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

Latasha Holloway, et al., **Plaintiffs,** **v.** **City of Virginia Beach, et al.,** **Defendants.**	**Civil Action No. 2:18-cv-0069**

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' RENEWED MOTION TO BIFURCATE TRIAL

COME NOW the Defendants, by counsel, and in support of their Renewed Motion to Bifurcate Trial, pursuant to Federal Rule of Civil Procedure 42(b), thereby separating the trial of the threshold *Thornburg v. Gingles* preconditions inquiry from any potential trial of the totality-of-the-circumstances inquiry, state as follows:

BACKGROUND

Plaintiffs Latasha Holloway and Georgia Allen have sued Defendants, contending that the City of Virginia Beach's ("City") at-large system of electing councilmembers violates Section 2 of the Voting Rights Act of 1965 by diluting the voting power of the City's Minority Voters.[1]

Plaintiffs' action "seeks to replace [the at-large election system] with a system in which Black, Hispanic or Latino, and Asian American voters are *together able* to elect their preferred

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

candidates of choice to the City Council." (Am. Compl. ¶ 1) (emphasis added). Plaintiffs further allege that "Virginia Beach's Black, Hispanic or Latino, and Asian population is sufficiently numerous and geographically compact to allow for the creation of two single-member districts in which Minority Voters would constitute a majority of both the total population and the citizen voting age-population." (Am. Compl. ¶ 84.) Moreover, Plaintiffs allege that "Virginia Beach's Minority Voters are politically cohesive," and that "Hispanic and Asian voting patterns track Black voting patterns." (Am. Compl. ¶¶ 52, 53.)

To support their allegation that "Virginia Beach's minority population is sufficiently numerous and geographically compact to form a majority of the total population and citizen voting age population in at least two single-member City Council districts," (Am. Compl. ¶ 49), Plaintiffs' Amended Complaint offered a map with two "demonstration" districts wherein the citizen voting age population ("CVAP") of Blacks, Hispanics, and Asians together comprise 50.13% and 50.21%, respectively, of the total CVAP, (Am. Comp. Ex. 1). Moreover, Plaintiffs' Brief in Opposition to Defendants' Motion for Summary Judgment expressly affirms that the following correctly characterizes Plaintiffs' theory of the case:

> Plaintiffs' Amended Complaint asserts a vote dilution claim under Section 2 of the Voting Rights Act of 1965, seeking to replace the present seven residence district, all at-large voting system of electing council members "with a system in which Black, Hispanic or Latino, and Asian American voters are together able to elect their preferred candidates of choice to the City Council."

(ECF No. 118, p. 1 ("Plaintiffs do not dispute Fact[] 1… in Defendants' statement of material facts")). In short, all of Plaintiffs' claims, factual allegations, expert opinions and arguments in this matter are premised upon the existence and legal viability of this tri-partite coalition of minorities. (*See* ECF No. 62, Am. Compl. ¶¶ 1, 8, 48, 53, 55.)

On May 31, 2019, Defendants filed a Motion to Bifurcate Trial, asking the Court to separate the discovery and trial of the two distinct "phases" of a Section 2 claim: the *Gingles* preconditions and the totality-of-the-circumstances inquiry. (ECF No. 79.) In support of their initial motion to bifurcate, Defendants cited these factors: the unprecedented nature of the Plaintiffs' claim—and its uncertain legal foundation; the enormity and complexity of both adjudicatory phases; the practicability of severing this claim into two phases of adjudication; and the substantial likelihood that, in bifurcating this case, the parties and the Court would be spared entirely the burden of adjudicating the totality-of-the-circumstances inquiry—which is mooted in the event that Plaintiffs cannot meet their burden with regard to each of the *Gingles* preconditions. (ECF No. 80.)

On July 12, 2019, the Court denied Defendants' motion, but granted Defendants leave to file a renewed motion to bifurcate upon the completion of discovery. (ECF No. 93.) After an extensive discovery process—including the filing of reports by six expert witness, the deposition of five of those experts and more than ten lay witnesses, and the exchange of more than 120,000 pages of additional discovery materials by the Defendants alone—the parties completed discovery with the exception of supplementation as required by Rule 26(e). On October 22, 2019, Defendants filed their Motion for Summary Judgment. The case subsequently having been reassigned to the Honorable Judge Raymond A. Jackson, the Court denied summary judgment for Defendants on March 11, 2020, and requested that the parties coordinate with the Court to set a date for an additional Rule 16(b) Conference, which currently is scheduled for May 15, 2020. (ECF No. 126.) The trial of this matter currently is expected to commence in September or October of 2020. The City of Virginia Beach will hold its next mayoral and councilmanic elections on November 3, 2020.

APPLICABLE LAW

I. The Two Phases of Vote Dilution Claims

There are two phases to a Voting Rights Act Section 2 claim challenging an at-large election system: first, the *Gingles* preconditions and second, the "totality of the circumstances" inquiry. The Defendants request that this Court use its authority under Federal Rule of Civil Procedure 42(b) to separate the trial of the threshold *Thornburg v. Gingles* preconditions from the totality-of-the-circumstances inquiry.

As this Court recognized in *Lincoln v. City of Virginia Beach*, No. 2:97-cv-756, "A vote dilution challenge to an at-large system cannot proceed unless the plaintiff first establishes three preconditions" promulgated in *Gingles*. At 7.[2] The *Thornburg v. Gingles* preconditions, each of which it is Plaintiffs' burden to prove, are as follows: (1) the minority group [here, Blacks, Latinos, and Asians] is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) the minority group is politically cohesive; and (3) the white majority votes sufficiently as a bloc to enable it usually to defeat the minority's preferred candidate. 478 U.S. 30, 51 (1986). These threshold inquiries focus mostly on data regarding voting patterns and demographic data. The parties have exchanged a total of twelve separate expert reports, rebuttal reports and supplemental reports from the six different experts identified between the parties in this matter, which focus heavily on demographic data and voting pattern analysis.

Only after plaintiffs satisfy the three *Gingles* preconditions must a trial court evaluate whether, under the "totality of the circumstances" inquiry, the minority vote is in fact diluted in

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

contravention of Section 2. *Levy v. Lexington County*, 589 F. 3d 708, 713 (4th Cir. 2009) ("If these preconditions are met, the court must then determine under the 'totality of circumstances' whether there has been a violation of Section 2." (quoting *Lewis v. Alamance County, N.C.*, 99 F.3d 600, 604 (4th Cir. 1996)). *See also*, *Hall v. Virginia*, 385 F.3d 421 (2004) (dismissing plaintiffs vote dilution suit for failure to state a claim where the three *Gingles* preconditions could not be satisfied.).[3]

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

The Supreme Court's *Gingles* opinion lists seven non-exhaustive factors, taken from a Senate report accompanying the bill, for courts to consider in the totality inquiry:

> 1. the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
>
> 2. the extent to which voting in the elections of the state or political subdivision is racially polarized;
>
> 3. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
>
> 4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
>
> 5. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education,

[3] Defendants do not deny that the *Gingles* preconditions and the totality-of-the-circumstances inquiries can be adjudicated together. Defendants cite these cases merely to emphasize the well-established analytical structure of Section 2 cases, wherein the totality-of-the-circumstances inquiry is entirely mooted where plaintiffs first fail to meet their burden with regard to each of the three of the *Gingles* pre-conditions.

> employment and health, which hinder their ability to participate effectively in the political process;
>
> 6. whether political campaigns have been characterized by overt or subtle racial appeals;
>
> 7. the extent to which members of the minority group have been elected to public office in the jurisdiction.
>
> Additional factors that in some cases have had probative value as part of Plaintiffs' evidence to establish a violation are: whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group, whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.

478 U.S. at 37 (citation omitted). The totality inquiry, then, is a far-reaching factual evaluation of a locality's history, political process, and social conditions (in the present case, as regards to the three separate minority groups in question)—and is rendered entirely moot in this case if Plaintiffs fail to satisfy any of the three *Gingles* preconditions with their novel multiracial-coalition theory.

II. The Legal Standard and Precedents for Bifurcating Trials

Federal Rule of Civil Procedure 42(b) provides that a court may order a separate trial of one or more separate issues or claims "for convenience, to avoid prejudice, or to expedite or economize." A trial court has broad discretion to bifurcate issues and its decision will only be set aside for clear abuse. *See Dixon v. CSX Transp., Inc.*, 990 F.2d 1440, 1443 (4th Cir. 1993), *cert denied*, 510 U.S. 915 (1993).

Courts in the Fourth Circuit have bifurcated issues and claims for a variety of reasons, commonly to avoid the inconvenience and expense of litigating an issue that may be rendered moot by the resolution of an antecedent issue. For example, in *Seneca Ins. Co. v. Shipping Boxes LLC*, a breach of contract case against an insurance company, this Court granted a motion to

bifurcate the issue of the insurer's alleged bad faith—and potential attorney's fees arising therefrom—because it would be unnecessary to adjudicate the issue of bad faith if the court did not first find that the plaintiff was owed coverage on the disputed insurance claim. 30 F. Supp. 3d 506, 513 (E.D. Va. 2014). *See also St. John's African Methodist Episcopal Church v. Guideone Specialty Mut. Ins. Co.*, 902 F. Supp. 2d 783, 787 (E.D. Va. 2012). In *Jones v. Chapman*, the Maryland District Court held that bifurcation of a § 1983 claim would "conserve resources and promote judicial economy" where a plaintiff's prevailing on claims against individual police officer defendants was a "prerequisite to establishing liability" against the Commissioner of the Baltimore Police Department in a supervisory role, a so-called *Monell* claim. 2016 U.S. Dist. LEXIS 126127, *17-18 (D. Md. Sept. 15, 2016). And in *Novopharm Ltd. v. TorPharm, Inc.*, the District Court for the Eastern District of North Carolina opined that, in a patent infringement case, "litigating the complex damages issues would place a heavy burden on Novopharm to produce voluminous documents. That the production and synthesis of these materials may ultimately become unnecessary militates in favor of bifurcating the trial of this suit." 181 F.R.D. 308, 311 (E.D.N.C. May 20, 1998).

Courts in the Fourth Circuit and elsewhere have similarly granted motions to bifurcate on a wide variety of claims with an eye towards judicial economy and expediency. *See Audio MPEG, Inc. v. Dell Inc.*, 254 F. Supp. 3d 798, 805-806 (E.D. Va. 2017) (noting that "courts have frequently found it to be in the interest of economy and convenience, both to the court and to the parties, and in furtherance of the most expeditious disposition of complex litigation of this kind, to sever the antitrust and misuse issues from the issues of [patent] validity and infringement"); *Zenith Ins. Co. v. Old Republic Ins. Co.*, 2017 U.S. Dist. LEXIS 103782, *6 (N.D. Cal. July 5, 2017) (granting motion to bifurcate because the determination of one factual dispute "present[ed]

a significant opportunity to defer further litigation costs if it either proves dispositive or increases the potential for settlement"); *Hoskins v. Allstate Prop. & Cas. Ins. Co.*, 2006 U.S. Dist. LEXIS 80327, *8 (E.D. Ky. Nov. 2, 2006) (holding that "separate trials on the bad faith and breach of contract claims will expedite ultimate resolution of the claims involved in this action.").

Finally, in *Rios-Andino v. Orange County*, a Section 2 vote dilution claim, the Florida Middle District Court bifurcated the *Gingles* preconditions from the 'totality of the circumstances' inquiry. 51 F. Supp. 3d 1215, 1218 n. 2 (M.D. Fla. 2014). When the plaintiffs failed to satisfy the Gingles preconditions, judgment was entered for the defendants without the 'totality' inquiry being adjudicated. *Id.*

ARGUMENT

Defendants do not dispute that Voting Rights Act litigation can play a crucial role in safeguarding civil rights. And despite Defendants' deep skepticism about Plaintiffs' theory of and factual support for this particular case, with the Court having denied summary judgment, Plaintiffs are entitled to move forward with the presentation of their case. However, certain considerations strongly militate in favor of Defendants' motion that the trial of this matter be bifurcated. In addition to the considerations fully set forth in the Defendants' initial Motion to Bifurcate and Memorandum in Support of the Motion to Bifurcate (ECF Nos. 79-80), two additional considerations support bifurcation given the current posture of the case.[4]

The first consideration is that the dual-part analysis set forth in *Gingles* for a vote-dilution claim under Section 2 for the Voting Rights Act lends itself to a bifurcated trial without substantively impeding Plaintiffs' ability to advance their case or obtain their demanded relief

[4] As the Motion is a renewal of the prior Motion to Bifurcate, Defendants incorporate by reference the considerations previously set forth in the Motion to Bifurcate and Memorandum in Support of the Motion to Bifurcate by reference rather than restate them herein.

should the Court ultimately find in their favor. This is particularly true where Plaintiffs' evidence adduced thus far in discovery and through their experts as to the three preliminary *Gingles* factors raises serious questions about the viability of their unprecedented tri-partite multiracial coalition claim predicated upon the alleged political cohesion of three minority groups—Blacks, Hispanics, and Asians.

Second, the volume of discovery exchanged between the parties reveals that a very lengthy and thus costly trial presentation of the "comprehensive analysis" associated with a totality-of-the-circumstances inquiry is more than just an abstract possibility; it is a demonstrable reality. Unless and until the Plaintiffs carry their burdens of production and persuasion as to the *Gingles* threshold preconditions, the City should not be required to bear—at a substantial cost to the City and its taxpayers—the burdens of a trial on the "totality" factors.

I. Plaintiffs' obvious challenges as to the burden of persuasion and production regarding their extraordinary and unprecedented multiracial coalition claim warrants its own trial and does not prejudice Plaintiffs' ability to advance their case or obtain appropriate relief.

Plaintiffs' challenge to the City of Virginia Beach's at-large system "cannot proceed unless [they] first establish[] three preconditions" promulgated in *Gingles*. *Lincoln v. City of Virginia Beach*, No. 2:97-cv-756 at 7. The *Thornburg v. Gingles* preconditions, each of which must prove before proceeding to the "totality inquiry" of the case, are threshold inquiries focused mostly on data and expert testimony regarding voting patterns and demographics. Plaintiffs face long odds in carrying their burden of persuasion on each of the three *Gingles* preconditions—especially when considered in light of both comparable cases and the unhelpful expert testimony Plaintiffs themselves have adduced to date.

While a legal question remains as to whether multiracial coalition claims are cognizable at all, in order to prevail Plaintiffs must do what no other plaintiff has ever been able to do: prove

at trial that political cohesion exists among three distinct minority groups. Even in those Circuits that have recognized the potential viability of a multiracial coalition theory, plaintiffs alleging political cohesion among three minority groups have uniformly failed to prove such cohesion at trial. *Brewer v. Ham*, 876 F.2d 448 (5th Cir. 1989) (finding no political cohesion amongst Blacks, Latinos, and Asians); *Perez v. Abbott*, 267 F. Supp. 3d 750 (W.D. Tex. 2017) (same); *Balderas v. Tex.*, 2001 U.S. Dist. LEXIS 25006 (E.D. Tex., Nov. 28, 2001); *Pope v. County of Albany*, 2011 U.S. Dist. LEXIS 93103 *13 (N.D.N.Y. Aug. 18, 2011) (finding Plaintiff's evidence insufficient to establish cohesion amongst Black and Hispanic voters), aff'd on other grounds, 687 F.3d 565 (2d. Cir. 2012). Despite this apparently complete absence of success nationwide, Plaintiffs nonetheless "seek[] to replace [the at-large election system] with a system in which Black, Hispanic or Latino, and Asian American voters are *together able* to elect their preferred candidates of choice to the City Council." (Am. Compl. ¶ 1) (emphasis added). Plaintiffs face at the very least an uphill battle in their attempt to be the first plaintiffs to produce sufficient evidence at trial to carry their burdens of production and persuasion on the issue of the political cohesion of a tri-racial coalition.

Moreover, at the time of the filing the Motion to Bifurcate, the parties had only just begun producing discovery. Now, the parties have exchanged a total of twelve separate expert reports, rebuttal reports and supplemental reports from the six different experts identified between the parties in this matter. These reports focus heavily on demographic data, statistical methodologies and voting pattern analysis. The Plaintiffs' reports necessarily will be the predominant source of their evidence on the *Gingles* preconditions. *See Gingles*, 478 U.S. at 52-54 (1986) (explaining that "the question of racial bloc voting credited some testimony of lay witnesses, but relied principally on statistical evidence by… expert witnesses" and evaluating

"analytical techniques" to determine statistical significance of voter data and opinions offered by retained experts). The significant problems with the Plaintiffs' expert reports, and specifically as they relate to Plaintiffs' burden of proving the *Gingles* preconditions were dissected and exposed at length in memoranda supporting the Defendants' Motion for Summary Judgment. (ECF Nos. 115, 121.)[5] Understanding that the Court has denied Defendants' Motion for Summary Judgment, Defendants cite these arguments here only to illustrate that there remains significant dispute regarding Plaintiffs' ability to persuade a trier of fact that the *Gingles* threshold preconditions have been satisfied.

Furthermore, Plaintiffs' ability to adjudicate this suit to its proper conclusion will not be substantively prejudiced by a bifurcation of the trial. A bifurcated trial still would allow Plaintiffs every opportunity to present their case and pursue their demanded relief. An examination of the *Gingles* preconditions and totality factors reveals that these inquiries are almost entirely separate in nature, with minimal if any evidentiary overlap. To the extent that any limited overlap does exist, this Court's findings as to matters adjudicated during the earlier "preconditions" portion of the bifurcated trial would not need to be re-adjudicated at the second phase.

Finally, it should be noted that, if Plaintiffs do manage to overcome apparently steep odds and prevail in this case, a bifurcated trial is not likely to materially delay remediation of a putative Section 2 violation. Virginia Beach is holding its next mayoral and councilmanic

[5] As referenced in the Defendants Motion for Summary Judgment, the data and reports produced by the Plaintiffs' own experts auger troubled waters for Plaintiffs as they try to prove that Black, Hispanic, and Asian voters are cohesive for purposes of the second and third *Gingles* preconditions. (ECF Nos. 114-15.) At trial, Defendants expect to contest forcefully the existence of each of the three *Gingles* conditions and aver that the evidence adduced by the Plaintiffs presently should give rise to deep skepticism regarding the probability that they can meet each of these three threshold burdens in such a unique case.

elections on November 3, 2020, shortly after this trial is expected to commence. Assuming *arguendo* that Plaintiffs prevail in this case, requisite remedial measures could not possibly be completed before the councilmanic elections set for November 3, 2020. Were it necessary to hold a second phase of trial in 2021 on the "totality inquiry" following a trial only on the *Gingles* preconditions, any remedial measures still could be completed before the following round of councilmanic elections, scheduled for November 2022. Therefore, a bifurcated trial would not materially prejudice Plaintiffs and would allow Defendants to expend taxpayer funds only as needed, by first presenting a defense to Plaintiffs' evidence as to the *Gingles* preconditions and then, only if necessary, defend an exhaustive "totality" inquiry.

All things considered, given the volume of discovery and likely trial evidence exchanged by both parties, the data and expert testimony Plaintiffs have thus far adduced—which is by turns both novel and unfavorable to their claims—and that the timing of a bifurcated trial will not unduly delay any potential remediation that may result from this case, the Court should conduct a robust inquiry into whether Plaintiffs can meet their burden regarding the three *Gingles* preconditions before giving any consideration to the "totality of the circumstances" analysis. Much of this information, which was not fully knowable with particularity at the time of the initial Motion to Bifurcate, demonstrates that the interests of justice are best satisfied in this case by separating the trial of the threshold *Thornburg v. Gingles* preconditions inquiries from any potential trial of the totality-of-the-circumstances inquiry.

II. The prospect of unnecessarily incurring the significant, demonstrable litigation costs of a comprehensive canvassing of the relevant facts of Virginia Beach's past and present reality demands a bifurcated trial.

In addition to this Court's consideration of the Plaintiffs' heavy burden of proving the *Gingles* preconditions are satisfied as to its proposed tri-minority coalition, and the likely timing

of remedial measures if Plaintiffs prevail in both phases of their Section 2 claim, this Court may – and should– weigh the comparative size and scope of the adjudication of each of the two proposed trial phases as part of Defendants' motion for a bifurcated trial.

Setting aside for a moment the Defendants' forecast regarding Plaintiffs' likelihood of success on the *Gingles* threshold preconditions, the interests of judicial economy and expediency will independently be well-served by bifurcating the *Gingles* preconditions inquiries from the totality-of-the-circumstances inquiry. As evidenced by the list of non-exhaustive factors considered during the totality-of-the-circumstances phase, cited *supra*, and the discussion of the contours of the *Gingles* preconditions inquiry in this case, *supra*, both phases of this trial will present the Court with a set of substantial and complex issues to consider. The presentation of evidence for each phase of a bifurcated trial will be a significant and lengthy undertaking. This reality was anticipated prior to commencement of discovery; however, it has been underscored by the volume of documents and evidence exchanged in discovery and the dozens of possible witnesses disclosed by the parties.

To wit, the parties have engaged in exhaustive discovery to date. Plaintiffs have deposed numerous witnesses, and Defendants consented to Plaintiffs exceeding the ten (10) witness limit contemplated by Federal Rule of Civil Procedure 30(a)(2)(A)(i). The parties have exchanged lengthy expert reports, rebuttal reports (and Plaintiffs have just recently submitted supplemental expert reports). The parties also have conducted expert depositions that total thousands of pages of testimony. The parties additionally have engaged in voluminous written discovery that amounts to hundreds of thousands of pages of exhibits along with identification of over a hundred potential witnesses as part of the required Rule 26 disclosures. Defendants estimate that

to-date they alone have produced more than 120,000 pages of documents that potentially relate to the totality inquiry.

The Court's interest in expediency and efficiency is well-served by structuring the adjudication of this claim in a manner that potentially will obviate the need for many days of (unnecessary) trial on an inquiry that may be entirely mooted by the first phase of trial. The interest of justice is also well-served by the parties and the Court focusing on discrete, defined issues that will allow for the orderly distillation of the enormous amount of discovery exchanged between the parties into a manageable presentation of thousands of pages of documentary exhibits and dozens of witnesses at trial.

Given the enormity and complexity of the issues this case presents—and the added fact that the Court need not conduct any evaluation of the totality of the circumstances if it rules that Plaintiffs have not met their burden of persuading that the *Gingles* preconditions are satisfied by their tri-minority coalition—Defendants contend that considerations weighing in favor of bifurcation of the trial of these two phases of litigation outweigh any minor inconvenience or delay that Plaintiffs' may claim, and is the appropriate approach to trial of this particular case.

CONCLUSION

WHEREFORE, for all the reasons set forth above and those previously set forth in the Motion to Bifurcate, the Defendants hereby respectfully renew their request that this Court bifurcate the trial of this claim, separating the trial of the threshold *Thornburg v. Gingles* preconditions from any trial of the totality-of-the-circumstances inquiry, if necessary, and for such other relief as the Court deems appropriate.

Respectfully submitted,

CITY OF VIRGINIA BEACH, et al.,

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of April 2020, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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