

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. )  
)  
STATE OF NORTH CAROLINA, *et al.* )  
)  
Defendants. )  
\_\_\_\_\_ )

**LEGISLATIVE DEFENDANTS’  
MOTION TO PRESENT  
WITNESSES**

Pursuant to the Order dated December 12, 2017 (D.E. 228), legislative defendants respectfully move the Court for leave to present the following witnesses at the hearing on the special master’s report scheduled for January 5, 2018:

1. Douglas Johnson, PhD.

Dr. Johnson’s *curriculum vitae* is attached. Dr. Johnson is expected to testify about the extent to which race predominated over other traditional redistricting criteria in the special master’s proposed version of the challenged districts. Dr. Johnson is also expected to testify about the extent to which changes in districts in Wake and Mecklenburg Counties that did not adjoin unconstitutional districts were necessary in re-drawing the unconstitutional districts. This testimony is necessary because it is directly related to the issues in the case and will refute plaintiffs’ evidence and the special master’s report.

2. Hank Henning, Guilford County Commissioner. Commissioner Henning is expected to testify about the effect of the special master's proposed plan on citizen representation in the area of Guilford County represented by Commissioner Henning. This testimony is necessary because it is directly related to the issues in the case and will refute plaintiffs' evidence and the special master's report.

3. Michael C. Boose, Cumberland County Commissioner. Commissioner Boose is expected to testify about the effect of the special master's proposed plan on citizen representation in the area of Cumberland County represented by Commissioner Boose. This testimony is necessary because it is directly related to the issues in the case and will refute plaintiffs' evidence and the special master's report.

4. Professor Nathaniel Persily

Legislative defendants request leave to cross-examine the special master. *See, e.g., J.B.N. Morris v. Homco Intern., Inc.*, 1987 WL 16818 (E.D. La. Sept. 8, 1987) (noting that court had allowed cross-examination of special master); *Casey v. Lewis*, 1993 WL 652786 (D. Az. Oct. 13, 1993) (allowing cross-examination of special master).

5. Rebuttal witnesses

Legislative defendants request leave to present rebuttal witnesses if the need arises depending on the testimony of any witnesses presented by plaintiffs.

WHEREFORE, legislative defendants respectfully move the Court for leave to present the above witnesses at the hearing on the special master's report scheduled for January 5, 2018.

This 15<sup>th</sup> day of December, 2017.

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

/s/ Phillip J. Strach

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of December, 2017, I have served the foregoing **LEGISLATIVE DEFENDANTS' MOTION TO PRESENT WITNESSES** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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# Resume of Douglas Johnson, Ph.D.

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## Employment

Fellow, Rose Institute of State and Local Government, 2001 – present.  
President, National Demographics Corporation, 2006 – present.  
Senior Analyst, National Demographics Corporation, 2001 – 2006.  
Project Manager and Senior Manager at three internet startup companies, 1999 - 2001.  
U.S. Representative Stephen Horn, Legislative Director and System Manager. 1993 – 1997.  
Coro Foundation, Fellowship in Public Affairs. 1992 – 1993.  
Rose Institute for State and Local Government, Student Manager. 1989 – 1992.

## Education

Claremont Graduate University, Ph.D. in Political Science, 2015.  
Dissertation: “Independent Redistricting Commissions: Hopes and Lessons Learned.”  
UCLA Anderson Graduate School of Management, MBA, 1999.  
Claremont McKenna College, BA in Government (Political Science), 1992.

## Academic Honors

Graduated Cum Laude from Claremont McKenna College.  
Phi Beta Kappa. Philip Roland Prize for Excellence in Public Policy.

## Publications and Articles

Quiet Revolution in California Local Government Gains Momentum, Rose Institute of State and Local Government White Paper on California Voting Rights Act, November 3, 2016.  
Visalia Times, “How to draw new city council districts,” September 19, 2014.  
Christian Science Monitor “Let the public help draw voting districts,” October 25, 2013.  
New York Times, “The Case for Open Primaries,” February 19, 2009.  
Los Angeles Times Opinion Articles:  
“A neighbor’s help on redistricting” June 24, 2007.  
“A Trojan horse primary for the GOP” February 25, 2007.  
“Where a porn palace stood” (article on redevelopment), July 30, 2006.  
Fresno Bee Opinion Article: “The Poison Handshake” June 15, 2004.  
Redistricting in America. Rose Institute of State and Local Government, 2010.  
Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77. Rose Institute of State and Local Government, 2005.  
"Competitive Districts in California" Rose Institute of State and Local Government, 2005.  
Latinos and Redistricting: “Californios For Fair Representation” and California Redistricting in the 1980s. Rose Institute of State and Local Government, 1991.

## Speaker or Panelist

California School Board Association Annual Education Conference panelist: “15 Years with the California Voting Rights Act: Lessons Learned and Challenges Ahead.” December 1, 2017.  
University of California's National Public Service Law Conference: Civil Rights in the 21st Century: Moderator, “Voting Rights 101.” September 23, 2017.  
City Clerks Association of California Annual Conference panelist: “California Voting Rights Act: Putting the 2016 Legislation into Practice.” April 13, 2017.

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## Douglas M. Johnson, Ph.D.

### Speaker or Panelist (continued)

California School Board Association Annual Education Conference panelist: "The California Voting Rights Act: What Board Members Must Know." December 4, 2015.

Associated Cities of California – Orange County, Keynote Speaker, Newly Elected Officials' Reception and Dinner, "The California Voting Rights Act," January 29, 2015.

California League of Cities, City Manager Department, 2015 Department Meeting: "Opportunity to Engage Residents: The California Voting Rights Act." January 29, 2015.

California League of Cities, City Clerk Department, 2014 Annual Meeting: "Whose Line Is It Anyway: Making the transition from at-large to by-district elections." September 3, 2014.

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007 Spring Forum, "The Arizona Independent Redistricting Commissions' experiences with the first-ever independent redistricting."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008 Spring Forum, "Communities of Interest In Redistricting: A Practical Guide."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009 Fall Forum, "The Key to Successful Redistricting."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010 Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011 Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."

Luncheon Keynote Speaker, Santa Barbara's Channel Cities Club, "California's next experiment: independent, public redistricting," January 18, 2011.

Annual Conference, Arizona League of Cities and Towns, Presenter at "Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011," August 25, 2010.

Redistricting, The 2010 Census, and Your Budget, Sponsored by the Rose Institute of State and Local Government, California League of Cities, October 15, 2009.

Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010.

California's New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009.

Tribal Association of Sovereign Indian Nations (TASIN) Legislative Day 2009, "The 2010 Census and 2011 Redistricting in California," December 2, 2009.

California School Board Association, "Litigation Issues and the California Voting Rights Act," December 4, 2009.

California Latino School Boards Association, "Introduction to the California Voting Rights Act," August 20, 2009.

Building a National Reform Movement, Salt Lake City, Utah, 2006, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government.

Texas Tech University, "A Symposium on Redistricting," May, 2006.

California League of Cities, "Introduction to the California Voting Rights Act."

Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007.

Classroom speaker at Bellflower High School, Pepperdine University, the University of La Verne, Pomona College and Claremont McKenna College.

### Charter and/or Ballot Language Consultant

## Douglas M. Johnson, Ph.D.

- Castaic Lake Water Agency and Newhall County Water District consultant advising on process, rules and legislation language for merger of the two districts including changing from at-large to by-district election system. (2015-2016)
- City of Corona: consultant for City Council on a potential city charter and a move to by-district elections. (2015-2016)
- City of El Cajon: consulted on writing of charter revision and public education campaign for ballot measure changing from at-large to by-district City Council elections. (2016)
- City of Goleta: consulted on development of ordinances and ballot language asking voters what election system they preferred. (2003 – 2004)
- City of Menifee: advised commission considering language on by-district elections. (2009 – 2010)
- City of Modesto: advised commission that successfully developed a city charter change moving Pasadena Unified from at-large to by-district elections and created an independent redistricting commission. (2006 – 2008)
- City of Pasadena (on behalf of Pasadena Unified School District): advised commission that successfully developed a city charter change moving Pasadena Unified from at-large to by-district elections and created a redistricting commission. (2011 – 2012)

### Litigation Experience

- Expert witness declaration for City of Fullerton in *Jamarillo v City of Fullerton* litigation under the California Voting Rights Act.
- Expert witness declaration for City of Whittier in *Diego v City of Whittier* litigation under the California Voting Rights Act.
- Expert witness declaration and deposition for plaintiff in *Harris vs Arizona Independent Redistricting Commission* litigation.
- Expert witness declaration and deposition for Santa Clarita Community College District in *Solis v Santa Clarita Community College District* litigation under the California Voting Rights Act.
- Testified as expert witness for City of Highland in *Garrett v City of Highland* litigation under the California Voting Rights Act.
- Testified as expert witness for City of Palmdale in *Jauregui et al vs City of Palmdale* and *Garrett v City of Highland* litigation under the California Voting Rights Act.
- Testified as 30(b)(6) “Most Knowledgeable” witness for Arizona Independent Redistricting Commission in *Arizona Minority Coalition v Arizona Independent Redistricting Commission*, including seven days of direct testimony and cross-examination in the state court case. Also testified in the related federal court case.
- Consulting expert for the following jurisdictions on their California Voting Rights Act-related cases, including preparing analysis and assisting with witness and attorney preparation: Cities of Anaheim; Compton, Modesto, Poway, Santa Clara, Santa Clarita, and Whittier; Santa Clarita Community College District; Tulare Health Care District.

### Voting Rights Act and Racial Bloc Voting Analysis

- Attorney-client privilege bars the listing of most of NDC's specific clients, but NDC has performed racial bloc voting analysis for clients of the following law firms (and for other jurisdictions):
- Nielsen, Merksamer, Parrinello, Gross & Leoni: Compiled and analyzed data for over 120 different jurisdictions facing voting rights litigation;
  - Lozano, Smith: Performed analysis of racial bloc voting in 4 separate jurisdictions.
  - Richards, Watson & Gerson: Compiled and analyzed potential liability under California Voting Rights Act and California Voter Participation Rights Act for multiple cities.

## Douglas M. Johnson, Ph.D.

Atkinson, Andelson, Loya, Ruud & Romo: Performed/performing on analysis of racial bloc voting in 4 separate jurisdictions and California Voter Participation Rights Act liability analysis for multiple school districts.

Dooley, Herr & Peltzer: Performed racial bloc voting analysis of 7 elections in 4 different election years. Also advised attorneys on rebuttal of plaintiff's racial bloc voting analysis.

### Districting / Redistricting Clients

(Jurisdictions in California unless otherwise noted. \* Indicates advisory or independent commission)

#### States

State of Arizona 2001  
Independent Redistricting  
Commission \*  
Florida State Senate

#### Counties

1. Los Angeles  
2. Merced  
3. San Diego  
4. San Bernardino  
5. San Mateo  
6. Yuma (AZ)

#### Cities

1. Agoura Hills  
2. Anaheim  
3. Arcadia  
4. Atwater  
5. Banning  
6. Barstow  
7. Bellflower  
8. Big Bear Lake  
9. Buena Park  
10. Carlsbad  
11. Cathedral City  
12. Ceres  
13. Chino  
14. Chino Hills  
15. Compton  
16. Corona  
17. Dixon  
18. Duarte  
19. Eastvale  
20. El Cajon  
21. Eureka  
22. Fontana  
23. Fullerton  
24. Glendale (AZ)

25. Glendora  
26. Hemet  
27. Hesperia  
28. Highland  
29. Indio  
30. Jurupa Valley  
31. King City  
32. La Mirada  
33. Lake Forest  
34. Lompoc  
35. Los Banos  
36. Madera  
37. Martinez  
38. Menlo Park \*  
39. Merced  
40. Mesa (AZ)  
41. Modesto \*  
42. Moreno Valley  
43. Morgan Hill  
44. Murrieta  
45. Norco  
46. Oxnard  
47. Palmdale  
48. Pasadena \*  
49. Patterson  
50. Peoria (AZ)  
51. Placentia  
52. Poway  
53. Rancho Cucamonga  
54. Redlands  
55. Reedley  
56. Riverbank  
57. San Marcos  
58. Sanger  
59. Santa Barbara  
60. Santa Maria  
61. South Pasadena  
62. Stockton  
63. Surprise (AZ)  
64. Temecula

65. Tulare  
66. Turlock  
67. Twentynine Palms  
68. Visalia  
69. Vista  
70. West Covina  
71. Whittier  
72. Wildomar  
73. Yucaipa

#### School Districts

1. Antelope Valley  
Community College  
2. Bakersfield City  
3. Buena Park  
4. Burton Elementary  
5. Cajon Valley  
6. Carlsbad Unified  
7. Caruthers Unified  
8. Castaic Elem  
9. Central Unified  
10. Centralia  
11. Chino Valley Unified  
12. Clay Joint Elementary  
13. Coalinga – Huron  
Board of Education  
14. Coast Community  
College  
15. Covina Valley Unified  
16. Cypress Elementary  
17. Eastside Union Elem  
18. El Monte High  
19. Escalon Unified  
20. Escondido High  
21. Escondido Union  
22. Exeter Union  
Elementary  
23. Exeter Union High  
24. Fairfield-Suisun Unified

## Douglas M. Johnson, Ph.D.

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|--|--|---|
| 25. Firebaugh-Las Deltas<br>Joint Unified    | 60. Panama-Buena Vista<br>Union Elementary                         | 90. Tulare City                         |
| 26. Fowler Unified                           | 61. Pasadena Unified *   | 91. Tulare County Board of<br>Education |
| 27. Fresno Unified                           | 62. Pasadena Area<br>Community College                             | 92. Tulare Joint Union<br>High          |
| 28. Fullerton Joint Union<br>High            | 63. Perris Union High  | 93. Tulelake Basin                      |
| 29. Glendale Community<br>College            | 64. Pixley Union<br>Elementary                                     | 94. Turlock Unified                     |
| 30. Glendale Unified                         | 65. Placentia-Yorba Linda<br>Unified                               | 95. Tustin Unified                      |
| 31. Golden Plains                            | 66. Pomona Unified   | 96. Visalia Unified                     |
| 32. Greenfield Union                         | 67. Porterville Unified  | 97. Vista Unified                       |
| 33. Grossmont Union High<br>School District  | 68. Poway Unified  | 98. Washington Colony<br>Elementary     |
| 34. Grossmont-Cuyamaca<br>Community College  | 69. Rancho Santiago<br>Community College                           | 99. Waterford Unified                   |
| 35. Hughson Unified                          | 70. Richland Union<br>Elementary                                   | 100. Weaver Union<br>Elementary         |
| 36. Kerman Unified                           | 71. Riverbank  | 101. West Fresno<br>Elementary          |
| 37. Kern Union High                          | 72. Riverdale Joint Union<br>High School                           | 102. Westminster                        |
| 38. Keyes Union                              | 73. Salida Union   | 103. Whittier City School<br>District   |
| 39. Kings Canyon Unified                     | 74. San Benito High  | 104. Woodlake Unified                   |
| 40. Kings River Elementary                   | 75. San Diego Community<br>College                                 |   |
| 41. Kingsburg Elementary<br>Charter          | 76. San Dieguito Union<br>High                                     |   |
| 42. Kingsburg Joint Union<br>High            | 77. San Jacinto Unified  |   |
| 43. Lancaster City<br>Elementary             | 78. San Juan Capistrano  |   |
| 44. Lawndale Elem                            | 79. San Luis Obispo<br>County (Cuesta)<br>Community College        |   |
| 45. Le Grand Union<br>Elementary             | 80. Sanger Unified   |   |
| 46. Lindsay Unified                          | 81. Santa Clarita (College of<br>the Canyons)<br>Community College |   |
| 47. Lowell Joint Union                       | 82. Selma Unified  |   |
| 48. Madera Unified                           | 83. Sequoia Union High   |   |
| 49. Magnolia Elem                            | 84. Sierra Community<br>College                                    |   |
| 50. Merced City Elementary                   | 85. Simi Valley Unified  |   |
| 51. Merced Union High                        | 86. Strathmore Union<br>Elementary                                 |   |
| 52. MiraCosta Community<br>College           | 87. Sulphur Springs<br>Elementary                                  |   |
| 53. Modesto City Schools                     | 88. Sundale Union<br>Elementary                                    |   |
| 54. Monson-Sultana Joint<br>Union Elementary | 89. Sweetwater High  |   |
| 55. Morgan Hill Unified                      |  |   |
| 56. Newhall                                  |  |   |
| 57. Newman-Crows<br>Landing Unified          |  |   |
| 58. Oak Grove Elementary                     |  |   |
| 59. Oceanside USD                            |  |   |

### Special Districts

1. Alta Irrigation District
2. Castaic / Newhall Water  
Agency
3. Imperial Irrigation  
District
4. Mojave Water Agency
5. Palmdale Water District
6. Rowland Municipal  
Water District
7. San Benito Health Care  
District
8. San Bernardino Water  
District
9. San Diego County Board  
of Education
10. Three Valleys Municipal  
Water District
11. Tri-Cities Healthcare  
District
12. Tulare Regional Health  
Care District