



## **Josh Kurtz: Read The Man Who Is Writing Hogan's Redistricting Plans**

What do disability rights, labor law, flirting and tort reform have to do with congressional and legislative redistricting?

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Not much, really — unless you're interested in the work and philosophy of the man who has been empowered by Gov. Lawrence J. Hogan Jr. (R) during the redistricting process.

Officially, there are three chairs of the Maryland Citizens Redistricting Commission — one Democrat, one Republican and one unaffiliated voter. But anyone who has been paying attention knows that the Republican chair, Walter K. Olson, has been, to put it mildly, a first among equals. The man is driving the process, setting the schedule, and shaping the agenda.

This should come as no surprise. Hogan has put Olson in charge of every redistricting reform platform he has constructed since becoming governor in 2015. What's more, Olson has a history of thinking and writing about the issue.

But who is Walter Olson, really, and what does he believe? If you think of Hogan as a reasonable moderate and Olson as a benign intellectual, you may be surprised.

Olson is a senior fellow at the Robert A. Levy Center for Constitutional Studies at the Cato Institute, a libertarian think tank initially bankrolled largely by the Koch brothers' political network. The institute is famous for advocating for lowering or even abolishing taxes, casting doubt on climate change, and pushing the privatization of numerous government agencies and social welfare programs.

Olson years ago was an editor of *Regulation*, a quarterly magazine at the Cato Institute that was run at the time by the late Supreme Court Justice Antonin Scalia. He has also been associated with two other conservative think tanks, the Manhattan Institute and American Enterprise Institute.

Olson has written a lot about the legal system, but he isn't a lawyer. He's considered a conservative scholar, but he has never spent much time working in academia.

In just the last few months alone, Olson, [on the Cato Institute's website](#), has weighed in on such topics as free speech rights for public employees to criticize the government, regulations for the adoption of Native American children, COVID-19 vaccine mandates, and voter ID laws. To call his pieces conservative propaganda would be an understatement.

But it is his four books that provide a mother lode of information about the man's thinking.

His 1992 book, "The Litigation Explosion: What Happened When America Unleashed the Lawsuit," is a dense tome that features musings on such legal industry topics as contingency fees, the evolution of pleadings, the use of interrogatories, and the proliferation of advertising. But there's no mistaking one recurring sentiment: Olson believes that liability lawsuits are, at best, frivolous, and at worse, a sort of con game that threatens the very well-being of America.

At one point, he refers to modern litigation "as a generous sort of social welfare program, by which people who crave an infusion of money or some less tangible commodity can get it from other people who (perhaps) could well afford to give it up." He goes on to state that liability suits "over allegedly defective products have been another great area of growth for the litigation business, with results equally inimical to the welfare of society." At another point, he compares liability lawsuits that seek big payments to an act of terrorism by the Irish Republican Army.

In the same book, Olson complains that courtroom pleadings have become too simplistic — and in effect, have given too many people access to potential legal redress. He also criticizes the expansion of court jurisdictions, noting that many years ago, a person or entity could only be sued in their home state.

And, in an observation that should catch the eye of all the members of the General Assembly whose districts Olson is trying to shape, he writes that when state lawmakers write legislation to address the legal system, they tend to make "things far worse."

In a 1997 book, "The Excuse Factory: How Employment Law Is Paralyzing the American Workplace," Olson frets about the impact the Americans With Disabilities Act has had on labor law and legal cases.

"Employers are expected to refrain from 'wrongful' firings, to give disabled workers 'reasonable' accommodation, and to shelter employees from profanity or pointed criticism that reaches the point of creating a 'hostile environment,'" he writes. "No one really knows where these concepts begin and leave off."

Later in the book, Olson criticizes the expansion of discrimination law to cover "age, disability, pregnancy, [and] veteran status." And still later, he discusses a municipal ordinance in Santa Cruz, Calif., banning personal appearance discrimination, created when a person lost his job because he had a tongue piercing, multicolor hair, earrings, nose ring, and a shoulder tattoo. Olson takes a stab at humor, imagining the fired worker saying, "Thith ith wha gah me thierd."

In other sections of the book, Olson looks askance at attempts to crack down on workplace harassment (one chapter is titled "Fear of Flirting"), identity politics, and judicial decisions that expand disability rights.

In a 2011 book, "Schools for Misrule: Legal Academia and an Overlawyered America," Olson — who got his Bachelor's degree from Yale University — begins by blasting elite law schools for spawning the likes of Barack Obama and Bill and Hillary Clinton. He goes on to criticize law schools for running legal clinics with progressive missions that often help the downtrodden in society; casts doubt on one law school clinic project that sought to help Black families reclaim property and assets that may have been stolen during the Jim Crow era; and laments that too few law schools publish conservative legal journals or participate in legal cases favored by conservatives.

Olson's books feature supportive blurbs from the likes of Robert Bork, the late federal judge and failed Supreme Court nominee; John Stossel, the Fox News personality; and Philip K. Howard, author of "The Death of Common Sense," a conservative favorite.

"Walter Olson writes as if he were waging war — and he takes no prisoners," Fortune magazine wrote in a review of "The Litigation Explosion."

Redistricting has major consequences across the land — it helps determine who represents us and how they're chosen. This very rawest of political exercises ultimately has a deep influence on policymaking at every level of government.

As the redistricting process unfolds in Maryland, with Democrats dominating the mapmaking unless the courts intervene, Hogan and Olson can occupy a small patch of moral high ground by advocating for a nonpartisan redistricting scheme that takes the map drawing out of the hands of Democratic lawmakers and produces boundaries that appear fair. It's a potent argument in the abstract, but conveniently ignores the real politics of the moment.

It's easy for Hogan and Olson to call for nonpartisan redistricting in Maryland, with the knowledge that Republicans, with zero doubt, will pick up congressional and legislative seats by muscling through redistricting plans in several critical states where they control the process. That political reality magically gets Walter Olson closer to the world he imagines in all of his writing.