

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

Latasha Holloway, et al.,

Plaintiffs,

v.

City of Virginia Beach, et al.,

Defendants.

Civil Action No. 2:18-cv-0069

**DEFENDANTS' MOTION TO EXCLUDE PLAINTIFFS'
SUPPLEMENTAL EXPERT REPORTS AND OPINIONS**

COME NOW the Defendants and hereby move this Court, pursuant to Federal Rules of Civil Procedure 26 and 37 and Local Rule 37, to exclude Plaintiffs' Supplemental Expert Reports and Opinions to the extent that they offer new illustrative districts and/or new analysis based upon those newly offered illustrative districts. Specifically, this Motion to Exclude pertains to the entirety of Anthony Fairfax's Supplemental Report and to all those parts of Douglas Spencer's Supplemental Report wherein he offers analysis for the first time of the "performance" of Fairfax's illustrative districts as set forth in Fairfax's Supplemental Report. Defendants ask for these reports and opinions to be excluded from evidence at the trial of this matter, and prohibited from use in the course of further litigating this case upon the grounds that the Supplemental Reports are untimely, not substantially justified, and prejudicial to Defendants, as set forth more particularly in the accompanying Memorandum of Law in Support, which is incorporated by reference herein.

WHEREFORE, Defendants, having made a good faith effort to resolve this dispute without resort to placing a motion before the Court,¹ respectfully ask this Court to grant their Motion and to exclude Plaintiffs' Supplemental Expert Reports and Opinions from evidence at the trial of this matter and to prohibit their use in the course of further litigating this case.

Respectfully submitted,

CITY OF VIRGINIA BEACH, VIRGINIA
BEACH CITY COUNCIL, and LOUIS
JONES, JAMES WOOD, JESSICA ABBOTT,
ROBERT DYER, BARBARA HENLEY,
MICHAEL BERLUCCHI, JOHN MOSS, GUY
TOWER, AARON ROUSE, ROSEMARY
WILSON, SABRINA WOOTEN, TOM
LEAHY, and DONNA PATTERSON, all in
their official capacities

By: /s/ Joseph M. Kurt
Of Counsel

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¹ Counsel for Defendants conferred with Plaintiffs regarding this matter by telephone on July 9, 2020. Defendants' counsel offered that this dispute could be resolved by Plaintiffs agreeing that both parties would withdraw their respective objections to the others' supplemental disclosures made after the close of discovery. Plaintiffs' counsel advised that they would not accept this proposed resolution and it was clear at the end of the phone call that the parties were at an impasse.

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of July, 2020, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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