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Pittsburgh Tribune-Review
5 things to know: Pennsylvania's latest congressional district map

Political chaos has broken out in Pennsylvania after the state's high court last week redrew the congressional map for this year's midterm elections. Behold our future judicial overlords if the U.S. Supreme Court rules that partisan gerrymanders are unconstitutional.

Last month a 5-2 liberal majority of the Pennsylvania Supreme Court struck down, with unvarnished political hubris, the congressional map adopted by the GOP legislature way back in 2011. The districts "clearly, plainly and palpably violate our state Constitution" that guarantees that "elections shall be free and equal," the judges opined. According to the majority, the gerrymander diluted the voting rights of some Democrats by cramming them into a handful of districts. As evidence, the judges noted that in 2012 Democrats won five of 18 congressional districts with an average 76.4% of the vote in each while receiving 50.8% of the statewide vote. The judges also emphasized that Republicans haven't lost a district since 2011, yet the special election next month in southwestern Pennsylvania for Rep. Tim Murphy's seat is competitive. So was the race in November to replace Republican Patrick Meehan in Philadelphia's suburbs.

While the U.S. Supreme Court has held that partisan gerrymanders may violate the U.S. Constitution, it has been unable to articulate a precise legal standard. Democrats are now trying to tempt the Supreme Court into intervening in the intrinsically political redistricting process with social-science methodology that purportedly measures proper representation. The arguments that the Supreme Court heard last fall in *Gill v. Whitford* involving Wisconsin's legislative maps are similar to those made by the Democratic plaintiffs in Pennsylvania. But as the Pennsylvania redistricting battle shows, striking down partisan gerrymanders will politicize the courts.

Pennsylvania's constitution gives the *legislature* plenary authority to draft congressional maps. Nonetheless, the Democratic majority on the high court—judges in Pennsylvania are elected—gave the legislature all of three weeks to redraw districts that would meet Democratic Governor Tom Wolf's approval. The judges specified that the districts must have equal populations, be "compact and contiguous geographical territory" and respect "the boundaries of existing political subdivisions contained therein." These requirements are nowhere in the state constitution.

Philadelphia Inquirer
[In Pa.'s new congressional map, this Republican's 'bad dream' turns into 'a nightmare'](#)

Pennlive
[Who's still standing after Pennsylvania's political earthquake?](#)

Philadelphia Daily News
[Oh, the things we learn from Pa.'s gerrymander fight](#)

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Pittsburgh Post-Gazette
[Editorial: Map of confusion – The Supreme Court moved too fast on new districts](#)



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decide that judges should be redistricting kings. – *Wall Street Journal*; [more in Washington Post](#)

A prominent white nationalist sued Twitter Inc. for kicking him off the social network, the latest in a spate of legal attacks by members of the far-right claiming tech companies discriminate against their viewpoints and challenging the idea that they operate neutral platforms. The suit by Jared Taylor, filed Tuesday in state Superior Court in San Francisco, argues that Twitter violated California law protecting free speech in public spaces when it banned Mr. Taylor in December. Twitter told Mr. Taylor by email that it did so under a rule in its user agreement that bars accounts affiliated with organizations that promote violence, according to the suit. Mr. Taylor says he neither advocated violence nor was affiliated with such groups. Twitter didn't respond to requests for comment. It added the rule cited in Mr. Taylor's suit in December as part of a broader effort to reduce "hateful and abusive" content.

Mr. Taylor's suit follows others by right-wing groups and individuals in recent months claiming they were treated unfairly by tech companies, including Twitter and YouTube, an arm of Alphabet Inc.'s Google. The cases highlight the challenge the companies face in trying to prevent bullying and other abusive content while avoiding the perception that they censor unpopular opinions. In January, Charles Johnson, an investor and conservative activist, sued Twitter in state Superior Court in Fresno, Calif., for banning him, claiming it was inconsistent in applying its rules. Twitter kicked off Mr. Johnson in 2015 after he sent a tweet offering to "take out" civil-rights activist DeRay Mckesson. Mr. Johnson says he was referring to investigating Mr. Mckesson.

In October, Prager University, a nonprofit that produces short videos from conservative perspectives, sued YouTube and its parent, Google, in federal court, [claiming the tech giant illegally censored](#) some of its content as part of a wider effort to silence conservative voices. Those cases are pending.

In September, Gab AI Inc., a social-media startup popular with far-right activists, [sued Google in federal court](#) over its app's removal from the Google Play store, claiming Google was stifling nascent

Notably, the judges did not articulate a precise standard for reviewing partisan gerrymanders. It's possible for the legislature to draw a map complying with the court's "neutral criteria," the majority wrote, but that still could "unfairly dilute the power of a particular group's vote for a congressional representative." In other words, the judges can do what they want. And with the help of Stanford University law professor Nathan Persily they drafted their own new map Monday for use in the May primaries after the Governor and legislature failed to agree. The revised map makes at least three GOP districts more competitive and disrupts several races.

Republicans plan to ask federal courts to enjoin the map, as they should. The U.S. High Court last month declined a request to intervene, perhaps giving deference to state judges' interpretation of state law. But the judge-drawn map violates the U.S. Constitution's Elections Clause, which provides that "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." State judges can't usurp the legislature's authority over redistricting willy-nilly. The Supreme Court ought to block this judicial coup d'etat, but be warned. Pennsylvania will be the future in every state if the Justices

competition. Google said the claim was baseless and that it removed Gab's app for failing to moderate user content encouraging violence and hate. Gab AI dropped its case in October, saying it would resubmit its app to Google's store and focus on lobbying Congress for action against "monopolized tech giants."

Twitter and Google, along with Facebook Inc., also have come under pressure in recent years from users who say they don't do enough to prevent disturbing content including threats against other users, revenge porn and hate speech. In response, they have broadened rules preventing certain kinds of hate speech, particularly that targeting other users. Twitter's rules say it believes in freedom of expression "but that means little as an underlying philosophy if voices are silenced because people are afraid to speak up."

The companies also now are navigating new European rules that require them to proactively remove hate speech on their sites. "These are hard issues," said Danielle Citron, a University of Maryland law professor, who advises tech companies, including Twitter, on how to protect against abuse without impeding free speech. "Coming to a global consensus on these issues is not impossible, but it's going to be challenging." Noah Peters, the Washington-based attorney representing Mr. Taylor, said his suit doesn't take issue with Twitter's need to kick off users who harass others, but he says Mr. Taylor didn't harass users on Twitter.

Mr. Peters pointed to what he says is precedent in California that privately owned spaces can constitute public forums, and arguing that because Twitter is a public forum, it can't discriminate against certain views. The California public-space ruling hasn't previously been applied to the internet, Mr. Peters said. "What we're talking about is power—who has the power to shape the debate," Mr. Peters said. "Is this going to be a thing where Twitter gets to determine who wins the debate?" – *Wall Street Journal*

A federal judge on Tuesday undercut AT&T Inc.'s plans to argue that the Justice Department is challenging its acquisition of Time Warner Inc. for political reasons, ruling that the company can't have information on internal government deliberations. AT&T has argued that the government's case was influenced by President Donald Trump's opposition to the deal and his disdain for Time Warner's CNN, a network he has criticized repeatedly.

The Justice Department has denied the charges, accusing the companies at a court hearing Friday of raising a Trump-bias "sideshow" as a way to justify an anticompetitive merger. The companies said they didn't relish raising the bias issue, but said they had reason to question whether they had been treated fairly. They argue their \$85 billion deal won't hurt consumers and shouldn't have been challenged by the Justice Department. U.S. District Judge Richard Leon's seven-page ruling Tuesday said there are high legal hurdles for defendants seeking access to government communications to build a bias defense and the companies "have fallen far short" of overcoming them.

The companies "have not made a credible showing that they have been especially singled out" by the Justice Department's lawsuit, Judge Leon wrote. "We are pleased with and respect today's decision, which will permit the parties and court to focus on the case at hand," Justice Department spokeswoman Kerri Kupec said. "This case has always been about protecting consumers from competitive harms, and we look forward to presenting our case at trial on March 19." Daniel Petrocelli, the lead trial counsel for AT&T and Time Warner, didn't press the issue. "We respect the judge's decision and look forward to the coming trial," he said in a statement.

In defense of the Time Warner deal, AT&T has argued primarily that the transaction would benefit consumers and advertisers and help it compete with disruptive companies like Netflix, Google and Amazon. From the day it was sued last November, AT&T has also openly questioned the department's motives. AT&T Chief Executive Randall Stephenson has called the tensions between Mr. Trump and CNN the "elephant in the room," and has noted that the department's antitrust chief, Makan Delrahim, came to the position after serving as a deputy White House counsel for Mr. Trump.

The telecom giant moved recently to put Mr. Delrahim on its witness list for the approaching trial, a highly unusual move. Under questioning from Judge Leon at Friday's court hearing, the company agreed to take Mr. Delrahim off the list, but reserved the right to seek to add him back later if it believed there was good cause for doing so. Mr. Delrahim was confirmed in late September as head of the antitrust division and announced the decision to sue AT&T seven weeks later. He and the department alleged the vertical combination of AT&T's video distribution with Time Warner's popular cable programming would give the combined company the power to raise prices, slow innovation and hinder competitors. Mr. Delrahim has said he wasn't influenced by the White House and politics played no role in his decision.

At last week's hearing the Justice Department said it had been willing to approve the merger if AT&T had agreed to change the structure of the deal by selling off certain assets. It argued the companies should be prohibited from making bias claims at trial, saying the companies' request for internal documents was an unjustified "fishing expedition." The department has previously produced a log of certain communications between the White House and Justice Department's antitrust division, but said all those communications involved preparations for Mr. Delrahim's Senate confirmation hearing.

AT&T wanted Judge Leon to require the Justice Department to produce a log of additional communications, if any existed, about the White House's input on the transaction. The company **sought information** on potential communications between the White House and the attorney general's office, as well as internal Justice Department communications citing the president's views. In rejecting the request, Judge Leon's ruling Tuesday signaled a broader skepticism of AT&T's contention that the Justice Department's lawsuit was unprecedented in recent times. "History belies the notion that this action is the first and only time that the government has found an antitrust problem with a proposed vertical merger or insisted on a structural remedy as a condition to settlement," the judge wrote. "So while it may, indeed, be a rare breed of horse, it is not exactly a unicorn!" – **Wall Street Journal**

Dish Network Corp. disclosed how many Sling TV subscribers it has for the first time as the company looks to assure investors it can grow in new businesses while customers continue to drop their traditional television packages. On Wednesday the company said Sling TV, its online-only pay-TV package, had 2.2 million subscribers. As of December, several analysts estimated that the service had well over 1 million paying subscribers.

Dish launched the streaming service over two years ago in an attempt to lure younger viewers and people who aren't subscribing to regular cable. The number of Sling TV customers grew 47% compared with the year-ago period but wasn't enough to offset a 9.4% decline in satellite TV subscribers. The company finished the quarter with a total 13.2 million subscribers including Sling and satellite customers, down from 13.7 million subscribers last year. In the fourth quarter, total satellite subscribers fell by 121,000 despite adding 399,000 new customers.

The company finished the quarter with a total 13.2 million subscribers including its regular satellite customers, down from 13.7 million subscribers last year. Overall for the quarter, Dish reported earnings of \$1.39 billion, or \$2.64 a share, up from \$355 million, or 73 cents a share a year earlier. The period was helped by a \$1.2 billion benefit related to the recently enacted tax overhaul. Revenue fell 7.8% to \$3.48 billion, missing the \$3.53 billion forecast by Thomson Reuters. Shares, inactive premarket, have fallen 29% over the past year. – **Wall Street Journal**

