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SCOTUS Takes Up 2 Partisan Gerrymandering Cases

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By R. Robin McDonald | January 04, 2019

The U.S. Supreme Court on Friday decided to hear two partisan gerrymandering cases: a North Carolina case [spearheaded](#)



Emmet Bondurant, left, of Bondurant Mixson & Elmore and Michael Kimberly, right, of Mayer Brown. Courtesy photos.

[\(https://www.law.com/dailyreportonline/2019/01/03/atlantas-emmet-bondurant-crafted-legal-challenge-to-nc-gerrymandering/\)](https://www.law.com/dailyreportonline/2019/01/03/atlantas-emmet-bondurant-crafted-legal-challenge-to-nc-gerrymandering/) by Atlanta attorney Emmet Bondurant and the Maryland case that inspired it.

At its Friday conference, the high court decided it will hear North Carolina Republican legislators' appeal of a 2018 three-judge ruling that found partisan gerrymandering used to corral the majority of Democratic voters in just three districts in 2016 was unconstitutional. The case, *Rucho v. Common Cause*, was originally filed in 2016 in U.S. District Court for the Middle District of North Carolina.

Bondurant, lead counsel for Common Cause, is a founding partner of Atlanta's Bondurant, Mixson & Elmore, and a 50-year veteran of legal voting rights battles.

The North Carolina Department of Justice and a team of attorneys at Ogletree, Deakins, Nash, Smoak & Stewart headed by Thomas Farr, whose controversial nomination to the federal bench was defeated last month, represent the Republican state legislators who are defendants in the case. Farr could not be reached for comment.

The high court also agreed to hear *Lamone v. Benisek*, a Maryland case making its third appearance before the high court that challenges Democratic legislators' redistricting in that state. The case, originally known as *Shapiro v. McManus*, was first filed pro se in 2013 by Maryland engineer Stephen Shapiro, a Common Cause volunteer.

After initially losing in the lower courts, Shapiro joined forces with Michael Kimberly, now a Mayer Brown partner in Washington, D.C., who successfully argued the case when it was first heard by the Supreme Court in 2015.

Bondurant found the centerpiece of the North Carolina litigation tucked away in Shapiro's original complaint, an argument first offered by Justice Anthony Kennedy in 2004 that partisan gerrymandering should be considered a violation of the First Amendment.

The Supreme Court scheduled both cases for oral arguments in March, although a specific date has not yet been set.

"Whether it is Democrats or Republicans manipulating the election maps, gerrymanders cheat voters out of true representation," Common Cause President Karen Hobert Flynn said Friday. "The Supreme Court has the opportunity to set a clear standard that will restore a meaningful vote to millions of Americans disenfranchised by gerrymanders in Maryland, North Carolina and across the country."

Kimberly said that when the Supreme Court heard a Wisconsin partisan gerrymandering case, *Gill v. Whitford*, and the *Lamone* case for the second time last year, "Everyone was anticipating they would finally do something on partisan gerrymandering." But, he added, "They ducked the tough issues last time. I don't think they will do that this time. I think these two cases will have significant implications for the way that redistricting is conducted going forward if we prevail."

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