**Table 1. Information on Initial Districting Authority, Party Control, Existence of Partisan Gerrymandering Challenge, Author of the Congressional Map used in November 2022, and Key State Constitutional Criteria for Redistricting[[1]](#footnote-1)**

(States where there is partisan control of the redistricting process are identified in bold; L=Legislature, C = Commission C(L) = Commission with Legislative Backup, - = One district, L(C) = Legislature with Commission Backup;[[2]](#footnote-2) R = race-based claim; S = successful partisan gerrymander challenge, U = unsuccessful partisan gerrymandering challenge, P = pending partisan gerrymandering challenge as of November 2022. F = litigation based on failure to draw a map in a timely fashion; N = no relevant litigation or state court action).

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| State | Seats | Primary Authority for Drawing the Lines[[3]](#footnote-3) | Party Control | Was there a Partisan  Gerrymander Challenge or Challenge on Racial  Grounds[[4]](#footnote-4) | Who Drew  the November 2022 Map | Free and Equal/Open | Direct Partisan Neutrality requirement |
| Alabama | 7 | L | GOP | R | L |  |  |
| Alaska[[5]](#footnote-5) | 1 | - | - | - | - |  |  |
| Arizona | 9 | C | GOP | N | Comm. | x | x |
| Arkansas | 4 | L | GOP | R | L | x |  |
| California | 52 | C | DEM | N | Comm. | x | x |
| Colorado | 8 | C | DEM | N | Comm. | x | x |
|  |  |  |  |  |  |  |  |
| Connecticut | 5 | L(C) | SPLIT | N | Court | x |  |
| Delaware | 1 | - | - | N | - | x |  |
| Florida | 28 | L | GOP | P, R | L |  | x |
| Georgia | 14 | L | GOP | R | L |  |  |
| Hawaii | 2 | C | DEM | N | Comm. |  | x |
| Idaho | 2 | C | GOP | N | Comm. | x | x |
| Illinois | 17 | L | DEM | N | L | x |  |
| Indiana | 9 | L(C) | GOP | N | L | x |  |
| Iowa | 4 | L | GOP | N | L |  | x |
| Kansas | 4 | L | GOP | U, R | L |  |  |
| Kentucky | 6 | L | GOP | P | L | x |  |
| Louisiana | 6 | L | GOP | R | L |  |  |
| Maine | 2 | L | SPLIT | N | L |  |  |
| Maryland | 8 | L | DEM\* | S | L (Court) [[6]](#footnote-6) | x |  |
| Massachusetts | 9 | L | DEM\* | N | L | x |  |
| Michigan | 13 | C | SPLIT | R | Comm. |  | x |
| Minnesota | 8 | L | SPLIT | N | Court |  |  |
| Mississippi | 4 | L | GOP | N | L |  |  |
| Missouri | 8 | L | GOP | R | L | x |  |
| Montana | 2 | C | GOP | N | Comm. | x | x |
| Nebraska | 3 | L | GOP | N | L | x | x |
| Nevada | 4 | L | DEM | N | L |  |  |
| New Hampshire | 2 | L | GOP | N | Court | x |  |
| New Jersey | 12 | C | DEM | U | Comm. |  |  |
| New Mexico | 3 | L | DEM | P | L | x |  |
| New York | 26 | C(L) | DEM\* | S | Court[[7]](#footnote-7) |  | x |
| North Carolina | 14 | L | GOP | P, R | Court[[8]](#footnote-8) | x |  |
| North Dakota | 1 | - | - | N | - |  |  |
| Ohio | 15 | L(C)[[9]](#footnote-9) | GOP | S, R | L[[10]](#footnote-10) |  | x |
| Oklahoma | 5 | L | GOP | N | L | x |  |
| Oregon | 6 | L | DEM | U | L | x | x |
| Pennsylvania | 17 | L | SPLIT | F | Court | x |  |
| Rhode Island | 2 | L | DEM | N | L |  |  |
| South Carolina | 7 | L | GOP | R | L[[11]](#footnote-11) | x |  |
| South Dakota | 1 | - | - | N | - | x |  |
| Tennessee | 9 | L | GOP | N | L | x |  |
| Texas | 38 | L | GOP | R | L | x |  |
| Utah | 4 | L | GOP | P[[12]](#footnote-12) | L | x | x |
| Vermont | 1 | - | - | N | - | x |  |
| Virginia | 11 | C | DEM | F | Court | x |  |
| Washington | 10 | C | DEM | N | Comm[[13]](#footnote-13) | x | x |
| West Virginia | 2 | L | GOP | N | L |  |  |
| Wisconsin | 8 | L | SPLIT | F | Court[[14]](#footnote-14) |  |  |
| Wyoming | 1 | - | - | N | - | x |  |

**Table 2. Who challenges in state courts? The plaintiffs identified in partisan gerrymandering lawsuits**

|  |  |
| --- | --- |
| State | Plaintiffs |
| 2010s REDISTRICTING CASES IN STATE COURT |  |
| Florida (2015)  League of Women Voters of Fla. V. Detzner, 172 So. 3d 363 (Fla. 2015) | League Plaintiffs:  The League of Women Voters of Florida  Common Cause  Citizens registered to vote in Florida  Romo Plaintiffs:  Citizens registered to vote in Florida |
| North Carolina (2019)  Harper v. Lewis, No. 19-CVS-012667 (N.C. Super. Ct., Wake Cnty. Oct. 28, 2019) | Harper Plaintiffs  Citizens registered to vote in North Carolina  NCLCV Plaintiffs:  North Carolina League of Conservation Voters, Inc.  Citizens registered to vote in North Carolina |
| Pennsylvania (2018)  League of Women Voters of Pa. v. Commonwealth, 178 A.3d 737 (Pa. 2018) | League of Woman Voters of Pennsylvania  Citizens registered to vote in Pennsylvania |
| 2010s REDISTRICTING CASES IN FEDERAL COURT |  |
| Maryland  Lamone v. Benisek, 139 S. Ct. 2484 (2019) (consolidated with Rucho v. Common Cause) | Citizens registered to vote in Maryland |
| North Carolina  Rucho v. Common Cause, 139 S. Ct. 2484 (2019) | Common Cause  North Carolina Democratic Party  Citizens registered to vote in North Carolina |
| Pennsylvania  Corman v. Acting Secretary Commonwealth of Pennsylvania, No. 18-1816 (3rd Cir. 2018) (per curiam) | Legislators/citizens registered to vote in Pennsylvania. |
| Wisconsin  Baldus v. Members of Wisconsin Government Accountability Bd., 849 F. Supp. 2d 840 (E.D. Wis. 2012) | Voces de la Frontera, Inc.  Citizens registered to vote in Wisconsin |
| 2020s REDISTRICTING CASES IN STATE COURT |  |
| Florida (2022)  (outcome pending)  Black Voters Matter Capacity Building Inst., Inc. v. Lee, No. 2022-ca-000666 (Fla. Cir. Ct. Apr. 22, 2022) | Black Voters Matter Capacity Building Institute, Inc.  Equal Ground Education Fund, Inc.  League of Women Voters of Florida, Inc.  League of Women Voters of Florida Education Fund, Inc.  Florida Rising Together,  Citizens registered to vote in Florida. |
| Kansas (2022)  Rivera v. Schwab, 512 P.2d 168 (Kan. 2022)  SCOTT, THE ALONZO AND FRICK CASES ARE MISSING CITES | Rivera Plaintiffs:  Citizens registered to vote in Kansas.  Alonzo Plaintiffs:  Citizens registered to vote in Kansas.  Frick Plaintiffs:  Citizens registered to vote in Kansas. |
| Kentucky (2022)  Graham v. Adams, No. 22-CI-00047 (Ky. Cir. Ct. Nov. 10, 2022) | Kentucky democratic party  Citizens registered to vote in Kentucky. |
| Maryland (2022)  Szeliga v. Lamone, Nos. C-02-CV-21-001816, C-02-CV-21-001773, (Md. Cir. Ct. Mar. 25, 2022)  SCOTT, THE pERROT CASE IS MISSING A CITE | Szeliga Plaintiffs:  Citizens registered to vote in Maryland.  Parrott Plaintiffs:  Citizens registered to vote in Maryland. |
| New Mexico (2022)  (outcome pending)  Republican Party of New Mexico v. Oliver, No. D-506-CV-202200041 (N.M. D. Ct. Jan. 21, 2022) | Republican party of New Mexico  Citizens registered to vote in New Mexico. |
| New Jersey (2022)  Matter of Congressional Districts by New Jersey Redistricting Comm’n, 268 A.3d 299 (N.J. 2022) | New Jersey redistricting commission members |
| New York (2022)  Matter of Harkenrider v. Hochul, No. 60, 2022 N.Y. LEXIS 874, at \*1 (N.Y. Apr. 27, 2022) | Citizens registered to vote in New York. |
| North Carolina (2022)  Harper v. Hall, 868 S.E.2d 499 (N.C. 2022) | Harper Plaintiffs  Citizens registered to vote in North Carolina  NCLCV Plaintiffs:  North Carolina League of Conservation Voters, Inc.  Citizens registered to vote in North Carolina |
| Ohio (2022)  (outcome pending)  Adams v. DeWine, No. 2021–1428 (Ohio Dec. 2, 2021) | Citizens registered to vote in Ohio. |
| Oregon (2021)  Clarno v. Fagan, No. 21-CV-40180, 2021 WL 5632370 (Or. Cir. Ct. Nov. 24, 2021). | Citizens registered to vote in Oregon. |
| Pennsylvania (2022)  Carter v. Chapman, 270 A.3d 444 (Pa. 2022) (per curiam).  SCOTT, THE gROSSMAN CASE IS MISSING A CITE | Carter Petitioners:  Citizens registered to vote in PA.  Gressman Petitioners:  Citizens registered to vote in PA and “leading professors of mathematics and science[.]” |
| Utah (2022)  (outcome pending)  League of Women Voters of Utah v. Utah State Legislature, No. 220901712 (Utah D. Ct. Mar. 17, 2022). | League of Women Voters of Utah  Mormon Women for Ethical Government  Citizens registered to vote in Utah |

**Table 3. How State Courts Defined and Operationalized Partisan Gerrymandering[[15]](#footnote-15)**

C1 – claims based on the failure of maps to satisfy traditional good government criteria

C2 – claims based on statistical metrics to evaluate partisan bias/partisan vote dilution

C3 – claims based on process grounds such as failure to comply with requirements for public comment or where votes to pass were entirely along partisan lines[[16]](#footnote-16)

C4 – claims about a deliberate intent to achieve partisan advantage (may be based on an examination of specific changes made in the proposed map from a previous map from the last decade that is presumptively constitutional , or on other factors)

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Case | C1 | C2 | C3 | C4 | Case Outcome | Definition of partisan gerrymander | Who drew the plan |

|  |
| --- |
| 2010 REDISTRICTING ROUND |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| FLORIDA  League of Women Voters of Fla. v. Detzner  172 So.3d 363 (Fla. 2015) | Y | - | - | - | 5-2 unconstitutional  3 (D) 2 (R)  -  2(R) | Was the plan or district drawn with an improper partisan intent in mind?[[17]](#footnote-17) | (R) Legislature |
| PENNSYLVANIA  League of Women Voters of Pa v. Commonwealth  178 A.3d 737 (Pa. 2018) | - | Y | - | -[[18]](#footnote-18) | 5-2 unconstitutional  5 (D)  -  2 (R) | Partisan gerrymandering occurs when traditional neutral criteria are subordinated in favor of partisan advantage.[[19]](#footnote-19) | (R) Legislature |

|  |
| --- |
| 2020 REDISTRICTING ROUND |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| KANSAS  Rivera v. Schwab,  512 P.3d 168 (Kan. 2022) | Y | - | - | - | 4-3 nonjusticiable  2(R) 2 (D)  -  3 (D) | When partisan factors are used “too much”[[20]](#footnote-20) | (R) Legislature |
| NEW JERSEY  Matter of Congressional Districts by New Jersey Redistricting Comm’n,  268 A.3d 299 (N.J. 2022) | Y | Y | - | - | 5-0 failure to state a claim[[21]](#footnote-21)  3 (D) 1 (R) 1 (F)[[22]](#footnote-22) | -[[23]](#footnote-23) | redistricting commission including partisan members |
| NEW YORK  Matter of Harkenrider v. Hochul,  38 N.Y.3d 494 (N.Y. 2022) | - | - | - | Y | 4-3 unconstitutional  3 (D) 1 (R)  -  3 (D) | “Congressional districts were drawn with a particular impermissible intent or motive … to ‘discourage competition’ or to ‘favor[] or disfavor[] incumbents or other particular candidates or political parties.”[[24]](#footnote-24) | (D) Legislature[[25]](#footnote-25)  Independent Redistricting Commission |
| NORTH CAROLINA  Harper v. Hall,  868 S.E.2d 499 (N.C. 2022) | Y | Y | - | - | 4-3 unconstitutional  4 (D)  -  3 (R) | “When a districting plan systematically makes it harder for individuals because of their party affiliation to elect a governing majority than individuals in a favored party of equal size – the General Assembly deprives on the basis of partisan affiliation a voter of his or her right to equal voting power”[[26]](#footnote-26) | (R) Legislature  Joint Redistricting Committee |
| OHIO  Adams v. DeWine, 167 Ohio St. 3d 499 (Ohio 2022) | Y | Y |  |  | 4-3  Unconstitutional  3 (D) 1 (R)  -  3 (R) | “A plan with a partisan advantage that ‘is unwarranted by valid considerations, namely, the redistricting criteria set forth in Article XIX.’”[[27]](#footnote-27) | (R) Legislature |
| PENNSYLVANIA  Carter v. Chapman,  270 A.3d 444 (Pa. 2022) | Y | Y | - | - | 4-3 unconstitutional[[28]](#footnote-28)  4 (D)  -  1 (D) 2 (R) | Where maps meet traditional criteria but still dilute a particular group’s vote, partisan fairness metrics can be used for objective evaluation of proposed plans to determine whether they are fair[[29]](#footnote-29) | PA Judiciary |

**Table 4. Majority and Minority Party Justice Agreement with the Decision**

(number of justices in that party shown in parentheses)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| State | Majority Party | Decision | Majority Party % agreement with decision | Minority Party % agreement with decision |
| FLORIDA (2015) | R | U | 50% (2 out of 4) | 100% (3 out of 3) |
| PENNSYLVANIA (2018) | R | U | 0% (0 out of 2) | 100% (5 out of 5) |
| NEW YORK (2022) | D | U | 50% (3 out of 6) | 100% (1 out of 1) |
| NORTH CAROLINA (2022) | R | U | 0% (0 out of 3) | 100% (4 out of 4) |
| OHIO (2022) | R | U | 25% (1 out of 4) | 100% (3 out of 3) |
| PENNSYLVANIA (2022) | R | U | 0% (2 out of 2) | 80% (4 out of 5) |
|  |  |  |  |  |
| OVERALL (averaged by Justices, rather than courts) |  |  | 38.1% | 95.2% |
| KANSAS (2022) | R | Non-justiciable | 100% (2 out of 2) | 40% (2 out of 5) |
| NEW JERSEY (2022) | Commission (plan considered R) | Failure to state claim | 100% (1 out of 1) | 100% (3 out of 3) |
| OVERALL (averaged by Justices, rather than courts) |  |  | 100% | 62.5% |

Appendix Table A1

|  |  |
| --- | --- |
| State | Individually Named Plaintiffs from Cases |
| 2010s REDISTRICTING CASES IN STATE COURT | |
| Florida (2015)  League of Women Voters of Fla. V. Detzner, 172 So. 3d 363 (Fla. 2015) | League Plaintiffs:  Robert Allen Schaeffer, Brenda Ann Holt, Roland Sanchez-Medina, Jr., and John Steel Olmstead.  Romo Plaintiffs:  Rene Romo, Benjamin Weaver, William Everett Warinner, Jessica Barrett, June Keener, Richard Quinn Boylan, and Bonita Again. |
| North Carolina (2019)  Harper v. Lewis, No. 19-CVS-012667 (N.C. Super. Ct., Wake Cnty. Oct. 28, 2019) | Rebecca Harper, Amy Clare Oseroff, Donald Rumph, John Anthony Balla, Richard R. Crews, Lily Nicole Quick, Gettys Cohen, Jr., Shawn Rush, Jackson Thomas Dunn, Jr., Mark S. Peters, Joseph Thomas Gates, Kathleen Barnes, Virginia Walters Brien, and David Dwight Brown. |
| Pennsylvania (2018)  League of Women Voters of Pa. v. Commonwealth, 178 A.3d 737 (Pa. 2018). | Carmen Febo San Miguel, James Solomon, John Greiner, John Capowski, Gretchen Brandt, Thomas Rentschler, Mary Elizabeth Lawn, Lisa Isaacs, Don Lancaster, Jordi Comas, Robert Smith, William Marx, Richard Mantell, Priscilla Mcnulty, Thomas Ulrich, Robert McKinstry, Mark Lichty, Lorraine Petrosky. |
| 2010s REDISTRICTING CASES IN FEDERAL COURT | |
| Maryland (2019)  Lamone v. Benisek, 139 S. Ct. 1316 (2019) (consolidated with Rucho v. Common Cause) | O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Jr., Kat O’Connor, Alonnie L. Ropp, and Sharon Strine |
| North Carolina (2019)  Rucho v. Common Cause, 139 S. Ct. 2484 (2019) | Larry D. Hall, Douglas Berger, Cheryl Lee Taft, Richard Taft, Alice Bordsen, William Freeman, Melzer Morgan, Jr., Cynthia Boylan, Coy Brewer, Jr., John Morrison McNeill, Robert Warren Wolf, Jones Byrd, John Greshma, Russell Walker Jr. |
| Pennsylvania (2018)  Corman v. ’Sec'y of Pennsylvania, 751 Fed. Appx. 157 (3d Cir. 2018) (per curiam) | Jacob Corman (in his official capacity as Majority Leader of the PA Senate), Michael Folmer (in his official capacity as Chairman of the PA Senate State Gov. Committee), Lou Barletta, Ryan Costello, Mike Kelly, Tom Marino, Scott Perry, Keith Rothfus, Lloyed Smucker, Glenn Thompson, Jeffrey Cutler |
| Wisconsin (2012)  Baldus v. Members of Wis. Gov’t Accountability Bd., 849 F. Supp. 2d 840 (E.D. Wis. 2012) | Baldus Plaintiffs:  Alvin Baldus, Carlene Bechen, Elvira Bumpus, Ronald Biendseil, Leslie Davis III, Brett Eckstein, Gloria Rogers, Richard Kresbach, Rochelle Moore, Amy Risseeuw, Judy Robson, Jeanne Sanchez-Bell, Cecelia SChliepp, Travis Thyssen, Cindy Barbera, Ron Boone, Vera Boone, Evanjelina Cleerman, Sheila Cochran, Maxine Hough, Clarence Johnson, Richard Lange, Gladys Manzanet  Intervenor Plaintiffs:  Tammy Baldwin, Gwendolynne Moore, Ronald Kind  Voces de la Frontera, Inc. Plaintiffs:  Ramiro Vara, Olga Vara, Jose Perez, Erica Ramirez |
| 2020s REDISTRICTING CASES IN STATE COURT | |
| Florida (2022)  (outcome pending)  Black Voters Matter Capacity Building Inst., Inc. v. Lee, No. 2022-ca-000666 (Fla. Cir. Ct. Apr. 22, 2022) | Pastor Reginald Gundy, Sylvia Young, Phyllis Wiley, Andrea Hershorin, Anaydia Connolly, Brandon P. Nelson, Katie Yarrows, Cynthia Lippert, Kisha Linebaugh, Beatriz Alonso, Gonzalo Alfredo Pedroso, and Ileana Caban. |
| Kansas (2022)  Rivera v. Schwab, 512 P.2d 168 (Kan. 2022) | Rivera Plaintiffs:  Faith Rivera, Diosselyn Totvelasquez, Kimberly Weaver, Paris Raite, Donnavan Dillon, and Loud Light.  Alonzo Plaintiffs:  Tom Alonzo, Sharon Al-Uqdah, Amy Carter, Connie Brown Collins, Sheyvette Dinkens, Melinda Lavon, Ana Marcela Maldonado Morales, Liz Meitl, Richard Nobles, Rose Schwab, and Anna White.  Frick Plaintiffs:  Susan Frick, Lauren Sullivan, Darrell Lea, and Susan Spring Schiffelbein. |
| Kentucky (2022)  Graham v. Adams, No. 22-CI-00047 (Ky. Cir. Ct. Nov. 10, 2022) | Derrick Graham, Jill Robinson, Mary Lynn Collins, Katima Smith-Willis, Joseph Smith. |
| Maryland (2022)  Szeliga v. Lamone, Nos. C-02-CV-21-001816, C-02-CV-21-001773, (Md. Cir. Ct. Mar. 25, 2022) | Szeliga Plaintiffs:  Kathryn Szeliga, Christopher T. Adams, James Warner, Martin Lewis, Janet Moye Cornick, Rickey Agyekum, Maria Isabel Icaza, Luanne Ruddell, and Michelle Kordell.  Parrott Plaintiffs:  Neil Parrott, Ray Serrano, Carol Swigar, Douglas Raaum, Ronald Shapiro, Deanna Mobley, Glen Glass, Allen Furth, Jeff Warner, Jim Nealis, Dr. Antonio Campbell, and Sallie Taylor. |
| New Mexico (2022)  (outcome pending)  Republican Party of New Mexico v. Oliver, No. D-506-CV-202200041 (N.M. D. Ct. Jan. 21, 2022) | David Gallegos, Timothy Jennings, Dinah Vargas, Manuel Gonzales, Jr., Bobby and Dee Ann Kimbro, and Pearl Garcia. |
| New Jersey (2022)  Matter of Congressional Districts by New Jersey Redistricting Comm’n, 268 A.3d 299 (N.J. 2022) | Douglas Steinhardt, Michele Albano, Jeanne Ashmore, Mark Duffy, Mark Logrippo, Lynda Pagliughi (each in their official capacity as members of the New Jersey redistricting commission; Douglas Steinhardt also in his official capacity as delegation Chair of the commission) |
| New York (2022)  Matter of Harkenrider v. Hochul, 38 N.Y.3d 494 (N.Y. Apr. 27, 2022) | Tim Harkenrider, Guy C. Brought, Lawrence Canning, Patricia Clarino, George Dooher, Jr., Steven Evans, Linda Fanton, Jerry Fishman, Jay Frantz, Lawrence Garvey, Alan Nephew, Susan Rowley, Josephine Thomas and Marianne Volante |
| North Carolina (2022)  Harper v. Hall, 868 S.E.2d 499 (N.C. 2022) | Harper Plaintiffs  Rebecca Harper, Amy Clare Oseroff, Donald Rumph, John Anthony Balla, Richard R. Crews, Lily Nicole Quick, Gettys Cohen, Jr., Shawn Rush, Jackson Thomas Dunn, Jr., Mark S. Peters, Kathleen Barnes, Virginia Walters Brien, and David Dwight Brown.  NCLCV Plaintiffs:  Henry M. Michaux, Jr., Dandrielle Lewis, Timothy Chartier, Talia Fernós, Katherine Newhall, R. Jason Parsley, Edna Scott, Roberta Scott, Yvette Roberts, Jereann King Johnson, Reverend Reginald Wells, Yarbrough Williams, Jr., Reverend Deloris L. Jerman, Viola Ryals Figueroa, and Cosmos George. |
| Ohio (2022)  Adams v. DeWine, 167 Ohio St. 3d 499 (Ohio 2022) | Regina C. Adams, Bria Bennett, Kathleen M. Brinkman, Martha Clark, Susanne L. Dyke, Carrie Kubicki, Dana Miller, Meryl Neiman, Holly Oyster, Constance Rubin, Solveig Spjeldnes, Everett Totty. |
| Oregon (2021)  Clarno v. Fagan, No. 21-CV-40180, 2021 WL 5632370 (Or. Cir. Ct. Nov. 24, 2021). | Beverly Clarno, Gary Wilhelms, James L. Wilcox, and Larry Campbell. |
| Pennsylvania (2022)  Carter v. Chapman, 270 A.3d 444 (Pa. 2022) (per curiam). | Carter Petitioners:  Carol Ann Carter, Monica Parrilla, Rebecca Poyourow, William Tung, Roseanne Milazzo, Burt Siegel, Susan Cassanelli, Lee Cassanelli, Lynn Wachman, Michael Guttman, Maya Fonkeu, Brady Hill, Mary Ellen Balchunis, Tom Dewall, Stephanie Mcnulty and Janet Temin.  Gressman Petitioners:  Philip T. Gressman, Ron Y. Donagi, Kristopher R. Tapp, Pamela Gorkin, David P. Marsh, James L. Rosenberger, Amy Myers, Eugene Boman, Gary Gordon; Liz McMahon, Timothy G. Feeman, and Garth Isaak. |
| Utah (2022)  (outcome pending)  League of Women Voters of Utah v. Utah State Legislature, No. 220901712 (Utah D. Ct. Mar. 17, 2022). | Stefanie Condie, Malcolm Reid, Victoria Reid, Wendy Martin, Eleanor Sundwall, Jack Markman, and Dale Cox. |

**Table 5. How State Courts Defined and Operationalized Partisan Gerrymandering (cases decided prior to November 2022 involving a partisan gerrymandering challenge).**

C1 – claims based on the failure of maps to satisfy traditional good government criteria

C2 – claims based on statistical metrics to evaluate partisan bias/partisan vote dilution

C3 – claims based on process grounds such as failure to comply with requirements for public comment or where votes to pass were entirely along partisan lines

C4 – claims about a deliberate intent to achieve partisan advantage (may be based on an examination of specific changes made in the proposed map from a previous map from the last decade that is presumptively constitutional , or on other factors)



**Table 6. Majority and Minority Party Justices Agreement with the Decision**

(number of justices in that party shown in parentheses)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| STATE | majority party | decision | majority party %agreement with decision | minority party %agreement with decision |
| FLORIDA (2015) | R | U | 50% (4) | 100% (3) |
| PENNSYLVANIA (2018) | R | U | 0% (2) | 100% (5) |
|  |  |  |  |  |
| NEW YORK (2022) | D | U | 50% (6) | 100%(1) |
| NORTH CAROLINA (2022) | R | U | 0% (3) | 100% (4) |
| OHIO (2022) | R | U | TBA | TBA |
| PENNSYLVANIA (2022) | R | U | 0% (2) | 80% (5) |
|  |  |  |  |  |
| OVERALL (averaged by Justices, not by states) |  |  | 29.4% | 94.4% |
|  |  |  |  |  |
| KANSAS (2022) | R | C | 100% (2) | 40% (5) |
| NEW JERSEY (2022) | Commission (plan considered R) | C | 100% (1) | 100% (3) |
|  |  |  |  |  |
| OVERALL (averaged by Justices, not by states) |  |  | 100% | 62.5% |

Appendix Table A1

|  |  |
| --- | --- |
| State | Individual Named Plaintiffs from Cases |
| 2010s REDISTRICTING CASES IN STATE COURT | |
| Florida (2015)  League of Women Voters of Fla. V. Detzner, 172 So. 3d 363 (Fla. 2015) | League Plaintiffs:  Robert Allen Schaeffer, Brenda Ann Holt, Roland Sanchez-Medina, Jr., and John Steel Olmstead.  Romo Plaintiffs:  Rene Romo, Benjamin Weaver, William Everett Warinner, Jessica Barrett, June Keener, Richard Quinn Boylan, and Bonita Again. |
| North Carolina (2019)  Harper v. Lewis, No. 19-CVS-012667 (N.C. Super. Ct., Wake Cnty. Oct. 28, 2019) | Rebecca Harper, Amy Clare Oseroff, Donald Rumph, John Balla, Richard R. Crews, Lily Nicole Quick, Gettys Cohen, Jr., Shawn Rush, Jackson Thomas Dunn, Mark S. Peters, Joseph Thomas Gates, Kathleen Barnes, Virginia Walters Brien, and David Dwight Brown. |
| Pennsylvania (2018)  League of Women Voters of Pa. v. Commonwealth, 178 A.3d 737 (Pa. 2018). | Carmen Febo San Miguel, James Solomon, John Greiner, John Capowski, Gretchen Brandt, Thomas Rentschler, Mary Elizabeth Lawn, Lisa Isaacs, Don Lancaster, Jordi Comas, Robert Smith, William Marx, Richard Mantell, Priscilla Mcnulty, Thomas Ulrich, Robert McKinstry, Mark Lichty, Lorraine Petrosky. |
| 2010s REDISTRICTING CASES IN FEDERAL COURT |  |
| Maryland  Lamone v. Benisek, 139 S. Ct. 2484 (2019) (consolidated with Rucho v. Common Cause) | O. John Benisek, Stephen M. Shapiro, Maria B. Pycha. |
| North Carolina  Rucho v. Common Cause, 139 S. Ct. 2484 (2019) | Larry D. Hall, Douglas Berger, Cheryl Lee Taft, Richard Taft, Alice L. Bordsen, William H. Freeman, Melzer A. Morgan, Jr., Cynthia S. Boylan, Coy E. Brewer, Jr., John Morrison McNeill, Robert Warren Wolf, Jones P. Byrd, John W. Gresham, Russell G. Walker, Jr. |
| Pennsylvania  Corman v. Acting Secretary Commonwealth of Pennsylvania, No. 18-1816 (3rd Cir. 2018) (per curiam) | Jacob Corman, Michael Folmer, Lou Barletta, Ryan Costello, Mike Kelly, Tom Marino, Scott Perry, Keith Rothfus, Lloyd Smucker, Glenn Thompson |
| Wisconsin  Baldus v. Members of Wisconsin Government Accountability Bd., 849 F. Supp. 2d 840 (E.D. Wis. 2012) | Voces de la Frontera, Inc. Plaintiffs:  Ramiro Vara, Olga Vara, Jose Perez, Erica Ramirez  Baldus Platinffs:  Alvin Baldus, Carlene Bechen, Elvira Bumpus, Ronald Biendseil, Leslie W. Davis, III, Brett Eckstein, Gloria Rogers, Richard Kresbach, Rochelle Moore, Amy Risseeuw, Judy Robson, Jeanne Sanchez-Bell, Cecelia Schliepp, Travis Thyssen, Cindy Barbera, Ron Boone, Vera Boone, Evanjelina Cleerman, Sheila Cochran, Maxine Hough, Clarence Johnson, Richard Lange, Gladys Manzanet |
| 2020s REDISTRICTING CASES IN STATE COURT |  |
| Florida (2022)  (outcome pending)  Black Voters Matter Capacity Building Inst., Inc. v. Lee, No. 2022-ca-000666 (Fla. Cir. Ct. Apr. 22, 2022) | Pastor Reginald Gundy, Sylvia Young, Phyllis Wiley, Andrea Hershorin, Anaydia Connolly, Brandon P. Nelson, Katie Yarrows, Cynthia Lippert, Kisha Linebaugh, Beatriz Alonso, Gonzalo Alfredo Pedroso, and Ileana Caban. |
| Kansas (2022)  Rivera v. Schwab, 512 P.2d 168 (Kan. 2022) | Rivera Plaintiffs:  Faith Rivera, Diosselyn Totvelasquez, Kimberly Weaver, Paris Raite, Donnavan Dillon, and Loud Light.  Alonzo Plaintiffs:  Tom Alonzo, Sharon Al-Uqdah, Amy Carter, Connie Brown Collins, Sheyvette Dinkens, Melinda Lavon, Ana Marcela Maldonado Morales, Liz Meitl, Richard Nobles, Rose Schwab, and Anna White.  Frick Plaintiffs:  Susan Frick, Lauren Sullivan, Darrell Lea, and Susan Spring Schiffelbein. |
| Kentucky (2022)  Graham v. Adams, No. 22-CI-00047 (Ky. Cir. Ct. Nov. 10, 2022) | Derrick Graham, Jill Robinson, Mary Lynn Collins, Katima Smith-Willis, Joseph Smith. |
| Maryland (2022)  Szeliga v. Lamone, Nos. C-02-CV-21-001816, C-02-CV-21-001773, (Md. Cir. Ct. Mar. 25, 2022) | Szeliga Plaintiffs:  Kathryn Szeliga, Christopher T. Adams, James Warner, Martin Lewis, Janet Moye Cornick, Rickey Agyekum, Maria Isabel Icaza, Luanne Ruddell, and Michelle Kordell.  Parrott Plaintiffs:  Neil Parrott, Ray Serrano, Carol Swigar, Douglas Raaum, Ronald Shapiro, Deanna Mobley, Glen Glass, Allen Furth, Jeff Warner, Jim Nealis, Dr. Antonio Campbell, and Sallie Taylor. |
| New Mexico (2022)  (outcome pending)  Republican Party of New Mexico v. Oliver, No. D-506-CV-202200041 (N.M. D. Ct. Jan. 21, 2022) | David Gallegos, Timothy Jennings, Dinah Vargas, Manuel Gonzales, Jr., Bobby and Dee Ann Kimbro, and Pearl Garcia. |
| New Jersey (2022)  Matter of Congressional Districts by New Jersey Redistricting Comm’n, 268 A.3d 299 (N.J. 2022) | Douglas Steinhardt, in his official capacity as delegation Chair and member of the New Jersey redistricting commission, Michele Albano, in her official capacity as member of the New Jersey redistricting commission, Jeanne Ashmore, in her official capacity as member of the New Jersey redistricting commission, Mark Duffy, in his official capacity as member of the New Jersey redistricting commission, Mark Logrippo, in his official capacity as member of the New Jersey redistricting commission, Lynda Pagliughi, in her official capacity as member of the New Jersey redistricting commission. |
| New York (2022)  Matter of Harkenrider v. Hochul, No. 60, 2022 N.Y. LEXIS 874, at \*1 (N.Y. Apr. 27, 2022) | Tim Harkenrider, Guy C. Brought, Lawrence Canning, Patricia Clarino, George Dooher, Jr., Steven Evans, Linda Fanton, Jerry Fishman, Jay Frantz, Lawrence Garvey, Alan Nephew, Susan Rowley, Josephine Thomas and Marianne Volante |
| North Carolina (2022)  Harper v. Hall, 868 S.E.2d 499 (N.C. 2022) | Harper Plaintiffs  Rebecca Harper, Amy Clare Oseroff, Donald Rumph, John Anthony Balla, Richard R. Crews, Lily Nicole Quick, Gettys Cohen, Jr., Shawn Rush, Jackson Thomas Dunn, Jr., Mark S. Peters, Kathleen Barnes, Virginia Walters Brien, and David Dwight Brown.  NCLCV Plaintiffs:  Henry M. Michaux, Jr., Dandrielle Lewis, Timothy Chartier, Talia Fernós, Katherine Newhall, R. Jason Parsley, Edna Scott, Roberta Scott, Yvette Roberts, Jereann King Johnson, reverend Reginald Wells, Yarbrough Williams, Jr., reverend Deloris L. Jerman, Viola Ryals Figueroa, and Cosmos George. |
| Ohio (2022)  (outcome pending)  Adams v. DeWine, No. 2021–1428 (Ohio Dec. 2, 2021) | Regina C. Adams, Bria Bennett, Kathleen M. Brinkman, Martha Clark, Susanne L. Dyke, Carrie Kubicki, Dana Miller, Meryl Neiman, Holly Oyster, Constance Rubin, Solveig Spjeldnes, Everett Totty. |
| Oregon (2021)  Clarno v. Fagan, No. 21-CV-40180, 2021 WL 5632370 (Or. Cir. Ct. Nov. 24, 2021). | Beverly Clarno, Gary Wilhelms, james L. Wilcox, and Larry Campbell. |
| Pennsylvania (2022)  Carter v. Chapman, 270 A.3d 444 (Pa. 2022) (per curiam). | Carter Petitioners:  Carol Ann Carter, Monica Parrilla, Rebecca Poyourow, William Tung, Roseanne Milazzo, Burt Siegel, Susan Cassanelli, Lee Cassanelli, Lynn Wachman, Michael Guttman, Maya Fonkeu, Brady Hill, Mary Ellen Balchunis, Tom Dewall, Stephanie Mcnulty and Janet Temin.  Gressman Petitioners:  Philip T. Gressman, Ron Y. Donagi, Kristopher R. Tapp, Pamela Gorkin, David P. Marsh, James L. Rosenberger, Amy Myers, Eugene Boman, Gary Gordon; Liz McMahon, Timothy G. Feeman, and Garth Isaak. |
| Utah (2022)  (outcome pending)  League of Women Voters of Utah v. Utah State Legislature, No. 220901712 (Utah D. Ct. Mar. 17, 2022). | Stefanie Condie, Malcolm Reid, Victoria Reid, Wendy Martin, Eleanor Sundwall, Jack Markman, and Dale Cox. |

1. Party control and identification of redistricting authority from National Conference of State Legislatures, *Redistricting and Elections*, Redistricting and Elections Standing Committee, https://www.ncsl.org/ncsl-in-dc/standing-committees/redistricting-and-elections.aspx (last visited Dec 28, 2022); Justin Levitt, *All About Redistricting*, https://redistricting.lls.edu (last visited Dec 23, 2022). Data on long-standing constitutional language on Free and Equal/Open from Joshua A Douglas, *The Right to Vote Under State Constitutions*, 67 VANDERBILT LAW Rev. 61 (2014); *see also Free and Equal Election Clauses in State Constitutions*, Nat’l Conf. State Leg. (Nov. 4, 2019), https://www.ncsl.org/redistricting-and-census/free-and-equal-election-clauses-in-state-constitutions. Information on Direct language in current constitutions regarding gerrymandering from National Conference of State Legislatures. *See Redistricting Criteria,* Nat’l Conf. State Leg. (July 16, 20212), <https://www.ncsl.org/redistricting-and-census/redistricting-criteria>. By comparing who drew the map used in November 2022 with who had initial primary authority to draw the map, the involvement of state courts can be inferred. However, it is important to note that a number of state courts have maps constitutionally limited to use in the 2022 election only (North Carolina and Ohio); and others where state courts have postponed a decision on the merits until 2023 (Florida, New Mexico, Utah, and Kentucky): and other states where the U.S. Supreme Court has intervened to block final decisions by lower courts on redistricting challenges related to race (e.g., Alabama, Georgia); and in New York as of the time of this writing there was still ongoing litigation as to whether the state court ordered congressional plan could be used beyond 2022. [↑](#footnote-ref-1)
2. In some states (Connecticut, Indiana, and Ohio), commissions may also be used as backup if there is no political agreement on a congressional plan. [↑](#footnote-ref-2)
3. L=Legislature, C=Commission, C(L)=Commission with Legislative Backup, - =One district, L(C)=Legislature with Commission Backup. [↑](#footnote-ref-3)
4. R = race-based challenge, S= successful partisan gerrymander challenge, U = unsuccessful partisan gerrymandering challenge, P=pending partisan gerrymandering challenge as of November 2022, F = litigation based on failure to draw a map in a timely fashion, N = no relevant litigation or state court action. [↑](#footnote-ref-4)
5. In a state court challenge to the state legislative redistricting maps that was decided after the pre-November 2022 election cutoff we have been using, the Alaska Supreme Court expressly recognized that partisan gerrymandering is unconstitutional under the Alaska Constitution’s equal protection doctrine. *See In the Matter of the 2021 Redistricting Cases*, Nos. S-18332 & S-18419 at \*110 (Alaska Sup. Ct. Apr. 21, 2023); *see also* Sean Maguire, *Alaska Supreme Court, in landmark ruling, says partisan gerrymandering violates state constitution*, Anchorage Daily News (Apr. 22, 2023), <https://www.adn.com/politics/2023/04/21/alaska-supreme-court-in-landmark-decision-rules-that-partisan-gerrymandering-is-unconstitutional/?subscriberkey=00Q0e00001g4bdbEAA#:~:text=%E2%80%9CFor%20the%20first%20time%20the,the%20process%20in%20the%20future.%E2%80%9D>. However, in 2023, the new Republican majority on the North Carolina Supreme Court reversed the opinion issued by the previous Democratic majority on the court that partisan gerrymandering was justiciable under the North Carolina constitution. Thus, even absent the constitutional provision limiting the use of a court-drawn map, North Carolina would be drawing a new congressional map for 2024 use. [↑](#footnote-ref-5)
6. Maryland’s plan was initially struck down by the state court, and under its supervision, the Legislature passed a replacement. On April 1, 2022, the Maryland Court of Appeals assumed jurisdiction over the appeal from the Court of Special Appeals, and on April 4, 2022, both parties voluntarily dismissed the appeal after the Governor agreed to sign the new congressional redistricting plan into law. [↑](#footnote-ref-6)
7. Litigation pending as of the time of this writing as to whether the court-drawn map could be used for more than the 2022 election. [↑](#footnote-ref-7)
8. Map to be used in 2022 only. See previous footnote explaining reversal of previous North Carolina Supreme Court decision about justiciability of partisan gerrymandering by the new court. [↑](#footnote-ref-8)
9. Under the Ohio Const. art. XIX, § 1, the Ohio legislature first has the opportunity to draw congressional lines by a three-fifth’s supermajority, including votes of half of each major party in each chamber. If that fails, the process goes to a seven-member backup commission, comprised of the Governor, State Auditor, Secretary of State, and one commissioner chosen by each of the two party’s legislative leaders in each chamber. The plan must pass with votes from at least two members affiliated with each major party. If the commission fails to pass a plan, the state legislature may then pass a congressional plan via a simple majority subject to gubernatorial veto. Maps that are passed by a supermajority of the legislature or by bipartisan approval of the commission are valid for ten years, whereas maps passed by legislation are valid for only two general elections. In the 2020 redistricting cycle, the Ohio Redistricting Commission failed to agree and the state legislature ran out the clock by repeatedly proposing a map either very similar to or identical to a map that the state court had previously rejected as an unconstitutional partisan gerrymander; every one of its maps, including its last proposed map were held to be unconstitutional. But Ohio’s recent redistricting amendment forbids state courts from imposing impose their own maps even if the legislature or Commission repeatedly fails to offer a constitutional map. To provide a congressional plan for the 2022 election a federal court mandated use of the last map offered to the Ohio State Court by the legislature. The federal court held that there was insufficient time to create a new map and have it reviewed by the state court. [↑](#footnote-ref-9)
10. See footnote immediately above. Map to be used in 2022 only. [↑](#footnote-ref-10)
11. Map to be used in 2022 only (pending appeal). [↑](#footnote-ref-11)
12. In *League of Women Voters of Utah (LWVU) v. Utah State Legislature*, No. 220901712 (Utah D. Ct. Mar. 17, 2022), the plaintiffs filed a complaint alleging that the Utah Legislature’s 2021 Congressional Plan “violates multiple provisions of the Utah Constitution, including the Free Elections Clause, the Uniform Operation of Laws Clause, protections of free speech and association, and the right to vote” and that “the Legislature’s repeal of Proposition 4 [a bipartisan citizen initiative that prohibited partisan gerrymandering] violated the people’s constitutionally guaranteed lawmaking power and right to alter and reform their government.” After the District Court denied the defendants’ motion to stay and motion to dismiss, the defendants appealed the case to the Utah Supreme Court. In January 2023, the Utah Supreme Court agreed to hear the plaintiffs’ partisan gerrymandering claims. The entry in Table 1 above reflects the situation in November 2022. [↑](#footnote-ref-12)
13. The Commission missed the deadline for submission of its plan by only a few minutes and the state court held that the commission was in substantial compliance with state requirement. But the plan still had to be referred to the legislature, which adopted it with only minor changes. [↑](#footnote-ref-13)
14. In Wisconsin, while the Court *in Johnson v. Wisconsin Elections Comm’n*, 972 N.W.2d 559 (Wis. 2022). chose a congressional plan, it was based on the previous decade’s plan, which was widely considered to be a gerrymander. Thus the claim has been made that the litigation simply ended up with a court-drawn gerrymander. [↑](#footnote-ref-14)
15. *Harper v. Hall* was decided Dec 2022 - all other cases were decide on or before the November 2022 election. [↑](#footnote-ref-15)
16. This type of evidence can be used as indirect evidence of intent even if, standing alone, they are not sufficient to demonstrate partisan intent. [↑](#footnote-ref-16)
17. *League of Women Voters of Fla. v. Detzner*, 172 So.3d 363, 375 (Fla. 2015). This doesn’t necessarily mean it was drawn with a “malevolent or evil purpose.” *Id*. at 378. If unconstitutional intent is found, the burden shifts to the Legislature to justify the plan. *Id*. at 400. [↑](#footnote-ref-17)
18. Claims of this sort of intentional gerrymandering were considered by the magistrate. **JONATHAN,** **IS THIS CORRECT?** [↑](#footnote-ref-18)
19. *League of Women Voters of Pa. v. Commonwealth*, 178 A.3d 737, 817 (Pa. 2018). [↑](#footnote-ref-19)
20. *Rivera v. Schwab*, 512 P.2d 168,183 (Kan. 2022). While the definition of partisan gerrymandering is similar to the definition used in other states it is worth noting that Kansas tries to quantify how much is too much**. JUSTINE, PLEASE ADD QUOTE INDICATING MORE PRECISELY HOW KANSAS TRIES TO decide how much is too much.** [↑](#footnote-ref-20)
21. The Plaintiffs did not challenge the map because it invidiously discriminated or was unlawful, as required by the New Jersey state Constitution. *Matter of Congressional Districts by New Jersey Redistricting Comm’n*, 268 A.3d at 307. Instead, they challenged the reasons given by the individual who cast the tiebreaking vote for choosing one map over the other, which was based in large part on an evaluation of partisan fairness. *Id.* Ultimately, for reasons not important in this context, the Court held that even if all factual allegations were true, they were insufficient to establish a cause of action. *Id.*, at 310, [↑](#footnote-ref-21)
22. Federalist party [↑](#footnote-ref-22)
23. [↑](#footnote-ref-23)
24. The usual type of partisan gerrymandering claims was not actually before the state court. See earlier footnote. The Commission indicated that it made use of the requirement that “no district may be formed solely to favor or disfavor any political party or the election of any person” *Matter of Harkenrider v. Hochul*, 38 N.Y.3d 494,519 (Ct. of App. 2022) (quoting N.Y. Const. art. III, § 4, cl. 5). [↑](#footnote-ref-24)
25. The Legislature is free to offer amendments to maps created by the Independent Redistricting Committee (IRC) only after rejection of a second set of IRC maps. *In re Harkenrider*, 38 N.Y.3d at503-04. [↑](#footnote-ref-25)
26. *Harper v. Hall*, 868 S.E.2d 499, 546-47 (N.C. 2022). [↑](#footnote-ref-26)
27. *Adams v. DeWine*, 167 Ohio St. 3d 499, 509 (Ohio 2022) (quoting Ohio Const. art. XIX). Criteria include ensuring contiguous territory with a single nonintersecting boundary line, various guidelines of splitting municipalities, providing no districts share portions of more than one county unless the population exceeds 400,000, and maintaining compact districts. *Id*. at 510. If the proposed plan favors a political party to a degree that is in excess of the neutral constitutional criteria, then the plan is considered a political gerrymander and unconstitutional. *Id*. [↑](#footnote-ref-27)
28. The Court determined that the Special Masters’ process for choosing a plan was unconstitutional, leaving it up to the Court to select a plan that comported with traditional criteria and did not exhibit partisan unfairness. *Carter v. Chapman*, 270 A.3d 444, 459, 471 (Pa. 2022). [↑](#footnote-ref-28)
29. *Id.* at 470. [↑](#footnote-ref-29)