

**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' MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR ENTRY OF A PROTECTIVE ORDER**

COME NOW the Defendants, City of Virginia Beach, Virginia Beach City Council, Louis Jones, James Wood, Jessica Abbott, Aaron Rouse, Robert Dyer, Barbara Henley, Shannon Kane, John Moss, David Nygaard, Sabrina Wooten, Rosemary Wilson, in their official capacity as members of the Virginia Beach City Council, David L. Hansen, in his official capacity as City Manager, and Donna Patterson, in her official capacity as Director of Elections/General Registrar for the City of Virginia Beach (collectively "Defendants"), by counsel, and in support of their Motion for Protective Order,¹ pursuant to Rules 26(c)(1) and 26(b)(1)(C)(iii) of the Federal Rules of Civil Procedure, limiting discovery at this time to only those matters relating to the three preconditions promulgated in *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986) state as follows:

BACKGROUND

¹ On May 2, 2019, counsel for the Defendants and Plaintiffs discussed the scope of Plaintiffs' First Requests for Production of Documents by telephone. The purpose of this telephone conference was to confer with Plaintiffs in good faith in an effort to resolve the dispute without court action, as required by Rule 26(c). Only after having been unable to reach a mutually agreeable resolution as to the permissible scope and breadth of discovery at this stage of the case, are Defendants pursuing this relief. Defendants expect that Plaintiffs will oppose Defendants' Motion for Entry of a Protective Order.

Plaintiffs Latasha Holloway and Georgia Allen bring this suit against Defendants, contending that the City of Virginia Beach’s (“City”) at-large system of electing councilmembers violates Section 2 of the Voting Rights Act of 1965 by diluting the voting power of the City’s Minority Voters.²

Plaintiffs’ action “seeks to replace [the at-large election system] with a system in which Black, Hispanic or Latino, and Asian American voters are *together able* to elect their preferred candidates of choice to the City Council.” (Am. Compl. ¶ 1) (emphasis added). Plaintiffs further allege that “Virginia Beach’s Black, Hispanic or Latino, and Asian population is sufficiently numerous and geographically compact to allow for the creation of two single-member districts in which Minority Voters would constitute a majority of both the total population and the citizen voting age-population.” (Am. Compl. ¶ 84.) Moreover, Plaintiffs allege that “Virginia Beach’s Minority Voters are politically cohesive,” and that “Hispanic and Asian voting patterns track Black voting patterns.” (Am. Compl. ¶¶ 52, 53.)

To support their allegation that “Virginia Beach’s minority population is sufficiently numerous and geographically compact to form a majority of the total population and citizen voting age population in at least two single-member City Council districts,” (Am. Compl. ¶ 49), Plaintiffs offer a map with two “demonstration” districts wherein the citizen voting age population (“CVAP”) of Blacks, Hispanics or Latinos, and Asians together comprise 50.13% and 50.21%, respectively, of the total CVAP, (Am. Comp. Ex. 1).

² Plaintiff Latasha Holloway filed, *pro se*, the original Complaint in this matter on February 15, 2018, naming the City of Virginia Beach as the sole defendant. After the City filed its motion to dismiss, Ms. Holloway obtained counsel and was joined by Georgia F. Allen as Plaintiff. Plaintiffs then filed the Amended Complaint, which, among other changes, added the present co-Defendants.

Nowhere in the Amended Complaint do Plaintiffs allege that it is possible to draw a ten-district (or less) map with at least one district wherein Blacks, Hispanics or Latinos, and Asians *alone* comprise a majority of the total CVAP.

Plaintiffs have now propounded Plaintiffs' First Requests for Production, which is comprised of thirty-two (32) requests for documents, communications, and things regarding a wide variety of matters, the time period for many of which extends for the entirety of the past two decades or more.³ These sweeping requests repeatedly employ the construction, "Provide any and all documents, communications and things related to...from January 1, 2000 to present."

The City of Virginia Beach is the largest City in the Commonwealth of Virginia and currently employs approximately 7,500 full time employees (and approximately 12,000 full time employees including Virginia Beach City Public Schools). Plaintiffs have an obligation under the Federal Rules of Civil Procedure to draft requests that are reasonably calculated to lead to the discovery of admissible evidence and to tailor their discovery to the proportionality limitations imposed by Rule 26(b)(1). The permissible scope of discovery is also limited by the importance of the discovery in resolving the issues presented by the case and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Most of Plaintiffs' sweeping requests have no bearing whatsoever on the Court's inquiry into the *Gingles* preconditions (and limited relevance even to the 'totality of the circumstances' inquiry). By way of example, Request No. 13 seeks production of "any and all documents, communications, and things related to the visit of students from historically Black colleges and universities (HBCUs) during College Beach weekend from January 1, 2000 to the present." (Emphasis added). This request implicates communications and documents from multiple City

³ A copy of Plaintiffs' First Request for Production of Document is attached hereto as Exhibit 1.

departments for an annual event—and for a two-decade period. Requests Nos. 10, 16, and 21 are similarly expansive in their wording (as are almost all of the Requests) and, respectively, demand production all documents and communications related to Virginia Beach’s alleged history of racial discrimination, the Hampton Roads Chamber, and the two named Plaintiffs. These are just select examples of the sort of far-reaching production sought by Requests Nos. 4 through 32, which will undoubtedly create an undue administrative burden at significant taxpayer expense—namely the search, review, and production of such an enormous volume of documents. Upon information and belief, following Plaintiffs’ Instruction No. 2 to “apply the broadest construction” to these already broad requests would produce many thousands of responsive documents and communications. None of these items would inform the *Gingles*’ inquiry, which is focused on voting patterns and demography.

It appears that Requests Nos. 1 through 3 are related directly to the first phase of this litigation and that Requests Nos. 4 through 32 each relate exclusively to the second phase of litigation, as described *infra*. Defendants intend to respond in good-faith to Requests Nos. 1 through 3 because they appear to be germane to the first phase of litigation. However, a review of Request Nos. 4 through 32 reveals that the Court should, for good cause, issue an order to protect Defendants from such sweeping requests given the significant “threshold matter” presented by this case as described in *Thornburg v. Gingles*.

ARGUMENT

I. Plaintiffs must overcome a substantial burden, legally and factually, to satisfy preconditions that will allow them to reach the second phase of this litigation.

There are two phases to Voting Rights Act Section 2 claims challenging at-large election systems: first, the *Gingles* preconditions and second, the “totality of the circumstances” inquiry.

A large share of the Plaintiffs' Requests for Production relate to the second of these two phases. The Defendants request that this Court use its authority under Federal Rule of Civil Procedure 26 to limit discovery at this time to matters relating to the first of these two phases: the three pre-conditions laid out in *Thornburg v. Gingles*.

As this Court recognized in *Lincoln v. City of Virginia Beach*, No. 2:97-cv-756, "A vote dilution challenge to an at-large system cannot proceed unless the plaintiff first establishes three preconditions" promulgated in *Gingles*. At 7.⁴ The *Gingles* preconditions, which plaintiffs must prove, are as follows: (1) the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) the minority group is politically cohesive; and (3) the white majority votes sufficiently as a bloc to enable it... usually to defeat the minority's preferred candidate. The threshold inquiries are focused almost exclusively on data regarding voting patterns and demographic data. Only after plaintiffs satisfy the three *Gingles* preconditions do courts evaluate whether, under the "totality of the circumstances," the minority vote is diluted in contravention of Section 2. *Levy v. Lexington County*, 589 F. 3d 708, 713 (4th Cir. 2009). *See also, Hall v. Virginia*, 385 F.3d 421 (2004) (dismissing plaintiffs vote dilution suit for failure to state a claim where the three *Gingles* preconditions could not be satisfied.).

The United States Court of Appeals for the Fourth Circuit describes the "totality of the circumstances" inquiry as "a searching practical evaluation of the past and present reality which demands a comprehensive, not limited, canvassing of relevant facts." *United States v. Charleston County*, 365 F.3d 341, 348 (2004) (quotations omitted).

⁴ As in this case, the Plaintiff in *Lincoln v. City of Virginia Beach*, No. 2:97-cv-756, alleged that the City's at-large system of elections diluted the voting strength of minorities. In dismissing the suit with prejudice for failure to prosecute the claim, the Court opined that Plaintiff was unlikely to succeed on the merits of the claim, in part because "it is not feasible to create a single-member district in which all non-White residents constitute at least a 50% majority." Thus, it appeared that the first *Gingles* precondition, discussed *infra*, could not be satisfied.

Plaintiffs' effort to satisfy the *Gingles* preconditions by relying upon a multi-racial coalition consisting of three minority groups—Blacks, Hispanics or Latinos, and Asians—is an extraordinary, if not unprecedented, one. Defendants do not believe that Plaintiffs can succeed on a three-minority coalition-based claim, especially in light of this Court's ruling, in *Hall v. Virginia*, that plaintiffs cannot prevail on a vote dilution claim based upon "coalition districts." 276 F. Supp. 2d 528, 536 (2003) (ruling that "[t]he question, then, is whether the disfavor that has befallen vote dilution claims in 'influence districts' likewise precludes such claims with respect to 'coalition districts.' The Court FINDS that it does.") In affirming this Court's decision in *Hall*, the United States Court of Appeals for the Fourth Circuit opined, "[W]hen minority voters, as a group, are too small or loosely distributed to form a majority in a single-member district, they have no ability to elect candidates of *their own* choice, but must instead rely on the support of other groups to elect candidates. Under these circumstances, minorities cannot claim that their voting strength . . . has been diluted in violation of Section 2." *Hall v. Virginia*, 385 F.3d 421, 429 (2004) (emphasis original). The Plaintiffs minority-coalition strategy therefore appears to be precluded by the precedents both of this Court and the Fourth Circuit.

Even if this Court were to accept the validity of Plaintiffs' tri-racial coalition strategy, Defendants do not believe that Plaintiffs can meet their substantial evidentiary burden of proving that Blacks, Hispanics or Latinos, and Asians are politically cohesive—which is required to satisfy the second *Gingles* precondition. Nor do Defendants believe that Plaintiffs can satisfy the third *Gingles* precondition by proving that white majority voting usually defeats the minority group's preferred candidate. As such, Defendants expect that, upon completion of discovery on the first phase of this litigation, this Court will be convinced that—given Plaintiffs' inability to satisfy the three required *Gingles* preconditions—summary judgment is appropriate. In the event

that Defendants obtain summary judgment, the second phase of this litigation—i.e. the “totality of the circumstances” inquiry—will be entirely moot.

Consistent with the plain language of Rule 1 of the Federal Rules of Civil Procedure, the Defendants seek this Court to assist in “securing the just, speedy, and inexpensive determination” of this matter.

II. This Court has the authority to limit discovery to the first phase of this litigation

Rule 26(c)(1) of the Federal Rules of Civil Procedure allows this court to “issue an order to protect a party or person from . . . undue burden or expense” by several means, including the following: forbidding discovery, (subsection A); specifying the terms, including the timing, of discovery, (subsection B); and limiting the scope of disclosure or discovery to certain matters, (subsection D). The Court has an additional obligation under Rule 26(b)(2)(C)(iii), which states that, “On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules or by local rule if it determines that . . . the proposed discovery is outside the scope permitted by Rule 26(b)(1).” Rule 26(b)(1), in turn, requires that discovery—even of relevant materials—may only be obtained if it is “proportional to the needs of the case,” such proportionality being evaluated by, *inter alia*, “the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.”

At this stage of litigation, Plaintiffs’ discovery requests relating exclusively to the second, “totality of the circumstances,” phase of litigation are premature. Defendants have no objection to requests for non-privileged materials related to the three *Gingles* preconditions, and, should Plaintiffs satisfy this threshold matter, Defendants understand there would be a requirement at that time to respond in good-faith to discovery requests related to the “totality” inquiry. Given

the enormity of the task and taxpayer expense related to complying with Plaintiffs’ extremely broad requests for documents related to the second phase of litigation—as well as the substantial probability that the “totality of the circumstances” inquiry will be rendered moot by Plaintiff’s failure to satisfy the *Gingles* preconditions—Defendants believe that requiring them to comply with discovery requests for both phases of litigation not only creates an undue burden, but is outside of the scope of the threshold issue presently before this Court. Defendants therefore request that this Court limit discovery at this time only to matters related to the *Gingles* preconditions.

CONCLUSION

WHEREFORE, for all the reasons set forth above, the Defendants hereby respectfully request entry of a protective order limiting the scope of discovery at this time to requests related to the *Thornburg v. Gingles* preconditions, and for other relief as the Court deems appropriate.

Respectfully submitted,

CITY OF VIRGINIA BEACH, VIRGINIA BEACH
CITY COUNCIL, LOUIS JONES, JOHN UHRIN,
BEN DAVENPORT, JAMES WOOD, JESSICA
ABBOTT, AARON ROUSE, ROBERT DYER,
DAVID NYGAARD, BARBARA HENLEY,
SHANNON KANE, JOHN MOSS, SABRINA
WOOTEN, and ROSEMARY WILSON, in their
official capacity as members of the Virginia Beach
City Council, DAVID L. HANSEN, in his official
capacity as City Manager, and DONNA
PATTERSON, in her official capacity as Director
of Elections/General Registrar for the City of
Virginia Beach,

By: _____ /s/_____
Of Counsel

Mark D. Stiles (VSB No. 30683)

City Attorney

Christopher S. Boynton (VSB No. 38501)

Deputy City Attorney

Gerald L. Harris (VSB No. 80446)

Associate City Attorney

Joseph M. Kurt (VSB No. 90854)

Assistant City Attorney

Attorneys for the City of Virginia Beach

Office of the City Attorney

Municipal Center, Building One

2401 Courthouse Drive

Virginia Beach, Virginia 23456

(757) 385-4531 (Office)

(757) 385-5687 (Facsimile)

mstiles@vbgov.com

cboynton@vbgov.com

glharris@vbgov.com

jkurt@vbgov.com

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May, 2019, 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:

Joseph Gerald Hebert
Danielle Marie Lang
Paul March Smith
Annabelle Harless
Ruth Merewyn Greenwood
Campaign Legal Center
1411 K Street, NW
Suite 1400
Washington, DC 20005
(202) 736-2200 (telephone)
(202) 736-2222 (facsimile)
ghebert@campaignlegal.org
dlang@campaignlegal.org
psmith@campaignlegal.org
aharless@campaignlegal.org
rgreenwood@campaignlegal.org

/s/

Joseph M. Kurt

Mark D. Stiles (VSB No. 30683)
City Attorney
Christopher S. Boynton (VSB No. 38501)
Deputy City Attorney
Gerald L. Harris (VSB No. 80446)
Associate City Attorney
Joseph M. Kurt
Assistant City Attorney (VSB No. 90854)
Attorneys for the City of Virginia Beach
Office of the City Attorney
Municipal Center, Building One, Room 260
2401 Courthouse Drive
Virginia Beach, Virginia 23456
(757) 385-8803 (Office)

(757) 385-5687 (Facsimile)

mstiles@vbgov.com

cboynton@vbgov.com

glharris@vbgov.com

jkurt@vbgov.com



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

LATASHA HOLLOWAY)
and GEORGIA ALLEN,)
)
Plaintiffs,)

Case No.: 2:18-cv-00069

v.)
)
CITY OF VIRGINIA BEACH,)
VIRGINIA BEACH CITY COUNCIL,)
LOUIS JONES, JAMES WOOD,)
JESSICA ABBOTT, ROBERT DYER,)
BARBARA HENLEY, SHANNON KANE,)
JOHN MOSS, DAVID NYGAARD,)
AARON ROUSE, ROSEMARY WILSON, and)
SABRINA WOOTEN, in their official capacity)
as members of the Virginia Beach City Council,)
DAVID L. HANSEN, in his official capacity as)
City Manager, and DONNA PATTERSON)
in her official capacity as Director of Elections)
/General Registrar for the City of Virginia)
Beach,)
)
Defendants.)

PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs request that Defendants identify and produce all documents and items responsive to the following Requests for Production ("Requests") to Plaintiffs' counsel within thirty (30) days of service, as required under Rule 34(b)(2)(A), or any lesser time ordered by the Court or agreed to by the parties.

These Requests are continuing in nature, as provided in Rule 26(e).

DEFINITIONS

1. "Defendants" means Defendants City of Virginia Beach ("The City" or "Virginia Beach"); the Virginia Beach City Council ("The City Council"); Louis Jones, James Wood, Jessica

Abbot, Robert Dyer, Barbara Henley, Shannon Kane, John Moss, David Nygaard, Aaron Rouse, Rosemary Wilson, and Sabrina Wooten, in their official capacity as members of the Virginia Beach City Council; David Hansen, in his official capacities as City Manager; Donna Patterson, in her official capacity as Director of Elections / General Registrar for the City of Virginia Beach; and any of their past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on behalf of Defendants or subject to Defendants' control, including, but not limited to, Election Data Services, Inc.

2. "Document" is defined to be synonymous in meaning and scope to the term "document" as used under Federal Rule of Civil Procedure 34 and the phrase "writings and recordings" as defined in Federal Rule of Evidence 1001, and includes, but is not limited to, any computer discs, tapes, printouts, emails, text message, and databases, and any handwritten, typewritten, printed, electronically recorded, taped, graphic, machine-readable, or other material, of whatever nature and in whatever form, including all non-identical copies and drafts thereof, and all copies bearing any notation or mark not found on the original.

3. "Communication" means any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means, including later memorializing of such transmission in a document, including e-mail, text messages, memoranda of conversations, correspondence, data processing, pictures or recordings.

INSTRUCTIONS

1. These requests are intended to cover all responsive documents, electronically stored information and things in Defendants' possession, custody or control—whether in Defendants' official or personal capacities and whether or not located at any of their office(s)—including documents, electronically stored information and things in the possession, custody or control of anyone acting on behalf of or at the direction of Defendants, or otherwise subject to

their control.

2. In construing these Requests, apply the broadest construction, so as to produce the most comprehensive response. Construe the terms “and” and “or” either disjunctively or conjunctively as necessary to bring within the scope of the Request all responses that might otherwise be construed to be outside that scope. Words used in the masculine gender include the feminine, and words used in the feminine include the masculine; and words used in the singular include the plural, and in the plural include the singular; verbs in the present tense include the past tense, and in the past tense include the present tense. If policies or procedures responsive to the Requests changed or change at any time during the period of the request or between the time the request was made and the date of Defendants’ response, include documents, communications, or things related to any and all policies or procedures that were in effect during the time period in question.

3. To the extent that there are no documents, communications, or things responsive to a specific item requested, state that no such document, communication, or thing exists. If documents, communications, or things not specifically requested exist, provide the documents, communications, or things available that are closest to those that are not available.

4. If any document is not produced on the basis of a claim of privilege or for any other reason, identify the document with particularity, including the author(s), any recipient(s), any other individual or entity to whom the document has been shown or transmitted, any other individual or entity with whom the document has been discussed, the number of pages, attachments, and appendices, the date of the document, a description of the subject matter sufficient to form the basis of a claimed privilege and to identify uniquely the document, and a short statement of the nature of the claimed privilege or reason for withholding production.

5. If Defendants object to or otherwise decline to answer any portion or aspect of a request for production, provide all information requested by the remainder of the request. If Defendants object to a request for production for the reason that it is too broad, provide all information that they concede is relevant. If Defendants object to a request for production on the ground that to provide an answer would constitute an undue burden, provide all requested information that can be supplied without undertaking the alleged undue burden. If Defendants are providing less than a complete response to any request, their written response should clearly indicate any limitation on their production.

6. These requests require Defendants to produce all documents and electronically stored information in their “possession, custody, or control” within the broadest meaning of that phrase permitted by the Federal Rules of Civil Procedure, including documents and electronically stored information in the possession, custody, or control of their employees, agents, representatives, subsidiaries, attorneys, or any other person acting or purporting to act on their behalf or under their direction or control. For Defendants Jones, Wood, Abbot, Nygaard, Dyer, Henley, Kane, Moss, Rouse, Wooten, Wilson, Hansen, and Patterson, documents and electronically stored information are within their possession, custody, or control if stored in any account assigned to or used by them in either their personal or professional capacities, including, but not limited to, accounts held by the City or provided by Google, Microsoft, a cable, satellite, or Internet provider, or any social media platform. If documents and electronically stored information called for in any request cannot be produced in full after exercising due diligence to secure them, Defendants should so state and specify why the requested documents or information cannot be produced.

7. Documents and electronically stored information sought in this request include

information currently or previously within Defendants' possession, custody, or control, as well as information which comes into their possession, custody, or control subsequent to service hereof. If any document or electronically stored information responsive to a request has been lost or destroyed, describe the content of the document or information, the location of any copies of the document or information, the date the document or information was lost or destroyed, and the name of the person who ordered or authorized the destruction, and provide any documents and electronically stored information existing at the time of such loss or destruction setting forth or concerning any policy or procedure then in effect for destruction or retention of documents and electronically stored information.

8. If a document responsive to a request has been transferred to the custody or control of another entity, the name, address and principal officer or officers of such other entity should be provided.

9. If, in answering any of the requests, any ambiguity in construing either the request or a definition or instruction relevant to the inquiry contained within the request is encountered, identify the matter deemed ambiguous and set forth the construction chosen or used in responding to the request.

10. Each request is to be answered separately and as completely as possible. Each paragraph and subparagraph hereof and the definitions herein are to be construed independently, and not by or with reference to any other paragraph or subparagraph or definition herein for purposes of limiting the scope of any particular request or the subject matter thereof.

11. The fact that investigation is continuing or that discovery is not complete shall not be used as an excuse for failure to respond to each request based on the knowledge and information currently available.

12. Where responsive documents or electronically stored information are partly or wholly in a language other than English, state whether any translation of the non-English language information exists and, if so, provide the non-English information and its English translation.

13. The documents responsive to the requests shall be produced as they are kept in the usual course of business, and shall be organized and labeled to correspond to the request to which they are responsive. If a document or other thing is responsive to more than one request, it shall be labeled to correspond to the request to which it is first responsive.

14. Documents and electronically stored information from any single file should be produced in the same order as they were found in such file.

15. Electronic mail and other data or information stored or maintained on computer or other media (including databases) should be produced on CD-ROM or other standard computer readable media, in their native formats as they currently exist on Defendants' storage media and devices.

16. If a document responsive to a request has been destroyed, it should be identified as follows: (i) preparer and addressor; (ii) addressee; (iii) each recipient and each person to whom it was distributed or shown; (iv) date prepared; (v) date transmitted; (vi) date received; (vii) description of contents and subject matter; (viii) date of destruction; (ix) manner of destruction; (x) name, title and address of the person who directed that the document be destroyed and the person who destroyed the document; (xi) the reason for the document's destruction; (xii) the names of persons having knowledge of the destruction; and (xiii) a full description of the efforts made to locate the document..

17. When any request calls for the production of any portion of any document, the entire document containing any such portion must be produced.

18. If any of the requested documents cannot be disclosed or produced in full, produce the documents to the extent possible, and specify Defendants' reasons for their inability to disclose or produce the remainder, stating whatever information, knowledge or belief they have concerning the undisclosed or unproduced portions.

19. Each request that seeks documents concerning communications to, from, or within a governmental, business or corporate entity, is hereby designated to demand, and should be construed to include, all communications by and between representatives, officers, directors employees or agents of the governmental, business or corporate entity.

REQUESTS FOR PRODUCTION

1. Provide any and all documents, communications, and things related to any analysis conducted on racial voting patterns in Virginia Beach between January 1, 1995 and the present.

2. Provide any and all documents, communications, and things related to the relationship between race, voting, and electoral results in Virginia Beach from January 1, 2000 to the present.

3. Provide any and all documents, communications, and things related to any analysis conducted between January 1, 1995 and the present, which concluded that the City could or could not enact an apportionment plan—with seven districts, ten districts, or any other number of districts—that included at least one district with a minority citizen voting age population of fifty percent or more.

4. Provide any and all documents, communications, and things showing Virginia Beach's reliance on the Census Bureau's American Community Survey data in its research, analysis, or allocation of funds or for any other official purpose.

5. Provide any and all documents, communications, and things in which Defendants or their predecessors expressed support for or opposition to the May 1996 referendum on whether the City should adopt a ward system for city elections.

6. Provide any and all documents, communications, and things related to any proposal to institute a ward or district system made from June 1, 1996 to the present, including, but not limited to, proposals made in the form of legislation (enacted or proposed) or statements made during hearings, referendum recommendations, public testimony, or informal sessions or discussions conducted by or before the City Council.

7. Provide any and all documents, communications, and things related to any proposal to introduce any other electoral system—including alternative forms of voting such as ranked choice voting or cumulative voting—from June 1, 1996 to the present, including, but not limited to, proposals made in the form of legislation (enacted or proposed) or statements made during hearings, public testimony, or informal sessions or discussions conducted by or before the City Council.

8. Provide any and all documents, communications, and things related to the lack of minority representation on Virginia Beach City Council from January 1, 2000 to the present.

9. Provide any and all documents related to the difficulty for the minority community to elect candidates of their choice to Virginia Beach City Council from January 1, 2000 to the present.

10. Provide any and all documents, communications, and things addressing Virginia Beach's history of racial discrimination, from January 1, 2000 to present.

11. Provide any and all documents, communications, and things addressing racial disparities in health outcomes, education, income, policing, employment and housing in Virginia

Beach, from January 1, 2000 to present.

12. Provide any and all documents, communications, and things related to allegations of racial discrimination in Virginia Beach and/or the City Council's response to allegations of racial discrimination from January 1, 2000 to the present.

13. Provide any and all documents, communications, and things related to the visit of students from historically Black colleges and universities (HBCUs) during College Beach weekend from January 1, 2000 to the present.

14. Provide any and all documents, communications, and things related to allegations of voter intimidation in Virginia Beach and/or the City's response to allegations of voter intimidation from January 1, 2000 to the present.

15. Provide any and all documents, communications, and things related to allegations of racial appeals or racist incidents in political campaigns in Virginia Beach from January 1, 2000 to the present.

16. Provide any and all documents, communications, and things involving or related to Hampton Roads Chamber and HRBizPAC, including all documents and communications related to endorsements and monetary contributions by those entities for City Council candidates from January 1, 2000 to the present.

17. Provide any and all campaign-related communications between Defendants and Hampton Roads Chamber, HRBizPAC, or any staff from Hampton Roads Chamber or HRBizPAC.

18. Provide any and all documents, communications, and things related to any efforts by Defendants to recruit or encourage support for minority candidates for City Council between January 1, 2000 and December 31, 2018.

19. Provide any and all documents, communications, and things related to communications between Defendants Rouse and Wooten and current and former City Council members prior to their election to City Council in November 2018.

20. Provide any and all documents, communications, and things in the possession of all Defendants except Defendants Rouse and Wooten related to the candidacy of Defendants Rouse and Wooten prior to their election to City Council in November 2018.

21. Provide any and all documents, communications, and things related to or mentioning Latasha Holloway or Georgia Allen.

22. Provide any and all documents, communications, and things related to the candidacies and elections of Louisa Strayhorn, Dr. Amelia Ross-Hammond, John L. Perry, and Ron A. Villanueva.

23. Provide any and all documents, communications, and things related to the appointment and candidacy of Prescott Sherrod.

24. Provide any and all documents, communications, and things related to the Community Policing 5-Point Plan submitted by the Virginia Beach Interdenominational Ministers Conference, Virginia Beach NAACP chapter, and Virginia Beach African American Leadership Forum, Virginia Beach's response to the 5-point plan, and any analysis conducted of Virginia Beach's response to the 5-point plan.

25. Provide any and all documents, communications, and things related to the Virginia Beach Interdenominational Ministers Conference, Virginia Beach NAACP chapter, and Virginia Beach African American Leadership Forum from January 1, 2000 to the present.

26. Provide any and all documents, communications, and things related to racial disparities in access to transportation in Virginia Beach, including documents related to the

rejection of a light rail project in Virginia Beach, from January 1, 2000 to present.

27. Provide documents sufficient to show the number of minority employees, their job titles, and percentage of minority employees working for Virginia Beach, including the number and percentage of minority employees in managerial positions since January 1, 2000.

28. Provide documents sufficient to show the number and percentage of minority citizens that have served on Virginia Beach's Boards, Commissions, and Committees since January 1, 2000.

29. Provide any and all documents, communications, and things related to requests to City Council for racial disparity studies of public contracting, education, housing, transportation, city hiring or other socioeconomic topics, any racial disparity studies conducted in Virginia Beach including the disparity analysis conducted in 2018, and any responses to such racial disparity studies from January 1, 2000 to the present.

30. Provide any and all documents, communications, and things related to Virginia Beach goals for public contracting with minority-owned businesses and Virginia Beach's progress toward meeting those goals, from January 1, 2000 to present.

31. For the City Councilmember individual Defendants, provide any and all documents, communications, and things related to their outreach to the minority community in Virginia Beach during their electoral campaigns.

32. Provide any and all video footage or transcripts of items 19, 20, and 21 in Defendants' initial disclosures pursuant to Rule 26 of the Federal Rules of Civil Procedure, identified as Virginia Beach City public hearings held on July, 14, 2011; August 9, 2011; and August 23, 2011.

Respectfully submitted,

/s/ J. Gerald Hebert
State Bar No. 38432
Paul M. Smith
Danielle M. Lang
CAMPAIGN LEGAL CENTER
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200
ghebert@campaignlegal.org
psmith@campaignlegal.org
dlang@campaignlegal.org

/s/ Ruth M. Greenwood
Annabelle E. Harless
CAMPAIGN LEGAL CENTER
73 W. Monroe St., Ste. 302
Chicago, IL 60603
(312) 561-5508
rgreenwood@campaignlegal.org
aharless@campaignlegal.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on May 01, 2019, I sent a copy of the following disclosures by

mail and email to the following:

Mark. D. Stiles (VSB No. 30683)
Christopher Boynton (VSB No. 38501)
Gerald L. Harris (VSB No. 80446)
Joseph M. Kurt (VSB No. 90854)
Attorneys for the City of Virginia Beach
Office of the City Attorney
Municipal Center, Building One, Room 260
2401 Courthouse Drive
Virginia Beach, VA 23456
mstiles@vbgov.com
cboynton@vbgov.com
glharris@vbgov.com
jkurt@vbgov.com

/s/ Danielle M. Lang
Attorney for the Plaintiffs