

**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’ REPLY IN  
SUPPORT OF MOTION FOR  
LEAVE TO DEPOSE COUNSEL  
FOR PLAINTIFFS**

Defendants submit this Reply in support of their Motion for Leave to Depose Counsel for Plaintiffs pursuant to Local Rule 7.2 and this Court’s February 11, 2016 Order. (D.E. 61)

**I. Despite Counsels’ Claims to the Contrary, Plaintiffs’ Deposition Testimony Does Not Support That They Direct and Control the Instant Litigation.**

Plaintiffs’ Counsel claim that the named Plaintiffs “control and direct the litigation, and [that] counsel’s loyalties are only to them and not to third-party funders.” (Pls. Br., D.E. 63, p. 2) This emphatic claim is not supported by Plaintiffs’ deposition testimony. Specifically, the deposition transcripts that Defendants have received to date show that multiple Plaintiffs:

- **were recruited to participate in the litigation by Plaintiffs’ Counsel, Dickson plaintiffs, or a combination of both** (*See e.g.* Ex. 1, Deposition Excerpts of Rosa Mustafa, 25:10-25:14, 25:17-26:11, 48:2-48:24; Ex. 2, Deposition Excerpts of Marshall Ansin, 15:5-16:19; Ex. 3, Deposition Excerpts of Antoinette Mingo, 14:3-14:24, 15:20-15:25; Ex. 4, Deposition Excerpts of David Mann, 15:3-16:21, 20:24-21:6, 22:17-22:19; Ex. 8, Deposition Excerpts of Viola

Figueroa, 19:18-21:4; Ex. 9, Deposition Excerpts of Gregory Tucker, 17:2-17:10, 17:25-18:10, 18:19-18:22);

- **had not seen copies of the Complaint before it was filed on their behalf** (*See e.g.* Ex. 1, 55:5-55:13; Ex. 2, 21:10-21:19; Ex. 3, 31:17-32:4; Ex. 5, Deposition Excerpts of Herman Lewis, 24:16-25:9; Ex. 8, 30:5-31:8)
- **would not have filed this suit if they had not been recruited by a *Dickson* plaintiff or Plaintiffs' Counsel** (*See e.g.* Ex. 2, 16:20-16:25, 20:14-20:24; Ex. 4, 45:15-45:18; Ex. 5, 39:16-39:21; Ex. 6, Deposition Excerpts of Mark Englander, 33:18-33:24);
- **were not shown or asked about Defendants' discovery requests** (*See e.g.* Ex. 4, 29:6-30:22; Ex. 5, 41:3-41:11; Ex. 6, 15:2-15:8; Ex. 8, 34:4-34:7, 35:7-36:6, 38:13-38:18, 40:6-40:12, 42:12-42:22; 44:22-44:23);
- **are not responsible for legal fees and costs incurred in the instant litigation** (*See e.g.* Ex. 1, 67:22-69:14; Ex. 2, 30:22-31:17; Ex. 3, 19:16-19:23; Ex. 4, 44:18-44:20, 47:6-47:8; Ex. 5, 39:22-40:4; Ex. 6, 31:10-32:3; Ex. 7, Deposition Excerpts of Susan Sandler Campbell, 15:24-16:14; Ex. 8, 23:11-23:25; Ex. 9, 20:1-20:13);
- **believe the litigation is challenging their United States Congressional District** (*See e.g.* Ex. 1, 31:20-32:6, 33:16-33:23; Ex. 3, 16:15-17:4)
- **were never told the aim or goal of the lawsuit** (*See e.g.* Ex. 1, 35:5-35:8, 42:5-42:7; Ex. 3, 20:19-20:23; Ex. 6, 14:8-14:12; Ex. 7, 14:19-15:15; Ex. 8, 22:12-22:20);

How can it be said that these individuals are “directing and controlling” the instant litigation when they have not been consulted about pleadings, discovery, or in some cases even informed about which districts the law suit is challenging? In addition to the above, one Plaintiff, Herman Lewis, learned for the first time that he was a Plaintiff in this

lawsuit when counsel called him a month ago to tell him about his upcoming deposition. (See Ex. 5, 23:5-23:16, 23:24-24:8)

Moreover, Plaintiffs summarily dismiss Defendants' inquiry into the possible existence of privity between the two sets of plaintiffs as nothing more than a "vast conspiracy theory." (D.E. 63, p.3) However, there is nothing theoretical about the fact that Doug Wilson, a *Dickson* Plaintiff, recruited at least four (4) Plaintiffs, and possibly more, to join this litigation. (See Ex. 1, 25:10-25:24; Ex. 3, 14:3-14:24; Ex. 8, 19:18-20:5, 20:25-21:9; Ex. 9, 17:25-18:10) It is now irrefutable that Mr. Wilson has been actively involved in both lawsuits. When he recruited Plaintiff Rosa Mustafa, according to her testimony, he told her could just "put her name in" and that after she joined "there was nothing else [for her] to do." (Ex. 1, 47:18-48:1) Further still, David Mann only became a Plaintiff after he was contacted by Plaintiffs' Counsel who had received his information from Margaret Dickson—the lead plaintiff in the *Dickson* redistricting litigation. (Ex. 4, 22:17-22:19) After Mr. Mann informed Plaintiffs' Counsel that he wanted to join the lawsuit, Plaintiffs' Counsel told him he needed to again contact Margaret Dickson to let her know that he was now involved. (*Id.* 46:3-46:17) If Margaret Dickson was not involved in any way with the instant litigation, why would Plaintiffs' Counsel direct Mr. Mann to have further contact with her? Mr. Mann also admitted that he discussed this lawsuit with Ms. Dickson and even prepared for his deposition with her. (*Id.* 21:20-22:19) This testimony simply does not support that these Plaintiffs are the ones directing and controlling the litigation and more than entitles Defendants to inquire about possible

privity through the discovery process.<sup>1</sup> There is no question now that Defendants' inquiry is relevant to the subject matter of this case. Plaintiffs had no right to refuse to produce responsive and nonprivileged information when it was requested through traditional discovery methods. Since they have so refused, Defendants must be allowed to depose Plaintiffs' Counsels.

## **II. Defendants Are Not Seeking to Show Privity of Parties By Way of "Virtual Representation" as Plaintiffs Claim.**

Defendants are not seeking to show privity, as Plaintiffs claim, through "virtual representation." (D.E. 63, p. 11) The Supreme Court acknowledged several other acceptable exceptions to the general rule against nonparty preclusion—including situations where a non-party "assumed control" over litigation or situations involving litigation through a proxy. *Taylor v. Sturgell*, 553 U.S. 880, 893-95 (2008). It is under these legal theories, fully recognized by the U.S. Supreme Court, that Defendants seek to prove that Plaintiffs claims are precluded.

A nonparty is bound by a judgment if he "'assume[d] control' over the litigation in which that judgment was rendered." *Id.* at 895 (citing *Montana v. U.S.*, 440 U.S. 147, 154 (1978) ("*Montana*")). This is because such a person is a real party in interest who has had

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<sup>1</sup> Plaintiffs' Counsel also claim that all of the Plaintiffs in this litigation are "ordinary citizens from across the state who [joined the suit because they] ... are offended by racially-segregated redistricting schemes." (D.E. 63, p. 1) However, the deposition testimony of several Plaintiffs does not even support this cursory contention. Multiple Plaintiffs testified that they were opposed to the redistricting schemes, not on the basis of race, but because it diluted the power of the Democratic Party or resulted in a Republican-controlled General Assembly. (*See e.g.* Ex. 1, 40:4-40:6, 41:2-41:13; Ex. 2, 19:10-19:17; Ex. 3, 25:4-25:10)

“the opportunity to present proofs and argument,” and has already “had his day in court even though he was not a formal party to the litigation.” *Id.* Further, a real party in interest, “bound by a judgment may not avoid its preclusive force by relitigating through a proxy.” *Id.* at 895. “Preclusion is thus in order when a person who did not participate in a litigation later brings suit as the designated representative of a person who was a party to the prior adjudication.” *Id.* (citing *Chicago, R.I. & P.R. Co. v. Schendel*, 270 U.S. 611, 620, 623 (1926)). The *Taylor* Court opined that it “seems clear that preclusion is appropriate when a nonparty later brings suit as an agent for a party who is bound by a judgment.” *Id.* Through discovery, Defendants seek to establish: (1) that a non-party entity assumed sufficient control over the *Dickson* litigation such that they are bound by its judgment and (2) that the same entity is now attempting to relitigate the same issues using nominal plaintiffs as its proxies. Sufficient case law supports Defendants’ *res judicata* defense should these questions be affirmatively answered in Plaintiffs’ Counsel’s depositions.

First, in *Montana*, which was cited by the Court in *Taylor*, the State of Montana levied a tax against public but not private contractors. 440 U.S. at 149-50. The public contractor, who was being directed and financed by the U.S. government, sued Montana to contest the tax and lost on appeal before the Montana Supreme Court. *Id.* at 151. The government then filed its own lawsuit in federal court. After the decision by the Montana Supreme Court, the State contended that the U.S., although not a party to the state litigation, was precluded by collateral estoppel from pursuing its federal case. *Id.* at 152-53. The U.S. Supreme Court agreed, opining: “[o]ne who prosecutes or defends a suit in

the name of another to establish and protect his own right, or who assists in the prosecution or defense of an action in aid of some interest of his own...is as much bound...as he would be if he had been a party of record.” *Id.* at 154.

Similar preclusion occurred in *U.S. v. Des Moines Valley R. Co.*, 84 F. 40 (8th Cir. 1897), a decision quoted with approval by the Supreme Court on several occasions.<sup>2</sup> *Des Moines Valley* was a quiet title action in which the named plaintiff was the U.S. government. The suit, in the name of the government, was brought to enforce the right of a private party who had previously received an adverse adjudication in state court. *Id.* at 42. The court found that the previous judgment was available to estop the government’s suit and opined that the U.S. “should be held estopped by previous adjudications against the real party in interest in the state court. The subject-matter and the issue to be tried being the same in this proceeding as in the former actions, the losing party on the former trials ought not to be permitted to renew the controversy in the name of a merely nominal plaintiff, and thereby avoid the effect of the former adjudications.” *Id.* at 44-45.

Plaintiffs’ erroneously contend that Defendants are trying to establish privity solely on the basis of common financing between the redistricting cases, which alone would be insufficient to estop their claims. (D.E. 63, p. 13) This is not true. Defendants are seeking discovery of whether a common nonparty force is both financing *and*

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<sup>2</sup> See *Chicago, R.I. & P.R. Co. v. Schendel*, 270 U.S. at 619-20; see also *Taylor*, 553 U.S. at 899-900 (“properly understood...*Des Moines Valley* is simply an application of the fifth basis for nonparty preclusion...A party may not use a representative or agent to relitigate an adverse judgment”).

directing the two litigations. (*See* Defs’ Br., D.E. 59, pp. 4, 9-10, 13); *Des Moines Valley Co.*, 84 F. at 45. It is evident from the Plaintiffs’ lack of knowledge regarding the subject matter of their suit and their lack of participation in its prosecution that they are not the ones directing the current litigation. (*See supra* Part I) As a result, Defendants must first determine if there is an entity common to both litigations, like a financier, that would have an interest in directing the lawsuits. If that “common donor” exists and has retained the same counsel in both litigations for purposes of prosecuting the case through nominal plaintiffs to “aid in some interest of his own,” sufficient privity can be established and Plaintiffs’ claims precluded. *Montana*, 440 U.S. at 154; *Des Moines Valley*, 84 F. at 44-45. Plaintiffs have stonewalled Defendants at every turn in their attempt to definitively put this issue to rest. (D.E. 59, pp 4-5) This is likely because the information sought supports Defendants’ theory.<sup>3</sup>

**III. Despite Counsel’s Claims, the Information Sought Regarding Potential Privity of Parties is Not Privileged and is Relevant to Defendants’ *Res Judicata* Defense.**

For the reasons stated in Defendants’ Opening Brief, the information sought is relevant to a valid defense. (*See* D.E. 59, pp. 5-10) Plaintiffs argue that Defendants should not be allowed to take Plaintiffs’ Counsel’s deposition because the information is not sufficiently relevant to outweigh the “enormous burden [that] such a deposition creates.” (D.E. 63, p. 17) This argument is circular. Plaintiffs cannot first refuse to

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<sup>3</sup> Despite their arguments here, counsel to the Plaintiffs in *Harris v. McCrory* provided information identifying who is funding the litigation there. The reluctance on Plaintiffs’ Counsel here to do so now begs the question of whether such information is being withheld because privity might be established between *Dickson* and the instant case if the information is disclosed.

provide information through traditional discovery on the basis of impermissible, nonspecific boilerplate relevance objections, only to argue now that the information, while admittedly relevant, is not relevant “enough” to outweigh burdens allegedly inherent in deposing Plaintiffs’ Counsel. Plaintiffs created the need for these depositions and any alleged hardship incurred was not caused by Defendants.<sup>4</sup>

Plaintiffs also continue to argue that the identity of their nonparty financier is protected by attorney-client privilege. (D.E. 63, p. 18) (citing *Chaudhry v. Gallerizzo*, 174 F.3d 394, 402 (4th Cir. 1999)). However, *Chaudhry* does not stand for what Plaintiffs claim it does. In that case, the Fourth Circuit held that “bills, ledgers, statements, or time records” that reveal “specific research or litigation strategy” are protected from disclosure by the attorney-client privilege. *Id.* (citing *Clarke v. Am. Comm. Nat’l Bank*, 974 F.2d 127, 130 (9th Cir. 1992)). Still, the *Chaudry* Court specifically noted that the “identity of the client...the identification of payment by case file name, and the general purpose of the work performed are usually not protected...by the attorney-client privilege.” *Id.* (citing *Clarke*, 974 F.2d at 129). Plaintiffs have similarly argued that financier’s identity is protected by the attorney-client privilege under North Carolina’s public policy by citing *Raymond v. N.C. Police Benevolent Ass’n*, 365 N.C. 94, 721 S.E.2d 923 (2011). (D.E. 63, p. 10) *Raymond*, like *Chaudry*, stands for

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<sup>4</sup> Plaintiffs’ claim that information Defendants seek, at least for SCSJ counsel, is available through another source and can be ascertained by an “inspection [of] its 990 forms” on the website <https://www.guidestar.org/profile/26-0688375>. (D.E. 63, p. 6) However, overlooking the fact that Plaintiffs admit that the forms do not show whether funds are earmarked for specific litigation, the website only contains 990 forms through 2014. This litigation was commenced in 2015 and nothing regarding potential funding sources for the instant lawsuit can be learned by a review of these publicly-available forms.



the proposition that *communications* made by individuals are privileged. It does not hold that the *identity* of an individual is privileged information. *Id.* at 100, 721 S.E. 2d at 927 (“The possibility of disclosure of such *communications* would chill the flow of information”) (emphasis added).

Here, Defendants have not sought, and do not intend to depose Plaintiffs’ Counsel, about information related to client communications, “specific research,” or “litigation strategy.” (D.E. 63, pp. 3-4) Defendants only want to identify the person or persons that they believe to be the real party in interest here and in *Dickson*. Plaintiffs’ own case law supports that Defendants are entitled to this information.

**IV. The Identity of Plaintiffs’ Financier is Not Protected From Disclosure By the First Amendment.**

The identity of Plaintiffs’ financier, and likely real party in interest, is not protected by the First Amendment. (D.E. 63, pp. 8-10) Plaintiffs cite *NAACP v. Alabama*, 357 U.S. 449, 462 (1958) to argue that this Court cannot compel disclosure of his or her identity because such disclosure infringes upon one’s freedom of association. However, SCSJ has not even alleged that its financier is a member of its association. Without such an allegation, this is not even a colorable argument. Regardless, *NAACP* is factually distinguishable. In that case, the government sought to compel disclosure of the NAACP’s membership lists, which are not being sought here. *Id.* The Court also opined that it was “important to bear in mind that petitioner assert[ed] no right to absolute immunity from state investigation... [and] as shown by its substantial compliance with the production order, petitioner does not deny [the State’s] right to obtain... information.”

*Id.* at 463-64. Here, the SCSJ, unlike the NAACP, has not substantially complied and is in fact asserting absolute immunity from having to disclose who may be directing the instant litigation, which is not supported by that case.

Plaintiffs also claim that disclosing their financier's identity would chill associational freedom by "potentially subject[ing] donors to inconvenience through subpoenas and exposure." (D.E. 63, p. 9) Such theoretical inconvenience does not justify withholding discoverable information and pales in comparison to the inconvenience the State and People of North Carolina have suffered by having to defend four essentially identical lawsuits likely brought by a common real party in interest.

This the 18th day of February, 2016.

OGLETREE, DEAKINS, NASH  
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/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 **REPLY IN SUPPORT OF DEFENDANTS' MOTION FOR LEAVE TO DEPOSE COUNSEL FOR PLAINTIFFS** 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 18th day of February, 2016.

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# EXHIBIT 1

NO. 1:15-CV-00399

Defendants.

Thursday, February 4, 2016

1 Democratic primary?

2 A. It was, yes.

3 Q. And what is Ms. Waddell's race?

4 A. She's African American.

5 Q. How about, like, in council district five  
6 or six? Do you think a candidate of choice in the  
7 African American community could win in one of those  
8 districts?

9 A. I can't say. I don't know.

10 Q. And Ms. Mustafa, how did you become a  
11 plaintiff in this case?

12 A. A member from the North Carolina Democratic  
13 Party had asked me if I would consider being a  
14 plaintiff in the case, and I told him to let me  
15 review the documents to see, and I would let him  
16 know, and that's how I became involved.

17 Q. So you said a member of the North Carolina  
18 Democratic Party?

19 A. Uh-huh.

20 Q. Who was that?

21 A. Doug Wilson.

22 Q. Who is Mr. Wilson?

23 A. He's at the state level for the Democratic  
24 Party.

25 Q. What is his position?

1           A.    I don't know what his role is now.   I know  
2 he worked with Kay Hagan's campaign, too.

3           Q.    Where does Mr. Wilson live?

4           A.    I think he lives in Charlotte.

5           Q.    Do you know if he's an employee of the  
6 State Democratic Party?

7           A.    He is.

8           Q.    You don't know what his position is?

9           A.    I don't know.   That, I do not keep up with  
10 very well.   Chief executive -- I have no idea.   Chief  
11 financial officer.   I have no idea.

12          Q.    Do you know if he has an office here in  
13 Charlotte?

14          A.    I don't think he does, no.

15          Q.    You've never met with him at an office in  
16 Charlotte?

17          A.    No.

18          Q.    Well, tell me about when Mr. Wilson first  
19 approached you about becoming a plaintiff in this  
20 lawsuit.   When did that happen?

21          A.    Maybe a year, year and a half.

22          Q.    So you're thinking sometime in 2014?

23          A.    I think, or maybe '13.   It's hard to say.  
24 Shortly after Kay Hagan's campaign.   I can say that.

25          Q.    You mean shortly after Kay Hagan's

1 Commissioner District 2?

2 A. Maybe 40. I would say 40 percent,  
3 something like that.

4 Q. Now, going back to Mr. Wilson and when you  
5 were asked to join this lawsuit, was Mr. Wilson the  
6 only person who approached you about joining the  
7 lawsuit?

8 A. Yes.

9 Q. And I know you can't put a time frame on  
10 it, but you think maybe 2013, 2014 was the first  
11 conversation that you had with Mr. Wilson about  
12 joining the lawsuit?

13 A. Yes.

14 Q. And do you remember specifically what  
15 Mr. Wilson told you the first time he spoke with you  
16 about that?

17 A. I can't be specific, no. I mean, vaguely  
18 regarding the district, and a court case that was  
19 coming up regarding the lines, and that's it.

20 Q. You said he vaguely talked to you about the  
21 district. What district are you talking about?

22 A. I'm not sure which district, whether it's  
23 congressional. I don't know, really.

24 Q. He just talked to you about a district that  
25 you lived in?



1           A.    Yes, one I actually lived in. I used to be  
2 in 12, and then I was moved.

3           Q.    You're talking now about the congressional  
4 district?

5           A.    Yes. I'm not real clear on what's  
6 congressional or a different level. I'm not sure.

7           Q.    Do you remember when you first had a  
8 conversation about suing over the legislative  
9 district that you live in, the Senate District,  
10 specifically?

11          A.    I'm sorry, ask your question again.

12          Q.    Do you remember when you first had a  
13 conversation with anyone about suing over the State  
14 Senate District that you live in?

15          A.    No, I don't have any -- no.

16          Q.    When did you first learn that the State  
17 Senate District you live in was a subject of this  
18 lawsuit?

19          A.    Well, in the conversation with Mr. Wilson.

20          Q.    Okay. Well, after your initial  
21 conversation with Mr. Wilson, where you think you  
22 talked about a district, may have been a  
23 congressional district, when was your next  
24 conversation with Mr. Wilson?

25               MS. MACKIE: Objection to the form. You

1 can answer.

2 BY MR. MCKNIGHT:

3 Q. Let me ask the question a different way.  
4 How many conversations do you recall having  
5 with Mr. Wilson about this lawsuit?

6 A. Two.

7 Q. When did the second conversation occur?

8 A. Either the same day or the day after. Very  
9 brief conversation. It was, like, is that  
10 something -- would I be willing to participate, and I  
11 said, "Sure. I would be willing to participate in  
12 it."

13 Q. And did he tell you what the lawsuit was  
14 about?

15 A. Gerrymandering on the drawing of lines.

16 Q. In the second conversation, did he mention  
17 any specific district to you?

18 A. I can't recall. I knew my district was  
19 involved, yes.

20 Q. You said your district. Which one are you  
21 talking about?

22 A. I'm thinking on my congressional district.  
23 I'm thinking -- that's hard to answer. I don't know.  
24 I wouldn't say I have a complete knowledge of the  
25 district. I know it's where I live.

1 A. I think so. Some kind of coverage.

2 Q. Do you remember when you first heard about  
3 that?

4 A. No.

5 Q. Now, in your conversation with Mr. Wilson  
6 about this lawsuit, did Mr. Wilson tell you what the  
7 goals of the lawsuit were?

8 A. No.

9 Q. And I think you said you told him that you  
10 would be willing to be involved; is that right?

11 A. Yes.

12 Q. How did you make the decision to be  
13 involved in a lawsuit if you didn't know what the  
14 goals of the lawsuit were?

15 A. Well, I knew that our district was -- the  
16 district that I lived in -- my belief was that our  
17 district had been split up and that our -- for one,  
18 we were traveling further for meetings, which I did  
19 not like. And I felt very unfamiliar with the new  
20 district and the people that were in our new  
21 district. I didn't want change. Put it like that.

22 Q. So I want to ask you about that. You  
23 mentioned "my district" again, and specifically, what  
24 district are you talking about?

25 A. I am probably speaking of the congressional

1 wanted to participate in the lawsuit?

2 A. Probably the second conversation, I said I  
3 would participate in a lawsuit.

4 Q. I want to understand, I guess, what kind of  
5 motivated you to participate in the lawsuit because a  
6 lot of people don't want to get involved in lawsuits.

7 A. I know.

8 Q. Tell me a little bit about what your  
9 thinking was there.

10 A. My thinking was that because gerrymandering  
11 and changing of the districts dilute and change the  
12 strength of the vote a lot of times for my community,  
13 other communities, I think it was something -- I knew  
14 it was something that I wanted to be involved in  
15 because it affected us.

16 Q. And you said that gerrymandering could  
17 dilute and change the strength of the vote?

18 A. Yes.

19 Q. What do you mean by that?

20 A. It can strengthen, sometimes it can dilute.  
21 It depends on what the particular demographics or  
22 that particular section is made up of, who it's made  
23 up of.

24 You have people who have like minds, maybe  
25 not. But most of the time people with similar

1 Q. So did Mr. Wilson ever tell you that the  
2 lawsuit would or could help more Democrats be  
3 elected?

4 A. No, he didn't.

5 Q. Did you ask Mr. Wilson any questions about  
6 what the aims of the lawsuit were?

7 A. No.

8 Q. Were you concerned about who was paying for  
9 it?

10 A. No.

11 Q. Did he tell you that you would have to --

12 A. As long as I wasn't paying for it.

13 Q. So you didn't care otherwise who was paying  
14 for it?

15 A. No, it wasn't a concern.

16 Q. Well, you're represented by attorneys in  
17 this case, right?

18 A. Sure.

19 Q. What if someone didn't pay one of your  
20 attorneys? Was that a concern for you?

21 A. It would be unfortunate, but that is not my  
22 concern, no.

23 Q. But you didn't think you would be on the  
24 hook for it?

25 A. No.

ROSA MUSTAFA

1 MR. MCKNIGHT: We can do that at any time.

2 MS. MACKIE: We can take a quick break to  
3 get some air.

4 THE WITNESS: You know what? Let's do  
5 that.

6 (RECESS TAKEN.)

7 BY MR. MCKNIGHT:

8 Q. We're back on the record after a short  
9 break here. And during the course of the break, you  
10 didn't discuss the substance of your testimony today  
11 with your counsel, did you?

12 A. No.

13 Q. Ms. Mustafa, we were talking about when  
14 Mr. Wilson recruited you for this lawsuit. You said  
15 that at some point he sent you a document that you  
16 reviewed and that after reading that document you  
17 decided you wanted to join the lawsuit.

18 Can you tell me what you said to Mr. Wilson  
19 when you told him that you wanted to join the  
20 lawsuit?

21 A. I said, "Sure. I would help out in any way  
22 that I could."

23 Q. And what happened next?

24 A. He just added my name. He said, "I'll put  
25 your name in," and that was it. There was nothing

1 else to do.

2 Q. After he put your name in, did anyone  
3 contact you?

4 A. The law firm contacted me months and months  
5 and months later. I had almost forgotten about it.

6 Q. And what law firm was that? Is it the law  
7 firm that Mr. O'Hale and Ms. Mackie work for?

8 A. Spruill.

9 Q. Poyner and Spruill?

10 A. Yeah.

11 Q. Okay. There are several law firms involved  
12 in this, which is why I'm asking. I'm not trying to  
13 quiz you or anything like that, but there is a group  
14 called the Southern Coalition for Social Justice  
15 that's involved.

16 A. No, not that.

17 Q. And another lawyer, I think, named Adam  
18 Stein, who is involved.

19 A. No.

20 Q. So you were contacted by Poyner and Spruill  
21 you said months after that initial conversation with  
22 Mr. Wilson?

23 A. I think that's right. It was a few months  
24 later. I had forgotten about it. Life moved on.

25 Q. Did you have any more conversations with

1 listed on it as a plaintiff.

2 A. Yes, I've seen this.

3 Q. Okay. So you've seen at least the first  
4 page before?

5 A. I've probably -- yeah, this first couple of  
6 pages. Maybe one through five or so.

7 Q. So I'll represent to you, ma'am, that this  
8 is a copy of the complaint that was filed by your  
9 counsel in this matter.

10 You're saying that you think that you have  
11 seen perhaps the first five pages of this before  
12 today?

13 A. Yes.

14 Q. And do you remember the first time that you  
15 ever saw this complaint?

16 A. Not 100 percent sure, but this appears to  
17 be the document that Doug Wilson sent to me.

18 Q. And how long ago did you say that you  
19 thought Mr. Wilson had sent you this document?

20 A. Year and a half, two years ago, something.

21 Q. Ms. Mustafa, if you will turn with me to  
22 page 45 of this complaint, I want to direct your  
23 attention to a map that appears at the bottom of that  
24 page. Do you see that?

25 A. Yes.



1 Q. And Mr. Love, you said they were both  
2 precinct chairs; is that right?

3 A. Yes.

4 Q. By that, you mean they're precinct chairs  
5 for the Mecklenburg County Democratic Party?

6 A. Yes.

7 Q. And does Mr. Meachem have a position in the  
8 Democratic Party?

9 A. No.

10 Q. Do you know anyone named David Harris?

11 A. No.

12 Q. I think you mentioned you knew a Samuel  
13 Love?

14 A. Yes.

15 Q. That's through, again, your involvement in  
16 the Democratic Party?

17 A. (Witness nods head in agreement.)

18 Q. So turning back to Exhibit 4.

19 A. Okay.

20 Q. I want to look at page 17.

21 A. Okay.

22 Q. And this just touches on what we talked  
23 about a minute ago. This is interrogatory six that I  
24 wanted to ask you about. It asks you to describe  
25 your responsibility, if any, for the payment of any

1 attorneys' fees or costs incurred by your counsel or  
2 any attorneys' fees or costs that might be awarded  
3 against you in this lawsuit.

4 And it asks you that if you're not  
5 responsible for the payment of such fees or costs, to  
6 identify the person or entities who are responsible.  
7 And your answer is on page 18.

8 In your answer you say you do not have any  
9 responsibility for paying attorneys' fees in  
10 connection with this litigation and that you do not  
11 know who is responsible for paying them; is that  
12 correct?

13 A. Yes, that's correct.

14 Q. You testified earlier that you hadn't asked  
15 anybody who is responsible?

16 A. No.

17 Q. Okay. I want to look back at Exhibit 3  
18 just briefly here, and then we'll be done.

19 I want to turn your attention to page 45 of  
20 Exhibit 3. You'll see there's a request for  
21 production number one. It asked you to produce  
22 copies of any letters, contracts or other documents  
23 and explain who was responsible for the payment of  
24 legal fees and costs in this litigation, including  
25 any documents, contracts or letters that state

1 whether you were responsible for paying any fees and  
2 costs.

3 And I believe it was your testimony earlier  
4 that you didn't have any document like this; is that  
5 right?

6 A. I didn't have any document talking about  
7 fees and costs at all.

8 Q. You don't have any document like that in  
9 your possession?

10 A. Not that I know of. If it's there, I  
11 didn't read it. This is quite a thick document. I  
12 haven't signed anything saying I have to pay  
13 anything. I don't know anything about the fees and  
14 the costs.

15 Q. Okay. And do you think you have any other  
16 documents related to this lawsuit other than the  
17 document that you mentioned that you received from  
18 Mr. Wilson that has not been produced to your  
19 attorneys in the course of this lawsuit?

20 A. Help me. Ask me that again.

21 Q. Have you gotten any e-mails from anybody  
22 other than an attorney about this lawsuit?

23 A. No, I have not.

24 Q. The e-mail from Mr. Wilson is the only  
25 person or the only e-mail that you've received

# EXHIBIT 2

NO. 1:15-CV-00399

Defendants. )

1 Joel?

2 A. I do not know.

3 Q. You just know it's Alexander and Ford?

4 A. Yes.

5 Q. Mr. Ansin, how did you become a plaintiff  
6 in this case?

7 A. To the best of my recollection, I got a  
8 call from someone in the Southern-something Social  
9 Justice League, asking me if I would want to  
10 participate.

11 Q. And does the name Southern Coalition for --

12 A. Southern Coalition For Social Justice,  
13 yeah.

14 Q. So you hadn't talked with anyone about the  
15 lawsuit before someone from the Southern Coalition  
16 for Social Justice called you?

17 A. Yes.

18 Q. The answer is no, you had not?

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

20 Q. Sure. That was -- that was not clear.

21 Before you got a call from someone in the  
22 Southern Coalition for Social Justice about the  
23 lawsuit, you hadn't talked with anyone else about it?

24 A. I had not.

25 Q. And do you remember who from the Southern

1 Coalition for Social Justice called you about the  
2 lawsuit?

3 A. If I remember, her first name was Anita. I  
4 do not remember her last name.

5 Q. Does Earls ring a bell?

6 A. It does not.

7 Q. And had you ever signed up to be on the  
8 Southern Coalition for Social Justice's mailing list  
9 or anything like that?

10 A. No.

11 Q. And I'm not going to -- I don't want to ask  
12 about conversations that you had with Anita or  
13 anybody with the Southern Coalition at this point,  
14 but do you know how they would have gotten your name?

15 A. I do not.

16 Q. Okay. And when did you speak with Anita of  
17 the Southern Coalition?

18 A. It was last year sometime. I do not  
19 remember the date.

20 Q. And before you spoke with the Southern  
21 Coalition for Social Justice about this lawsuit, had  
22 you ever considered filing a lawsuit related to  
23 either the Senate District or the House District in  
24 which you reside?

25 A. No.

1 is done is to make sure that the populations in  
2 districts are roughly equal, right?

3 A. Yes.

4 Q. So if there were population shifts here in  
5 Mecklenburg County, for example, if a lot of people  
6 move in, then the districts as they were drawn under  
7 the old lines, some of them may be overpopulated,  
8 some of them may be underpopulated; is that right?

9 A. That's correct.

10 Q. So would you still want the district lines  
11 to stay the same in that case or would you be okay  
12 with them being redrawn?

13 A. I think if they were to revert to the way  
14 they were before they were redrawn by the legislature  
15 and in a more equitable way of the drawing them so as  
16 to not to enhance the Republican power, that would be  
17 a better solution.

18 Q. So it would be your preference for the  
19 Democrats to be able to gain more power; is that  
20 right?

21 A. I think it needs to be fair, not biased  
22 towards either party.

23 Q. But you mentioned the Republicans,  
24 specifically?

25 A. Well, they're the ones who changed the way



1 things are now.

2 Q. And do you believe that gerrymandering ever  
3 occurred before Republicans drew the lines this time  
4 around?

5 A. Like I said, I come from Massachusetts, and  
6 my recollection is the first time it happened was in  
7 Massachusetts by someone named Gerry, and that was  
8 sometime in the 1800s. So to answer your question,  
9 yes.

10 Q. But before this lawsuit, you've never  
11 brought a lawsuit about redistricting or  
12 gerrymandering before, right?

13 A. That is correct.

14 Q. And why did the gerrymandering that you say  
15 occurred this time concern you enough to want to  
16 become a plaintiff in a lawsuit?

17 A. First of all, I was asked. And secondly,  
18 like I said, I believe it to be a form of cheating.  
19 So having the opportunity to participate seemed a  
20 logical extension of the way I feel.

21 Q. But it's not something you would have done  
22 had you not been asked?

23 A. Yes. Asked and answered, I believe.

24 Q. Okay. Fair enough.

25 MR. MCKNIGHT: Mr. Ansin, I want to hand

1 A. I do not recognize any of those names.

2 MR. MCKNIGHT: I want to hand you another  
3 document that I'm going to mark as Exhibit 6.

4 (EXHIBIT NO. 6 MARKED FOR IDENTIFICATION.)

5 BY MR. MCKNIGHT:

6 Q. This is a cover page of the complaint that  
7 was filed in a lawsuit known as North Carolina State  
8 Conference or Branches of the NAACP versus State of  
9 North Carolina.

10 Will you look at the plaintiffs listed  
11 there and let me know if you're familiar with any of  
12 those.

13 A. I do not.

14 Q. Does the name Christine Bowser ring a bell  
15 to you?

16 A. No.

17 Q. How about David Harris?

18 A. No.

19 Q. In Exhibit 4, turning back to that one,  
20 that's the updated discovery responses. Would you  
21 look at page 17, please.

22 All right. Page 17 contains interrogatory  
23 six, and it just asks you to describe your  
24 responsibility, if any, for the payment of any  
25 attorneys' fees or costs incurred by your counsel or

1 any attorneys' fees or costs that might be awarded  
2 against you in this lawsuit by the Court. It says if  
3 you're not responsible for the payment of such fees  
4 or costs to identify the person who is.

5 And you answered this question on page 18.  
6 And your answer was that you do not have any  
7 responsibility for paying attorneys' fees in  
8 connection with this litigation; is that correct?

9 A. Yes.

10 Q. And then your next sentence says you do not  
11 know who is responsible for paying the attorneys'  
12 fees in connection with this lawsuit; is that  
13 correct?

14 A. I do not.

15 Q. Is that something that you've ever inquired  
16 about?

17 A. No.

18 Q. Do you have any agreement that states --  
19 any letter or agreement or contract or anything of  
20 that nature that states who is responsible for paying  
21 the attorneys' fees that are incurred by your counsel  
22 in this litigation?

23 A. No.

24 Q. So you've never received any document to  
25 that effect?

# EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NO. 1:15-CV-00399

SANDRA LITTLE COVINGTON, )  
et al., )

Plaintiffs, )

vs. )

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

Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF ANTOINETTE MINGO

(Taken by Defendants)

Charlotte, North Carolina

Friday, February 5, 2016

1 two.

2 A. No. Just what's shown on the document.

3 Q. Ms. Mingo, how did you become a plaintiff  
4 in this case?

5 A. Well, someone actually called me to ask me  
6 if I would agree to be a plaintiff.

7 Q. Who was that?

8 A. Doug Wilson.

9 Q. And how do you know Mr. Wilson?

10 A. I know him through the Democratic Party.

11 Q. And does Mr. Wilson currently work for the  
12 Democratic Party?

13 A. Yes, I believe he does.

14 Q. Ms. Mingo, what is Mr. Wilson's title with  
15 the Democratic Party, if you know?

16 A. I do not know.

17 Q. But he's an employee of the North Carolina  
18 Democratic Party?

19 A. Yes, I think so. I'm not sure about that,  
20 but I think so.

21 Q. At the time that he called you to ask you  
22 about being a plaintiff in this case, was he an  
23 employee of the Democratic Party?

24 A. I believe so.

25 Q. And you said you know him through the

1 Democratic Party?

2 A. Yes, I do.

3 Q. Tell me how that is.

4 A. Let me say this: I am known for fighting  
5 for what is right. So a lot of people know me. And  
6 I will fight at issue to the last iota.

7 And I've had the opportunity I think last  
8 year -- he wasn't always an employee, if he's an  
9 employee now, and I've called him for advice or  
10 whatever in the past about precinct information, et  
11 cetera.

12 Q. Now, what is your involvement in the  
13 Democratic Party?

14 A. I am, first of all, a registered Democrat,  
15 and I vote. Secondly, I am a member of the state  
16 executive committee, which comprises three or 400  
17 people and I'm also a precinct chair.

18 Q. And you're the chair of your precinct?

19 A. Absolutely.

20 Q. And when Mr. Wilson called you, what did he  
21 say?

22 A. He just asked me if I would -- he said that  
23 there was a suit that would be filed and would I want  
24 to be a part of it, and I said "most certainly,"  
25 about redistricting. He did say that.

1 Q. Did he say specifically what about  
2 redistricting it involved?

3 A. No, because I already knew that there was  
4 some redistricting because it affected me directly.  
5 I was in one -- my precinct number changed. I was in  
6 one congressional district, and now I'm in another.

7 Q. Did Mr. Wilson tell you that he had been  
8 involved in a lawsuit involving redistricting?

9 A. No.

10 Q. Does Mr. Wilson live here in Charlotte?

11 A. I think he does, yes.

12 Q. And you see him at Democratic Party events  
13 here in Charlotte sometimes?

14 A. Mostly in state party meetings, but I  
15 rarely see him here in the city. I have seen him,  
16 but it's rare.

17 Q. Sure. And he told you there would be a  
18 suit that was going to be filed about redistricting.  
19 Did he tell you what district, specifically?

20 A. I don't remember, but I know that I'm in  
21 the 12th. I don't remember what he, you know, said  
22 specifically.

23 Q. And when you say "the 12th," you're talking  
24 about your congressional district now?

25 A. Right.



1 Q. Do you know if this lawsuit involves any  
2 congressional districts?

3 A. That was my assumption. So I really don't  
4 know.

5 Q. And did Mr. Wilson send you any information  
6 about the lawsuit after you spoke with him?

7 A. No. Actually, that's the only time I spoke  
8 to him or with him about it. He asked me. I agreed.  
9 And that was the end of it. I have not heard from  
10 him regarding that since.

11 Q. So he never sent you a copy of the lawsuit,  
12 a draft or anything like that?

13 A. No.

14 Q. Did he ever send you any e-mails about  
15 being involved in the lawsuit?

16 A. No. He simply called and I agreed.

17 Q. To your knowledge, you two were the only  
18 people on the phone when he called?

19 A. As far as I know. On my end I was the only  
20 person. He didn't indicate that there was someone  
21 else on the phone. I would hope that he would have  
22 done so.

23 Q. You said it was a single phone conversation  
24 with him that you had?

25 A. Yes.

1 A. Yes.

2 Q. Now, did you ask Mr. Wilson about whether  
3 it would cost you anything to be involved in a  
4 lawsuit?

5 A. No, I didn't.

6 Q. And why not?

7 A. Because I was willing to pay whatever my  
8 portion was to be in it.

9 Q. And are you responsible for paying any  
10 portion of the legal fees?

11 A. No, I'm not.

12 Q. And how do you know that?

13 A. Because nobody has billed me, nobody has  
14 asked me for money and nobody has said anything to me  
15 about money.

16 Q. Has anyone told you that you're not  
17 responsible for paying any attorneys' fee or costs in  
18 this lawsuit?

19 A. Yes.

20 Q. Yes?

21 A. Yes.

22 Q. Who told you that?

23 A. Mr. O'Hale.

24 Q. And have you received any sort of document  
25 or contract or agreement that states that you are not

1 responsible for the payment of any attorneys' fees?

2 A. No, I have not.

3 Q. And have you signed any sort of engagement  
4 agreement with Mr. O'Hale or his law firm, to your  
5 knowledge?

6 A. No. He sent me something, but I -- I think  
7 I did sign something to say that I would be a part --  
8 right. It was an agreement to be a part of the  
9 lawsuit.

10 Q. Do you remember when you would have signed  
11 that agreement?

12 A. No. It was an e-mail. Sent to me via  
13 e-mail, and I don't remember.

14 Q. But you had to print it out and sign it and  
15 return it?

16 A. I'm 70. I don't remember that either.  
17 Maybe so. I really don't know. I don't remember.  
18 It was just, to me, a minor thing.

19 Q. When Mr. Wilson talked to you about the  
20 lawsuit, did he tell you what he thought the suit was  
21 intended to accomplish?

22 A. No. No, he did not. My guess is he just  
23 assumed that I would know, but he did not. Because  
24 I'm involved, you know, so I don't think he gave it  
25 another thought that I wouldn't know.

1 on. That's the reason for my questions. So don't  
2 feel bad about that at all.

3 A. No, I'm not.

4 Q. Do you know how many African Americans --  
5 and I guess I'm asking by percentage here -- would  
6 need to be in a district for an African American  
7 candidate of choice to win?

8 A. No, I do not. No, I don't. Leave it at  
9 that.

10 Q. You don't have any idea about that?

11 A. I have no idea.

12 MR. MCKNIGHT: Ms. Mingo, I'm going to hand  
13 you another document now that I'm going mark as  
14 Mingo Exhibit 2.

15 (EXHIBIT NO. 2 MARKED FOR IDENTIFICATION.)

16 BY MR. MCKNIGHT:

17 Q. I want you to take a look at that document  
18 and let me know when you're ready for some questions.

19 A. You mean read through this document?

20 Q. Just thumb through it and see if it's  
21 something that you recognize.

22 A. I can tell you right now I don't recognize  
23 it.

24 Q. Ms. Mingo, what I'll represent to you,  
25 then, is this is a copy of the complaint that was

1 filed on your behalf in this lawsuit.

2 I think you testified a moment ago that you  
3 had never seen this document before; is that right?

4 A. That's correct.

5 Mr. McKnight: Ms. Mingo, I'm going to hand  
6 you another document, then, that I'm going to  
7 mark as Exhibit 3.

8 (EXHIBIT NO. 3 MARKED FOR IDENTIFICATION.)

9 BY MR. MCKNIGHT:

10 Q. Ms. Mingo, is this a document that you  
11 recognize?

12 A. No. Never seen it before.

13 Q. All right. Well, this is a copy of  
14 responses to interrogatories that were served on your  
15 counsel. And what these are is written questions  
16 that --

17 A. I'm sorry. I'm just curious now.

18 Q. Sure. What these interrogatories are are  
19 written questions that you are to respond to under  
20 oath, and your counsel has provided responses on your  
21 behalf to certain of these written questions. So I  
22 want to ask you about some of your responses to these  
23 questions.

24 So the first question that I want to ask  
25 you about is on page two, and it's interrogatory two.

1 Q. And do you have any idea what that  
2 percentage is now?

3 A. No, I don't.

4 Q. Do you -- strike that.

5 What do you think the number of percentage  
6 of African Americans in Senate District 40 should be?

7 A. I don't want to venture a guess because I  
8 do not know.

9 Q. Well, how do you know it's too high if you  
10 don't have a number that you prefer it to be?

11 A. Because when I go to meetings, I can see.

12 Q. What meetings are you talking about?

13 A. I'm talking about district meetings, state  
14 executive committee meetings, various meetings.

15 Q. Are those Democratic Party meetings?

16 A. Democratic Party. And I know there are  
17 Republicans, but there are very few Republicans in  
18 the district.

19 Q. Well, you said you go to those meetings and  
20 you can see. What do you mean by that?

21 A. The makeup of the -- the racial makeup of  
22 the people attending. I know what the makeup is  
23 of -- I don't know the percentage offhand, but I know  
24 the makeup of my own precinct is mostly African  
25 American.

# EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NO. 1:15-CV-00399

SANDRA LITTLE COVINGTON, et al., )

)

)

Plaintiffs, )

)

vs. )

)

THE STATE OF NORTH CAROLINA, )

et al., )

)

Defendants. )

DEPOSITION OF DAVID MANN

---

4:09 P.M.

FRIDAY, FEBRUARY 12, 2016

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

4208 SIX FORKS ROAD

SUITE 1100

RALEIGH, NORTH CAROLINA

By: Tammy Johnson, CVR-CM-M



1 A. Sometimes I'll contribute money to a  
2 candidate, not large sums.

3 Q. Okay. Mr. Mann, how did you become a  
4 plaintiff in this case?

5 A. We were at a precinct meeting in the spring of  
6 2015 and I was present with four other  
7 individuals, one of whom was Margaret Dickson,  
8 and another of whom was the precinct chair by  
9 the name of Lockett Tally.

10 Q. Can you spell that?

11 A. L-O-C-K-E-T-T, last name, T-A-L-L-Y.

12 Q. Okay.

13 A. And we had a discussion about the last state  
14 senatorial race. Lockett lived across the  
15 street from me at the time, and I mentioned  
16 that we were all -- all of us were in the same  
17 general vicinity. We're in the same precinct.

18 And I said, "Well, going to the -- when  
19 you go to vote, it's like Wheel of Fortune  
20 because the districts are always changing,"  
21 and the discussion involved the last  
22 senatorial race, and I mentioned to Margaret  
23 that I was not in Billy Richardson's -- when I  
24 went to the polls, I did not vote for Billy  
25 Richardson. She said, "Well, you're in" --

1 she said, "Well, you're in this district." I  
2 said, "No, I'm not in that district."

3 So I went home last night and she looked  
4 it up on the Internet and she discovered that  
5 the Senate district line had been drawn  
6 straight down our street and that Lockett  
7 Tally, the precinct chair, who lived across  
8 the street from me, and I were in two separate  
9 Senate districts.

10 And I made the comment to Margaret in an  
11 e-mail that this was about race, and the  
12 reason I made that comment was because my side  
13 of the street is adjacent to a primarily  
14 African-American community. And some time  
15 later I received a call on my cell phone from  
16 Eddie Speas, who is the plaintiff attorney,  
17 and asked me if I would be willing to be --  
18 that I had -- Margaret had mentioned my name  
19 to him and she -- he asked me if I would be  
20 willing to participate in a lawsuit, and I  
21 agreed.

22 Q. You said this is in the spring of 2015, about?

23 A. Yes.

24 Q. Okay.

25 A. Approximately May. I think we had a precinct

1 A. Yes.

2 Q. -- explaining why --

3 A. Yes.

4 THE COURT REPORTER: If you could,  
5 let him finish his question --

6 THE WITNESS: Okay.

7 THE COURT REPORTER: -- because  
8 y'all are talking over each other.

9 MR. LAWLER: Human nature, I guess.

10 Q. But so she -- you all had this discussion and  
11 Ms. Dickson followed it up with an e-mail  
12 explaining how the line was drawn down the  
13 street and then you responded to that with  
14 your e-mail mentioning race?

15 A. Yes.

16 Q. Okay. And then you mentioned Eddie Speas got  
17 in contact with you sometime after that?

18 A. Eddie called me on my cell phone sometime  
19 months or weeks after that precinct meeting,  
20 the day of the precinct meeting.

21 Q. You said months or weeks after. Do you have  
22 any idea, any ballpark timeframe?

23 A. I'm guessing approximately a month.

24 Q. Okay. And at that point, he asked you if you  
25 would like to participate in this lawsuit?

1 A. Yes.

2 Q. And did you immediately say yes?

3 A. Yes.

4 Q. Did you ask him anything else about the  
5 lawsuit?

6 A. I do not recall asking him anything else.

7 Q. Okay. Did the topic of the point of the  
8 lawsuit come up or anything like that, the  
9 goal of the lawsuit?

10 A. I'm certain that he mentioned that it was --  
11 that they were challenging the districts. I'm  
12 certain that he mentioned that.

13 Q. Okay.

14 A. Or he -- generally speaking, that he  
15 referenced that.

16 Q. Okay. Do you know if any of the other folks,  
17 Mr. Tally, Ms. Tippet, Mr. Goodson or  
18 Ms. Dickson was approached by Mr. Speas?

19 A. I do not know, no.

20 Q. Okay. Have you discussed this with any of  
21 these four, your involvement in the lawsuit?

22 A. I've discussed it with Margaret, and our  
23 discussion centered around her appreciation  
24 for the fact that I was participating, and  
25 later we had a discussion regarding the

1 deposition and when that was going to occur.

2 Q. This deposition?

3 A. Yes.

4 Q. What did she tell you about this deposition?

5 A. She said that sometimes they -- it will take  
6 time to -- it may take a long time before  
7 you're called for the deposition.

8 Q. Okay. Did she discuss with you this -- her  
9 expected substance of this deposition,  
10 anything like that?

11 A. No.

12 Q. Have you discussed with Ms. Dickson the merits  
13 of the lawsuit, so to speak?

14 A. Other than the e-mail -- well, I will say --  
15 I'll give you -- I'll give you that answer,  
16 no.

17 Q. Okay. So did Mr. Speas get your name from  
18 Ms. Dickson?

19 A. Yes.

20 Q. Do you know if Ms. Dickson gave him anyone  
21 else's name?

22 A. I do not know.

23 Q. So when Mr. Speas called you, why did you  
24 agree to join this lawsuit?

25 A. Because I felt that the lines were

1 responses brought in on your behalf. We sent  
2 you all a number of questions or a request for  
3 production of documents. Do you recognize  
4 this document?

5 A. I do not, no.

6 Q. Okay. I'm just going to walk through some of  
7 the interrogatories really quickly. Mr. Mann,  
8 could you turn to page 12, please?

9 A. Yes.

10 Q. Do you see interrogatory number 2? It asks  
11 you to identify any political party  
12 organization, political committee, candidate  
13 campaign committee, or related organization  
14 for which you have worked, volunteered, or  
15 held any position with since January 1st,  
16 2004. Do you see that?

17 A. Yes.

18 Q. And if you could please turn to page 16, do  
19 you see towards the bottom it has your  
20 response?

21 A. Any political party or -- that's my response?

22 Q. Well, that's what we're going to -- we're  
23 going to talk about and make sure --

24 A. Okay. Okay.

25 Q. -- make sure it's not incorrect. So is --

1 from the tone of your last response, I'm  
2 gathering that you might want to add something  
3 to this answer?

4 A. I have held a position with the Cross Creek 8.

5 Q. Is that the secretary-treasurer?

6 A. Yes.

7 Q. Okay. And that's the Cross Creek 8 precinct  
8 Democratic Party?

9 A. Yes.

10 Q. All right. Did your attorneys ever question  
11 you about your response to these questions?

12 A. Not that I recall, no.

13 Q. Okay. Are there any other positions that you  
14 think are responsive to this interrogatory  
15 number 2? This is just that you've --  
16 positions you've held since 2004.

17 A. Positions I have held, however, --

18 Q. Or any -- oh, I apologize.

19 A. -- I have not worked or volunteered for any  
20 organization. I have held a political -- I  
21 have held a precinct position for the Cross  
22 Creek 8 Democratic Party.

23 Q. All right. And there's nothing else?

24 A. No.

25 Q. Okay. Now, if you could turn to page 24,

1 for the lawsuit.

2 Q. Okay. Who were these e-mails with?

3 A. The law firm of Poyner & Spruill.

4 Q. Okay. And so you signed an engagement letter?

5 A. Yes.

6 Q. About when was that?

7 A. That would've been in 2015, probably sometime  
8 in May.

9 Q. Would this have been after your initial phone  
10 call with --

11 A. Yes, it would have.

12 Q. -- Mr. Speas? Okay. Do you have a copy of  
13 that letter?

14 A. I probably have a copy on my e-mail.

15 Q. Okay. If you had not been approached about  
16 this, would you have challenged these lines on  
17 your own?

18 A. No.

19 Q. Okay. Mr. Mann, did you have any involvement  
20 in the 2011 redistricting process?

21 A. No.

22 Q. Did you attend any public hearings or anything  
23 of that sort?

24 A. No.

25 Q. Did you discuss the process with any of your



1 was involved with the lawsuit regarding voter  
2 -- voter registration.

3 Q. Okay.

4 A. That's what I thought.

5 Q. Okay.

6 A. I didn't know that it was redistricting. I  
7 thought that it was voter registration.

8 Q. Okay. All right. If you could turn back to  
9 the complaint in this case. I believe it's  
10 that one. Do you know any of those  
11 co-plaintiffs of yours in this complaint -- in  
12 this action?

13 A. I'll read these.

14 Q. Yeah, I was going to say these are a little  
15 bigger print.

16 A. (Witness reviews document.) Other than  
17 myself, no.

18 Q. Okay. Mr. Mann, are you responsible for any  
19 attorneys' fees in this case?

20 A. No.

21 Q. Have you had any discussions about attorneys'  
22 fees?

23 A. I think there was some communication in the  
24 e-mails stating that I would not be  
25 responsible, I think, in the engagement letter

1 local politicians or representatives?

2 A. No.

3 Q. Okay. After you originally spoke with  
4 Mr. Speas, did you circle back with  
5 Ms. Dickson about moving forward with the  
6 lawsuit?

7 A. I did.

8 Q. And what did you say?

9 A. I believe that Eddie may have mentioned that I  
10 may need to contact her, and I basically just  
11 telephoned Margaret and said that I was  
12 involved in the lawsuit.

13 Q. And what did she say when you gave her that  
14 information?

15 A. She -- it was basically she thanked me for  
16 talking to Eddie and agreeing to participate  
17 in the lawsuit.

18 Q. Have you received any status updates on this  
19 case throughout the length of this litigation  
20 process?

21 A. Not really, no.

22 Q. Okay. In your original e-mail that you sent  
23 to Ms. Dickson about your thoughts on the  
24 racial aspect of the way the lines are drawn,  
25 do you still have that e-mail?

1 A. I certainly have it saved someplace.

2 Q. Okay. Was there any response to that e-mail?

3 A. I don't recall any, no.

4 Q. If there was, would you have that?

5 A. Yes.

6 Q. Okay. Do you know who is paying for this  
7 lawsuit?

8 A. I do not know.

9 Q. Have you ever looked at any legislative maps  
10 other than the ones that are being challenged  
11 in this lawsuit?

12 A. I have seen legislative maps, yes.

13 Q. For North Carolina?

14 A. Yes, for North Carolina.

15 Q. Which -- which year or which --

16 A. I don't recall what particular year. I have  
17 seen very odd-shaped drawn districts,  
18 Congressional district, U.S. Congressional  
19 district maps.

20 Q. Okay. Have you seen North Carolina House  
21 district maps or Senate district maps other  
22 than the ones that are being challenged in  
23 this lawsuit?

24 A. I'm sure I have at some point --

25 Q. Okay.

# EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NO. 1:15-CV-00399

SANDRA LITTLE COVINGTON, et al., )

)

)

Plaintiffs, )

)

vs. )

)

THE STATE OF NORTH CAROLINA, )

et al., )

)

Defendants. )

DEPOSITION OF HERMAN LEWIS

---

11:29 A.M.

FRIDAY, FEBRUARY 12, 2016

---

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

4208 SIX FORKS ROAD

SUITE 1100

RALEIGH, NORTH CAROLINA

By: Tammy Johnson, CVR-CM-M

1 A. No, I don't.

2 Q. Okay. Was he the only one who spoke on the  
3 districts at that meeting?

4 A. Yeah.

5 Q. When did you find out that you had been named  
6 as a plaintiff in this lawsuit?

7 A. About a month ago.

8 Q. And how did you find out?

9 A. Through Eppstein -- Eppsteiner.

10 Q. Okay. George Eppsteiner?

11 A. Yeah, George Eppsteiner.

12 Q. And do you understand that he's with an  
13 organization called the Southern Coalition --

14 A. Yes.

15 Q. -- for Social Justice?

16 A. I do.

17 Q. Yes?

18 A. Yes.

19 Q. Okay. And I just asked you about that again  
20 because if you'll wait for me to finish my  
21 question before you start your answer, it'll  
22 just keep everything clearer.

23 A. Okay.

24 Q. So you're saying Mr. Eppsteiner called you  
25 about a month ago about this lawsuit?

1 A. He said I was -- yes, he called and said I was  
2 named in the lawsuit.

3 Q. And that was the first time that you had heard  
4 that you were named in the lawsuit?

5 A. That's correct.

6 Q. And before that conversation, you had not  
7 agreed to join the lawsuit?

8 A. No, I hadn't.

9 Q. And you had never discussed the lawsuit with  
10 anyone else?

11 A. No, I hadn't except for, you know, it came up  
12 at that meeting. Not the lawsuit, no. The  
13 district. I'm sorry.

14 Q. The districts came up?

15 A. Yeah, but not the lawsuit. Yes, sir.

16 Q. I'm going to hand you another document that  
17 I'm going to mark as Exhibit 3.

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

20 Q. And, Mr. Lewis, will you take a minute and  
21 just thumb through this document and let me  
22 know if it's a document you think you've seen  
23 before today?

24 A. No, I haven't.

25 Q. You haven't seen it before today?

1 A. (Shakes head negatively.)

2 Q. You don't think you've seen any other document  
3 that might be similar to it before today?

4 A. No.

5 Q. And do you see your name listed on page 5?

6 A. Yes, I see it.

7 Q. Okay. That's not something you had seen  
8 before today?

9 A. No.

10 Q. Mr. Lewis, do you believe that you've been  
11 harmed by the way in which either your Senate  
12 district or your House district were drawn?  
13 And I'm referring to your State Senate  
14 District 4 or your State House District 24  
15 when I ask that.

16 A. Yes.

17 Q. Okay. And how do you believe you were harmed?

18 A. I believe that anytime you -- you -- we draw  
19 districts to favor one minority's -- or, you  
20 know, in one area or other, I think that's  
21 harmful. Anytime you draw districts in favor  
22 of minorities in one district and not in  
23 another, separate a bunch of them in an area,  
24 yeah, you're being harmed.

25 Q. Well, explain to me why you believe that.



1 A. Okay.

2 Q. Now, that map that we were just looking at a  
3 moment ago in the complaint, is that something  
4 that you think you've ever seen before?

5 A. No.

6 Q. So before today, you had not ever seen a map  
7 of what either your State Senate or State  
8 House district looks like?

9 A. It's been on TV, yeah.

10 Q. Okay. So other than seeing it on TV?

11 A. Huh?

12 Q. Other than seeing it on TV?

13 A. I've seen it -- I've seen it before in one of  
14 the meetings I was at, but I didn't get  
15 involved in it.

16 Q. Okay. Now, if your name had not been added to  
17 this lawsuit, would you have sought out help  
18 to file a lawsuit over your district, --

19 A. No.

20 Q. -- either of your districts?

21 A. No.

22 Q. Now, do you know who is responsible for the  
23 payment of the lawyers who are representing  
24 you in this lawsuit?

25 A. No.

1 Q. Do you know who is responsible for paying any  
2 costs associated with your participation in  
3 this lawsuit?

4 A. No.

5 Q. Is that anything that you've ever inquired  
6 about?

7 A. No.

8 Q. Why is that not something that you've inquired  
9 about?

10 A. Because it really don't make me any  
11 difference. It don't make me any difference.  
12 See, I'm paying -- see, I drove up here from  
13 Wilson. I didn't ask for no pay and no gas  
14 money. See, I really don't -- and -- and I  
15 just asked for -- about the parking garage  
16 because I ain't going to feel like I need to  
17 pay for parking too, so he told me about that.  
18 But, I mean, this is my time, my -- I ain't --  
19 nobody asked me to do it. They called me  
20 about it. I came, and nobody's asked me or  
21 anything about it. I didn't ask anything.

22 Q. Well, but you're not responsible for the  
23 payment of any attorneys' fees in this  
24 lawsuit?

25 A. No.

1 Q. That's what I --

2 A. I couldn't afford it.

3 Q. Okay. I just want to hand you another  
4 document that I'm going to mark as Exhibit 4.

5 (WHEREUPON, Defendant's Exhibit 4 was  
6 marked for identification.)

7 Q. See if you recognize this document.

8 A. No, I don't.

9 Q. Is this a document you think you've seen  
10 before, Mr. Herman?

11 A. No, I haven't.

12 Q. Okay. Well, what this is, is an amended set  
13 of responses to some written questions we sent  
14 to your attorneys and asked them to have you  
15 answer for us, and I just want to ask you  
16 about a couple of your responses. Earlier we  
17 were talking about your role with  
18 Congressional District 1, and I see on page 2  
19 a response to a question about any political  
20 activities that you've been engaged in since  
21 2004. You listed that you are currently the  
22 Vice Chair of the Congressional District 1  
23 Democrats; is that right?

24 A. Right.

25 Q. All right. And then you mentioned earlier too

# EXHIBIT 6

SANDRA LITTLE COVINGTON,  
et al.,  
  
Plaintiffs,  
  
vs.  
  
THE STATE OF NORTH CAROLINA,  
et al.,  
  
Defendants.

Friday, February 5, 2016

1 Q. You have no idea?

2 A. No.

3 Q. Was it a male or female?

4 A. I think it was a woman.

5 Q. And do you know if he or she was a lawyer  
6 or was not a lawyer?

7 A. I don't know.

8 Q. Okay. Well, what did that person tell you  
9 about the lawsuit?

10 A. That there was a lawsuit, to my best  
11 recollection, concerning gerrymandering, and asked me  
12 if I wanted to be involved.

13 Q. And did you ask any questions about  
14 specifically what the lawsuit was about?

15 A. Well, I wanted to know what the goal was  
16 for the lawsuit, whether I wanted to be involved.

17 Q. And what did that person tell you?

18 A. Well, to tell you the truth, I don't recall  
19 other than it would have had to have been something I  
20 agreed with or I wouldn't have agreed to be a part of  
21 the suit.

22 Q. And do you remember how you would have  
23 received the complaint initially?

24 A. I would imagine e-mail.

25 Q. What e-mail address would it have gone to?

1 A. Mark@Charlotteenergysolutions.com.

2 Q. And were you aware that the defendants in  
3 this case had asked you to produce documents that  
4 were relevant to this lawsuit?

5 A. No.

6 Q. So no one asked you for any documents in  
7 your possession that were related to this lawsuit?

8 A. No, that I recall.

9 Q. All right. Do you believe that you would  
10 still have a copy of the lawsuit, if it was e-mailed  
11 to you, in your e-mail box?

12 A. Probably not.

13 Q. Why is that?

14 A. I purge.

15 Q. It's possible it could be in your trash  
16 bin?

17 A. Sure.

18 Q. Just haven't looked?

19 A. No. And I've had numerous computer  
20 crashes. I've had probably -- at least one new  
21 computer since then. You lose stuff when you move  
22 stuff around.

23 Q. But your e-mail address hasn't changed?

24 A. No.

25 Q. As you sit here today, what do you

1 organizations or individuals.

2 A. No one.

3 Q. All right. Now, with respect to Ms. Leak,  
4 who we spoke about a moment ago, have you had any  
5 conversations with Ms. Leak at any time?

6 A. No.

7 Q. So if you will please, sir, I want you to  
8 turn back to Exhibit 3, and I have a couple more  
9 questions for that -- for you on that exhibit.

10 My next question comes from page 17, which  
11 is interrogatory six, and it asked you to describe  
12 your responsibility, if any, for the payment of any  
13 attorneys' fees or costs incurred by your counsel or  
14 any attorneys' fees or costs that might be awarded  
15 against you in this lawsuit.

16 It goes on to say that if you are not  
17 responsible for such fees or costs, to identify the  
18 persons or entities who are responsible by stating  
19 their name and address and describe your relationship  
20 with them.

21 Mr. Englander, what is your understanding  
22 about who is responsible for the payment of any  
23 attorneys' fees and costs in this case?

24 A. I have not a clue.

25 Q. And when you were asked to be a plaintiff



1 in this lawsuit, is that not something that you asked  
2 about?

3 A. No.

4 Q. And why were you not concerned about being  
5 on the hook for any attorneys' fees or costs?

6 A. I guess I was familiar with class-action  
7 suits, and I know that that wasn't really an issue.

8 Q. So you believe this was a class-action  
9 suit?

10 A. Yes. What is it called?

11 Q. Did someone tell you that it was a  
12 class-action suit?

13 A. I might have -- I just -- I don't know.  
14 I'm just inventing that. It's not a class-action  
15 suit?

16 Q. Well, no, sir, it's not been certified as a  
17 class-action suit.

18 A. Is it fair, though, to describe it as that?

19 Q. I can't make any representations to you  
20 either way about --

21 A. Well, I'm incorrect by saying that?

22 Q. Well, it's not certified as a class-action  
23 suit under the federal rules, which is normally how  
24 you would certify a class-action suit --

25 A. Okay.

1 Q. -- but that addresses your question.

2 A. How should I call it? What should I call  
3 it?

4 Q. We just call it the Covington lawsuit. And  
5 you can, you know, that is a question you can ask  
6 your counsel if you have questions about what it is  
7 and how to refer to it and that sort of thing, but we  
8 just call it the Covington case, and there are 31  
9 plaintiffs, including you, in that case.

10 A. Okay. I certainly want to be correct. I  
11 don't want to call it something that it isn't.

12 Q. Well, so you've never inquired, though,  
13 about who is responsible for the payment of any  
14 attorneys' fees and costs that might be incurred by  
15 you or your attorneys or that might be awarded  
16 against you?

17 A. No.

18 Q. And if no one had asked you to join this  
19 lawsuit, would you have filed a lawsuit related to  
20 gerrymandering in House District 102?

21 A. Personally, just me, no.

22 Q. So this lawsuit was not something that you  
23 had thought about until someone contacted you?

24 A. Specifically, correct. But I would want to  
25 be involved in something like this. If it wasn't

# EXHIBIT 7

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

SANDRA LITTLE COVINGTON, )  
et al., )

Plaintiffs, )

vs. )

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

Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF SUSAN SANDLER CAMPBELL

(Taken by Defendants)

Greensboro, North Carolina

Tuesday, February 9, 2016

1           was already asked and answered.

2       BY MR. MCKNIGHT:

3           Q.    You can answer.

4           A.    Seriously, I have no idea. I have no  
5       recollection of any of this. I've tried.

6           Q.    But you think during that call they asked  
7       you if you lived in the district, right? Is that  
8       what you said?

9           A.    Yes.

10          Q.    And the district you're talking about is  
11       Senate District 32?

12          A.    Correct.

13          Q.    And how long was that conversation?

14          A.    I seriously have no idea. I doubt it was  
15       all that long.

16          Q.    Do you remember whether you agreed in that  
17       conversation to join the lawsuit?

18          A.    I must have.

19          Q.    And do you remember whether there was any  
20       discussion about what the goals of the lawsuit were?

21          A.    No.

22          Q.    And did you have any understanding about  
23       what the goals of the lawsuit were when you decided  
24       to join them?

25               MR. EPPSTEINER: I'm going to object if

1           that relates to any conversation she had with  
2           the attorneys in this case. That's  
3           attorney/client privilege information. You can  
4           answer to the extent revealing that would not  
5           relate to conversations with attorneys.

6           THE WITNESS: I think it was -- I don't  
7           think I had any conversation with the person who  
8           asked me. The conversation about what the  
9           lawsuit was was with the attorney.

10          BY MR. MCKNIGHT:

11           Q.    So all you recall is a conversation with  
12           the person that you can't remember who asked you if  
13           you wanted to join the lawsuit and asked if you lived  
14           in Senate District 32; is that right?

15           A.    (Witness nods head in agreement.)

16           Q.    And then the next thing that happened was  
17           you got a call from an attorney; is that correct?

18           A.    Yes.

19           Q.    Which attorney called you?

20           A.    I believe it was John O' Hale.

21           Q.    And how far apart were those two  
22           conversations? Do you recall?

23           A.    I would say a week.

24           Q.    Now, did the person who originally  
25           contacted you about the lawsuit, did they tell you

1 whether it would cost you anything to become a  
2 plaintiff in the lawsuit?

3 A. No.

4 Q. Did you ask about that?

5 A. No.

6 Q. And why not?

7 A. I don't know.

8 Q. And sitting here today, do you know who is  
9 responsible for the payment of fees and costs in this  
10 lawsuit?

11 A. I do not know.

12 Q. And is that something that you've ever  
13 inquired about?

14 A. It is not.

15 Q. Ms. Campbell, do you believe that you have  
16 been harmed in any way by the manner in which Senate  
17 District 32 was drawn?

18 A. I'm a progressive white voter, and I've  
19 seen how the district, it's reached into these  
20 communities and pulled black voters into the  
21 district. And I think it's limited the influence of  
22 the black voters in the district. I've seen the  
23 confusion that the split precincts have caused.

24 Q. Now, how has the influence of black voters  
25 who live in District 32 been diminished by the way

# EXHIBIT 8



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., )

Defendant. )

DEPOSITION OF VIOLA FIGUEROA

Volume I

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3:42 P.M.

FRIDAY, FEBRUARY 5, 2016

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OGLETREE, DEAKINS, NASH, SMOAK & STEWART

4208 SIX FORKS ROAD, SUITE 1100

RALEIGH, NORTH CAROLINA 27609

By: Sophie Brock, RPR, CRR

1 Q. Okay.

2 Have you held any other positions in any  
3 kind of political organization?

4 A. No.

5 Q. And let's go with since you came back to  
6 Wayne County 12 years ago.

7 A. I was a treasurer, at one point, for the  
8 African American Caucus, before taken on as president.

9 Q. All right. Are you still a member of the  
10 African American Caucus?

11 A. No.

12 Q. Okay. But I assume you are still a member of  
13 Democratic Women, if you are --

14 A. Yes.

15 Q. -- still the Region 8 director?

16 A. Yes.

17 Q. All right.

18 Let me turn to some -- to this case  
19 specifically. How did you become a plaintiff in this  
20 case?

21 A. Other than living in the position -- the  
22 district at the time -- location -- I was asked by  
23 Mr. Doug William -- Wilson -- Doug Wilson -- about it.

24 Q. Okay. And who is Doug Wilson?

25 A. He -- I forgot what position holds at the

1 Democratic headquarters in Raleigh.

2 Q. All right. But is it your understanding that  
3 he is with the Raleigh headquarters of the Democratic  
4 Party?

5 A. Yes, sir, he is.

6 Q. All right. How long have you known him?

7 A. About a year and a half, two years.

8 Q. All right. How did you meet him?

9 A. Via the Democratic headquarters and  
10 Kay Hagan.

11 Q. And Kay Hagan?

12 A. Yes.

13 Q. Was that in connection with the Kay Hagan  
14 campaign?

15 A. Yes, sir.

16 Q. Did you do any work with that campaign?

17 A. Volunteer, so that I would know more about  
18 the ins and outs of the political world.

19 Q. All right. Have you volunteered with other  
20 campaigns?

21 A. Senator Davis. And I am currently a campaign  
22 manager for -- well, a DA who's going for a judge.

23 Q. All right. Is that in Wayne County?

24 A. Yes, sir.

25 Q. Okay. Do you recall whether Mr. Wilson

1 contacted you or approached you about being a  
2 plaintiff in the case, or did you approach him about  
3 it?

4 A. No, he called me.

5 Q. He called you; so it was by telephone call?

6 A. Yes.

7 Q. Okay. Do you recall when that was?

8 A. I'm going to say last summer, if I had to  
9 guess.

10 Q. All right. And again, this is not a test --

11 A. Right.

12 Q. -- I'm just asking to the best of your  
13 recollection.

14 A. Yes. I believe 2015. Summer of 2015.

15 Q. Okay. Since it was a telephone conversation,  
16 was anyone else involved in that telephone  
17 conversation?

18 A. Not that I know of.

19 Q. All right. Do you recall what he said to you  
20 when he called?

21 A. Word for word, no, but that, because I lived  
22 in the district that was affected -- involved, he  
23 asked me would I be willing to participate in it; and  
24 I said yes.

25 Q. All right. Did you say yes right then --

1 A. Yes.

2 Q. -- on the phone?

3 A. Yes.

4 Q. What he did tell you -- let me back up.

5 You said since you lived in the district  
6 that was affected. Which district are you talking  
7 about?

8 A. District 5 -- Senate District 5 and House 21.

9 Q. Both of those districts?

10 A. Yes.

11 Q. All right.

12 Did he -- what did he tell you about the  
13 lawsuit? About what the goal was or ...

14 A. I don't recall him mentioning what the end  
15 goal was. However, when he was saying about the way  
16 it was redistricting, how it could -- or it affected  
17 the black voters, that's why I said yes. And  
18 I didn't -- I don't feel personally he would have, you  
19 know, reached out to ask me to be a part of anything  
20 that would be harmful, so I trusted him with that.

21 Q. Okay. Did you have any conversation with him  
22 about -- after that conversation, about the lawsuit?

23 A. No, because shortly thereafter, a gentleman  
24 contacted me -- and I don't remember his name --  
25 contacted me, informed me what it was about, the gist

1 of it, and that he would be forwarding some  
2 information to me.

3 Q. Okay. Did you say you don't recall that  
4 gentleman's name?

5 A. No. It was a -- no, I don't remember.

6 Q. Do you recall where he was from?

7 A. That was through the Southern Coalition.

8 Q. Somebody from the Southern Coalition --

9 A. Yes.

10 Q. -- contacted you? Okay.

11 When you talked with Mr. Wilson, did he have  
12 any conversation with you about how the lawsuit would  
13 be paid for? How the attorneys would be paid in the  
14 case?

15 A. No.

16 Q. Did the topic of payment come up at all?

17 A. No. No.

18 Q. So you didn't ask him?

19 A. I didn't ask him. It did not come up. I did  
20 ask the gentleman that initially made contact with me,  
21 would we, as plaintiffs, have to pay anything. He  
22 said no.

23 Q. Okay. Do you know how the lawyers are being  
24 paid? Do you know?

25 A. No, sir.

1 BY MR. PETERS:

2 Q. The document is the First Amended Complaint  
3 in this lawsuit, and it is 95 pages. I fully  
4 recognize it is long.

5 So let me ask you this: Going back, you  
6 said you had a conversation with Mr. Wilson about  
7 whether or not you would participate in this lawsuit.  
8 You had a conversation with the gentleman whose name  
9 you don't remember at the Southern Coalition for  
10 Social Justice. Between that time and the time the  
11 lawsuit was filed, do you recall any other  
12 conversations that you had with anyone about the  
13 lawsuit?

14 And before I finish that question, I want to  
15 be really clear that if it's a conversation you had  
16 with one of your lawyers, I don't want to know what  
17 you talked about. I'm not asking you to tell me what  
18 was said.

19 But just do you recall between that  
20 conversation with the gentleman at the Southern  
21 Coalition and the time the lawsuit was filed -- do you  
22 recall whether there were more conversations about the  
23 lawsuit?

24 A. No.

25 Q. Okay. No, you don't recall?

1 A. No, there was no conversation.

2 Q. Okay. Do you recall anybody ever saying to  
3 you, "This is doc-" -- or providing you with a  
4 document that was going to be filed in the case?

5 A. No. There was no conversation or document.

6 Q. All right.

7 Do you know when the case was filed?

8 A. No.

9 Q. All right. Between the time that you --  
10 well, strike that.

11 Let me ask you to look at page 24.

12 MS. RIGGS: You don't have a color copy  
13 of this, do you?

14 MR. PETERS: I'm afraid I don't. Yeah,  
15 this really isn't going to work without a color copy.

16 MS. RIGGS: I have one color copy we  
17 could use.

18 MR. PETERS: I don't think it's a big  
19 enough deal to worry about that at this point --

20 MS. RIGGS: Okay.

21 MR. PETERS: -- so let's just strike  
22 that.

23 BY MR. PETERS:

24 Q. Let me hand you -- this isn't quite as thick  
25 as the last exhibit was. This is going be a Figueroa



1 date of birth and address you've given earlier in the  
2 deposition; right?

3 A. Yes.

4 Q. All right. Do you recall when anyone  
5 obtained that information from you about your date of  
6 birth and your address?

7 A. No, I do not.

8 Q. Okay.

9 Let me ask you to keep turning a little bit.  
10 Let me ask you to look at page 12. Are you there?

11 A. Yes.

12 Q. Do you see the Interrogatory No. 2?

13 A. Um-hum.

14 Q. And tell me if I'm reading this correctly:

15 "Identify any political party  
16 organization, political committee,  
17 candidate campaign committee, or  
18 related organization for which you  
19 have worked, volunteered, or held  
20 any position with since January 1,  
21 2004. For each organization  
22 identified, state the dates you  
23 worked, volunteered, or held any  
24 position with the organization,  
25 the nature of the work or

1 volunteer duties you performed for  
2 the organization, and the  
3 position(s) you held with the  
4 organization."

5 Do you see that?

6 A. Yes.

7 Q. All right. Let me ask you to look at the  
8 next page, page 13, and again, tell me if you see your  
9 name a little down below the middle of the page.

10 A. Yes.

11 Q. All right. And you see it says:

12 "President of the African American  
13 Caucus of the Wayne County  
14 Democratic Party."

15 A. Yes.

16 Q. It does not say anything about Democratic  
17 Women, does it?

18 A. No.

19 Q. And it doesn't say anything about your role  
20 as a precinct chair, does it?

21 A. No.

22 Q. And it doesn't say anything about you working  
23 with the Kay Hagan campaign, does it?

24 A. No.

25 Q. Or with Donald Davis's campaign?

1 A. No.

2 Q. All right.

3 Do you recall when anybody asked you for  
4 this information or gathered this information from  
5 you?

6 A. No.

7 Q. Okay. Do you recall that anybody ever asked  
8 you for this kind of information?

9 A. No.

10 Q. Okay. All right.

11 Let's keep turning through the pages. This  
12 takes a little while sometimes because there are lots  
13 of names here, and obviously the answers are being  
14 given for every plaintiff.

15 Let me ask you to look at No. 4 on page 30.  
16 And it's long, so rather than me reading the whole  
17 thing, I'm just going to ask you to read it, if you  
18 will.

19 A. Okay.

20 Q. I'm just going to ask you -- take these  
21 organizations in here one by one -- whether you've  
22 ever been a member of the North Carolina State  
23 Conference of Branches of the NAACP?

24 A. No.

25 Q. What about the League of Women Voters?

1 Q. Let me ask you to look further down that page  
2 and the next page. Do you see anything where that is  
3 listed, that you were a plaintiff in that case?

4 I'll represent to you I see a Julian Charles  
5 Pridgen, and that's the only person I see listed under  
6 that before you get to the next interrogatory, 9.

7 A. Are we on page 40?

8 Q. We were on page 39, going on to page 40.

9 A. Okay.

10 Q. But you'll see Interrogatory 9 starts toward  
11 the top of page 40.

12 A. Okay.

13 Q. So your name is not listed there as having  
14 had a previous lawsuit?

15 A. No, sir, it's not.

16 Q. Do you recall anybody seeking that  
17 information from you?

18 A. No, sir.

19 Q. Okay.

20 Now, on page 40, if you look at  
21 Interrogatory 9, do you see it asks for social media  
22 information?

23 A. Yes.

24 Q. And do you see down at the bottom, it says,  
25 at the very bottom of page 40, that you have a Twitter

1 Now, let me ask you to turn back to page 45.

2 A. Okay.

3 Q. You'll see down at the bottom there a heading  
4 that's "Request for Production" of documents?

5 A. Yes.

6 Q. And this is where we ask the plaintiffs to  
7 produce a variety of documents that we believe are  
8 pertinent to the case.

9 To your recollection, has anybody asked you  
10 whether you have in your possession any documents that  
11 might be relevant to this case or relevant to a  
12 response from the defendants?

13 A. No, they have not asked.

14 MR. PETERS: Let me ask you a question.  
15 We've been going about an hour. I don't have a whole  
16 lot more, but enough more that if anybody wants to  
17 take a break ...

18 My guess is, if we don't take a break, we're  
19 probably talking maybe 15 more minutes.

20 MS. RIGGS: It's up to you.

21 MR. PETERS: I'll leave it up to you  
22 whether you want to keep going or --

23 THE WITNESS: If I can get something to  
24 quench my thirst.

25 MR. PETERS: Absolutely.

1 Q. -- that I believe we received last night --

2 MR. LAWLER: Early this morning.

3 BY MR. PETERS:

4 Q. -- or early this morning, between the time  
5 I last looked at email last night and the time  
6 I looked at it this morning.

7 MR. PETERS: And I'll note again there's  
8 no verification, so I can assume that's coming?

9 MS. RIGGS: Yes.

10 MR. PETERS: Okay.

11 BY MR. PETERS:

12 Q. Let me ask you to look at page 4 -- actually,  
13 start at page 3, and you'll see Interrogatory 3. And  
14 that should be the same question about member in the  
15 NAACP and other groups?

16 A. Yes.

17 Q. And do you see on page 4 that it says you're  
18 not a member of these organizations?

19 A. That is correct.

20 Q. And, again, do you recall anybody asking you  
21 for that information?

22 A. No one has asked.

23 Q. Okay. Look down at the bottom of that page,  
24 you'll see Interrogatory 4?

25 A. Yes.

1 A. No.

2 Q. Do you know how that information might have  
3 been obtained to make this response, if you weren't  
4 asked about it?

5 A. Correction.

6 Q. Sure.

7 A. I was asked if I was a member of any of those  
8 organizations, and I told them no, I was not --

9 Q. Okay.

10 A. -- but I do get emails.

11 Q. Okay.

12 A. Yes.

13 Q. Well, just so that we're clear, there were a  
14 number of things I asked you about before where  
15 I asked you if anyone had asked you about them and you  
16 said no. Do we need to go back and look at those  
17 again to see if somebody might have asked you about  
18 them?

19 We can do that if we need to, because  
20 I don't want to -- I want to make sure we're accurate  
21 here.

22 A. Prior to yesterday, no, no one had asked me  
23 about any of those other items you asked me about.

24 Q. But yesterday you were asked about them?

25 A. Yes.

# EXHIBIT 9



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.,                               )  
                                      )  
                  Defendant.       )  
\_\_\_\_\_)

DEPOSITION OF GREGORY TUCKER  
Volume I

\_\_\_\_\_  
2:59 P.M.

THURSDAY, FEBRUARY 11, 2016  
\_\_\_\_\_

OGLETREE, DEAKINS, NASH, SMOAK & STEWART  
4208 SIX FORKS ROAD, SUITE 1100  
RALEIGH, NORTH CAROLINA 27609

By: Sophie Brock, RPR, CRR

1 case?

2 A. I became a plaintiff in this case -- I was  
3 referred by Betsy Leach, a Democrat in Greenville.  
4 I was referred to someone on a state level of the  
5 Democrats. And I can't recall this guy's name because  
6 it was so -- it was last year.

7 And from there, he called me, and we talked,  
8 and he explained what this case was going to be about.  
9 And he had my attorneys, Poyner & Spruce [sic] -- if  
10 I'm saying it right.

11 Am I? Because I mess it up every time. I'm  
12 being honest. I mess it up every time.

13 And they called me and we spoke about this.

14 Q. Okay. Let me back up on that just a little  
15 bit.

16 You said you talked with Betsy Leach?

17 A. Mm-hmm.

18 Q. And who is she exactly?

19 A. She is a member of the Pitt County Democrats.

20 Q. All right. Did she approach you about being  
21 a plaintiff in the case, or did you approach her?

22 A. She had mentioned it to me, and I said would  
23 it be okay to give him my name.

24 Q. Okay.

25 A. I cannot tell you the guy's name.

1 Q. Might it have been Doug Wilson?

2 A. That's him.

3 Q. Okay.

4 A. That's him. Doug Wilson, yes. Because  
5 I talked to him several times.

6 Q. All right. Do you remember when you had  
7 conversations with him?

8 A. I cannot -- no. I cannot tell -- I know I've  
9 had several conversations with him, but dates, times,  
10 I cannot give you, no.

11 Q. That's fine. Like I said, this is not a  
12 test.

13 A. Mm-hmm.

14 Q. So am I correct in understanding that Betsy  
15 Leach approached you; you told her it would be fine  
16 for Doug Wilson to contact you; and then he contacted  
17 you?

18 A. Yes.

19 Q. And then am I correct that after some  
20 conversations with him, he referred you to Poyner &  
21 Spruill?

22 A. Yes.

23 Q. All right. When you had the conversations  
24 with Doug Wilson, was anyone else involved in those  
25 conversations?

1 Q. Did he talk at all about whether you would be  
2 responsible for paying any of the cost of the case?

3 A. I know that I'm not responsible for paying  
4 for it. I got paperwork on that that stated I'm not  
5 responsible for payment.

6 Q. Okay. What paperwork is that?

7 A. There's a special word used for that type of  
8 paperwork, because it came from the lawyers' office  
9 and I signed it. But I can't tell you what the name  
10 of it is called, because I'm not a lawyer --

11 Q. That's fine.

12 A. -- but I did sign it, and it did read that  
13 I was not responsible for payment.

14 Q. Okay. Might it have been called a retention  
15 letter?

16 A. A retention letter?

17 Q. Mm-hmm.

18 A. That doesn't sound like it, no.

19 Q. Okay.

20 MR. PETERS: I'll note we haven't gotten  
21 that in production. Is that -- privilege being  
22 claimed for that?

23 MS. MACKIE: We're debating. We'll be  
24 in touch about that.

25 MR. PETERS: Okay.