race was a predominant factor in drawing the district and strict scrutiny was not satisfied.⁴¹ Therefore, by 1995, when considering district maps challenged for being racially gerrymandered, the Supreme Court would determine whether race was a predominant factor in the redistricting process. Strange district shapes were evidence of race being a predominant factor. A finding of race as a predominant factor ratcheted the Court’s review up to strict scrutiny, a notoriously difficult standard for the government to meet.

Redistricting doctrine changed yet again in 2001 as the Supreme Court clarified its metrics for Fourteenth Amendment violations in redistricting. In *Easley v. Cromartie*, the Court realized that politics and race were intertwined in drawing maps.⁴² It was not so clear whether race or politics was the predominant factor in drawing district lines, making it difficult to determine whether to resort to strict scrutiny analysis.⁴³ The Court said in cases where racial identity correlated highly with party affiliations, challengers must show that the legislature could achieve its “legitimate political objectives” in alternative ways.⁴⁴ Without such a showing, the maps would likely stand.⁴⁵ In effect, the Court authorized the state to use race as a proxy for partisanship.⁴⁶ As a result, racial gerrymandering claims

³³ Thomas C. Goldstein, Note, *Unpacking and Applying Shaw v. Reno*, 43 AM. U. L. REV. 1135, 1137 (1994).

³⁴ The discriminatory intent standard in 14th Amendment claims was first established in *Washington v. Davis*, 426 U.S. 229 (1976), sixteen years after *Gomillion v. Lightfoot*, 364 U.S. 339, and thirteen years before *Shaw v. Reno*, 509 U.S. 630 (1993).

³⁵ See *Shaw*, 509 U.S. at 635. In *Shaw*, the districts at issue were not drawn to exclude Black voters, but rather to include so many of them as to create two majority-minority voter districts. *Id.*

³⁶ See Goldstein, *supra* note 3333, at 1156–57.

³⁷ *Miller v. Johnson*, 515 U.S. 900, 913 (1995).

³⁸ *Id.* at 917, 920.

³⁹ *Id.* at 915.

⁴⁰ *Id.* at 913.

⁴¹ *Id.* at 917–19.

⁴² *Easley v. Cromartie*, 532 U.S. 234, 243 (2001).

⁴³ Wade L. Jackson, *Redistricting: Easley v. Cromartie*, 532 U.S. 234 (2001): *Race-Based Redistricting and Unequal Protection*, 32 N.M.L. REV. 491, 503 (2002).

⁴⁴ *Easley*, 532 U.S. at 258.

⁴⁵ *Id.*

⁴⁶ Michael C. Li, *The Surprise Return and Transformation of Racial Gerrymandering*, 94 N.Y.U. L. REV. ONLINE 136, 138, 142 (2019).

were effectively shut down for ten years.⁴⁷ Scholar Richard L. Hasen attributes this to mapmakers getting smarter and creating more compact districts with partisan rationale.⁴⁸ In essence, the state had the Court's blessing to pack Black voters into districts under the guise of partisanship.⁴⁹ Additionally, Hasen finds that the Bush Department of Justice had less of an appetite to pursue racial gerrymanders, so fewer claims were brought to court.⁵⁰

By 2017, the Supreme Court gave up on its idea that shape was evidence of the racial discrimination, deciding in *Bethune-Hill v. Virginia State Board of Elections* that district shape was barely evidentiary in a racial gerrymandering claim.⁵¹ Race could still be a predominant consideration for mapmakers with a normally shaped district. Most recently, race-based redistricting litigation was up in the air in 2023 in *Allen v. Milligan*, where plaintiffs challenged congressional districts in Alabama, arguing under § 2 of the VRA that there should have been another majority–minority district drawn.⁵² In its defense, the state argued that the only way that another majority–minority district could be drawn was to consider race, a violation of the principles handed down in *Miller v. Johnson*.⁵³ The state argued that race should not be considered at all when redistricting, which would upend the Court's jurisprudence, which has allowed limited use of race in redistricting.⁵⁴ In its 5–4 decision, the Supreme Court found the Alabama maps in violation of the VRA for not including a second majority–minority district.⁵⁵ The opinion left § 2 of the VRA unscathed and continued to allow race to be a consideration, while not the primary consideration, in redistricting.⁵⁶ In conclusion, when considering racial gerrymandering claims, the Supreme Court considers whether race was a primary consideration when drawing district lines. No longer is the actual shape of the district evidence of race as a consideration. Additionally, recognizing that race and partisan identification can line up (i.e. Black voters predominantly support Democratic candidates), the Court allowed partisan motives to justify how district lines were drawn, even if motives had an underlying racial bias. Finally, with *Allen*, the Court has not foreclosed race entirely from being used to justify district lines.

Racial gerrymandering doctrine has changed as much as it has for two main reasons. First, in its *Shaw* opinion, the Court was not clear in stating what the main injury was in racial gerrymandering claims. Instead, it focused on bizarre district shapes as evidence of the harm. Over the next twenty years, the Court walked back its argument in *Shaw*, recognizing that it did not truly understand the harm that district lines posed when it issued its opinion. As a result, the standards for bringing racial gerrymandering claims became

⁴⁷ *Id.*

⁴⁸ Richard L. Hasen, *Racial Gerrymandering's Questionable Revival*, 67 ALA. L. REV. 365, 372 (2015).

⁴⁹ See *Easley*, 532 U.S. at 258.

⁵⁰ Hasen, *supra* note 48, at 372.

⁵¹ *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 191–92 (2017).

⁵² *Allen v. Milligan*, 599 U.S. 1, 15–16 (2023); Amy Howe, *Conservative Justices Seem Poised to Uphold Alabama's Redistricting Plan in Voting Rights Act Challenge*, SCOTUSBLOG (Oct. 4, 2022, 5:19 PM), <https://www.scotusblog.com/2022/10/conservative-justices-seem-poised-to-uphold-alabamas-redistricting-plan-in-voting-rights-act-challenge/> [https://perma.cc/X2EP-GXX6].

⁵³ Sam Levine, *US Supreme Court Hears Case That Could Gut Voting Rights for Minority Groups*, GUARDIAN (Oct. 4, 2022, 3:29 PM), <https://www.theguardian.com/us-news/2022/oct/04/us-supreme-court-voting-rights-minority-groups-merrill-v-milligan> [https://perma.cc/2XEZ-M4KU].

⁵⁴ *Id.*

⁵⁵ Liptak, *supra* note 2.

⁵⁶ *Id.*

much more difficult and avenues for litigation became much narrower. This is particularly true because the Court was developing its racial gerrymandering jurisprudence as it went. The Court simply did not know what types of districts it should disallow. Gerrymandering doctrine has also evolved because of the changing Supreme Court makeup. Since *Gomillion* in 1960, Supreme Court justices have been much less accepting of racial gerrymandering claims. Instead, justices like Justice Clarence Thomas have advocated for a “colorblind Constitution” across civil rights issues.⁵⁷ Even though the majority repudiated colorblind law in *Allen*, the four dissenting justices (Justices Thomas, Gorsuch, Barrett, and Alito) each endorsed colorblind arguments, rejecting the consideration of race *at all* in redistricting claims.⁵⁸ Accepting a doctrine of colorblindness would make it harder to argue that districts are intentionally drawn to dilute the minority vote.

C. Partisan Gerrymandering

Partisan gerrymandering doctrine has been similarly volatile, with the Supreme Court changing its mind often, particularly in the 2000s and 2010s. The Supreme Court first recognized partisan gerrymandering claims as justiciable in 1986 in *Davis v. Bandemer*.⁵⁹ The *Bandemer* Court set a test for these claims, requiring the gerrymandering to be intentional and for its effect to consistently degrade voters’ influence over political process as a whole.⁶⁰ After *Bandemer*, no partisan gerrymanders were declared unconstitutional for almost twenty years.⁶¹ By 2004, the Court backed away from its previous declaration that partisan gerrymandering claims were justiciable. In *Vieth v. Jubelirer*, the Court in a plurality wrote that partisan gerrymandering claims were nonjusticiable political questions.⁶² According to them, there was no judicially manageable standard for the Court to evaluate these claims.⁶³ In response, the progressive dissenters offered various standards to evaluate partisan gerrymandering claims. Sitting between both groups was Justice Kennedy, who said that claims should be justiciable, but could not articulate a standard by which he believed those claims could be evaluated.⁶⁴

In 2019, the Supreme Court held that partisan gerrymandering claims were nonjusticiable in *Rucho v. Common Cause*, shutting down attempts to use the federal courts to find partisan gerrymanders unconstitutional.⁶⁵ In holding that partisan gerrymandering claims were nonjusticiable, the Supreme Court said that federal courts were “powerless”

⁵⁷ Lawrence Hurley, ‘Colorblind Constitution’: Supreme Court Wrangles Over the Future of Race in the Law, NBC NEWS (July 1, 2023, 5:00 AM), <https://www.nbcnews.com/politics/supreme-court/colorblind-constitution-supreme-court-wrangles-future-race-law-rcna90661> [<https://perma.cc/UE3F-2G97>].

⁵⁸ Amy Howe, *Supreme Court Upholds Section 2 of Voting Rights Act*, SCOTUSBLOG (June 8, 2023, 4:44 PM), <https://www.scotusblog.com/2023/06/supreme-court-upholds-section-2-of-voting-rights-act/> [<https://perma.cc/7EN2-HMT6>]. Justice Thomas rejected the holding of the lower court, claiming that its reading of Section 2 would require racial discrimination in redistricting “to allocate political power based on race.” *Id.* Justices Gorsuch and Alito wrote a separate dissent in which wrote that the majority violated the “fundamental principle that States are almost always prohibited from basing decisions on race.” *Id.*

⁵⁹ *Davis v. Bandemer*, 478 U.S. 109, 113 (1986).

⁶⁰ *Id.* at 132, 143.

⁶¹ Michael S. Kang, *The Bright Side of Partisan Gerrymandering*, 14 CORNELL J.L. & PUB. POL’Y 443, 443 (2005).

⁶² *Vieth v. Jubelirer*, 541 U.S. 267, 305–06 (2004).

⁶³ *Id.* at 305.

⁶⁴ *Id.* at 306, 314 (Kennedy, J., concurring).

⁶⁵ *Rucho v. Common Cause*, 139 S. Ct. 2484, 2506–07 (2019).

to hear such claims and that judges were not “entitled to second-guess lawmakers’ judgments.”⁶⁶ In the same opinion, the Court stated that there was still a role for federal courts to hear racial gerrymandering claims.⁶⁷ However, the Court failed to address an issue raised by the lower courts: in the wake of *Rucho*, state legislatures could hide racial gerrymanders behind partisan ones.⁶⁸ Basically, “the incentive to ‘cry partisan’ in an attempt to avoid judicial review [became] ever stronger.”⁶⁹

The volatility of federal race-based and partisan gerrymandering doctrine has forced redistricting litigators to pivot and change strategies to succeed in federal court. From 2004 to 2019, lawyers courted Justice Kennedy, trying new standards to guess at the unarticulated one he had in mind in *Vieth*.⁷⁰ In 2006, Kennedy suggested in *League of United Latin American Citizens v. Perry* that partisan symmetry could be a workable standard.⁷¹ Partisan symmetry is the idea that the “electoral system [should] treat similarly-situated parties equally” so electoral support translates easily into legislative representation.⁷² In response, redistricting lawyers in *Gill v. Whitford* pursued a version of partisan symmetry, the efficiency gap argument, which highlighted the difference between two parties’ respective wasted votes, or those votes that do not directly contribute to an electoral victory, by the total number of votes cast.⁷³ In using this theory, they claimed that Democrats in Wisconsin were being systematically disadvantaged by the state’s gerrymander.⁷⁴ However, the lawyers did not even get to test that theory at the Supreme Court, as the case was dismissed for lack of standing in 2018 and remanded back to the district court for further proceedings. Days after the *Whitford* decision came down, Justice Kennedy retired from the Supreme Court. His retirement caused redistricting lawyers to scramble for a new litigation strategy again, particularly because they had already filed a new partisan gerrymandering challenge, *Rucho v. Common Cause*.⁷⁵ The lawyers involved attempted to court Justice Roberts now that Kennedy had retired.⁷⁶ The plaintiffs tried their symmetry argument again, but Roberts rejected it, claiming that there was no way for the court to mediate excessive partisanship in districting.⁷⁷

⁶⁶ Adam Liptak, *Supreme Court Bars Challenges to Partisan Gerrymandering*, N.Y. TIMES (June 27, 2019), <https://www.nytimes.com/2019/06/27/us/politics/supreme-court-gerrymandering.html> [<https://perma.cc/4J4J-D8C8>].

⁶⁷ Emily K. Dalessio, Note, *Say the Magic Words: Establishing a Historically Informed Standard to Prevent Partisanship From Shielding Racial Gerrymanders From Federal Judicial Review*, 77 WASH. & LEE L. REV. 1907, 1942 (2020).

⁶⁸ *Id.*

⁶⁹ *Id.* at 1944–45.

⁷⁰ Zoom Interview with Ruth Greenwood, Visiting Assistant Clinical L. Professor, Harvard L. Sch. (Mar. 1, 2023).

⁷¹ *Id.*; see *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 419 (2006).

⁷² *Perry*, 548 U.S. 399, 466 (2006) (Stevens, J., concurring in part and dissenting in part) (quoting Brief for Gary King et al. as Amici Curiae Supporting Neither Party at 4–5, *Perry*, 548 U.S. 399 (Nos. 05-204, 05-254, 05-276, 05-439), 2006 WL 53994).

⁷³ Interview with Ruth Greenwood, *supra* note 70; Brief for Appellees at 1, 12–17, *Gill v. Whitford*, 138 S. Ct. 1916 (2018) (No. 16-1161), 2017 WL 3726003; Nicholas O. Stephanopoulos & Eric M. McGhee, *Partisan Gerrymandering and the Efficiency Gap*, 82 U. CHI. L. REV. 831, 851 (2015).

⁷⁴ Brief for Appellees, *supra* note 73, at 1, 12–17.

⁷⁵ Interview with Ruth Greenwood, *supra* note 70; see *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019).

⁷⁶ See *Rucho*, 139 S. Ct. 2484.

⁷⁷ *Id.* at 2506.

In terms of partisan gerrymandering, few strategies were left for litigators on the federal level. Lawyers have used other voting rights doctrines as a back door to strike down partisan maps. For example, in *Cox v. Larios*, the Supreme Court affirmed a district court decision striking down a partisan map in Georgia, not because it was a partisan gerrymander, but because it deviated from the equal representation principle of one person, one vote, where everyone's vote is equally weighted and districts contain roughly the same number of people.⁷⁸ Instead, the Court found that Republican-leaning districts were more overpopulated than Democratic-leaning districts, causing a deviation from the one person, one vote standard.⁷⁹ In its holding, the Court affirmed the lower court's reasoning that partisanship was not a legitimate interest justifying a deviation from the one person, one vote standard.⁸⁰ Since 2004, litigators have attempted to use that argument to strike down partisan maps.⁸¹

Alternatively, lawyers have turned to state-level litigation and focused on bringing claims under state constitutions and state law.⁸² State-level litigation efforts came to a standstill in 2022 when *Moore v. Harper* was taken up by the Supreme Court.⁸³ In *Moore v. Harper*, North Carolina state legislators pushed for independent state legislature theory, an interpretation of the Constitution that would give state legislatures the sole power to make state laws governing elections.⁸⁴ If the Supreme Court had sided with the North Carolina state legislature, state courts and redistricting commissions could have lost the power to invalidate or veto unfair congressional district maps.⁸⁵ Now, with the Supreme Court's full-throated rejection of the independent state legislature theory, state-level litigation can continue.⁸⁶

Frustrated with the outcomes in the courts, redistricting lawyers tried a new strategy to get fair maps. Lawyers left the courtroom in search of a congressional solution to unfair redistricting. In 2019, both houses of Congress introduced the For the People Act, which

⁷⁸ *Cox v. Larios*, 542 U.S. 947, 949–50 (2004); *see also* *Reynolds v. Sims*, 377 U.S. 533, 563–68 (1964) (establishing one person, one vote: a principle of democratic representation where everyone's vote is equally weighted).

⁷⁹ *Cox*, 542 U.S. at 949–50.

⁸⁰ *Larios v. Cox*, 300 F. Supp. 2d 1320, 1351 (N.D. Ga. 2004).

⁸¹ *See generally* *League of Women Voters of Chi. v. City of Chicago*, 757 F.3d 722 (7th Cir. 2014).

⁸² *See, e.g.*, *Byrd v. Black Voters Matter Capacity Bldg. Inst.*, 339 So. 3d 1070 (Fla. Dist. Ct. App. 2022); *League of Women Voters of Mich. v. Indep. Citizens Redistricting Comm'n*, 971 N.W.2d 595 (Mich. 2022); *Graham v. Adams*, No.22-CI-00047 (Ky. Cir. Ct. Nov. 10, 2022); *Lamone v. Szeliga*, 478 Md. 241 (App. Ct. 2022); *Brown v. Scanlan*, No. 226-2022-CV-00181 (N.H. Super. Ct. May 6, 2022); *In re Cong. Dists. by N.J. Redistricting Comm'n*, 268 A.3d 299 (N.J. 2022); *City of Valdez v. Alaska Redistricting Bd.*, No. 3VA-21-00080CI (Alaska Super. Ct. Dec. 10, 2021); *Koenig v. Nevada*, No. 21OC001661B (Nev. Dist. Ct. Nov. 17, 2021).

⁸³ Rachel Selzer, *Nearly 30 State Court Cases to Continue Unimpeded by ISL Theory Following Ruling in Moore v. Harper*, DEMOCRACY DOCKET (June 27, 2023), <https://www.democracydocket.com/news-alerts/nearly-30-state-court-cases-to-continue-unimpeded-by-isl-theory-following-ruling-in-moore-v-harper/> [https://perma.cc/7YZR-NTTS].

⁸⁴ Ari Savitzky & Kristi Graunke, *Explaining Moore v. Harper, the Supreme Court Case That Could Upend Democracy*, ACLU (Dec. 6, 2022), <https://www.aclu.org/news/voting-rights/explaining-moore-v-harper-the-supreme-court-case-that-could-upend-democracy> [https://perma.cc/3BNM-C3C4].

⁸⁵ *Id.*

⁸⁶ *See* *Moore v. Harper*, 600 U.S. 1 (2023); Selzer, *supra* note 83; Eliza Sweren-Becker & Ethan Herenstein, *Moore v. Harper, Explained*, BRENNAN CTR. FOR JUST. (June 27, 2023), <https://www.brennancenter.org/our-work/research-reports/moore-v-harper-explained> [https://perma.cc/H2UK-QQDY].

addressed “voter access, election integrity, election security, political spending and ethics for the three branches of government.”⁸⁷ An amended version of the bill introduced in 2021 included provisions targeting partisan gerrymandering.⁸⁸ According to Harvard School of Law Professor Ruth Greenwood, one of the lawyers who argued *Gill v. Whitford* and *Rucho v. Common Cause*, redistricting lawyers went back and forth with politicians on Capitol Hill to include language that would prevent partisan gerrymandering, include penalties for states that tried to impose it, and remain politically palatable.⁸⁹ The bill was supported by a “vast and unprecedented coalition of civil rights activists, labor organizers, faith-based organizations, environmental groups, consumer advocates, voting rights experts, and many others.”⁹⁰ According to Professor Greenwood, lawyers were prepared to litigate partisan gerrymandering claims under the For the People Act for the next decade. Unfortunately, the bill has died multiple times in the Senate due to lack of Republican support, dooming hopes of a congressional solution to gerrymandering.⁹¹

II. REDISTRICTING ORGANIZING

Redistricting organizing is a specific subset of community organizing. Community organizing is a movement led by local leaders advocating for social change.⁹² It can occur in a vast range of policy areas. Community organizing groups foster grassroots participation in decision-making, community building, and local democratic efforts.⁹³ They empower marginalized communities and were the cornerstone of the civil rights movement that gave rise to the Civil Rights Act of 1964 and the Voting Rights Act of 1965.⁹⁴

⁸⁷ For the People Act of 2019, H.R. 1, 116th Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/1>.

⁸⁸ For the People Act of 2021, S. 1, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/senate-bill/1> [<https://perma.cc/EGS9-E4LG>].

⁸⁹ Interview with Ruth Greenwood, *supra* note 70.

⁹⁰ Daniel I. Weiner & Gareth Fowler, *The For the People Act: Separating Fact From Fiction*, BRENNAN CTR. FOR JUST. (May 13, 2021), <https://www.brennancenter.org/our-work/research-reports/people-act-separating-fact-fiction> [<https://perma.cc/QB42-W22K>].

⁹¹ Barbara Sprunt, *Senate Republicans Block Democrats’ Sweeping Voting Rights Legislation*, NPR (June 22, 2021, 8:22 PM), <https://www.npr.org/2021/06/22/1008737806/democrats-sweeping-voting-rights-legislation-is-headed-for-failure-in-the-senate> [<https://perma.cc/57A8-HJ3Q>]; Ella Nilsen, *Senate Democrats Unveiled an Anti-Corruption Companion Bill. Mitch McConnell Is Already Blocking It*, VOX (Mar. 27, 2019, 5:50 PM), <https://www.vox.com/2019/3/27/18284171/senate-democrats-anti-corruption-hr1-schumer-mcconnell> [<https://perma.cc/EC5R-D6KC>].

⁹² Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443, 460 (2001).

⁹³ *Id.* at 461.

⁹⁴ The Montgomery Improvement Association (MIA) played a crucial role in the civil rights movement in Montgomery, Alabama. In response to Rosa Parks’ arrest for not giving up her seat on a Montgomery bus, MIA organized a prolonged and successful bus boycott by the city’s Black community. The boycott “focused national attention on racial segregation in the South and catapulted [Martin Luther] King into the national spotlight.” *Montgomery Improvement Association (MIA)*, MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., <https://kinginstitute.stanford.edu/encyclopedia/montgomery-improvement-association-mia> [<https://perma.cc/88CT-P22S>] (last visited May 2, 2023). MIA became one of the founding organizations of the Southern Christian Leadership Conference, whose campaigns were crucial in passing both the Civil Rights Act of 1964 and the Voting Rights Act of 1965. *See id.*; *see also Southern Christian Leadership Conference (SCLC)*, MARTIN LUTHER KING, JR. RSCH. & EDUC. INST.,

Organizing encompasses a wide range of local activism work, including “organization building, mobilization, education, consciousness raising, and legislative advocacy.”⁹⁵ This can include door-knocking, issue advocacy workshops, volunteer drives, press conferences, boycotts and protests, and political advocacy. For example, in political campaign organizing, field organizers canvas—or directly contact—voters about their candidates at shopping centers, plazas, and homes.⁹⁶ Additionally, they phonebank—or call voters directly—to chat about candidates and their policies.⁹⁷ In addition to reaching out to voters directly, organizers also train volunteers in how to reach out to potential voters.⁹⁸ These efforts raise the visibility of campaigns and can have immense impact on Election Day outcomes.⁹⁹

Redistricting organizing can look similar to the general model of community organizing. In the map-drawing process, either redistricting commissions or legislators draw congressional and state-level districts based on results from the census.¹⁰⁰ When creating the maps, these bodies hold hearings to hear from community members. Often, redistricting organizing centers around recruiting volunteers to testify at these hearings to tell the mapmakers how the proposed lines affect them. Testimonials often showcase how a community of interest (COI) is impacted by the district lines, highlighting what matters to voters, residents, and communities.¹⁰¹ For example, volunteers could share stories about how the proposed lines pack the region’s Black voters into a district, weakening Black voting strength outside of the district.¹⁰² Alternatively, voters could testify that the new lines crack, or split, the region’s Black voters and spread them into different districts, weakening their voting strength across the state.¹⁰³ Testimony from volunteers creates a record, which can be extremely helpful in holding mapmakers accountable to promises and statements they make in the hearing room.¹⁰⁴ Additionally, comments around communities of interest have been traditionally thought of as helpful for litigation, both for establishing a record of public demands lawyers can use to challenge unfair steps in the redistricting process and for showing courts how residents are directly impacted by district lines.¹⁰⁵

<https://kinginstitute.stanford.edu/southern-christian-leadership-conference-sclc> [https://perma.cc/4KPX-UYZF] (last visited May 2, 2023).

⁹⁵ Cummings & Eagly, *supra* note 92, at 480.

⁹⁶ See Fortesa Latifi, *Young Georgians Are Getting Out the Vote for the December 6 Senate Runoff*, TEENVOGUE (Nov. 30, 2022), <https://www.teenvogue.com/story/young-organizers-georgia-senate-runoff> [https://perma.cc/46NR-6F9K].

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Ella Wiley, *How Redistricting Works—and How You Can Get Involved*, LEGAL DEF. FUND, <https://www.naacpldf.org/how-redistricting-works/> [https://perma.cc/PG6D-4U9K] (last visited Mar. 25, 2023).

¹⁰¹ See Karin MacDonald & Bruce E. Cain, *Community of Interest Methodology and Public Testimony*, 3 U.C. IRVINE L. REV. 609 (2013).

¹⁰² Julia Kirschenbaum & Michael Li, *Gerrymandering Explained*, BRENNAN CTR. FOR JUST. (June 9, 2023), <https://www.brennancenter.org/our-work/research-reports/gerrymandering-explained> [https://perma.cc/8QJY-5DKS].

¹⁰³ *Id.*

¹⁰⁴ Interview with Lekha Shupeck, *supra* note 5.

¹⁰⁵ See *Giving Effective Public Testimony for Redistricting*, S. COAL. FOR SOC. JUST., https://southerncoalition.org/wp-content/uploads/2021/09/3--Giving_Effective_Testimony.pdf

While many redistricting organizing strategies center around similar programs, programming varies by state, particularly based on the political makeup of that state's legislature, the history of redistricting in the state, and the strength of groups on the ground.

The following summaries of organizing efforts in North Carolina and Ohio were informed largely by interviews with local organizers. Lekha Shupeck is the former North Carolina State Director for All on the Line and Katy Shanahan is the former Ohio State Director for All on the Line. All on the Line is a national grassroots campaign focused on mobilizing state-level organizing efforts around redistricting.¹⁰⁶ All on the Line is the grassroots organizing arm of the National Redistricting Action Fund, which is an affiliate organization of the National Democratic Redistricting Committee, a nonprofit dedicated to Democratic redistricting efforts.¹⁰⁷ Because both interviewees work for the same umbrella organization, some of their organizing strategies are similar. However, based on the political landscape and redistricting history of each state, these strategies played out slightly differently. Finally, both interviewees are lawyers who worked as organizers. While their takeaways from organizing are helpful in constructing a movement lawyering lens for redistricting, their work was not specifically within the movement lawyering framework.

A. North Carolina

North Carolina has been a redistricting battleground for decades. *Shaw v. Reno*, *Easley v. Cromartie*, *Cooper v. Harris*, *Rucho v. Common Cause*, and *Moore v. Harper* all came out of North Carolina redistricting issues.¹⁰⁸ In North Carolina, the state legislature draws district maps, which cannot be vetoed by the governor.¹⁰⁹ If the maps are challenged in court and struck down, judges can draw a temporary map for the next election.¹¹⁰

Why has North Carolina been a battleground for redistricting? Much of the litigation in North Carolina centered on one specific congressional district, CD-12.¹¹¹ In 1990, after the decennial census, North Carolina's population had grown enough to entitle the state to

[<https://perma.cc/TV42-ZXSA>] (last visited May 2, 2023); Sandra J. Chen, Samuel S.H. Wang, Bernard Grofman, Richard F. Ober, Jr., Kyle T. Barnes, & Jonathan R. Cervas, *Turning Communities of Interest Into a Rigorous Standard for Fair Districting*, 18 STANFORD J. CIV. RTS. & C.L. 101, 113 (2022).

¹⁰⁶ *About*, ALL ON THE LINE, <https://www.allontheline.org/about> [<https://perma.cc/UZ8K-B4LT>] (last visited Mar. 24, 2023).

¹⁰⁷ *FAQs*, ALL ON LINE, <https://www.allontheline.org/about> [<https://perma.cc/Y3C3-TCNE>] (last visited May 2, 2023).

¹⁰⁸ *Shaw v. Reno*, 509 U.S. 630 (1993); *Easley v. Cromartie*, 532 U.S. 234 (2001); *Cooper v. Harris*, 581 U.S. 285 (2017); *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019); *Moore v. Harper*, 600 U.S. 1 (2023).

¹⁰⁹ *North Carolina State Summary*, ALL ABOUT REDISTRICTING, <https://redistricting.ils.edu/state/north-carolina/?cycle=2020&level=Congress&startdate=2023-10-25> [<https://perma.cc/UFE2-YEHZ>] (last visited July 24, 2023).

¹¹⁰ See Gary D. Robertson & Hannah Schoenbaum, *NC Democrats' Parity in Congress May Be Fleeting*, AP NEWS (Nov. 28, 2022, 10:31 AM), <https://www.apnews.com/article/2022-midterm-elections-us-supreme-court-legislature-raleigh-redistricting-2bbf72f5161344750c54aa965f211aa9> [<https://perma.cc/27KG-CK5E>].

¹¹¹ *Drawing Democracy: North Carolina's Gerrymandering History*, NC STATE UNIV. (July 29, 2019), <https://history.news.chass.ncsu.edu/2019/07/29/drawing-democracy-north-carolinas-gerrymandering-history/> [<https://perma.cc/ZQH3-Q6TN>].

a twelfth congressional district.¹¹² The state drew up maps that included one majority-minority congressional district, a district where the majority of the population is of a minority race. The maps failed preclearance by the U.S. Department of Justice because it failed to include two majority-minority districts.¹¹³ The state redrew its maps, including two majority-minority districts. These districts were unusually shaped, with one, CD-1, looking like a “bug splattered on a windshield” while the other, CD-12, so bizarrely shaped that “[i]f you drove down the interstate with both car doors open, you’d kill most of the people in the district.”¹¹⁴ The new maps passed DOJ preclearance.¹¹⁵ Since then, there has been near constant litigation over these districts focusing on both partisan and racial gerrymandering claims.¹¹⁶

As a result of all this litigation, the state’s population is no stranger to redistricting and numerous groups organize around redistricting in North Carolina.¹¹⁷ One such organization is the local branch of All on the Line, formerly led by State Director Lekha Shupeck. Shupeck started organizing around voting rights issues in 2010 when she was a law student at Duke University.¹¹⁸ At that time, the historically Democratic state legislature flipped Republican for the first time in one hundred years.¹¹⁹ In Shupeck’s work for All on the Line, the organization was very focused on bringing and eventually winning lawsuits, a priority set by the National Redistricting Action Fund. In Shupeck’s opinion, her program in North Carolina was “pretty unique.”¹²⁰ She spent a lot of time not only making raw information accessible, but also providing frameworks and analysis so that constituents had a comprehensive understanding of the issues at play.¹²¹ The National Redistricting Action Fund and All On the Line helped make this possible through Redistricting U, an organization which provided free trainings about redistricting through the All on the Line state chapters.¹²² According to Shupeck, North Carolina’s Redistricting U program was a thirteen-unit online course with just under a hundred students covering North Carolina

¹¹² Michael J. Pitts, *What Has Twenty-Five Years of Racial Gerrymandering Doctrine Achieved?*, 9 U.C. IRVINE L. REV. 229, 233 (2018).

¹¹³ *Id.* Before *Shelby County v. Holder*, 570 U.S. 529 (2013), certain states covered under the VRA’s formula were required to submit their changes to election practices to the DOJ before they could be enacted. The practices were reviewed for any discriminatory purpose or effect. *Id.* at 535. The Court found this preclearance formula to be unconstitutional in 2013. *Id.* at 556–57; see also *About Section 5 of the Civil Rights Act*, U.S. DEP’T JUST., <https://www.justice.gov/crt/about-section-5-voting-rights-act> [https://perma.cc/WN8S-9MWC] (last visited Jul. 24, 2023).

¹¹⁴ Pitts, *supra* note 112, at 234.

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 234–35.

¹¹⁷ *North Carolina*, REDISTRICTING DATA HUB, <https://www.redistrictingdatahub.org/tools/organizations-involved-in-redistricting/north-carolina-organizations/> [https://perma.cc/4YVW-WYSW] (last visited Mar. 25, 2023).

¹¹⁸ Interview with Lekha Shupeck, *supra* note 5; Lekha Shupeck, LINKEDIN, <https://www.linkedin.com/in/lekha-shupeck-3018734a/> (last visited Jan. 21, 2024).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Alison Durkee, *Obama Is Ramping Up His Fight Against Gerrymandering*, VANITY FAIR (Aug. 26, 2019), <https://www.vanityfair.com/news/2019/08/obama-gerrymandering-redistricting-u> [https://perma.cc/U7L6-6VSF].

redistricting.¹²³ She taught students about the specific policies and procedures behind the state's redistricting process.¹²⁴

Shupeck found that the trust in her community made her organizing work for All on the Line different:

I think [trust's] one thing that is maybe unique to the organizing work I've done around redistricting here[,] in that we have been really focused on not so much worrying about people not being able to handle [redistricting] information. Obviously [we are] trying really hard to make it accessible to people as much as possible but really trusting that people can handle [the information] and that level of analysis is helpful.¹²⁵

Shupeck also spent a lot of time getting volunteers to testify at redistricting hearings.¹²⁶ Since working with All on the Line, Shupeck stated that the organization's testimonial strategies changed based on everything she learned each year.¹²⁷ Making general comments against gerrymandering was not effective, according to Shupeck, because legislators could turn around and use the excuse that no one told them specifically what they were doing wrong.¹²⁸ Shupeck encouraged people to testify effectively by being more specific than just saying "gerrymandering is bad."¹²⁹

Using academic research that showed the effect different kinds of comments had on the redistricting process, Shupeck built her organizing program around the strategy of making comments that could be effective in getting legislators to draw fairer maps for communities of interest.¹³⁰ According to the Brennan Center for Justice, public comments were more influential if comments gave mapmakers specific instructions on how to group certain communities together.¹³¹ Additionally, an analysis of public hearings found that comments that touched on a small area, focusing on distinctive features and landmarks of towns and cities, were also influential.¹³²

As a result, Shupeck and her team encouraged people to testify specifically about why certain gerrymanders were harmful and proactively push back on specific district lines.¹³³ For example, in 2021, when a draft congressional map split Cumberland County from Fayetteville, its county seat, her organizers got people to testify about why that split was bad for their community.¹³⁴ Fayetteville is the home to Fort Bragg, one of the largest

¹²³ Interview with Lekha Shupeck, *supra* note 5.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ Interview with Lekha Shupeck, *supra* note 5.

¹³⁰ *Id.*

¹³¹ Peter Miller, *6 Tips for Making Effective Comments at a Redistricting Hearing*, BRENNAN CTR. FOR JUST. (Aug. 26, 2021), <https://www.brennancenter.org/our-work/research-reports/6-tips-making-effective-comments-redistricting-hearing> [<https://perma.cc/BW23-SNAY>].

¹³² *Id.*

¹³³ Interview with Lekha Shupeck, *supra* note 5.

¹³⁴ *Id.*

Army bases in the United States.¹³⁵ Rodney Anderson, a retired Army veteran in Fayetteville, requested that mapmakers respect the population of veterans, reservists, and military family members in the area and offer them regional representation in Congress.¹³⁶ Black Voters Matter Organizer Nakia Smith asked for the county to remain intact, citing the area's "similar socioeconomic backgrounds, environmental injustices, racial and ethnic backgrounds, as well as ties to the military."¹³⁷ Although Shupeck and her fellow organizers were successful in fighting back against that particular split of Fayetteville, a 2022 ruling from the North Carolina Supreme Court approved congressional maps that ended up splitting Fayetteville and Cumberland County.¹³⁸

Another organizing program in North Carolina focused on coordinating dedicated volunteers to continuously call legislators' offices and ask for status updates on redistricting.¹³⁹ By calling the mapmakers directly, Shupeck sought out information that was not being covered by local reporting.¹⁴⁰ According to Shupeck, organizers gave volunteers new talking points daily to try to get as much information as possible.¹⁴¹ As a result of so many people calling different offices every day, Shupeck's team gathered lots of information about the redistricting process that was not available in the news.¹⁴² In her opinion, this effort helped organizing strategy be "more effective and more informed."¹⁴³ Shupeck credited the changes achieved in the draft maps to the shift in messaging and programming strategies in 2022, stating that they did not see similar outcomes in 2017.¹⁴⁴

¹³⁵ *Military Bases in North Carolina*, N.C. DEP'T MIL. AND VETERANS AFFS., <https://www.milvets.nc.gov/benefits-services/military-bases-north-carolina> [https://perma.cc/M3PX-W9KB] (last visited July 28, 2023).

¹³⁶ All On The Line NC (@allontheline_nc), TWITTER, (Oct. 18, 2021, 1:29 PM), https://www.twitter.com/allontheline_nc/status/1450167161062924291 [https://perma.cc/S6C4-XLRY].

¹³⁷ All On The Line NC (@allontheline_nc), TWITTER, (Oct. 18, 2021, 1:29 PM), https://www.twitter.com/allontheline_nc/status/1450167165349507075 [https://perma.cc/8XB6-TLCH].

¹³⁸ Interview with Lekha Shupeck, *supra* note 5; Troy Williams, *NC Redistricting Leaves Cumberland County With Short Straw, Some Say*, FAYETTEVILLE OBSERVER (Feb. 27, 2022, 6:01 AM), <https://www.fayobserver.com/story/opinion/2022/02/27/troy-williams-nc-redistricting-leaves-cumberland-county-short-straw-some-say/6908377001/> [https://perma.cc/6NVZ-PKME].

¹³⁹ Interview with Lekha Shupeck, *supra* note 5; All On The Line NC (@allontheline_nc), TWITTER (Nov. 2, 2021, 10:27 AM), https://www.twitter.com/allontheline_nc/status/1455557104383709184?s=20 [https://perma.cc/2M7G-QT5S].

¹⁴⁰ Interview with Lekha Shupeck, *supra* note 5.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.* In late 2021, North Carolina Republicans redrew the state's district maps. However, because the maps heavily favored Republicans, the maps were challenged in court. The North Carolina Supreme Court ordered a redraw in February 2022. After taking testimony, the state legislature submitted a new map that did not split Fayetteville, NC. However, the Wake County Superior Court did not like the map and instituted its own interim map, which did end up splitting Fayetteville. Ben Sessoms, *One City, Two Districts: How Dividing a Community's Vote Impacts Its Political Voice*, CAROLINA PUB. PRESS (Sept. 15, 2022), <https://carolinapublicpress.org/56501/one-city-two-districts-how-dividing-a-communitys-vote-impacts-its-political-voice/> [https://perma.cc/ZS3E-MU36]. In 2017, North Carolina Republicans released a new legislative district map that heavily favored Republicans with little resistance. Emery P. Dalesio, *NC Senate Releases Legislative District Map Rewrite*, CITIZEN TIMES (Aug. 22, 2017, 6:42 AM), <https://www.citizen-times.com/story/news/2017/08/22/nc-senate-releases-legislative-district-map-rewrite/104842542/> [https://perma.cc/SKM7-8P5J]. The gerrymander was so extreme that one lawmaker had to retire. Rob Morris, *State Sen. Bill Cook Will Not Seek Re-Election in 2018*, OUTER BANKS VOICE (Aug. 30, 2017),

For example, the congressional maps drawn in 2017 were openly “drawn to favor Republicans.”¹⁴⁵ The United States Supreme Court eventually struck down the maps for relying too heavily on race in *Cooper v. Harris*.¹⁴⁶ On the other hand, congressional maps in 2022 were “relatively favorable” for Democrats, gaining at least one Democratic seat in Congress in the 2022 midterm elections.¹⁴⁷

B. Ohio

According to former All on the Line Ohio State Director Katy Shanahan, Ohio appears far more conservative than it is in reality.¹⁴⁸ The state is heavily gerrymandered, impacting state-level and federal races.¹⁴⁹ The state did not use to be so politically one-sided.¹⁵⁰ In 1984, the state had roughly 50% Democratic voters and 50% Republican voters.¹⁵¹ That year, Ohio sent eleven Democrats and ten Republicans to the U.S. House.¹⁵² This representational breakdown has since changed. By 1996, Ohio Republicans represented about 52% of the state’s voters but sent eleven representatives to Congress while Democrats only sent eight.¹⁵³ By 2012, Ohio Republicans still represented the same proportion of state votes as 1996, but sent three times more representatives to Congress than Ohio Democrats.¹⁵⁴

Even though Ohio overhauled its redistricting process in 2018, the power to draw maps rests with a partisan politician-run commission, one that has largely been considered a failure.¹⁵⁵ According to Shanahan, the partisan members of the commission “ignored the

<https://www.outerbanksvoice.com/2017/08/30/state-sen-bill-cook-will-not-seek-re-election-in-2018/>
[<https://perma.cc/2EUB-VMU8>].

¹⁴⁵ Adam Liptak, *Justices Reject 2 Gerrymandered North Carolina Districts, Citing Racial Bias*, N.Y. TIMES (May 22, 2017), <https://www.nytimes.com/2017/05/22/us/politics/supreme-court-north-carolina-congressional-districts.html> [<https://perma.cc/AX4E-GBZR>].

¹⁴⁶ *Id.*; *Cooper v. Harris*, 581 U.S. 285 (2017).

¹⁴⁷ J. Miles Coleman, *Breaking Down North Carolina and Pennsylvania’s New Maps*, U. VA. CTR. FOR POL. (Mar. 3, 2022), <https://www.centerforpolitics.org/crystalball/articles/breaking-down-north-carolina-and-pennsylvanias-new-maps/> [<https://perma.cc/4DHS-VP9S>].

¹⁴⁸ Interview with Katy Shanahan, *supra* note 5.

¹⁴⁹ David DeWitt, *Gerrymandered Ohio Statehouse Gives Voters No Recourse Through Initiated Statute, Only Constitution*, OHIO CAP. J. (May 18, 2023, 4:30 AM), <https://www.ohiocapitaljournal.com/2023/05/18/gerrymandered-ohio-statehouse-gives-voters-no-recourse-through-initiated-statute-only-constitution/> [<https://perma.cc/K86C-AQ9F>]; Karen Juanita Carrillo, *Ohio Votes Under ‘Extreme’ Gerrymandering That Favors Republicans*, CTR. FOR PUB. INTEGRITY (Oct. 6, 2022), <https://www.publicintegrity.org/politics/elections/who-counts/ohio-votes-under-extreme-gerrymandering-that-favors-republicans/> [<https://perma.cc/ZEF6-DR8R>]; Sam Gresham, *In Court to Fight Ohio’s Gerrymandered Maps*, BRENNAN CTR. FOR JUST. (Mar. 24, 2022), <https://www.brennancenter.org/our-work/analysis-opinion/court-fight-ohios-gerrymandered-maps> [<https://perma.cc/UPS2-U4Y4>].

¹⁵⁰ See Thomas Suddes, *A Brief History of Ohio Gerrymandering*, DAYTON DAILY NEWS (Aug. 26, 2016), <https://www.daytondailynews.com/news/opinion/brief-history-ohio-gerrymandering/jW0wHTvupr2S0nQWJPXH3M/> [<https://perma.cc/LYV5-NSUX>].

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ Tierney Sneed, *A Fair Maps Success Story or ‘Multi-layered Stages of Dante’s Hell’? Where Redistricting Commissions Worked—and Didn’t Work—This Cycle*, CNN (Jun. 18, 2022, 4:20 PM), <https://www.cnn.com/2022/06/18/politics/redistricting-commission-takeaways-success/index.html> [<https://perma.cc/LWR3-8NKL>].

will of Ohioans, the letter of the law in our state constitution, and the rule of law in their efforts to pass and implement illegally gerrymandered maps.”¹⁵⁶ For example, in 2022, Republican members of the state redistricting commission rejected maps drawn by independent mapmakers and instead passed maps favoring their party.¹⁵⁷ Litigation has not been fruitful. Unlike in North Carolina, Ohio courts have no power to impose a map themselves.¹⁵⁸ The court instead hands the maps back to the legislature for redraws.¹⁵⁹ According to Shanahan, this has led to a “vicious, endless, Groundhog Day of getting the maps struck down and redrawing them and then back”¹⁶⁰

In her work for All on the Line, Shanahan managed partnerships with local nonprofits, educational trainings, political advocacy, communications, and social media for redistricting organizing in Ohio.¹⁶¹ According to her, redistricting in Ohio was a “necessary, central issue that we had to fix if we wanted to move the needle on any other issue.”¹⁶² In her organizing, Shanahan helped create the Equal Districts Coalition, a partnership of more than thirty labor unions, community-based organizations, and issue-based organizations already active in the political space.¹⁶³ In the run-up to the 2020 census, she encouraged her partner groups to add talking points about the significance of redistricting when they engaged with Ohio voters.¹⁶⁴ Rather than organizing the entire state herself around redistricting, she leaned on already-established organizations to lay the initial organizing groundwork. For example, when political organizers were campaigning in 2019, she got them to talk to voters about how to fill out the 2020 census.¹⁶⁵ Those messages informed people that filling out the census was the first step in the redistricting process. Additionally, she encouraged her partners to add a few lines about the Ohio Supreme Court races’ implications for redistricting to their voting materials, as those justices would be the ones who ultimately ruled on whether maps were fair or not.¹⁶⁶ Finally, during the run-up to the 2020 election, she leaned on political organizers to get the message out about the election’s implications on redistricting. She had a simple ask for political organizers: “When you’re training your people, can you give them one bullet point about redistricting to say, this is another reason why this election is so important?”¹⁶⁷ This was crucial for Shanahan to broaden her reach across the state.

Apart from getting organizations on board, Shanahan focused on organizing and educating Ohioans. Much like in North Carolina, Shanahan started her first big organizing initiative through the national Redistricting U program.¹⁶⁸ In Ohio, the program was an introductory course to redistricting in Ohio that trained thousands of people across the

¹⁵⁶ Interview with Katy Shanahan, *supra* note 5.

¹⁵⁷ Susan Tebben, *Ohio Republicans Abandon Independent Mapmakers to Pass Slightly Modified GOP Maps*, OHIO CAP. J. (Mar. 29, 2022, 4:00 AM), <https://www.ohiocapitaljournal.com/2022/03/29/ohio-republicans-abandon-independent-mapmakers-to-pass-slightly-modified-gop-maps/> [<https://perma.cc/7GFX-XVPA>].

¹⁵⁸ Sneed, *supra* note 155.

¹⁵⁹ *Id.*

¹⁶⁰ Interview with Katy Shanahan, *supra* note 5.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*; Durkee, *supra* note 122.

state.¹⁶⁹ Shanahan connected with neighborhood progressive groups and local Democratic clubs to recruit trainees.¹⁷⁰ Using data from the National Democratic Redistricting Committee and the since-dismantled Obama for America, Shanahan identified people likely familiar with redistricting organizing and engaged with them.¹⁷¹ With an organizer, she put together ten different volunteer organizing programs and a “ladder of engagement” to plug volunteers in as they saw fit.¹⁷² These programs included monthly volunteer meetings to update volunteers on the latest call to action, testimony trainings specific to different regions of Ohio, and informational sessions on the importance of fair maps.¹⁷³ In 2021, Shanahan started redistricting-specific drives, getting people to complete testimony training and understand why their districts are not working for them.¹⁷⁴ Because she had been building rapport and community for the past few years, she had developed credibility in the community and had a ready base of volunteers to tap into. For example, Shanahan built legislator accountability teams where volunteers built up relationships with their legislators and reached out to them every week about redistricting.¹⁷⁵ According to the volunteer sign-up page for the legislator accountability teams, volunteers were assigned to specific legislators and were tasked with “supporting them when they do the right thing and keeping the pressure on when they’re tempted to make self-interested deals.”¹⁷⁶ Although Shanahan conceded that redistricting in Ohio tended to happen “behind closed doors” and with “conversations with their lobbyists and folks in D.C.,” the emails and testimonials were useful for building “the strongest potential legal case” when legislators claimed to not know about a specific community impacted by the proposed district lines.¹⁷⁷ In response, Shanahan and the National Redistricting Action Fund lawyers planned to use hearing testimony to show that the legislators had already been put on notice about that specific redistricting complaint.¹⁷⁸

C. Takeaways from Organizing in North Carolina and Ohio

A common theme across the interviews with Shupeck and Shanahan was holding mapmakers accountable through organizing.¹⁷⁹ Either through the creation of a testimonial record or constant communication with legislators through the legislator accountability teams, organizers in North Carolina and Ohio sought to hold map drawers to the promises they made during redistricting hearings and showed them the direct impact of unfair

¹⁶⁹ Interview with Katy Shanahan, *supra* note 5; “Redistricting U” Training With All on the Line, DEL. CNTY. DEMOCRATIC PARTY, <https://www.ohiodeladems.org/redistricting-u-training-with-all-on-the-line/> [https://perma.cc/4JQP-XMJT] (last visited Oct. 16, 2023).

¹⁷⁰ Interview with Katy Shanahan, *supra* note 5.

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*; *Volunteer Opportunities, Events, and Petitions Near Me*, ALL ON THE LINE, <https://web.archive.org/web/20210909053715/https://www.mobilize.us/allonthelineoh/> (last visited May 3, 2023).

¹⁷⁴ Interview with Katy Shanahan, *supra* note 5.

¹⁷⁵ *Id.*

¹⁷⁶ *Legislator Accountability Team Meeting*, ALL ON THE LINE, https://web.archive.org/web/20210329122844mp_/https://www.mobilize.us/allonthelineoh/event/380058/ [https://perma.cc/SC8B-F8M6] (last visited May 3, 2023).

¹⁷⁷ Interview with Katy Shanahan, *supra* note 5.

¹⁷⁸ *Id.*

¹⁷⁹ See Interview with Lekha Shupeck, *supra* note 5; Interview with Katy Shanahan, *supra* note 5.

maps.¹⁸⁰ They made sure legislators were on notice about the negative impacts of the proposed maps so that they could not feign ignorance when organizations like the National Redistricting Action Fund sued over unfair maps.¹⁸¹ All on the Line and its organizers created a plethora of evidence for lawyers to use in litigation, highlighting an example of how lawyers and organizers have worked together in the redistricting space.¹⁸²

Organizers realize that avenues for successful litigation are slowly being closed, both in federal and state court. According to Shupeck, “whatever comes out of this independent state legislature stuff . . . it really does not leave litigation as much of a solution to anything anymore”¹⁸³ She predicted that more energy, as a result, would be focused on organizing.¹⁸⁴ According to her, because the window to litigation is closing, organizers and lawyers have to turn to other solutions to fight for fair maps.¹⁸⁵ She recommended “deep organizing” in areas that generally have not received as much attention.¹⁸⁶ Deep organizing is a strategy of organizing that centers on building long-term relationships with residents in neglected areas well before any elections or redistricting and staying there throughout the process.¹⁸⁷ In Shupeck’s opinion, it would likely take ten years of deep organizing work to start seeing substantial change in North Carolina’s district maps.¹⁸⁸ Shanahan had a different prediction for how redistricting work would fare in Ohio. First, she said it was too early to say how the state supreme court would rule on redistricting.¹⁸⁹ The court has yet to rule on this issue with its new 4–3 conservative majority. Shanahan said it was “imperative” for Ohio to secure an independent redistricting commission to draw future state and congressional district lines.¹⁹⁰ An independent commission would most likely arise from a ballot provision, which itself would benefit from organizing around its passage.¹⁹¹

III. THE TRADITIONAL RELATIONSHIP BETWEEN LAWYERS AND ORGANIZERS

Although organizers have contributed to litigation by offering complex stories of how communities of interest are impacted by unfair district lines, they were not always included in redistricting lawsuits. According to Brennan Center for Justice’s Senior Counsel for Democracy Yuriy Rudensky, older redistricting litigation could be all about the

¹⁸⁰ See Interview with Lekha Shupeck, *supra* note 5; Interview with Katy Shanahan, *supra* note 5.

¹⁸¹ See Interview with Lekha Shupeck, *supra* note 5; Interview with Katy Shanahan, *supra* note 5. The National Redistricting Action Fund has brought lawsuits against unfair maps in states across the country, including Ohio and North Carolina. *Litigation*, NAT’L REDISTRICTING ACTION FUND, <https://www.redistrictingaction.org/litigation> [<https://perma.cc/P828-MDM7>] (last visited July 27, 2023).

¹⁸² See Interview with Lekha Shupeck, *supra* note 5.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ See Colin Delany, *Deep Organizing Is Having a Moment*, CAMPAIGNS & ELECTIONS (Mar. 3, 2021, 3:32 PM), <https://www.campaignsandelections.com/industry-news/deep-organizing-is-having-a-moment/> [<https://perma.cc/D8RR-8N4F>].

¹⁸⁸ Interview with Lekha Shupeck, *supra* note 5.

¹⁸⁹ Interview with Katy Shanahan, *supra* note 5.

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

numbers: highlighting stories on the ground was not central the case.¹⁹² It used to be easier to bring gerrymandering cases in front of the federal court, and thus past redistricting cases did not have to bring as much evidence to bear to show the disparate impact of unfair districts.¹⁹³ Lawyers could simply argue percentages and have a much higher chance of success. Cases are very different now. According to Rudensky, it is now crucial for lawyers to “think about what we’re doing very, very differently and be much more creative and be much, much, much more heavily invested in telling the story of the actual experience of various communities.”¹⁹⁴ But why does organizing even matter to litigation? Shanahan laid the stakes out bluntly:

[Organizing and legal work] are usually two very separate fields of work and they do not come together. Which again, doesn’t make any sense because where do laws come from? They come from the legislative process. If you’re not advocating around that, you’re losing the game.¹⁹⁵

Organizers are also crucial to getting volunteers to testify in front of policy makers to make sure they are “on notice in terms of what the community’s particular needs are ... and to make sure that when these lawmakers do abuse the redistricting power that they have, that it’s clear that they were on notice.”¹⁹⁶ These statements can be the basis of lawsuits and supply testimony for the later stages of a case.¹⁹⁷

Additionally, particularly important in the lawyer-organizer relationship is the lawyer’s need for plaintiffs, which can come organically from grassroots organizing.¹⁹⁸ For example, Professor Greenwood argued *Gill v. Whitford*, a partisan gerrymandering case challenging the state legislative districts in Wisconsin.¹⁹⁹ In that case, she and her team identified forty plaintiffs from all over Wisconsin who had stories about how gerrymandered districts impacted them.²⁰⁰ For example, plaintiff Debbie Patel joined the

¹⁹² Zoom Interview with Yuriy Rudensky, Senior Couns. for Democracy, Brennan Ctr. for Just. (Mar. 1, 2023).

¹⁹³ See *id.* Cases like *Johnson v. De Grandy*, 512 U.S. 997 (2014), and *Bartlett v. Strickland*, 556 U.S. 1 (2009), both VRA § 2 cases, were about the creation of majority–minority cases. Both Supreme Court opinions were focused on the proportion of majority–minority districts to elected minority representatives, and the percentages of Black voters in the proposed districts. This focus on numbers was also a large part of later cases like *Easley v. Cromartie*, 532 U.S. 234 (2001), *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254 (2015), *Cooper v. Harris*, 581 U.S. 285 (2017), and *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178 (2017).

¹⁹⁴ *Id.*

¹⁹⁵ Interview with Katy Shanahan, *supra* note 5.

¹⁹⁶ Interview with Yuriy Rudensky, *supra* note 192.

¹⁹⁷ Interview with Lekha Shupeck, *supra* note 5; interview with Ruth Greenwood, *supra* note 70.

¹⁹⁸ Interview with Ruth Greenwood, *supra* note 70. Grassroots organizing is not the only way lawyers find plaintiffs. For example, the lead plaintiff in *Gill v. Whitford*, 585 U.S. 48 (2018), University of Wisconsin Law Professor Bill Whitford, came to Professor Greenwood about bringing a partisan gerrymandering claim after reading her husband’s article, “Partisan Gerrymandering and the Efficiency Gap.” Interview with Ruth Greenwood, *supra* note 70.

¹⁹⁹ See *Gill*, 585 U.S. 48 (Plaintiffs brought a partisan gerrymandering claim against the state for its state legislative redistricting plan. The Supreme Court did not decide on the merits but kicked the case back to the lower court on standing grounds).

²⁰⁰ Interview with Ruth Greenwood, *supra* note 70; The *Whitford* plaintiffs came from widely different backgrounds. For example, Helen Harris was a Black voter whose father came to Milwaukee as part of the

suit because of how the Wisconsin state district lines diluted her vote.²⁰¹ Patel, a Democrat, explained how the legislative map “cracked” her district to split up the Democrat vote, “swallowing [her] vote into a largely Republican district.”²⁰² The map was so skewed toward Republicans that no Democrat ran against the Republican candidate for multiple election cycles.²⁰³ Often, organizing is necessary to find plaintiffs and connect them with lawyers. According to Shupeck, “there would not be plaintiffs for these cases if people who are on the ground were not calling people that they knew.”²⁰⁴

However, it is not as simple as lawyers coming to a state and finding people to represent. Rudensky and Shupeck both identified a crucial issue facing national lawyers seeking to bring redistricting legislation: trust. Rudensky said,

You have to come in and earn trust. You have to come in and demonstrate that you are going to be capable of not just exercising sound legal judgment and have the experience needed to be able to, from a legal standpoint, represent the case[,] but that you’re going to actually do it in a way that’s consistent with how folks envision their story being told.²⁰⁵

Shupeck echoed those concerns, highlighting the pressures and burdens this kind of relationships put on organizers:

I think that people who are doing this work on the ground in states have the experience so often of people from the national level showing up or attorneys showing up and being like, “we need plaintiffs, and this is what we want to do” and it’s very demanding.²⁰⁶

This burden on organizers can increase with more national attention. For example, when Professor Greenwood started the litigation process for *Gill v. Whitford*, she had to fundraise from national nonprofits to get the lawsuit off the ground.²⁰⁷ However, getting help to challenge unfair district maps was not easy for her: “So you start out trying to desperately get people to help you and then once it becomes a big thing, the vultures descend and everybody’s trying to take a piece and argue that it’s theirs and pull it away.”

Great Migration. Her entire life, she lived in one of Milwaukee’s majority black and Democratic state assembly districts. However, after the 2011 redistricting, she was placed in a suburban district where her representative did not respond to her phone calls and did not campaign in her neighborhood. Another plaintiff, Wendy Sue Johnson, lived in district that was packed with Democratic voters, making it easier for Republicans to win other districts. The new district line ran along the side of her house, splitting her neighbors off into a separate district. “*I’ve Always Voted. But Now I Feel That My Vote Doesn’t Count*”: *Partisan Gerrymandering Silences Voters*, CAMPAIGN LEGAL CTR. (June 15, 2018), <https://www.campaignlegal.org/story/ive-always-voted-now-i-feel-my-vote-doesnt-count-partisan-gerrymandering-silences-voters> [<https://perma.cc/VE8X-NQWU>].

²⁰¹ Debbie Patel, *Tired of Being Ignored: Wisconsin Voter Joins CLC Challenge to Gerrymandered Maps*, CAMPAIGN LEGAL CTR. (Sept. 26, 2018), <https://www.campaignlegal.org/story/tired-being-ignored-wisconsin-voter-joins-clc-challenge-gerrymandered-maps> [<https://perma.cc/GD6Y-GCBR>].

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ Interview with Lekha Shupeck, *supra* note 5.

²⁰⁵ Interview with Yuri Rudensky, *supra* note 192.

²⁰⁶ Interview with Lekha Shupeck, *supra* note 5.

²⁰⁷ Interview with Ruth Greenwood, *supra* note 70.

During the *Whitford* litigation, political scientists released statements arguing against the standard the plaintiffs were putting forward.²⁰⁸ In *Rucho*, there was more infighting between the lawyers working on the case from the different organizations over the best strategy during oral arguments. According to Professor Greenwood, that was “totally just ego.”²⁰⁹ If that is the case, how can impacted communities trust lawyers who seem to be putting either their own or their organization’s interests first?

IV. APPLYING MOVEMENT LAWYERING PRINCIPLES TO REDISTRICTING

If organizers and lawyers recognize that courts are going to be unfriendly to redistricting litigation, then what is the solution to unfair redistricting? Instead of a siloed approach where organizers and lawyers either work separately to achieve fair districts or a limited cooperation approach that steers organizing toward litigation as an end goal, lawyers should employ a movement lawyering approach to redistricting. Rather than being involved solely in the litigation part of redistricting and directing organizing toward potential litigation, lawyers should become involved in the process by playing a supporting role to state organizers. Particularly because redistricting lawsuits are becoming more difficult to bring in state and federal courts, advocates should provide legal help in an advising capacity rather than pushing for litigation. Lawyers can still be deeply involved in the process by drafting demand letters and policy proposals, facilitating communications between policy makers and organizers, building partnerships with organizations, and relying on litigation as a last resort when organizers feel it is necessary.

This sort of relationship is not unnatural to redistricting lawyers and organizers. Close relationships between organizers and lawyers where organizers have led the direction of the movement have existed in the redistricting space going back to *Gomillion v. Lightfoot* in 1960.²¹⁰ A movement lawyering approach to redistricting has also been successful in Michigan in 2018.²¹¹

A. Gomillion Case Study

Gomillion v. Lightfoot, the first redistricting lawsuit, may have only been possible because of the environment of organizing taking place in Tuskegee at the time.²¹² Litigation may not have been top of mind for the Black community when Alabama passed the 1957 law fencing out Black residents from the city of Tuskegee. The local grassroots organization was the Tuskegee Civic Association (TCA), which sought to unite Black citizens.²¹³ In addition to suing in court, the TCA educated community members on their

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Gomillion v. Lightfoot*, 364 U.S. 339 (1960).

²¹¹ Beggin, *supra* note 5.

²¹² Alternatively, success in Tuskegee could have been a result of the larger successes of the Civil Rights Movement. *Gomillion* was decided by the Supreme Court six years after *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954), which was seen as a turning point in the Civil Rights movement, as it ruled that the “separate but equal” standard was unconstitutional.

²¹³ Gabriel A. Smith, A Hollow Inheritance: The Legacies of the Tuskegee Civic Association and the Crusade for Civic Democracy in Alabama 4 (Aug. 6, 2016) (M.A. thesis, Auburn University) (on file with the Auburn University ETD).

rights and used “economic weapons to fight their battles.”²¹⁴ The TCA was led by Charles Gomillion, the eventual lead plaintiff in *Gomillion v. Lightfoot*.²¹⁵ In response to the gerrymander bill, TCA led the Crusade for Citizenship, a boycott of white business by Tuskegee’s Black citizens.²¹⁶ This boycott forced many stores out of business. So many white businesses closed that white consumers in Tuskegee and the surrounding counties “were then forced to patronize black businessmen.”²¹⁷ White merchants were so crippled by the lack of Black patronage that they had to look outside of Tuskegee and Macon County for white customers.²¹⁸ The boycott lasted for three years before *Gomillion* was argued.

It is unclear what specific impact the merchant boycott had on the *Gomillion* lawsuit. It is possible that *Gomillion* was decided the way it was because of the slew of Supreme Court *per curiam* decisions that followed *Brown v. Board of Education* dismantling segregation in public spaces.²¹⁹ However, even if *Brown v. Board* allowed for *Gomillion*’s success at the Supreme Court, it does not seem likely that litigation would have been as successful without the strength of the TCA and its boycott behind it. According to an interview with Charles Gomillion, TCA decided to bring *Gomillion v. Lightfoot* only after it had exhausted other political avenues of fighting the redraw of the city, like appealing to city council and putting advertisements in local newspapers.²²⁰ Thus, TCA’s organizer-centric approach using litigation as one of many tools to achieve social change followed movement lawyering principles years before movement lawyering was adopted as a theory of legal practice.

B. Michigan Case Study

Additionally, organizer-led redistricting movements have been successful on the state level in the past decade. For example, in 2018, Michigan successfully passed a ballot initiative creating an independent redistricting commission.²²¹ This movement, while not self-identifying as movement lawyering, took on similar characteristics and can be considered a success of movement lawyering in redistricting. Organizers led the push for the independent redistricting commission, while lawyers stepped in as needed to help with legal challenges. This case study shows how movement lawyering can produce redistricting wins on the state level.

²¹⁴ *Id.*

²¹⁵ Stanford Univ., Gomillion, Charles Goode, MARTIN LUTHER KING, JR. RSCH. & EDUC INST., <https://kinginstitute.stanford.edu/gomillion-charles-goode> [https://perma.cc/JL2Z-BSAF] (last visited Mar. 24, 2023).

²¹⁶ Smith, *supra* note 213, at 45.

²¹⁷ *Id.*

²¹⁸ *Id.* at 48.

²¹⁹ See, e.g., *State Athletic Comm’n v. Dorsey*, 359 U.S. 533 (1959) (outlawing a Louisiana law prohibiting athletic contests between white and Black people); *Gayle v. Browder*, 352 U.S. 903 (1956) (desegregating public buses, officially overturning *Plessy v. Ferguson*, 163 U.S. 537 (1896)); *Mayor of Baltimore v. Dawson*, 350 U.S. 877 (1955) (desegregating public beaches and bath-houses); *Holmes v. City of Atlanta*, 350 U.S. 879 (1955) (desegregating public golf courses); *Muir v. Louisville Park Theatrical Ass’n*, 347 U.S. 971 (1954) (outlawing exclusion of Black residents from using an amphitheater in a public park).

²²⁰ William A. Elwood, *An Interview with Charles G. Gomillion*, 40 CALLALOO 576, 589 (1989).

²²¹ Paul Egan, *Michigan’s Anti-gerrymandering Proposal Is Approved. Now What?*, DETROIT FREE PRESS (Nov. 8, 2018, 8:44 AM), <https://www.freep.com/story/news/politics/elections/2018/11/07/proposal-2-anti-gerrymandering-michigan/1847402002/>. [https://perma.cc/2XAN-N2EV].

Two days after the 2016 election, Katie Fahey posted on Facebook.²²² It was a simple message. “I’d like to take on gerrymandering in Michigan,” she wrote.²²³ “If you’re interested in doing this as well please let me know.”²²⁴ Fahey was not a lawyer or even an organizer at the time. She eventually became the founder and executive director of Voters Not Politicians, a grassroots organization that pushed for an independent redistricting commission in Michigan.²²⁵ At the time, Republicans controlled the legislature and the governor’s mansion.²²⁶ Democrats had as many or more votes than Republicans but were still the minority party.²²⁷ This was a result of the 2011 redistricting plan, in which Republicans packed Democratic voters into a limited number of districts to maintain the Republican majority.²²⁸

Fahey’s group was a community-based effort to push the state for fairer maps. She recruited 5,000 members and coordinated online through Facebook messages to organize a ballot initiative campaign for a redistricting commission.²²⁹ She and her team held thirty-three town halls in thirty-three days. At these town halls, people filled out surveys that asked whether they wanted politicians to draw district lines or not. If they did not want politicians to draw district lines, the survey asked what process they would prefer.²³⁰ Based on the results, Voters Not Politicians wrote a ballot proposal to establish a citizens’ commission.²³¹ The proposal would amend the Michigan constitution to create a thirteen-member redistricting commission made up of regular citizens.²³² The body would be politically balanced, with four Republicans, four Democrats, and five independents and members of minor parties.²³³ Citizens would be invited to apply, and the commission members would be randomly selected from the applicant pool.²³⁴ The proposal also banned partisan elected officials, candidates for partisan office, and other political actors from applying to the commission.²³⁵

²²² Beggin, *supra* note 5.

²²³ *Id.*

²²⁴ *Id.*

²²⁵ Nick Corasaniti, *Ungerrymandered: Michigan’s Maps, Independently Drawn, Set Up Fair Fight*, N.Y. TIMES (Dec. 29, 2021), <https://www.nytimes.com/2021/12/29/us/politics/michigan-congressional-maps.html> [<https://perma.cc/V7X4-QNZQ>]; Katie Fahey, LINKEDIN, <https://www.linkedin.com/in/katiefahey/> [<https://perma.cc/5FJT-59R6>] (last visited Jan. 19, 2024).

²²⁶ *Michigan House of Representatives*, BALLOTPEDIA, https://ballotpedia.org/Michigan_House_of_Representatives [<https://perma.cc/8NKC-7PEX>] (last visited July 27, 2023); *Michigan State Senate*, BALLOTPEDIA, https://ballotpedia.org/Michigan_State_Senate [<https://perma.cc/8CW8-FJC6>] (last visited July 27, 2023); *Former Governors of Michigan*, STATE MICH., <https://www.michigan.gov/formergovernors> [<https://perma.cc/6S9E-F43F>] (last visited July 27, 2023).

²²⁷ Jonathan Oosting, *Analysis: Michigan Maps Show Bias as Gerrymandering Heads to Supreme Court*, DETROIT NEWS (Mar. 21, 2019, 12:01 AM), <https://detroitnews.com/story/news/local/michigan/2019/03/21/analysis-michigan-maps-show-bias-gerrymandering-heads-supreme-court/3222517002/> [<https://perma.cc/WPS2-VXW3>].

²²⁸ *Id.*

²²⁹ Corasaniti, *supra* note 225.

²³⁰ Erick Trickey, *A Grassroots Call to Ban Gerrymandering*, ATLANTIC (Sept. 23, 2018), <https://www.theatlantic.com/politics/archive/2018/09/a-grassroots-movement-in-michigan-has-gerrymandering-in-the-crosshairs/570949/> [<https://perma.cc/67EC-WP95>].

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.*

To get the proposal on the ballot, the group collected the requisite 425,000 petitioner signatures within four months.²³⁶ This was a “rare feat, usually accomplished only by hiring paid signature gatherers.”²³⁷ In her campaign, Fahey reached out to other organization partners, like the League of Women Voters, the NAACP, and the ACLU for advice and institutional support in organizing.²³⁸ She also took advice from other successful redistricting organizers, like Kathay Feng, who helped create California’s citizens’ redistricting commission in 2008.²³⁹

In November 2018, the ballot initiative passed with 61% of the vote.²⁴⁰ The final commission retained the volunteer citizen makeup. In 2021, the commission adopted new congressional and state legislative districts.²⁴¹ As a result, Michigan changed from “[o]ne of the country’s most gerrymandered political maps [to] one of the fairest.”²⁴² If this case study is a successful example of movement lawyering in redistricting, then where were the lawyers? Voters Not Politicians’ organizers took the lead in where the movement should go next, not lawyers. Lawyers donated their time to help draft the ballot petition language.²⁴³ Additionally, the organization hired lawyers to defend the ballot measure in the Michigan courts.²⁴⁴ Citizens Protecting Michigan’s Constitution brought a suit challenging the ballot measure on behalf of two voters who would be disqualified from participating on the proposed independent commission based on their political activity.²⁴⁵ The opponents challenged the measure’s constitutionality in state court, claiming that it abrogated more sections of the Michigan constitution than it claimed to amend on paper.²⁴⁶ They also claimed that the language of the amendment was so broad that it constituted a “general revision” to the state constitution rather than an amendment.²⁴⁷ The case worked its way up to the Michigan Supreme Court, which found for Voters Not Politicians in a 4-3 decision. The court decided that the redistricting proposal did not “significantly alter or abolish the form or structure” of the Michigan government.²⁴⁸ The ruling was crucial in pushing forward the ballot campaign effort, boosting morale and out-of-state fundraising.²⁴⁹ Organizing continued even after the ballot initiative passed, bolstering the

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ Clara Hendrickson, *Michigan Redistricting Commission Votes on New Maps Mark a Historic First*, DETROIT FREE PRESS (Jan. 10, 2022, 8:25 PM), <https://www.freep.com/story/news/local/michigan/detroit/2021/12/29/michigan-redistricting-commission-celebrates-votes-maps/9039741002/> [https://perma.cc/NR38-8E9E].

²⁴¹ *Id.*

²⁴² Corasaniti, *supra* note 225.

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ Jonathan Oosting, *Court: Anti-gerrymandering Issue Fit for Michigan Ballot*, DETROIT NEWS (June 7, 2018, 11:17 PM), <https://www.detroitnews.com/story/news/local/michigan/2018/06/07/michigan-court-voters-not-politicians-gerrymandering-proposal/682810002/> [https://perma.cc/9HY7-MPFB].

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ Jonathan Oosting, *Mich. Supreme Court: Redistricting Plan Goes on Nov. Ballot*, DETROIT NEWS (Aug. 1, 2018, 10:50 AM), <https://www.detroitnews.com/story/news/local/michigan/2018/07/31/michigan-supreme-court-gerrymandering-initiative/871624002/> [https://perma.cc/MQM8-CCSS].

²⁴⁹ Beggin, *supra* note 5.

policy's success.²⁵⁰ Voters Not Politicians continues to recruit volunteers to reach out to legislators, testify at hearings, and build student chapters.²⁵¹

C. *Lessons from Gomillion and Michigan's Independent Redistricting Commission*

An organizing-centric approach to redistricting litigation would solve some problems identified by redistricting organizers. Shanahan identified a tension between organizers and national lawyers who come in trying to find plaintiffs for cases.²⁵² "National organizations often come into states with their own predetermined strategies and agenda," she said.²⁵³ It takes time for lawyers to build trust within communities. Shupeck echoed those concerns, citing stories from other contexts where outside lawyers argued for remedies that community members did not want.²⁵⁴ Instead, by understanding that impacted communities are the experts in the harm they are experiencing and letting them take the lead on what they want to do, lawyers develop deep, trusting relationships with organizers.²⁵⁵ When organizers trust their legal team, they are more likely to rely on their lawyers for strategic advice and turn to lawyers when they need help reaching out to policy makers or other redistricting organizations. When lawyers are able to build more regional and broad-based trust in the community, it makes it much easier to find additional plaintiffs and community support when organizations decide to turn to litigation as a possible solution. Lawyers are trusted to be faithful advocates for the movement rather than self-centered actors focused on bringing lawsuits and arguing in court. After building trust in the community, a lawyer's credibility and community network is that much greater. It becomes easier to find new plaintiffs, particularly if litigation is organizers' chosen next strategy. Shanahan asks, "But where do you think you're going to find the plaintiffs? I got to organize and build relationships with those people, so I need to understand what you're looking for."²⁵⁶

Trust between attorneys and community members is intentionally built and can be easily broken without care. Shupeck recommended lawyers be "honest about the fact that you don't know anything and... honest about the fact that you respect that person's life experience and what they know because of that life experience."²⁵⁷ According to Shanahan, "successful relationships have to be built on mutual respect, trust, and transparency, but I'd note that those pillars are earned, not merely assumed because of...an affiliation with a national organization."²⁵⁸ Therefore, not only do lawyers need to build trust and credibility apart from their organization, they must also maintain it in communities. "You do not want to be creating a situation where someone's like 'I don't want to be a plaintiff for your case because you screwed over my sister last time around.'"²⁵⁹

Continued presence in communities after the reform or litigation is over is also important to the success of a movement lawyer approach. According to Professor

²⁵⁰ Interview with Ruth Greenwood, *supra* note 70.

²⁵¹ *Volunteer with VNP*, VOTERS NOT POLITICIANS, <https://www.votersnotpoliticians.com/volunteer/> [<https://perma.cc/3MSD-Y8KD>] (last visited Mar. 26, 2023).

²⁵² Interview with Katy Shanahan, *supra* note 5.

²⁵³ *Id.*

²⁵⁴ Interview with Lekha Shupeck, *supra* note 5.

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ Interview with Lekha Shupeck, *supra* note 5.

Greenwood, “You have to be there to implement it.”²⁶⁰ Lawyers and organizations must stay in communities to make sure the new maps are working and that any rulings handed down by the courts are properly implemented and enforced. For example, organizers continue to recruit volunteers to testify at redistricting hearings to make sure that the new maps are adhering to the court decision.²⁶¹ On the other side, according to Jyothi Jasrasaria, a voting rights lawyer at Elias Law Group, lawyers keep in contact with organizations on the ground to understand what voters are thinking when new maps come down.²⁶² Jasrasaria said “it’s not good enough to have won seven lawsuits in Ohio, because we actually still don’t have the maps that we want.”²⁶³ Because of that, her team is “continuing to stay involved in conversations and [making] sure people feel like” the legal team is a continued resource.²⁶⁴ That support encourages local partners “to think about what additional reforms could look like or how to enforce the court’s orders.”²⁶⁵ For many large organizations, this could mean opening local offices, but this may not be possible for firms with fewer resources. However, the increased presence of traditional law firms may perpetuate the hierarchy between lawyers and organizers, create trust issues, and add to the misalignment of agendas between the lawyers and impacted communities. In addition, when myriad national organizations get involved in litigation, they do not all remain in communities after a favorable court ruling to implement the results or brainstorm how to go on after an undesirable decision. This kind of disengagement leads to poor outcomes, said Shupeck.²⁶⁶

Finally, a movement lawyering approach offers lawyers and organizers more avenues to solving unfair redistricting, particularly when the courts are unsympathetic to both race-based and partisan gerrymandering claims. In the meantime, organizing, ballot initiatives, and other reforms will be increasingly necessary as a method for social change. Additionally, lawyers have more opportunities to operate in a multitude of capacities in a movement lawyering approach. Not only can lawyers respond to legal challenges and bring suits, but as they did in Michigan, but they can also help draft proposal language, provide advice, and help with legislative advocacy.

While a movement lawyering approach to redistricting offers several benefits, there are obstacles to its implementation and acceptance. First, the legal system still encourages top-down litigation by big-money firms. Firms are the main organizations well-funded enough to bring cases around the country. Shupeck said that this system is going to continue. “That’s where the money is,” she said about the big-money firms.²⁶⁷ “That’s how things usually operate. Stuff always works from the top-down in terms of people who get substantial amounts of money to do this kind of work.”²⁶⁸ Because big-money firms are still the ones with the resources to fund redistricting litigation, these cases, for the near future, will still be directed by lawyers at these firms. Additionally, a movement lawyering approach creates obstacles for lawyers wanting to break into communities where they do

²⁶⁰ Interview with Ruth Greenwood, *supra* note 70.

²⁶¹ Interview with Lekha Shupeck, *supra* note 5.

²⁶² Zoom Interview with Jyothi Jasrasaria, Assoc., Elias L. Grp. (Apr. 14, 2023).

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ Interview with Lekha Shupeck, *supra* note 5.

²⁶⁷ *Id.*

²⁶⁸ *Id.*

not already have connections. The political environment of the state must be conducive to organizing efforts and movement lawyering. Although Voters Not Politicians was successful in Michigan, a similar effort would not be successful in a state like Ohio, which is facing challenges with its never-ending cycle of court decisions and partisan politician-run commission maps.²⁶⁹ In order to change its system to be more like Michigan's, Ohioan organizers would need to organize a ballot initiative to replace its partisan politician-run redistricting commission with an independent one.²⁷⁰ Organizers are currently working toward putting an independent districting commission ballot initiative on the 2024 ballot.²⁷¹ Thus, when the political system is harder to break into, efforts by organizers and lawyers may require more manpower, effort, and energy. This translates into costs that might not be feasible for smaller organizations.

As a result, a national law firm dedicated to voting rights may have the resources necessary to surmount the issues present when political environments make it difficult for local organizations to break through. Elias Law Group (ELG) is a national law firm focused on voting rights and has the resources to dedicate teams of lawyers across the country to work on redistricting litigation and other voting rights issues.²⁷² According to ELG Associate Jyoti Jasrasaria, ELG is able to look at redistricting holistically across the country and work with other national organizations, like the National Democratic Redistricting Committee, to identify particularly unfair maps and track them as they are getting passed.²⁷³ As different teams work on different states' maps, associates are able to "take best practices, lessons learned and share those things too across different places and those are hopefully things that we're also able to share with folks on the ground."²⁷⁴ A holistic approach to redistricting along with a national firm's vast resources can be effective at trying creative legal strategies when state and federal avenues to litigation are harder to bring. However, to tailor these strategies to communities of interest, ELG works with local counsel who shed light on local organizing.²⁷⁵ Under a movement lawyering model, plugging in big firm lawyers with local counsel long-term to support organizers can combine the power and capacity of a large firm with grassroots organizing to follow a multi-faceted approach toward fairer redistricting. Organizers would have access to vast monetary resources to create rich programming and talented lawyers to provide top-tier advice. So long as organizers and firm lawyers coordinate and agree on the power structure where organizers take the lead, this approach could achieve tangible results.

CONCLUSION

As federal and state courts have become more hostile toward redistricting and partisan gerrymandering claims, lawyers must entrust community-based organizations to

²⁶⁹ Interview with Katy Shanahan, *supra* note 5.

²⁷⁰ *Id.*

²⁷¹ Julie Carr Smyth, *Amendment Aimed at Reforming Ohio's Troubled Political Mapmaking System Edges Toward 2024 Ballot*, ASSOCIATED PRESS (Oct. 2, 2023 4:49 PM), <https://apnews.com/article/election-2024-redistricting-ohio-cd3e97eaa050f78d41e85d9392a19e5d> [<https://perma.cc/VFL9-METX>].

²⁷² *Litigation*, ELIAS L. GRP., <https://www.elias.law/about/litigation> [<https://perma.cc/H72H-K9ZY>] (last visited May 3, 2023).

²⁷³ Interview with Jyoti Jasrasaria, *supra* note 262.

²⁷⁴ *Id.*

²⁷⁵ *Id.*

take the lead on fighting for fairer maps. Even if courts suddenly become more receptive to redistricting claims, organizers are indispensable to the process. They provide the people-centered perspective crucial to convincing map-drawers why districts should be drawn a certain way and judges why unfair maps discriminate against certain groups. Lawyers should center organizers in any redistricting challenge, letting them choose the direction of the movement: legislative advocacy, political advocacy, or litigation. By gaining the trust of impacted communities and prioritizing their needs through a multi-faceted strategy that includes litigation as one of many tools, organizers and lawyers may find more success in redistricting and achieving fairer votes for all, regardless of the volatile swings of the Supreme Court.