

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
NO. 1:15-CV-00399**

SANDRA LITTLE COVINGTON, *et al.*, )  
)  
Plaintiffs, )  
)  
v. )  
)  
THE STATE OF NORTH CAROLINA, )  
*et al.*, )  
)  
Defendants. )  
\_\_\_\_\_

**DEFENDANTS’  
MEMORANDUM IN SUPPORT  
OF MOTION FOR LEAVE TO  
MODIFY SCHEDULING  
ORDER AND TO EXPEDITE**

Defendants submit this memorandum of law in support of their Motion to Modify the Scheduling Order entered in this matter on October 9, 2015 (D.E. 25) and amended by the Court on December 18, 2015 (D.E. 46) to allow Defendants to issue subpoenas to and take the depositions of two witnesses identified for the first time during depositions on Friday, February 19, 2016. Defendants further request that the court expedite consideration of and briefing on this motion. Defendants accordingly show the Court:

**FACTUAL BACKGROUND**

On Friday, Feb. 19, 2016, Defendants took depositions of two individuals, former state Senator Margaret Dickson and Douglas A. Wilson, pursuant to subpoenas served on them. Though both Senator Dickson and Mr. Wilson were among 46 individual plaintiffs named in *Dickson v. Rucho*, No. 11-CVS-16896 (Wake County Superior Court) (“*Dickson*”), Defendants were not aware of their involvement in this action until multiple Plaintiffs testified in depositions that began on February 4, 2016 that they had been asked by either Senator Dickson or Mr. Wilson if they were interested in joining this action as

plaintiffs. During their depositions last Friday, both Senator Dickson and Mr. Wilson acknowledged their respective roles in identifying plaintiffs in this action.

For her part, Senator Dickson acknowledged that she had asked David Mann if he would be interested in being a plaintiff in this lawsuit. (Deposition of Margaret Dickson, p. 17)<sup>1</sup> Senator Dickson testified that she asked Mr. Mann about his interest in being a plaintiff in this lawsuit after having a conversation with Plaintiffs' Counsel Eddie Speas "about identifying people who lived in the district." (*Id.*)

Mr. Wilson, who is the Deputy Executive Director of the North Carolina Democratic Party ("NCDP"), testified that he had contacted at least seven people including Marvin Arrington, Viola Figueroa, John Verdejo, Dedreana Freeman, Susan Campbell, Antionette Mingo, and Ruth Sloane, who ultimately became Plaintiffs in this lawsuit. (Deposition of Douglas A. Wilson, pp. 38-59)<sup>2</sup> Though he could not recall doing so, at least two additional plaintiffs in this case, Rosa Mustafa and Gregory Turner, testified in their depositions that Mr. Wilson had also contacted them about joining the lawsuit. (*See* D.E. 64-1, Mustafe Dep. p. 25; D.E. 64-9, Turner Dep. pp.17-18)

Mr. Wilson testified that he was recruited to join the *Dickson* lawsuit by Jay Parmley who, at the time, was the Executive Director of the NCDP. (Wilson Dep. at 15-16) Mr. Wilson learned about this case from Scott Falmlen, another former NCDP Executive Director and currently a consultant with Nexus Strategies. (*Id.* at 30-31) Mr.

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<sup>1</sup> A copy of cited excerpts from the deposition of Margaret Dickson are attached as Exhibit 1.

<sup>2</sup> A copy of cited excerpts and exhibits from the deposition of Douglas A. Wilson are attached as Exhibit 2.

Falmlen held a meeting with Mr. Wilson and Patsy Keever, the chair of the NCDP, in April 2015 in which Mr. Falmlen asked Mr. Wilson and Ms. Keever to assist in identifying Plaintiffs for this lawsuit. (*Id.* at pp. 30-35) They committed to help Mr. Falmlen. (*Id.* at 34)

Following this meeting, Mr. Falmlen sent Mr. Wilson and Mr. Keever an email thanking them for their time, stating that “I hope I was able to recap everything that’s been going on in the redistricting effort over the past three [and] a half years,” and providing them with criteria to use when identifying plaintiffs for this action. (*Id.* at pp. 63-64; Wilson Dep. Ex. 4) At his deposition, Mr. Wilson produced a series of emails pursuant to the subpoena Defendants served on him reflecting some of the contacts he made to identify plaintiffs in this action. In one such email, written to prospective plaintiff Kristi Tally, Mr. Wilson wrote that, “I am touching base to see if you would be interested in being part of a redistricting federal lawsuit *that Democracy Partners is bringing against the state. They along with our Democratic Legislators* have targeted key State House and Senate Distircts [sic].” (*Id.* at pp. 77-84; Wilson Dep. Ex. 7) (emphasis added) Mr. Wilson further told Ms. Tally in an email that he was trying to “identify one African-American and one white plaintiff in each district” and that if she was interested in being a plaintiff, “*the attorneys with Democracy Partners* will be in touch with you to explain more details.” (*Id.*) (emphasis added)

Despite making these statements to Mr. Tally, Mr. Wilson testified that he didn’t know anything about Democracy Partners, their relationship with Mr. Falmlen, or their involvement in any other lawsuits in the state, including *Dickson*. (*Id.* at 80-81) Mr.

Wilson admitted, however, that he understood from Mr. Falmlen that (1) Democracy Partners was the group responsible for bringing this lawsuit and (2) they had worked with unidentified Democratic legislators to target the districts to be challenged in the suit. (*Id.* at pp. 80-83)

After learning this information and pursuant to the Court's December 18, 2015 order allowing the parties to "modify provisions related to discovery scheduling by agreement and without court approval, so long as no deadlines related to court filings are affected and no delays in court proceedings will result" (D.E. 46), on Monday, February 22, counsel for Defendants contacted Plaintiffs' counsel to seek their consent to allow depositions of Mr. Falmlen and Democracy Partners to be taken beyond the February 19, 2016 discovery cut-off.<sup>3</sup> On Tuesday, February 23, 2016, Plaintiffs' counsel asked for additional time to consider the matter then proposed "putting this issue aside until the Court rules on your motion to depose plaintiffs counsel" because "[t]hat ruling may eliminate the need for the depositions you have proposed."

Because this matter is scheduled for trial starting April 11, 2016 and given that at least two weeks' time is needed to serve a subpoena and schedule depositions of third-party witnesses, including one (Democracy Partners) who Defendants believe is located out-of-state, Defendants believe that they need to move forward with making arrangements for the depositions of Mr. Falmlen and Democracy Partners before any

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<sup>3</sup> As an accommodation to Plaintiffs, Defendants have agreed to take the depositions of two Plaintiffs the week of February 29, 2016 because those Plaintiffs could not be scheduled before the February 19 discovery deadline.

ruling on their pending Motion for Leave to Depose Counsel for Plaintiffs (D.E. 58) is issued. Plaintiffs' counsel opposes this motion.

### **ARGUMENT**

The information Defendants seek to obtain through the depositions of Mr. Falmlen and Democracy Partners is needed by Defendants to prepare their asserted defenses of *res judicata* and collateral estoppel for trial. The legal basis and additional factual background regarding Defendants' need for discovery related to these defenses can be found in Defendants' Memorandum of Law in Support of their Motion for Leave to Depose Counsel for Plaintiffs (D.E. 59) and in Defendants' Reply Memorandum in support of that motion (D.E. 64). Although both Senator Dickson and Mr. Wilson were plaintiffs in *Dickson* and admitted contacting prospective plaintiffs regarding this action, both denied knowing who was responsible for paying the legal fees and costs in both *Dickson* and here. (Dickson Dep. p. 12; Wilson Dep. pp. 28-29, 116-17)

In light of Mr. Wilson's admissions that he (1) understood from Mr. Falmlen that Democracy Partners is the entity responsible for bringing this action and (2) the role of the NCDP in recruiting Mr. Wilson to be a plaintiff in *Dickson* and the NCDP's role in recruiting plaintiffs for this case, it is critical that Defendants be permitted to take the depositions of both Mr. Falmlen and Democracy Partners to determine their involvement in this action and *Dickson*, including whether they are responsible for the payment of any costs or fees in either case, and more importantly whether they, the NCDP, or some other persons or entities are directing the litigation in either matter.

If permitted to do so by the Court, Defendants intend to take the depositions of Mr. Falmlen and Democracy Partners<sup>4</sup> on the weeks of March 14 or 21 and do not believe that allowing either of these depositions would require any other modifications to the deadlines provided in the Scheduling Order in this matter, including any change in the trial date. Additionally, Defendants will schedule any depositions of Plaintiffs' counsel permitted by the Court after the depositions of Mr. Falmlen and Democracy Partners so long as such scheduling would not interfere with Defendants' ability to prepare for trial.

Defendants additionally request that the Court expedite its consideration of this matter and require Plaintiffs to file their response to this motion within five (5) days or no later than Monday, February 29, 2016<sup>5</sup> and allow any reply by Defendants to be filed no later than Tuesday, March 1, 2016.

### **CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court modify the Scheduling Order in this matter to permit them to issue subpoenas to and to take the depositions of Scott Falmlen and Democracy Partners.

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<sup>4</sup> In the subpoenas defendants intend to serve on Mr. Falmlen and Democracy Partners, Defendants also intend to seek relevant documents related to Mr. Falmlen's and Democracy Partners's involvement in this action and in *Dickson*.

<sup>5</sup> In their email correspondence regarding this matter, counsel for Plaintiffs stated that the five-day response timeframe proposed herein would be acceptable to them.

This the 24th day of February, 2016.

OGLETREE, DEAKINS, NASH  
SMOAK & STEWART, P.C.

/s/ Thomas A. Farr

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## **CERTIFICATE OF SERVICE**

I, Thomas A. Farr, hereby certify that I have this day electronically filed the foregoing **DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR LEAVE TO DEPOSE COUNSEL FOR PLAINTIFFS AND MOTION TO EXPEDITE** with the Clerk of Court using the CM/ECF system which will provide electronic notification of the same to the following:

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This the 24th day of February, 2016.

OGLETREE, DEAKINS, NASH  
SMOAK & STEWART, P.C.

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**ORDER**

THIS MATTER comes before the Court on Defendants' Motion to Modify the Scheduling Order to permit subpoenas commanding the production of documents and attendance at a deposition to be issued to Scott Falmlen and Democracy Partners. The Court finds that this motion is supported by good cause and will modify the Scheduling Order to permit Defendants to issue subpoenas to and to take the depositions of Mr. Falmlen and Democracy Partners.

The previously-established schedule for pre-trial disclosures and trial remains in place. IT IS SO ORDERED.

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23976169.1

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Plaintiffs, )

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vs. )

)

THE STATE OF NORTH CAROLINA, )

et al., )

)

Defendants. )

VIDEOTAPED DEPOSITION OF MARGARET DICKSON

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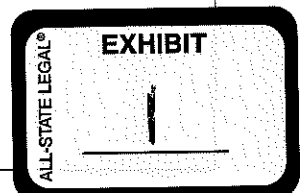
2:03 P.M.

FRIDAY, FEBRUARY 19, 2016

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POYNER SPRUILL, LLP  
301 FAYETTEVILLE STREET  
SUITE 1900  
RALEIGH, NORTH CAROLINA

By: Tammy Johnson, CVR-CM-M



1 A. No.

2 Q. Okay. Were you responsible for paying any  
3 legal fees in the Dickson v. Rucho case?

4 A. No.

5 Q. Did you pay any legal fees?

6 A. No.

7 Q. Did you pay any costs -- did you pay any money  
8 to go towards the hard costs of the lawsuit?

9 A. No.

10 Q. All right. Are you aware of who did pay the  
11 legal fees for the Dickson v. Rucho lawsuit?

12 A. No.

13 Q. Have you ever talked to anybody about who  
14 would be paying the fees in that case?

15 A. No.

16 Q. Okay. Are you familiar with a individual by  
17 the name of Scott Falmlen?

18 A. Yes.

19 MR. STRACH: Did I pronounce his  
20 name right? Falmlen?

21 MR. SPEAS: Mr. Falmlen.

22 MR. STRACH: Falmlen, okay.

23 A. Yes.

24 Q. Who is Scott Falmlen?

25 A. I couldn't give you his job title. At one

1 it.

2 Q. All right. And -- and why did you ask them if  
3 they were interested?

4 A. Because they lived in the district.

5 Q. All right. Did someone ask you to ask those  
6 people if they were interested?

7 A. I had a conversation with Mr. Speas about  
8 identifying people who lived in the district.

9 Q. Okay. And with respect to the Covington  
10 lawsuit, did Mr. Speas tell you who would be  
11 funding the Covington lawsuit?

12 A. No.

13 Q. One of the individuals you talked to was David  
14 Mann; is that correct?

15 A. Yes.

16 Q. All right. And I'm going to mark these. I've  
17 got some exhibits, one exhibit, actually, that  
18 I'm going to label Defendant's Exhibit Number  
19 1 that I'm going to hand to you and give Eddie  
20 a copy.

21 (WHEREUPON, Defendant's Exhibit 1 was  
22 marked for identification.)

23 Q. Ms. Dickson, these are documents -- these are  
24 documents that Mr. Speas e-mailed to me  
25 yesterday. Do they look familiar? And take

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 THE STATE OF NORTH CAROLINA, )  
 et al., )  
 )  
 Defendants. )

VIDEOTAPED DEPOSITION OF DOUGLAS WILSON

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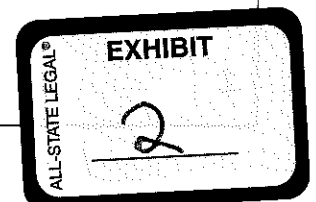
11:10 A.M.

FRIDAY, FEBRUARY 19, 2016

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POYNER SPRUILL, LLP  
301 FAYETTEVILLE STREET  
SUITE 1900  
RALEIGH, NORTH CAROLINA

By: Tammy Johnson, CVR-CM-M



1 A. All right.

2 Q. And even if you anticipate where I'm going  
3 with a question, please wait for me to finish  
4 the question before you respond, and I, in  
5 turn, will try to wait for you to finish your  
6 answer before I ask you another question.

7 A. Uh-huh.

8 Q. If some time I don't allow you to finish your  
9 answer, just please let me know and I'll --  
10 I'll allow you to finish it before I ask my  
11 next question. And do you understand that you  
12 have an obligation to testify truthfully  
13 today?

14 A. Yes, I do.

15 Q. And is there any reason why you cannot testify  
16 truthfully and completely in response to my  
17 questions today?

18 A. No.

19 Q. Now, Mr. Wilson, what is your current  
20 occupation?

21 A. I'm the Deputy Executive Director for the  
22 North Carolina Democratic Party.

23 Q. How long have you held that position?

24 A. It will be a year in May of this year.

25 Q. And have you worked for the North Carolina

1 campaign.

2 Q. And what year was that?

3 A. That was 2011.

4 Q. And Mr. Fox is currently the Secretary of  
5 Transportation?

6 A. Correct.

7 Q. And he was the mayor of Charlotte at the time?

8 A. At the time, yes, correct.

9 (WHEREUPON, Defendant's Exhibit 2 was  
10 marked for identification.)

11 Q. Mr. Wilson, I'm going to hand you another  
12 document that I'm going to mark as Wilson  
13 Exhibit 2, and I want you to take a look at  
14 this document. It's rather lengthy, so take  
15 your time and let me know if it's a document  
16 that you recognize.

17 A. Would you like me to answer now?

18 Q. If -- if -- if you've had time to review it,  
19 certainly.

20 A. I have not seen this one before. I don't re-  
21 -- I don't recall seeing this one.

22 Q. All right. Mr. Wilson, this is a copy of the  
23 First Amended Complaint that was filed in a  
24 lawsuit that's known as Dickson versus Rucho.

25 A. Uh-huh.

1 Q. Are you familiar with that lawsuit?

2 A. Yes, I am.

3 Q. And how are you familiar with that?

4 A. Back in 2011, I was -- I was asked to be a  
5 plaintiff in this case.

6 Q. And who asked you to be a plaintiff in the  
7 case?

8 A. At that time, Jay Parmley was Executive  
9 Director of the Democratic Party.

10 Q. And what did Mr. Parmley tell you about that  
11 case?

12 A. I can't recall.

13 Q. Do you know if Mr. Parmley recruited any other  
14 plaintiffs in the case?

15 MR. SPEAS: Objection to the form.

16 A. I can't recall if he did.

17 Q. Do you remember anything about what  
18 Mr. Parmley told you about the case?

19 A. No.

20 Q. Do you remember when in 2011 he contacted you  
21 about the case?

22 A. No, I don't.

23 Q. And at the time you became a plaintiff in the  
24 case --

25 A. Uh-huh.



- 1 A. Of course, my name is on there, but that's it.
- 2 Q. Okay. How did you keep up with what was going
- 3 on in the Dickson versus Rucho lawsuit?
- 4 A. Now, which -- which one are we talking about
- 5 there?
- 6 Q. That lawsuit that we just looked at --
- 7 A. Oh, yes.
- 8 Q. -- here, Exhibit 2 in which you are a
- 9 plaintiff.
- 10 A. Honestly, I -- I did not keep up with it.
- 11 Q. So after you agreed to be a plaintiff, that
- 12 was the end of your --
- 13 A. That was --
- 14 Q. -- involvement?
- 15 A. Yeah, I didn't hear anything from anybody. No
- 16 lawyers contacted me at all. That was it.
- 17 Q. Were you responsible for the payment of any
- 18 attorneys' fees or costs in the Dickson versus
- 19 Rucho lawsuit in which you were a plaintiff?
- 20 A. No.
- 21 Q. And do you know who was responsible for
- 22 payment of those --
- 23 A. No.
- 24 Q. -- attorneys' fees or costs?
- 25 A. No, I don't.

1 Q. And do you know how funds were raised to pay  
2 for the attorneys' fees or costs in the  
3 Dickson lawsuit?

4 A. No.

5 Q. Did you ever inquire about that?

6 A. No.

7 Q. And why not?

8 A. I just -- I just didn't. I -- I didn't have  
9 any desire to.

10 Q. To know?

11 A. No.

12 Q. Were you ever concerned that you would have to  
13 pay the costs for your attorneys to represent  
14 you in that lawsuit?

15 A. No.

16 Q. Okay. And why not?

17 A. Because I didn't hear from anybody.

18 Q. Okay.

19 (WHEREUPON, Defendant's Exhibit 3 was  
20 marked for identification.)

21 Q. So, Mr. Wilson, I'm going to hand you another  
22 document now I'm going to mark as Wilson  
23 Exhibit 3. Is Wilson Exhibit 3 a document  
24 that you recognize?

25 A. Yes.

1 Q. How do you recognize that document?

2 A. This was a document that I saw online for the  
3 current case.

4 Q. By the current case, you're referring to  
5 Covington versus the State of North Carolina?

6 A. Yes. Yes.

7 Q. And that's the case that you're here  
8 testifying --

9 A. Uh-huh.

10 Q. -- in today?

11 A. Yes, it is.

12 Q. When did you first learn about the Covington  
13 lawsuit?

14 A. Well, I first -- it -- it wasn't called the  
15 Covington lawsuit, you know.

16 Q. Sure.

17 A. I was first -- I first heard about it last  
18 year, and I was told about it by a gentleman  
19 by the name of Scott Falmlen.

20 Q. Who's Mr. Falmlen?

21 A. I know him just as the former Executive  
22 Director for the state Democratic Party.

23 Q. Do you know who Mr. Falmlen worked for at the  
24 -- at the time that you heard from him?

25 A. He worked for Nexus Strategies.

1 Q. Who is Nexus Strategies?

2 A. I'm not aware of what they do entirely. I  
3 just know that they're a company here in  
4 Raleigh. I've just heard of it before.

5 Q. Okay. Are they a company that you have worked  
6 with in your capacity with the Democratic  
7 Party or any other campaign?

8 A. No.

9 Q. Okay. So does Nexus Strategies do anything  
10 for the North Carolina Democratic Party now?

11 A. No.

12 Q. All right. And is Mr. Falmlen currently still  
13 employed by Nexus Strategies?

14 A. As from what I know, yes.

15 Q. Do you remember when you first heard about the  
16 lawsuit that's now known as Covington versus  
17 the State of North Carolina from Mr. Falmlen?

18 A. I'm sorry. Repeat the question.

19 Q. Yes, sir. Do you know when you first heard of  
20 a lawsuit that is now known as Covington  
21 versus the State of North Carolina from  
22 Mr. Falmlen?

23 A. I can't give you an exact day, but from what I  
24 remember, probably it -- well, I remember  
25 April of last year, around that time.

1 Q. What did Mr. Falmlen tell you?

2 A. Mr. Falmlen told me that there was -- he -- he  
3 told me there was possibly going to be a case  
4 dealing with the -- the -- the lines, state  
5 House and state Senate lines, and he asked if  
6 I would help identify folks who would be  
7 interested in being possible plaintiffs in --  
8 in the case, that they were looking -- that --  
9 that was looking at being -- that was looking  
10 at being put -- put together.

11 Q. And at the time he contacted you, you were  
12 serving as a Deputy Executive Director for the  
13 North Carolina Democratic Party?

14 A. No, I wasn't. I was serving in a transition  
15 role. The party had just very recently  
16 elected a new chairwoman -- chairman.

17 Q. Uh-huh.

18 A. The chairwoman was Patsy Kever, and I was  
19 asked to help transition from one  
20 administration to the next. So I wasn't  
21 employed with the party.

22 Q. Were you receiving any pay from the party at  
23 the time?

24 A. On -- on a contractual basis, but I -- that --  
25 that was it. I wasn't an employee of the

1 party.

2 Q. But you were receiving compensation as a  
3 contractor?

4 A. Yes.

5 Q. And when did you officially move on to the  
6 payroll of the party?

7 A. It was in May. I can't give you an exact  
8 date, but it was in May of 2015.

9 Q. Now, did Mr. Falmlen tell you why he was  
10 asking you to help find plaintiffs for the  
11 lawsuit?

12 A. The way that the meeting took place, it was me  
13 alone with Mr. and Mrs. Keever, and so he just  
14 asked us. He just -- just said, "Can -- can  
15 you," just asked. And then since I was the  
16 one in the room, he asked just -- and just he  
17 came to me, of course, just I was -- it was --  
18 the party was very short in number, and so I  
19 -- I was helping out, so that's why.

20 Q. And this was an in-person meeting, then, with  
21 you and Patsy Keever; is that right?

22 A. It -- it was -- yes, with me, Mrs. Keever, and  
23 Scott Falmlen.

24 Q. All right. No one else was in the room?

25 A. No one else was in the room.

1 Q. And where was this meeting held?

2 A. This meeting was held at the Goodwin House.

3 Q. And that is the headquarters of the North  
4 Carolina Democratic Party?

5 A. Yes.

6 Q. How long did the meeting last?

7 A. I can't remember.

8 Q. To the best of your recollection, what was  
9 discussed at the meeting?

10 A. As I stated earlier, that there was a -- a  
11 potential case coming up, and we were asked if  
12 we could identify potential folks that would  
13 -- would be interested in being potential  
14 plaintiffs in the case.

15 Q. And by "we," you mean you and Mrs. Keever?

16 A. Yes. But, then, of course, it was put on me  
17 because, again, I -- as I stated earlier, the  
18 -- the party at the time, and still now, is  
19 very short staffed.

20 Q. And at that meeting --

21 A. Uh-huh.

22 Q. -- did you or Mrs. Keever, or both of you,  
23 commit to helping Mr. Falmlen with this  
24 project?

25 A. Yes.

1 Q. Okay. And who made that commitment?

2 A. I can't recall who actually made the  
3 commitment, but it was agreed.

4 Q. And why did you agree to do that?

5 A. Well, I was on a contractual basis with the  
6 party, and because they asked, I -- I did it.

7 Q. Well --

8 A. Meaning, "they," Mr. and Mrs. Keever, meaning,  
9 you know, I was asked to do it.

10 Q. What was your understanding of the goal of  
11 this lawsuit?

12 A. As I stated earlier, my understanding was that  
13 there was a potential lawsuit being filed, and  
14 I was just asked to identify potential  
15 plaintiffs that would -- that would serve in  
16 the case.

17 Q. Did you get any criteria for plaintiffs?

18 A. Yes, I did.

19 Q. What were those criteria?

20 A. I can't recall firsthand what they were, but I  
21 did receive cri- -- criteria.

22 Q. And you received that by e-mail?

23 A. Yes, I did. I --

24 Q. We can look at that in a moment, then. Who  
25 did you receive that criteria from?



- 1           That's not what he said he did.
- 2       A.    No, I didn't.
- 3       Q.    Well -- well, did Mr. Falmlen tell you who
- 4           else was involved in the lawsuit?
- 5       A.    I don't remember him telling me that.
- 6       Q.    I've already given you a copy of the --
- 7       A.    Of, Exhibit 3, yes.
- 8       Q.    Yes, sir.
- 9       A.    Uh-huh.
- 10      Q.    And why don't we start on page 5?
- 11      A.    Okay. I'm there.
- 12      Q.    And there's a list of names under the heading
- 13           "Parties" on page 5. Do you see that?
- 14      A.    Yes, I do.
- 15      Q.    All right.
- 16      A.    Uh-huh.
- 17      Q.    Why don't we go person-by-person here and --
- 18           and you let me know if you know any of these
- 19           individuals?
- 20      A.    Okay.
- 21      Q.    Okay. The first --
- 22      A.    I -- I'm sorry.
- 23      Q.    Go ahead. The -- go ahead.
- 24      A.    Okay, yeah. I do not know Sandra Covington.
- 25      Q.    And how about Mr. Arrington?

1 A. Yes, I do.

2 Q. How do you know him?

3 A. I know him as the former county chair for -- I  
4 can't remember the county right now. I'm --  
5 drew -- draw a blank on that, but I know him  
6 as being a former county chair.

7 Q. And when you say someone is a county chair,  
8 you mean with the Democratic Party?

9 A. Correct.

10 Q. And is Mr. Arrington someone that you  
11 discussed this lawsuit with?

12 A. Yes.

13 Q. And when did you have a discussion with  
14 Mr. Arrington about this lawsuit?

15 A. I can't remember the date.

16 Q. Do you remember what you said to him about the  
17 lawsuit?

18 A. He was one of the potential plaintiffs that I  
19 -- I -- that I was -- that I identified, and I  
20 just told him that there was a potential case  
21 being filed and if he was interested in being  
22 a plaintiff, an a- -- an attorney would  
23 contact him.

24 Q. Well, did he tell you he was interested in  
25 being a plaintiff?

1 A. Yes.

2 Q. Okay. And did that communication occur by  
3 e-mail or telephone or in person?

4 A. I can't remember.

5 Q. Do you remember when you talked to him?

6 A. No, I don't.

7 Q. Okay. How did you go about identifying people  
8 to be plaintiffs?

9 A. Well, as I stated earlier, the use of The  
10 Voter File, as I stated before.

11 Q. But to use The Voter File, you had to have a  
12 name to look up, correct?

13 A. Yes, you did, but you can also look up by --  
14 not necessarily. You can also look up folks  
15 by their district. So you can put in district  
16 whatever and it'll give you a list of voters  
17 and their -- and their party affiliation.

18 Q. That would be thousands of names, would it  
19 not?

20 A. It just depends on the district. It depends.

21 Q. Well, how did you go about, for example,  
22 identifying Mr. Arrington?

23 A. Well, as I stated earlier, I recogn- -- I -- I  
24 knew him as being a former county chair, and I  
25 -- and I recognized the name so I gave -- so I

1           was able -- so I reached out to him. And,  
2           like I said earlier, I can't remember how I  
3           did it, but I did reach out to him.

4       Q.    So is it fair to say, though, that you started  
5           the process by identifying people who you knew  
6           through the Democratic Party or otherwise who  
7           live in a particular area and then you looked  
8           up their information on The Voter File; is  
9           that what happened?

10     A.    Can you repeat the question again?

11     Q.    Sure. Is it fair to say that the way you went  
12           about this is you identified people --

13     A.    Uh-huh.

14     Q.    -- who you knew through the Democratic Party  
15           and then looked up their information in The  
16           Voter File to contact them about the lawsuit?

17     A.    I would say that I just -- just knew that or  
18           assumed that some of these folks would be --  
19           would be interested in being plaintiffs in the  
20           case because of where they lived and the way  
21           the lines were drawn in those areas.

22     Q.    But you didn't randomly select people from The  
23           Voter File, did you?

24     A.    No, I -- I didn't -- I didn't randomly select  
25           them. And the reason why I hesitated to

1 answer the question is because I -- I may make  
2 it very wonky, but I didn't randomly select  
3 folks. If there was somebody I knew, or  
4 recognized, I should say, but if it was a -- a  
5 voter that fit the criteria that I can't  
6 remember now but at the time was given to me,  
7 then -- then I would ask them.

8 Q. But you didn't start cold calling people you  
9 didn't know on The Voter File to participate,  
10 did you?

11 A. Well, as I stated, you know, if -- if it was  
12 someone that seemed to fit the criteria I  
13 stated earlier in my -- in the previous  
14 question -- I -- I can't recall what that  
15 criteria was, but at that time, if they fit  
16 that criteria, then I -- and then -- then I --  
17 then I contact- -- I contacted them.

18 Q. And was this work part of your duties in your  
19 -- in your job for the Democratic Party?

20 A. Was it part of my duties?

21 Q. Yeah.

22 A. I'm not really following the question. Like,--

23 Q. Sure. I mean, is this something you did in --  
24 in your capacity as an employee or a contract  
25 with the Democratic Party?

1 A. Well, as -- as I stated at the time, I was --  
2 it was something that I was asked to do. It  
3 -- it -- I wouldn't say it's a job -- part of  
4 a job description, but I was just asked to do  
5 it.

6 Q. Okay. Now, when you were calling these  
7 people, were you doing that at Democratic  
8 Party headquarters?

9 A. As from what I can remember, yes.

10 Q. And when you e-mailed them, were you at the  
11 Democratic Party headquarters?

12 A. Now, that, I can't recall.

13 Q. All right. Now, did anyone you contacted  
14 about being involved in a lawsuit decline to  
15 participate?

16 A. I can't remember at this point. They probably  
17 could have. I just can't remember. I can't  
18 give you an answer on that.

19 Q. Now, do you know if other people, other than  
20 you, were involved in identifying people to be  
21 plaintiffs in a lawsuit?

22 A. I don't -- I don't remember. I don't know.

23 Q. Was there -- was there ever a phone call or a  
24 meeting with other people who were supposed to  
25 be identifying people to be plaintiffs in a

1 lawsuit?

2 A. I don't know.

3 Q. You don't remember whether you had a meeting  
4 with -- about any -- with -- with any group of  
5 people about finding plaintiffs to be involved  
6 in a lawsuit other than the meeting you  
7 already described --

8 A. Yeah. That was -- that was the only meeting  
9 I've had.

10 Q. All right. And did you start looking for  
11 plaintiffs right after you met with  
12 Mr. Falmlen?

13 A. I can't -- I can't recall if it was exactly  
14 after. I just know that there was a time  
15 where I started doing it, but I don't know  
16 what the -- if it was exactly after. Yeah, I  
17 don't remember.

18 Q. Do you remember when you completed that  
19 process?

20 A. I can't remember.

21 Q. Well, looking back at page 5 --

22 A. Uh-huh.

23 Q. -- of Exhibit 3, the next name is Herman  
24 Lewis. Is that a name that you're familiar  
25 with?

1 A. No.

2 Q. How about Viola Figueroa?

3 A. Yes.

4 Q. How do you know Ms. Figueroa?

5 A. She is a member of the African-American Caucus  
6 in Wayne County.

7 Q. And do you remember the first time that you  
8 had a conversation with Ms. Figueroa about  
9 this lawsuit?

10 A. I can't recall the exact time, but I remember  
11 contacting her as a potential plaintiff.

12 Q. How did you know Ms. Figueroa?

13 A. As I stated, she was a member of the  
14 African-American Caucus.

15 Q. Did you work with her on the Kay Hagan  
16 campaign?

17 A. No, I did not. She -- I didn't work with her  
18 directly. I -- I heard that she helped out in  
19 the -- in her area, but I didn't work with  
20 her. She wasn't an employee of the campaign.

21 Q. And did Ms. Figueroa tell you that she would  
22 agree to be a plaintiff in a lawsuit?

23 A. Yes.

24 Q. And do you remember how she agreed to do that?  
25 Was it over e-mail or telephone or in person?



1 A. I can't remember the exact type of  
2 communication.

3 Q. The next person listed is Crystal Graham  
4 Johnson, paragraph 14.

5 A. This is not a name that I -- I recognize.

6 Q. How about Marcus Walter Mayo in paragraph 15?

7 A. No. I don't recognize that name.

8 Q. Julian Charles Pridgen, Sr.?

9 A. Not a name I recognize.

10 Q. Page 17, there's Gregory Keith Tucker.

11 A. I don't recognize that name.

12 Q. Do you know someone named Betsy Leach?

13 A. Yes.

14 Q. And how do you know Ms. Leach?

15 A. Ms. Leach is the -- she used to be the county  
16 chair for -- for Pitt County.

17 Q. Did you talk with Ms. Leach --

18 A. I don't --

19 Q. -- about --

20 A. I don't recall talking to her.

21 Q. Do you think it's possible you could have?

22 A. I -- I -- honestly, I -- I don't -- I don't  
23 remember if I did.

24 Q. Now, did you send out a blanket e-mail to  
25 county chairs asking them if they knew

1 potential plaintiffs? Or did you send out  
2 e-mails to certain leaders in the party? What  
3 -- what contact did you have with people in  
4 the party apparatus, if you will, about  
5 looking for plaintiffs?

6 A. I -- I did not send out a blanket e-mail to  
7 county chairs, nor did I send it out to party  
8 leaders in the party.

9 Q. Well, did you contact anybody in the party  
10 other than people who ended up being  
11 plaintiffs about --

12 A. No. It --

13 Q. -- the lawsuit?

14 A. No, I did not.

15 Q. And so your testimony is you don't remember  
16 talking to Mr. Tucker?

17 A. Yeah. I -- I don't remember --

18 Q. Okay.

19 A. -- talking to him.

20 Q. Now, if Mr. Tucker testified at his deposition  
21 that he believed that he talked to you about  
22 the lawsuit --

23 A. Uh-huh.

24 Q. -- do you think he would be mistaken?

25 A. Like I said, I -- I don't remember. Honestly,

1 I don't remember.

2 Q. How about paragraph 18, Cynthia Martin?

3 A. I -- I honestly don't remember talking to her.

4 Q. How about John Raymond Verdejo?

5 A. Yes. I do recall talking to him.

6 Q. When did you talk to Mr. Verdejo?

7 A. As I stated earlier, asking if he was  
8 interested in being a plaintiff in this  
9 potential case.

10 Q. How did you go about doing that?

11 A. It was -- I believe it was a phone call.

12 Q. Do you remember when?

13 A. I don't.

14 Q. Do you remember how many phone calls that you  
15 had with Mr. Verdejo?

16 A. I do remember it was just one call.

17 Q. Do you remember what you told Mr. Verdejo  
18 about the lawsuit?

19 A. Just that there was -- that there's a  
20 potential lawsuit coming up and if he was  
21 interested in being a plaintiff, that an  
22 attorney would -- would contact him.

23 Q. And did he tell you at that time he was  
24 interested?

25 A. Yes, he did.

1 Q. How about paragraph 20, Dedreana Irene  
2 Freeman?

3 A. Yes.

4 Q. Do you --

5 A. I con- --

6 Q. -- know her?

7 A. I do know her. She was a classmate of mine in  
8 IOPL, the Institute of Political Leadership,  
9 and I remember contacting her through phone,  
10 and I left her a -- a -- I left her a  
11 voicemail, and I had -- and I didn't hear from  
12 her from -- from then.

13 Q. Do you know if anyone else later contacted  
14 her?

15 A. I -- I don't know.

16 Q. Did you have anyone else at the North Carolina  
17 Democratic Party who was working with you to  
18 identify potential plaintiffs for this  
19 lawsuit?

20 A. No. It was just me.

21 Q. Do you have an outreach coordinator or  
22 coalitions director or something like that at  
23 party headquarters?

24 A. Huh-uh. No. No, we don't. I'm sorry. No,  
25 we don't.

1 Q. Is there someone with the last name Fellman  
2 who works at the party?

3 A. Sarah Fellman, yes.

4 Q. Okay. What is her --

5 A. Now, when you -- when you mentioned in your  
6 previous question the title, the title is  
7 completely -- that's why I said, no, I don't  
8 recognize that title. But she -- she is with  
9 the party.

10 Q. What is her title?

11 A. She is the campus coordinator and campus --  
12 campus coordinator and voter protection  
13 outreach. It's -- it's a long title. I can't  
14 get it -- get it correct.

15 Q. Do you know if she contacted any prospective  
16 plaintiffs about this lawsuit?

17 A. No. Like I said, I was the one that was doing  
18 -- that was contacting potential plaintiffs.

19 Q. Was your answer, no, she did not, or that you  
20 don't know if she did?

21 A. No, she did not.

22 Q. Do you know if Ms. Keever contacted any  
23 potential plaintiffs in the lawsuit?

24 A. No.

25 Q. How about paragraph 21?

1 A. M- -- Milo P- -- Pyne? That's not a name that  
2 I rec- -- that I recognize.

3 Q. How about Juanita Rogers?

4 A. Rogers. I don't know that. I -- I don't -- I  
5 don't know her.

6 Q. How about Valencia Applewhite?

7 A. I do know of her.

8 Q. Is she someone that you contacted about this  
9 lawsuit?

10 A. No. I -- I don't remember contacting her.  
11 The only thing I know about her is that she  
12 lives in Fayetteville and I think she was -- I  
13 think she ran for mayor. But I -- I didn't  
14 contact her.

15 Q. And have you had any conversations with her  
16 about this lawsuit?

17 A. No.

18 Q. Looking on page 7 --

19 A. Uh-huh.

20 Q. -- David Lee Mann?

21 A. It's not a name that I recognize.

22 Q. What about Mary Evelyn Thomas?

23 A. The name looks familiar, but I don't know her.  
24 It just looks familiar to me. That's all.

25 Q. Well, Ms. Thomas testified in her deposition

1           that she received a phone call --

2       A.    Uh-huh.

3       Q.    -- about a year ago from a man who worked for  
4           the North Carolina Democratic Party.

5       A.    Uh-huh.

6       Q.    So if she received a phone call like that,  
7           would --

8       A.    Uh-huh.

9       Q.    -- the only man that would have been calling  
10          her would have been you?

11      A.    I honestly can't remember. Like I said, it's  
12          a name that I recognize, but I can't honestly  
13          say to you that I called her because I just  
14          can't remember.

15      Q.    But you're not aware of any other man working  
16          for the North Carolina Democratic --

17      A.    Yeah. I --

18      Q.    -- Party?

19      A.    I'm not aware of that, of anybody else that  
20          would -- would call her.

21      Q.    How about paragraph 26, Jamal Trevon Fox?

22      A.    I know Mr. Fox as a county -- excuse me --  
23          city council member of -- in Greensboro. I  
24          did not -- I -- well, from what I remember, I  
25          did not contact Mr. Fox.

1 Q. Have you discussed this case with Mr. Fox?

2 A. No, I haven't.

3 Q. How about Channelle Darlene James?

4 A. That name does not look familiar to me.

5 Q. How about Catherine Wilson Kimel?

6 A. I recognize the last name, but I don't  
7 recognize -- I don't know a Catherine Kimel.

8 Q. Do you know someone with the last name Kimel?

9 A. I think there's a -- I think I -- I recognize  
10 -- I remember -- I know somebody that's on the  
11 Board of Elections in Greensboro with the last  
12 name Kimel.

13 Q. Is the person male or female?

14 A. He is, of course, male, yeah.

15 Q. Now, Ms. Kimel also testified that she got a  
16 phone call from a man with the Democratic  
17 Party.

18 A. Uh-huh. Yeah. As I stated earlier, it's not  
19 a name I remember and I don't recall calling  
20 her.

21 Q. How about Vanessa Vivian Martin?

22 A. I don't -- I don't recall that name.

23 Q. Is there any other man who works for the North  
24 Carolina Democratic Party or was working there  
25 last year in the April or May timeframe?



- 1 A. Mr. Jesse Presnell.
- 2 Q. How do you spell his first name?
- 3 A. Jesse?
- 4 Q. Yes.
- 5 A. J-E-S-S-E.
- 6 Q. What's -- how do you spell the last name?
- 7 A. P-R-E-S, like Sam, N as in Nancy, E as in
- 8 Edward, L as in Larry, L as in Larry.
- 9 Q. Jesse Presnell.
- 10 A. Uh-huh.
- 11 Q. Okay. What is his role with the party?
- 12 A. He is the data director.
- 13 Q. How long has he worked there?
- 14 A. It will be a year next month, I believe.
- 15 Q. How about Ms. Fellman? I don't think I asked
- 16 you how long she had been there.
- 17 A. Ms. Fellman has been with us now since January
- 18 of this year. Last year she was just an
- 19 intern.
- 20 Q. She was in the building?
- 21 A. What, last year?
- 22 Q. Yes.
- 23 A. She was per- -- periodically. She was an
- 24 intern.
- 25 Q. Do you recall when her internship started?

1 A. I don't remember when it started.

2 Q. Now, how about in paragraph 30, page 7 --

3 A. Uh-huh.

4 Q. -- a lady named Susan Sandler Campbell?

5 A. Uh-huh. I recognize that name. I know her.

6 Q. Okay. Did you contact her about this lawsuit?

7 A. I did.

8 Q. How did you go about doing that?

9 A. I can't remember the exact way of contacting  
10 her, but I do remember that she did not want  
11 to be a plaintiff in the case.

12 Q. How do you remember that?

13 A. I remember -- I just remember that because she  
14 -- she was very -- she was -- she was very  
15 concerned about -- she just didn't want to do  
16 it, so I just remember that.

17 Q. Did she tell you that she didn't want to be a  
18 plaintiff, I guess; is that what you're  
19 saying?

20 A. Yeah. She just -- then she -- I can't  
21 remember what the reason that she gave me, but  
22 she said that she -- she didn't -- she didn't  
23 want to be -- be a plaintiff.

24 Q. Did you talk to her again?

25 A. I can't recall talking to her again because

1 after that, she -- after she told me she  
2 wasn't interested, I just didn't, so, yeah.

3 Q. Do you know if anyone else later talked to  
4 her?

5 A. Not that I know of, no.

6 Q. Looking at page 8, paragraph 31, someone named  
7 Marshall Ansin, do you know that person?

8 A. Ansin. No. I don't -- I don't recognize that  
9 name.

10 Q. How about Rosa Mustafa?

11 A. I do rec- -- I do recognize Rosa.

12 Q. Is she someone you contacted about this  
13 lawsuit?

14 A. I don't remember.

15 Q. Do you remember working with Ms. Mustafa on  
16 the Kay Hagan campaign?

17 A. Yes, I do.

18 Q. What was her role with the Kay Hagan campaign?

19 A. She was a field organizer in Charlotte. I  
20 don't know what section of the city, but I  
21 know she was a field organizer.

22 Q. And you can't recall whether you talked to her  
23 about this lawsuit at all?

24 A. Yes. That's correct.

25 Q. How about Antoinette Dennis Mingo, paragraph

1 33?

2 A. Yes. I do recognize her name.

3 Q. Okay. Did you speak with her about this  
4 lawsuit?

5 A. She was somebody that I identified as a  
6 potential plaintiff.

7 Q. Did she agree to -- to be a plaintiff after  
8 you spoke with her?

9 A. Yes, she did. She did.

10 Q. Do you remember what you told Ms. Mingo about  
11 the lawsuit?

12 A. Just -- I just told her, as I stated earlier,  
13 that there was a potential case coming up and  
14 just asked -- asked her if she was interested  
15 in becoming a plaintiff in the case.

16 Q. Did you have any other conversation with  
17 Ms. Mingo other than the one?

18 A. No. After she agreed, that was it.

19 Q. And we talked about Ruth Sloane earlier?

20 A. Yes.

21 Q. And she is somebody else that you contacted to  
22 join the lawsuit; is that right?

23 A. Correct. You want me to go to -- go to 35?

24 Q. Yes.

25 A. All right. I do not recognize the name Claude

1 Harris.

2 Q. How about James Edward Alston?

3 A. Huh-uh. I don't recognize that name.

4 Q. How about Bryan Olshan Perlmutter, paragraph  
5 37?

6 A. Yes, I see. And I don't recognize his name.

7 Q. Page 9, paragraph 38 --

8 A. Uh-huh.

9 Q. -- La'Tanta Denishia McCrimmon.

10 A. I'm surprised you were able to pronounce her  
11 name that well. Yes, I -- I do know her.

12 Q. Okay. And is she someone that you contacted--

13 MR. SPEAS: I'm sorry. Which one  
14 are -- which -- which paragraph?

15 MR. MCKNIGHT: We're -- we're  
16 talking about paragraph 38 on page 9.

17 MR. SPEAS: Okay. Okay. I got you.

18 MR. MCKNIGHT: Sure.

19 MR. SPEAS: Thank you for catching  
20 me up.

21 MR. MCKNIGHT: Sure.

22 BY MR. MCKNIGHT:

23 Q. Ms. McCrimmon, is she someone you contacted  
24 about this lawsuit?

25 A. No.

1 Q. But you said you recognize the name?

2 A. Yes. I -- I know her.

3 Q. And how do you know her?

4 A. I know her from just working with -- I think  
5 she's worked for Larry Kissel.

6 Q. And he was a former Congressman; is that  
7 right?

8 A. Yes, correct. Uh-huh.

9 Q. How about Catherine Medlock-Walton, paragraph  
10 39?

11 A. Huh-uh. I don't recognize that name.

12 Q. How about Mark Englander?

13 A. No, don't recognize that name.

14 MR. MCKNIGHT: Why don't we take a  
15 short break here?

16 MR. SPEAS: Sure. Sure.

17 THE VIDEOGRAPHER: We're off the  
18 record at 12:12.

19 (Brief Recess - 12:12 p.m. to 12:25 p.m.)

20 THE VIDEOGRAPHER: This is tape  
21 number two in the deposition of Douglas A.  
22 Wilson. The time is 12:25.

23 BY MR. MCKNIGHT:

24 Q. Back on the record, Mr. Wilson --

25 A. Okay.

1 A. Correct.

2 Q. And then he lists them. Could -- could you  
3 read those criteria for us, please?

4 A. Yes. "Reside in the challenged district, be  
5 registered to vote in the challenged district,  
6 have voted in recent elections, not have any  
7 criminal convictions, not have an active  
8 online presence such as a blog or be too high  
9 profile such that they may be tempted to  
10 comment on the litigation."

11 Q. And does that refresh your recollection about  
12 the criteria Mr. Falmlen gave you for --

13 A. Yes.

14 Q. -- identifying plaintiffs?

15 A. Yes, it does.

16 Q. And were there any other criteria that you can  
17 recall?

18 A. No. This is -- this -- this is what it was  
19 here.

20 Q. Well, up in the e-mail here it says ideally  
21 they would like to identify one  
22 African-American and one white plaintiff in  
23 each district?

24 A. Uh-huh.

25 Q. Did you understand that to be another

1 criteria?

2 A. At -- at the time I did, but as I stated, I  
3 just didn't remember all the criteria.

4 Q. And did anyone ever explain to you why they  
5 wanted one African-American and one white  
6 plaintiff in each district?

7 A. No. The -- they just -- that was it. That's  
8 all I know.

9 Q. And did anyone explain to you why they wanted  
10 someone without an active online presence?

11 A. No.

12 Q. And Mr. Falmlen here told you that as you are  
13 reaching out to county chairs, you are asked  
14 about how legislators feel about this. I  
15 think -- I think the way he -- he's phrasing  
16 the form of it --

17 A. Uh-huh.

18 Q. -- if you are asked --

19 A. Uh-huh.

20 Q. -- about how legislators feel about this, he  
21 says that you are feel -- you can feel free to  
22 say that there are local legislators in the  
23 legislative leadership who are in support of  
24 this effort.

25 A. Uh-huh.



1           that document?

2       A.    I can't remember the last time I looked at it.  
3           Probably was last year sometime. I can't  
4           remember the time, the exact time.

5       Q.    And did you ever send that document to  
6           Mr. Falmlen?

7       A.    Yes, I did.

8       Q.    And what is contained on that document?

9       A.    From what I remember, the districts and the  
10           names of potential plaintiffs.

11      Q.    Anything else?

12      A.    That's it.

13                   (WHEREUPON, Defendant's Exhibit 7 was  
14                   marked for identification.)

15      Q.    I'm going to hand you another document we're  
16           were going to mark now --

17      A.    Uh-huh.

18      Q.    -- as Exhibit 7.

19      A.    Uh-huh.

20                   Mr. MCKNIGHT: And, Mr. Speas, this  
21           is an e-mail -- April 30th at the top.

22                   MR. SPEAS: Yep.

23      A.    Uh-huh.

24      Q.    Mr. Wilson, this exhibit that is Exhibit 7 --

25      A.    Uh-huh.

- 1 Q. -- it starts with an e-mail from you.
- 2 A. Uh-huh.
- 3 Q. And you're using your Democratic Party account
- 4 and --
- 5 A. On the bottom of page 1?
- 6 Q. Yes, sir.
- 7 A. Okay.
- 8 Q. And it's sent to someone named Kristi Tally --
- 9 A. Yes.
- 10 Q. -- 7 at yahoo.com.
- 11 A. Yes.
- 12 Q. Who is that?
- 13 A. That was one of the potential plaintiffs that
- 14 I -- that I -- that I contacted.
- 15 Q. Do you know if she ultimately agreed to be a
- 16 plaintiff?
- 17 A. I don't know. I would have to look at the --
- 18 I can't remember. I -- I -- I -- I want to
- 19 say that I think she did, but I just can't
- 20 remember if she went forward with it.
- 21 Q. All right. And Kristi's name is spelled
- 22 K-R-I-S-T-I; is that right?
- 23 A. Yes, sir.
- 24 Q. And her last name is Tally, T-A-L-L-Y?
- 25 A. Yes. That's correct.

- 1 Q. Do you know where she lives?
- 2 A. In Raleigh.
- 3 Q. Do you happen to know her address?
- 4 A. No, I don't --
- 5 Q. Okay.
- 6 A. -- know her address.
- 7 Q. I mean, when you say she lives in Raleigh,
- 8 sometimes we mean Wake Forest --
- 9 A. Yeah. Yeah.
- 10 Q. -- or Fuquay. Do you re- --
- 11 A. Yeah.
- 12 Q. Do you --
- 13 A. I -- I just know she lives in, you know --
- 14 Q. Wake County?
- 15 A. -- Wake -- yeah, somebody said she lived in
- 16 Raleigh. They don't need to be -- to be
- 17 accepted, be in Raleigh. It can be on the
- 18 other side, yeah.
- 19 Q. Fair enough.
- 20 A. I guess.
- 21 Q. Fair enough. Do you know what Ms. Tally does
- 22 for a living?
- 23 A. I don't know what she does for a living. I
- 24 just know that she's very active in the
- 25 Raleigh community. But I don't know what her

1           oc- -- what her occupation is.

2       Q.   How do you know her?

3       A.   I met her on the Kay Hagan campaign at a rally  
4           here for the former senator.

5       Q.   All right. Does she have any role in the  
6           Democratic Party?

7       A.   I don't think so. I just know her as being  
8           very active in the community.

9       Q.   And can you read the e-mail that you sent to  
10          Ms. Tally on April 29th of 2015?

11      A.   Yeah. The bottom of the page?

12      Q.   Yes, sir.

13      A.   "Hi, Kristi. Hope you're doing well. I'm  
14          touching base to see if you would be  
15          interested in being part of a district -- a  
16          redistricting federal lawsuit that Democracy  
17          Partners is bringing against the state."

18      Q.   And could I stop you right there?

19      A.   Sure thing.

20      Q.   Who is Democracy Partners?

21      A.   Good question. I -- I -- I don't know who  
22          they are. I'm sorry.

23      Q.   You don't know anything about them?

24      A.   I don't.

25      Q.   And how do you know that they were bringing

1 the lawsuit against the state?

2 A. From what I remember from my conversation with  
3 Mr. Falmlen, he mentioned that -- that this  
4 was the group that was doing it. And when I  
5 mean my conversation, the original one with  
6 my- -- myself and Mrs. Kever. But I don't  
7 know where they're located. I don't know, you  
8 know, staff members, nothing like that. That  
9 was the first I've ever heard of them.

10 Q. Do you know if they are involved in any other  
11 litigation in North Carolina?

12 A. I don't know. Yeah.

13 Q. Did Mr. Falmlen tell you about what his  
14 relationship was with Democracy Partners?

15 A. He didn't say. He didn't say.

16 Q. But it was your understanding from talking to  
17 him that they were the ones bringing the suit?

18 A. From my understanding, yes.

19 Q. In the next sentence you say, "They, along  
20 with our Democratic legislators, have targeted  
21 key state House and Senate districts"?

22 A. Correct.

23 Q. And did you know from Mr. Falmlen or anyone  
24 else how the Democratic legislators went about  
25 targeting House and Senate districts?

1 A. I don't remember -- well, actually, I should  
2 say I don't know how they targeted those  
3 districts. I was just told, as you can see in  
4 this -- in the e-mails, that these were just  
5 districts that were gerrymandered. So I don't  
6 know how they targeted them. I don't know  
7 what me- -- what methodology they used.

8 Q. What makes a district a key district?

9 A. Well, based upon what Mr. Falmlen put in his  
10 previous e-mail, I guess it was based on -- on  
11 race, yeah.

12 Q. And was it your understanding that Democracy  
13 Partners was working with Democratic  
14 legislators?

15 A. That's -- now, that, I don't know. I was just  
16 told that -- that -- that this group was  
17 involved in the lawsuit.

18 Q. Well, the sentence you wrote here was "They"--

19 A. Uh-huh.

20 Q. -- meaning Democracy Partners, right?

21 A. Uh-huh.

22 Q. -- "along with our Democratic legislators have  
23 targeted key state" --

24 A. Uh-huh.

25 Q. -- "House and Senate districts"; is that

1 right?

2 A. That is correct. And, again, this is what I  
3 was told. So I was putting this into words.  
4 So this is not based upon my knowledge.

5 Q. But it's based upon what Mr. Falmlen told you?

6 A. Correct.

7 Q. And he told you that Democracy Partners was  
8 working with Democratic legislators to target  
9 districts?

10 A. From what I can recall, yes.

11 Q. And then looking at page 2 of this document --

12 A. Uh-huh.

13 Q. -- you ask Ms. Tally to let you know if she's  
14 interested in joining it.

15 A. Uh-huh.

16 Q. And then you tell her, "If you can," meaning  
17 if you can join the lawsuit --

18 A. Uh-huh.

19 Q. -- "the attorneys with Democracy Partners will  
20 be in touch with you to explain more details."

21 A. Uh-huh.

22 Q. Do you see that?

23 A. Yes, I do.

24 Q. Who did you understand the attorneys with  
25 Democracy Partners to be?

1 A. Now, that, I didn't know. I didn't know who  
2 the attorneys were.

3 Q. Did you ever ask?

4 A. No.

5 Q. So Ms. Tally responded to your e-mail the next  
6 day, right, April 30th, 2015?

7 A. I don't have that in front of me.

8 Q. I'm sorry. That's on the first page.

9 A. Oh, okay. I see it. Yes, she did. I -- I  
10 see that. Correct.

11 Q. And she told you she was interested but wanted  
12 to know about the time commitment; is that  
13 right?

14 A. From what I see here, yes.

15 Q. And you responded that the attorneys would  
16 reach out to her?

17 A. Yes. And I remember saying that because I --  
18 I didn't know any details of the case.

19 Q. And you said "they" wanted the party to  
20 provide them with good names of folks.

21 A. Uh-huh.

22 Q. And who is "they"?

23 A. If I remember correctly, I think it was just  
24 Mr. -- Mr. Falmlen more -- probably.

25 (WHEREUPON, Defendant's Exhibit 8 was



1 MR. MCKNIGHT: Thank you.

2 THE VIDEOGRAPHER: We are now off  
3 the record at 1:21.

4 (Brief Recess 1:21 p.m. to 1:31 p.m.)

5 THE VIDEOGRAPHER: We are now back on the  
6 record at 1:31.

7 BY MR. MCKNIGHT:

8 Q. Mr. Wilson, before we took a break, in earlier  
9 questions I had asked you about Ms. Keever's  
10 involvement, and I'm --

11 A. Uh-huh.

12 Q. -- I'm referring to Ms. Keever, the chair of  
13 the Democratic Party.

14 A. Yes.

15 Q. -- and her involvement recruiting plaintiffs  
16 for this lawsuit.

17 A. Uh-huh.

18 Q. Do you know if she contacted potential  
19 plaintiffs, or do you not know either way?

20 A. She did not.

21 Q. Okay. And you're certain she did not?

22 A. I'm certain she did not.

23 Q. Do you know who is responsible for paying the  
24 attorneys' fees in this case?

25 A. No.

1 Q. Do you know if Democracy Partners is  
2 responsible?

3 A. No. It was never discussed with me at all.

4 Q. It was nothing you ever asked about?

5 A. No.

6 Q. Do you know someone named Theo Luebke?

7 A. Huh-uh. I don't know that name. It doesn't  
8 ring a bell at all.

9 Q. Okay. Do you know someone named Paul Luebke?

10 A. I think he's a representative or a state  
11 senator, I think.

12 Q. From Durham?

13 A. I assume so. I've heard -- I've heard of that  
14 name before, yeah.

15 Q. Okay. How about Pricey Harrison?

16 A. Yes, I know that name.

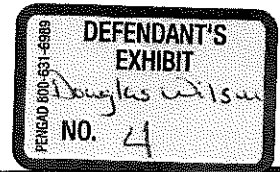
17 Q. And how do you know Ms. Harrison?

18 A. She is a House representative out of the  
19 Greensboro area.

20 Q. And have you ever had any conversations with  
21 Ms. Harrison about this case?

22 A. No, never talked to her.

23 Q. And do you know if there were others who were  
24 responsible for contacting plaintiffs about  
25 this case?



**Doug Wilson**

**From:** Doug Wilson  
**Sent:** Thursday, April 23, 2015 4:13 PM  
**To:** Scott Falmlen; Patsy Keever (Gmail)  
**Cc:** Patsy Keever  
**Subject:** Re: Redistricting Litigation - Federal Court

Thanks Scott

Douglas Wilson  
North Carolina Democratic Party  
919-815-1974  
@wilsonalexander  
Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Scott Falmlen  
**Sent:** Thursday, April 23, 2015 3:34 PM  
**To:** Patsy Keever (Gmail); Doug Wilson  
**Cc:** Patsy Keever  
**Subject:** Redistricting Litigation - Federal Court

Thank you both for your time this morning. I hope I was able to recap everything that's been going on in the redistricting effort over the past three and a half years!

Per our discussion, we'd like to identify plaintiffs for an action in Federal court relative to the legislative districts. Ideally, we'd like to identify one African-American and one white plaintiff in each district. To begin, however, let's just try to identify one plaintiff (any race) in each district and we can circle back for a second plaintiff at a later time.

The legislative districts that we need to target are:

SD 4, 5, 14, 28, 32, 38 and 40  
HD 21, 29, 31, 33, 38, 42, 43, 57, 58, 60, 99, 102 and 107.

If, as you are reaching out to county chairs, etc., you are asked about how legislators feel about this...feel free to say that their local legislators and the legislative leadership are supportive of this effort.

Plaintiffs should meet the following criteria:

- Reside in the challenged district;
- Be registered to vote in the challenged district;
- Have voted in recent elections;
- Not have any criminal convictions;
- Not have an active online presence, such as a blog, or be too high-profile, such that they may be tempted to comment on the litigation.

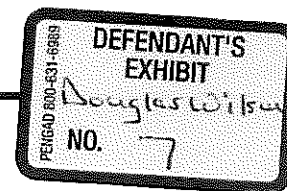
Thanks so much for your help with this. We'd like to move as quickly as possible. Please let me know if you have questions or need additional information.

SCOTT

---

Scott Falmlen  
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Doug Wilson



**From:** Doug Wilson  
**Sent:** Thursday, April 30, 2015 11:02 AM  
**To:** kristitally7  
**Subject:** Re: Redistricting Lawsuit

Hey Kristi

Thanks! So what will happen is the attorney's on the case will reach out to you and give you more details. They wanted the party to provide them with good names of folks.

Douglas Wilson  
Transition Team-Political  
North Carolina Democratic Party  
919-815-1974  
@wilsonalexander

Visit [www.ncdp.org](http://www.ncdp.org) to make a secure online contribution, or mail contributions to North Carolina Democratic Party P.O. Box 1926 Raleigh, NC 27602

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**From:** "kristitally7@[REDACTED]" <kristitally7@[REDACTED]>  
**Date:** Thursday, April 30, 2015 at 10:46 AM  
**To:** Douglas Wilson <dougwilson@ncdemocraticparty.org>  
**Subject:** RE: Redistricting Lawsuit

Hi Doug:

I hope you are well. Congrats on your new positioning with the Party!

Thank you for your email. This, of course, is a critical service opportunity to represent in this manner. I am interested. However, I would like to get specific information regarding the requirements and time commitment in order to be clear. Do you happen to have any of that or know how I can retrieve?

Sent via the Samsung Galaxy Note® 3, an AT&T 4G LTE smartphone

----- Original message -----

**From:** Doug Wilson <[DougWilson@ncdemocraticparty.org](mailto:DougWilson@ncdemocraticparty.org)>  
**Date:** 04/29/2015 11:49 AM (GMT-05:00)  
**To:** kristitally7@[REDACTED]  
**Cc:**  
**Subject:** Redistricting Lawsuit

Hey Kristi!

Hope you are doing well. I am touching base to see if you would be interested in being part of a redistricting federal lawsuit that Democracy Partners is bringing against the state. They along with our Democratic Legislators have targeted key State House and Senate Districts. District 14 is one of them. We'd like to identify plaintiffs for an action in Federal court

relative to the legislative districts. Ideally, we'd like to identify one African-American and one white plaintiff in each district. I was

Wondering if you would be interested in being one. Please let me know as soon as you can. If you can, the attorneys with Democracy Partners will be in touch with you to explain more details. Thanks!

—  
Douglas Wilson  
Transition Team-Political  
North Carolina Democratic Party  
919-815-1974  
@wilsonalexander

Visit [www.ncdp.org](http://www.ncdp.org) to make a secure online contribution, or mail contributions to North Carolina Democratic Party P.O. Box 1926 Raleigh, NC 27602 if you